United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *104th* CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, MONDAY, JANUARY 30, 1995 *No. 18*

Senate

The Senate met at 1 p.m. 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:

Tomorrow morning, Officer David Agner will have surgery near his brain—very serious. In a moment of silence, let us remember the officer and his family.

Thou art worthy, O Lord, to receive glory and honour and power: for thou hast created all things, and for thy pleasure they are and were created.—Revelation 4:11.

Gracious God and Father, the Founders of our Republic understood this fundamental truth and, upon it, based their conviction of human equality, human rights, and a government whose purpose was to secure these rights and whose authority was derived from the people. Grant us to see, O God, that if we undermine this foundation of our Government, we, sooner or later, jeopardize the superstructure which was built upon it. As we forsake the root of our national uniqueness, we forfeit the fruit.

Help us to comprehend, dear God, that this is one explanation for the futility of our best human efforts today. We are struggling to preserve the benefits of a belief which we no longer hold to be true. We have smashed the foundation and are striving to prevent the superstructure from collapsing.

Forgive the secularism, the antisupernaturalism which we have exchanged for faith in a Creator God which motivated our Founding Fathers. Restore unto us their beliefs that we may recover the riches of the legacy they transmitted to us before it is too late.

We pray this in the name of Him who is the Light of the world. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished Senator from Montana is recognized.

SCHEDULE

Mr. BURNS. Mr. President, on behalf of the majority leader, under his previous order, morning business shall be until the hour of 2 p.m. and with leaders' time being reserved. Senator CONRAD is to be recognized for 15 minutes, Senator SIMON for 15 minutes, Senator THOMAS for 5, Senator MURKOWSKI for 10, and Senator COHEN for 15.

At 2 o'clock begins the consideration of House Joint Resolution 1, the balanced budget constitutional amendment. There will be debate only today. And by order of the majority leader, there will be no rollcall votes for today.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m. with Senators permitted to speak therein for not to exceed 10 minutes each. Under the previous order, the Senator from North Dakota [Mr. CONRAD] is to be recognized to speak for up to 15 minutes.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Washington is recognized.

CONGRESSMAN STEVE LARGENT

Mr. GORTON. Mr. President, late last week, the Member of Congress from the First District in the State of Oklahoma [STEVE LARGENT] was voted into the National Football League's Hall of Fame in the first year during which he was eligible for that honor.

While Mr. LARGENT represents a State a long way from my own State of Washington, his entire National Football League career was, of course, as a member of the Seattle Seahawks. And so for many years, for more than half of the year he was a resident of the Puget Sound region.

Very rarely have so many distinctions come to a person of the age of STEVE LARGENT, as an outstanding football player, both in college and in the National Football League, as an elected Member of the Congress of the United States, and as a person with a great deal of fame. Rarely, I may say, has anyone so deserved those honors.

I think STEVE LARGENT would be the first to say that he was far from the fastest or the most gifted person playing in the National Football League, but due to a tremendous amount of self-discipline and dedication, he became one of the most outstanding persons in our generation to play that fascinating game.

But I believe that Mr. LARGENT and all of us would say that more important than his fame as a football player, more important than his membership in the Congress of the United States, has been the example he has presented to those who have come to know him through those activities as a human being: As a husband, as a father, as an activist Christian. With those as his No. 1 goals, he has nonetheless been

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

professionally successful, now, in two dramatically different professions.

We speak often of the role model nature of professional athletes. In STEVE LARGENT, we have an athlete who is truly a role model for our society; an individual who has shown that fame and high income is not inconsistent with the finest possible family and citizen leadership that it is possible for us to imagine. Last week, Congressman LARGENT was a part of the debate in the House of Representatives over a balanced budget amendment on which debate will begin in this body in less than an hour. So he is now serving in as distinguished a fashion as a Member of this Congress as he did as a member of the Seattle Seahawks and the National Football League. But most of all, our friend and exemplar, STEVE LARGENT, is a person who shows what citizenship and membership in a family ought to be in the United States of America.

So it is that we, from the State of Washington, are grateful for his long association with us. We wish, along with the people of Oklahoma, and especially of his First Congressional District, to congratulate him on an honor well earned and to wish him long years of success in his new career and a lifetime of success as a leader of the people he represents.

The PRESIDING OFFICER. The Senator from North Dakota is recognized. I might suggest the Senator from North Dakota is recognized for 15 minutes.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 293 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

MONTHLY REPORT TO THE SENATE

Mr. SIMON. Mr. President, and my colleagues in the Senate. On November 14, I announced that I will not be a candidate for reelection to the Senate nor for any other office. I will be leaving with great respect for this body and with great appreciation to the people of Illinois who made it possible for me to serve here.

The evening of my announcement, President Clinton called me from Djakarta, Indonesia, to wish me the best. He made a suggestion: Once a month I should report to the public on what is happening and what should happen in Congress. He indicated that since I will not be a candidate for reelection, my words might take on added significance and not be viewed as another partisan speech.

I am making the first of my monthly comments today, the 113th anniversary of the birth of Franklin D. Roosevelt, a President who has been praised recently by both President Clinton and Speaker NEWT GINGRICH. FDR and Congress worked together on the huge problems the Nation then faced.

A glance at the policy landscape provides these recent positive developments, from my perspective:

First, a peaceful change in the majority party in both Houses of Congress. While I personally would have preferred retaining Democratic majorities in the House and Senate, I also recognize that for a free system to thrive, peaceful change must occur from time to time.

Second, Congress has voted to place the laws and regulations that govern our private sector counterparts on itself, and the President has signed that measure. That will protect our employees better and make us more sensitive to the difficulties others face.

Third, the Senate Judiciary Committee—and now the full House of Representatives—have approved a balanced budget amendment to the Constitution. The passage of the amendment first urged by Thomas Jefferson come none too soon as we careen down the fiscal hill toward the fate of far too many nations: monetizing the debt, meeting our obligations by printing more and more money that is worth less and less.

There are negative developments also. I would include:

First, excessive partisanship in Congress by both political parties as we adjust to the new status each has. That we will differ on issues is both natural and healthy; that we are sometime petty in our differences may be natural for all of us who have above-average egos, but it is not healthy.

Second, a mean-spiritedness toward the poor surfaces in too much discussion of welfare reform, sometimes bordering on racism. We need genuine welfare reform. The danger is that we will move organizational boxes around on a chart and try to convince the public and ourselves that we have done something constructive. Even worse, there is talk of taking punitive action against poor people.

Third, the two parties have entered into a bidding war on tax cuts. Many of the Republicans promised one in their Contract With America, and President Clinton pledged the same in altered form. Both sides are wrong. If I may personalize this, I face a choice of giving myself a small tax cut and imposing a further burden on my three grandchildren, or sacrificing a little and providing a better future for my grandchildren. I do not have a difficult time making that choice, and I do not believe most Americans do. We should pledge a reduction in the deficit instead of a tax cut.

Others can provide additional pluses and minuses.

But one issue that dominated the political landscape only a few months ago is almost absent: health care. Yes, the President—to his credit—mentioned it in his State of the Union Message, but little is said on the floors of the House and Senate about this massive problem. Television and radio news programs rarely mention it. What once was a dominant issue at town meetings in my State has almost staged a disappearing act.

But it will not disappear, not as long as almost 40 million Americans remain unprotected, the only citizens of any modern industrial nation with that status. It will not disappear as long as Americans are added to the lists of uninsured at the rate of more than 91,000 every month, 3,055 every day.

Since the day President Clinton waved his pen at us in a joint session of Congress on January 25, 1994, 1.1 million more Americans have lost their health insurance coverage, bringing the total to 39.7 million. And costs continue to escalate. Medicare spending, for example, will double in the next 7 years and will then consume 16 percent of our total Federal spending. But we cannot tackle Medicare costs without tackling the health care costs in the rest of our economy. As we cut from Medicare, we shift the burden to the private sector—and every private-paying patient makes up the difference when Medicare underpays hospitals by about $13 billion every year, as it does now.

Seven days ago marked 56 years since Franklin Roosevelt sent a message to Congress for a national health program. But early in 1931, as Governor of New York, he reported to the legislature of that State: ''The success or failure of any government in the final analysis must be measured by the well-being of its citizens. Nothing can be more important [than] * * * the health of its people.'' Since then, Harry Truman and Richard Nixon and Bill Clinton have called upon us to protect our citizens better, and Congress has failed to respond.

This issue will not go away. It is more than grim statistics. It is my former staff member, now a consultant with the Federal Government but without health insurance coverage because she is technically not an employee. At a dinner with two friends, she suddenly experienced chest pains, paleness, perspiration, and nausea—often symptoms of a heart attack. She refused to go to a hospital for fear of the cost. It turned out she has a problem with food poisoning that was not serious. But how many people have died who actually have had heart attacks in that situation? A woman in McHenry, IL, wrote to me about the health coverage horrors her daughter and son-in-law have gone through, facing the loss of their home and car. And then this woman who wrote to me added:

> I have had cancer, so I can never quit my job as no one else will give me insurance. My husband has had ileitis and two types of diabetes so no one will give him insurance. We are trapped in our jobs and could not afford to pay for our own insurance if we ever got permanently laid off or had to switch jobs. We are 48 and 53 years old and this is a scary thought.

Or listen to this man from Oak Lawn, IL:

I am a Republican and will continue to vote Republican. However * * * during some lean times I had to let my health insurance lapse. It was not, as some politicans and demagogs so smugly suggest, because I spent the money on recreation. I spent the money on food, rent, and bills. But I was forced to stay in the hospital a while. Now I am completely financially ruined. I'm 41 years old and I'm ruined.

Or the mother in Ottawa, IL, injured in an automobile accident, whose husband suffered injury in a work-related accident and must find different work. She writes

My husband and I and three children ages 18, 12, and 10 are now without health benefits. Due to our disabilities and unfair treatment by insurance companies our financial situation is dire.

The stories go on and on.

Those stories will multiply if we do not act. And other changes in health care delivery are emerging. Each week fewer and fewer Americans have an independent choice of physician. Each week, for-profit corporations are taking over not-for-profit hospitals, reducing the number of nurses on duty and requiring resident physicians to see more patients in less time, diminishing the quality of health delivery. At least one physician in Illinois has decided to give up the practice rather than provide care that uses mass production techniques.

And Medicaid patients—poor people—routinely are given the cold shoulder for nonemergency care by many hospitals who prefer patients with insurance coverage.

The United States is the wealthiest nation but not the healthiest nation. Twenty-one nations have lower infant mortality rates than we do, and 23 industrialized nations have fewer low-birthweights babies. Yet these countries spend far less on health care then we do, and many have a longer average lifespan. That is not because of an act of God but because of flawed policy. Our poor health record did not come as some divine edict from above but emerged from the indifference of men and women in this very room.

Why? Part of the reason was complexity and delay on the part of those of us who supported a health coverage program. But that is only a part of the picture. What primarily caused the confusion and opposition was the greed on the part of those who profit from their cut in this trillion-dollar business. Newsweek reported that opponents spend $400 million, more than twice what the two major Presidential candidates spend in the last two elections combined. When CEO's who are engaged in the present system pocket as much as $10 million in 1 year, do you think they will be anxious to alter the present procedures which help them and hurt millions of Americans? The Wall Street Journal recently stated that Health Systems International of Colorado has $475 million in cash, and the amount is growing by $500,000 a day, and the Journal reports they are ''hunting for new ways to park the money.'' Do they want to change the system? The same article quotes Margo Vignola of Salomon Brothers saying that the top nine HMO's have $9.5 billion in cash, ''way beyond what HMO's need.'' Do they want to change the system? Pfizer, the pharmaceutical company, gave $221,235 to the Republican national committees in soft money before the election. Did they do that because they want to change the system?

The common assumption is that with a Democratic President and a Republican Congress, no significant progress in health care can be made. I challenge that assumption.

The greatest contribution of Harry Truman's Presidency—one of many significant contributions he made—was the creation of the Marshall plan. To many it seemed doomed when offered. The first Gallup Poll after its proposal showed only 14 percent of the American people supported it. On top of that, after the 1946 election, President Truman had to work with a Republican Congress. But one man, Senator Arthur Vandenberg of Michigan, a key Republican, stood up strongly and supported the Marshall plan and helped to save Western Europe. The Republicans in the Senate have designated as their new leader on health care Senator ROBERT BENNETT of Utah, one of the more thoughtful Members of this body. Is it possible that he, together with the new chair of the Finance Committee, BOB PACKWOOD, can be the Arthur Vandenbergs of our generation?

It is politically understandable that Republican Senators might have been reluctant to work with Democrats on health care reform in the 103d Congress, for fear that they would hand Democrats a legislative victory. But now, that is behind us. With Republicans in control of both Chambers of Congress, there is no question that bipartisan agreement on health care will be of benefit to the broad public and not simply a political victory for one party at the expense of the other.

Could we, for example, at least provide coverage for all pregnant women and children age 6 and under? Do we have the courage to stand up to the profiteers to at least do that?

Let me add that it is not enough for Senators to stand up. They are not likely to do it in splendid isolation. Business and labor leaders, professional people and those who have been abused by this system must join in a chorus for action. Their voices will not be as strong as the decibel level of those who speak from greed, but Senators and House Members should know that there are at least some Americans who know and understand the dimensions and the importance of the issue.

There are occasions when we, in the Senate, must ask ourselves: Why are we here? Let us look in the faces of 39 million Americans without health care coverage and ask ourselves that question. Let us look at the millions more who will lose their coverage if they lose their jobs or change jobs. Let us not be silent and unresponsive to their pleas for help. Let us not be so eager to hold public office that we violate the public trust, not by disobeying the law, but by following the shifting winds of public opinion and the pressures of big campaign donors.

There are no Americans who today look to their forebears and say with pride, ''He or she voted against creating Social Security.'' There are no Americans who look to their grandparents or great-grandparents and say with pride, ''He or she voted against Medicare.''

We are not here in the Senate simply to assume an exalted title and let the media message our egos. We are here to create a better future for our people and for generations to come. In the last session, the Senate did not even vote on health care. That will not happen again. But we should do more than give ourselves an opportunity to vote. We should, in a fiscally prudent, pay-as-you-go way, give all Americans what we as legislators and Federal employees have: health care protection. We should give future generations the ability to look back upon us with pride and say, ''They were the first political leaders to guarantee health care coverage for all our citizens.''

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

THE PASSING OF LORNA KOOI SIMPSON

Mr. THOMAS. Mr. President, I rise today for a short tribute to a lady from Wyoming who passed away last week, a lady who certainly was a rare and wonderful gem, not only for Wyoming but for this country as well. She was someone that I had the great privilege of knowing and admiring, Lorna Kooi Simpson.

My friend AL SIMPSON and the entire Simpson family lost a wonderful mother and caregiver last week. We all have lost one of the greatest ladies of Wyoming and the dearest of souls. Her devotion to her family, community, State and Nation are a legacy. Indeed she is part of the very fabric of Wyoming.

Lorna Simpson began her long distinguished life on August 19, 1900—the daughter of a Dutch immigrant. With her family Lorna Simpson moved West. In 1929 Lorna married an exceptional young man, a lawyer, from Cody, WY—Milward Simpson. He was a State legislator for Wyoming and a man destined to lead his State. Together they had two sons, Peter and ALAN. In Lorna, Milward found an equally dedicated soul and a partner to do the work few of us have the means to accomplish.

Lorna, like the rest of her family, went on to do great things. She was a stalwart of her community and State; active in community service, business, the war effort and of course politics.

She was a special young woman who, along with her husband, made up one of the most successful and respected teams Wyoming has ever known.

In 1954 Lorna became the First Lady of Wyoming after helping her husband become Wyoming's Governor. There in Cheyenne her reputation only grew as a caring compassionate person who put so much of her time and spirit into the youth of Wyoming.

Milward Simpson and his dear wife gave their unique talents and thoughtful style to Washington in 1962 when Milward served Wyoming until 1966 as a Member of this body. During her time here Lorna was named by the Senate to be the representative of the Women of the United States to the Organization of American States. In addition, she worked tirelessly to refurbish and extend the use of the Senate Chapel.

Their sons, Pete and AL, have gone on to great things. Pete Simpson as the University of Wyoming's vice president for development and alumni and university relations, AL SIMPSON, like his father, of course, as one of the most respected Members of this body.

As a wife, mother, First Lady, adviser, grandmother, and great-grandmother Lorna Simpson touched countless lives and helped so many people. Her accomplishments, the people she touched could never really be fully listed.

Susan and I join so many in grieving the passage of a lady who was truly the very best of Wyoming.

Thank you, Mr. President.

I yield back the remainder of my time.

SECOND READING OF A BILL—S. 290

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 290), relating to the treatment of Social Security under any constitutional amendment requiring a balanced budget.

Mr. COHEN. Mr. President, I object to further consideration of the bill.

The PRESIDING OFFICER. Objection is heard.

The Senator from Maine is recognized.

Mr. COHEN. I thank the Chair.

(The remarks of Mr. COHEN pertaining to the introduction of S. 294 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Chair. I ask how much time remains for morning business.

The PRESIDING OFFICER. Morning business continues until the hour of 2 o'clock. The Senator is being recognized for up to 10 minutes.

UNITED STATES-NORTH KOREA FRAMEWORK AGREEMENT

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I intend to make a brief statement on the status of the joint United States-North Korea agreed framework covering nuclear issues.

I had the pleasure of visiting North Korea, along with Senator SIMON, who is here on the floor today. As a consequence of that particular visit, the framework agreement has been an issue of great concern to me and an issue worthy of congressional scrutiny.

There have been a number of hearings on the agreed framework. The Intelligence Committee, the Energy Committee, the Foreign Relations Committee, and the Armed Services Committee have addressed this subject. I had an opportunity to speak before the Armed Services Committee just the other day. I want to commend that committee for its important role in reviewing the agreement, because there are some 37,000 American troops on the demilitarized zone in South Korea. They are certainly exposed to harm should any conflict arise on the Korean Peninsula.

It is interesting to note that under Armed Services Committee oversight, the Department of Defense has seen fit to fund the purchase of approximately 50,000 tons of oil. The first shipment called for under the agreed framework.

Now, Mr. President, I would like to briefly raise three specific areas of concern about the framework agreement. The first is the fate of 8,177 Americans still unaccounted for in North Korea following the Korean war north of the 38th parallel. I find it interesting to reflect on that staggering figure, when we recognize that currently today in Vietnam, we have somewhat less than 1,700 unaccounted for.

We have an obligation, Mr. President, to get the answers. How do we get the answers? Well, it is certainly a matter of access. The North Koreans must allow the United States access, including joint recovery teams that proved so successful in Vietnam. In fact, in North Korea, unlike Vietnam, we know the precise location of over 2,000 grave sites and prisoner-of-war camps. We simply cannot get in.

During our visit to Pyongyang, Senator SIMON and I delivered a letter to President Kim Jong Il. The letter was given to the Foreign Minister and he assured us it had been delivered to President Kim Jong Il.

At the conclusion of my remarks, I will ask unanimous consent that a copy of that letter be printed in the RECORD.

Mr. President, to my knowledge we have received no answer to the letter delivered to President Kim Jong Il.

I call on the North Korean leadership to respond favorably to our request for joint recovery teams and further cooperation. It is fair to say that the few remains repatriated thus far have not been well handled. Moreover, there appears to be a profit motive associated with those remains. We have had unofficial indications that the DPRK wants up to $30,000 U.S. per remain. This is an outrageous sum compared to the $2,000 figure used for reimbursement in Vietnam.

It is inconceivable to me, Mr. President, that as to the lack of cooperation in fullest possible accounting for those Americans lost in the Korean conflict, there has not been a demand by the administration in the framework agreement that this matter be addressed. I think this is the highest requirement of Government—fullest possible accounting of those who gave so much for our freedoms. Why has it not been included if the framework agreement? Moreover, the administration has not yet seen fit to respond to the inquiries that this Senator has made in that regard.

I would also like to call this body's attention to the comparison between Vietnam and North Korea. The administration has moved faster in 3 months with North Korea than in the last 3 years with Vietnam toward diplomatic and trade relation, despite the fact that Vietnam has taken many good-faith steps by providing cooperation, including joint recovery teams.

One other interesting comparison, not related to the MIA issue, is the fact that we have agreed to provide the North Koreans with light-water. Yet, we are prohibited from selling that same technology to China.

The second issue I want to talk about is the lack of dialog between North and South Korea. One of the requirements of the framework agreement is that there be a dialog. Without a meaningful dialog between the North and South, it will be impossible to implement the agreed framework. Based on administration representations, we anticipate that South Korea and Japan will pick up substantial costs associated with the delivery of the light-water reactors—at least $4 billion. We also anticipate other countries to cover the delivery of a significant amount of oil, approximately 500,000 tons per year over a period of years.

I do not believe that South Korea can make such a commitment to the North without a political dialog. But at this point, there is no such dialog. The North is still demanding an apology from President Kim Young-sam for the alleged insensitivity on the death of Kim Il-song, and yet the North continues with propaganda against the South.

Mr. President, section three of the framework agreement between the United States and North Korean requires that the North Koreans will engage in a North-South dialog and that the North Koreans will consistently take steps to implement the North-South declaration on the demilitarization of the Korean Peninsula.

I am gratified that references to North-South issues were included in the agreed framework, but I am concerned that the references do not have

specificity. For example, at what point will the United States stop fulfilling its commitments under the agreement framework if there has not been progress in the North-South relations? Just a few days ago, I introduced a resolution, Senate Concurrent Resolution 4 that calls on the executive branch to take steps to ensure that implementation of the agreed framework is linked to the substantive and rapid progress in the dialog between the North and the South.

I hope this resolution is a step in the right direction.

Finally, Mr. President, I think it is appropriate to comment on one of the administration's defenses of the agreed framework. In response to any criticism of the deal itself, the administration response that it was this agreement or war.

Although I know that this is second-guessing, I maintain we could have negotiated a better deal. The agreed framework is a bad deal because we left out the inspections of the two suspected nuclear waste sites. What does North Korea have to hide? We still do not know. The administration walked up to the line with sanctions because of North Korea's refusal to agree to the IAEA inspections of the two suspected nuclear sites.

But then, if you will recall, President Carter went to North Korea and got Kim Il-song to agree to a freeze, which the Clinton administration apparently felt compelled to accept. We lost leverage with our allies, such as China and Japan, to go ahead with the sanctions at a time when, in my opinion, North Korea was ready to collapse from within. It could not depend on the Soviet Union anymore; it could not depend on the Chinese for subsidized oil. They were totally isolated.

Although I readily agree that the North Koreans were desparate and dangerous, I would like my colleague to reflect on the comparison to the Soviet Union. During the cold war, the Soviets were a documented nuclear threat. The Reagan administration, rather than backing down, chose to bring the Soviet Union to its knees in an arms race.

So today we have an isolated and broke North Korea. Moreover, Mr. President, I believe there is a leadership vacuum after the death of Kim Il-song. So who are we helping?

Perhaps we should wait to see if a moderate regime will come forward rather than giving the current totalitarian regime a new life? I believe we are rewarding North Korea's bad behavior, and it sets an unfortunate precedent.

I have indicated previously that I belive that we are bound by agreements executed by our executive branch, even though it is an agreement that, in my judgment, is a poor agreement because it carries a scent of appeasement. But if the administration has to come back to the Congress to fund it—if South Korea and Japan do not come forward—then as far as this Senator is concerned, all bets are off for this agreement.

I ask unanimous consent that a letter be printed in the RECORD.

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

U.S. SENATE,
December 9, 1994.

His Excellency KIM JONG IL,
Supreme Leader of the Democratic People's Republic of Korea.

EXCELLENCY: As guests in your country, we are writing to express our hopes concerning the evolving relationship between the Democratic People's Republic of Korea and the United States of America. It is our hope that this will lead to the resolution of questions concerning the fate of the 8,177 Americans and thousands of other United Nations personnel still unaccounted for following the conflict of 1950-1953 and believed to be missing north of the 38th parallel.

We recognize that determining the fate of these missing service-members will be difficult, as we have seen in attempting to obtain the fullest possible accounting in other countries. Progress will require constant effort and a sincere commitment to resolve this sensitive issue. In this regard, we encourage the Democratic People's Republic of Korea to agree to joint participation by the United States in the recovery of remains of servicemembers still unaccounted for north of the 38th parallel.

The American people take most seriously the obligation for the fullest possible accounting of those who are still missing in action. As senior members of the Committee on Foreign Relations of the United States Senate, we appreciate the opportunity to communicate directly with you and we urge your best efforts and decisive leadership on this important and serious humanitarian matter.

Sincerely,

PAUL SIMON,
U.S. Senator.
FRANK H. MURKOWSKI,
U.S. Senator.

''MAJOR MOM''—A TRIBUTE TO MAJOR DEBRA BIELY, USMC

Mr. HEFLIN. Mr. President, Congressional fellows are an integral part of our business here on Capitol Hill. They come from throughout the executive branch and bring a wealth of expertise and perspective to their work.

The most recent fellow to serve in my office was not only an outstanding addition to the staff for nearly 2 years, but was rather unique to us in that she was a major in the U.S. Marine Corps. She was also a dedicated mother of two, and became affectionately known among the staff as ''Major Mom.''

Maj. Debra Biely is a dedicated, intelligent, and extremely articulate professional who quickly became a valued and trusted member of my legislative staff. As a military LA, she worked on the full range of issues relating to national defense and the space program. Her years of experience as a Marine officer, together with her in-depth understanding of the programming and budgeting process, were always evident in the quality, accuracy, and timeliness of her work.

Major Biely always provided me and my permanent staff with sound, thoughtful analysis of often complex national security issues. She briefed me on such issues as United Nations peacekeeping efforts, the use of Armed Forces in Bosnia, the Marines in Somalia, and the operational control of American forces in international coalitions.

I learned to completely trust her judgment. She often represented me in meetings with constituents, defense contractors, veterans groups, and military program managers. In so doing, Debra was an impressive representative of the Marine Corps to a broad spectrum of people, both within and outside the Government.

She is an excellent writer and researcher. Debra's work during the 1993 Base Closure Commission hearings proved invaluable as she helped prepare me to protect the Nation's only live-agent chemical training facility. She assisted in getting several major programs through the authorization and appropriations processes.

Yes, Maj. Debra Biely is the consummate military professional, and conducted herself as such while serving in my office. But she is also a warm, friendly, and outgoing person, who come to be emulated by the rest of my staff. This ''Major Mom'' is also thoroughly and completely devoted to her husband and children, and we often marveled at how she could do such a superb job in the office and still devote so much of herself to her family. She was also a tremendous follower of current events, and often was the first to know of major stories in the news. I should add that ''Major Mom'' only recently completed her master of business administration degree. She truly is one of those modern women who manage to do it all and do all of it well.

Perhaps what we will remember most about Debra's work, and what I personally appreciate the most, is her leadership in the battle to save the International Space Station. She proved to be a committed and tireless worker on this important cause. Her persistent efforts helped pave the way for an overwhelming vote of support for the station in this body. She was recognized by Vice President GORE for her efforts in this regard.

In short, we were fortunate to have Debra on our staff, and, frankly, I wish she could have stayed longer. Her demonstration of loyalty, integrity, and commitment all reflected well on the U.S. Marine Corps, indeed on the entire Armed Forces of our country. Major Biely is a shining example of the quality and professionalism that characterize the ranks of our military personnel today, as well as a significant reminder of the important role that women play in our national defense.

TRIBUTE TO DR. LESLIE S. WRIGHT

Mr. HEFLIN. Mr. President, the Rotary Club of Birmingham, AL honored Dr. Leslie S. Wright on Wednesday, January 25 for his outstanding leadership during the 1985–88 term as Rotary International's PolioPlus campaign chairman. During his 3-year tenure as leader of this worldwide fundraising effort, Dr. Wright inspired and motivated Rotarians around the globe to more than double their original goal of $120 million. To date, Rotarians, companies, and individuals have donated over $247 million to rid the world of polio by the year 2005.

Not only has the money been raised, but thousands of Rotarians have volunteered countless hours toward 1 billion children being immunized. Our own hemisphere has been declared free of polio and we are well on our way to seeing an end to this dreaded disease before the target date of 2005. Altogether, 141 countries are now polio free. It is a grand understatement to say that the response to Dr. Wright's dynamic leadership was overwhelming.

A native of Birmingham, Leslie S. Wright earned two degrees from the University of Louisville. He has been awarded honorary doctoral degrees by Auburn University, the University of Alabama, Troy State University, Samford University, and the University of Louisville. In 1983, he retired as president of Samford University, having served there since 1958. He remains the university's chancellor.

A Rotarian since 1947, Dr. Wright is a member and past president of the Rotary Club of Birmingham. He has served Rotary International as district governor, International assembly instructor, committee member and chairman, and director. He has received the Citation for Meritorious Service and the Distinguished Service Award from the Rotary foundation for his support of its international humanitarian and educational programs. He was appointed a charter member of the Alabama State Ethics Commission in 1973, serving a total of 6 years. He was twice chairman of the commission.

Perhaps more than anyone else, Dr. Wright led the way in the drive to eradicate polio. I can think of no one more deserving of this honor and praise that was recently bestowed by his fellow Rotarians in Birmingham.

I applaud his vision and congratulate him on his many achievements.

THE UAB COMPREHENSIVE CANCER CENTER VACCINE TRIALS

Mr. HEFLIN. Mr. President, as we know, a vaccine against cancer is one of the most eagerly sought objectives of medical science. Preclinical studies and patient trials of several potential vaccines are under way in the United States and Europe.

At the University of Alabama at Birmingham's [UAB] Comprehensive Cancer Center, at least four cancer vaccine strategies are being developed. Two of these approaches are now in clinical trials open to patients. The other two are in development in preclinical animal studies.

In 1993, the National Cancer Institute [NCI] and the UAB Cancer Center entered into a cooperative agreement which provided the center with $1.5 million in support over 5 years to conduct a series of cancer vaccine trials.

The UAB Cancer Center is one of 27 such centers in the Nation that meets the high standards for comprehensive designation by the NCI, and it was one of the first eight so designated in 1973. Now in its 23d year of core grant support by the NCI, the UAB center was renewed this year for core funding over the next 5 years in the range of $27 million. After meticulous review, the NCI also gave the center its highest priority rating based on program excellence.

The trials currently under way at UAB include those for breast cancer, colon cancer, and melanoma. The traditional concept of vaccination is to protect against future exposure to disease. Through work such as that being done at UAB, this concept is now being extended to include therapeutic applications to stimulate the immune system to kill tumor cells or infections like AIDS that already are established in the body.

I want to commend and congratulate the outstanding physicians and scientists at UAB who are working so hard to make the hope of a cancer vaccine a reality. I ask unanimous consent that an article detailing the colon cancer vaccine trials from the Birmingham Post-Herald be printed in the RECORD following my remarks.

NEW VACCINE USED TO FIGHT COLON CANCER

(By John Staed)

Birmingham scientists successfully used a vaccine to get the body's immune system to fight colon cancer cells, marking the first time in the world the therapy has worked on human patients.

The University of Alabama at Birmingham researchers also reported plans to test a genetic vaccine for breast cancer in women. The vaccine causes the immune system to recognize and attack breast cancer tumor cells.

Until now, vaccines have normally been used to prevent diseases such as polio or mumps. This new approach by scientists enhances the body's immune system responses to existing diseases, said Dr. Albert LoBuglio, director of the UAB Comprehensive Cancer Center. LoBuglio spoke yesterday during a briefing on developments at the center and UAB's new Vaccine Center.

Among its projects, the vaccine center is examining ways to develop immunizations for bugs that cause pneumonia, to introduce vaccine doses in foods to lower immunization costs, and to find new vaccines for infectious diseases that are increasingly resistant to modern antibiotics.

In the colon cancer research, four patients who had colon cancer tumors surgically removed but who had a 60 percent chance of recurrence were treated over 16 weeks with the new vaccine.

''Two of the four have developed substantial immune responses,'' LoBuglio said. ''We're hoping it translates into an anti-tumor effect.''

Colon cancer, or cancer of the large bowel and rectum, is expected to be diagnosed in 149,000 people this year in the United States. Together, the cancers of the colon and rectum are second only to lung cancer as a cause of cancer deaths.

About half of the colon cancers are cured by traditional treatments. The genetic treatments came after patients had gone through surgery alone or chemotherapy and surgery.

Dr. Robert Conry, co-investigator with LoBuglio, said if the vaccine proved successful through expanded studies, it might be available for clinical use after five years. But, he said, many more safety and reliability studies are needed.

Scientists' expanding knowledge of the body's immune system has been critical in development of the new treatments, Conry said. This information ''is allowing us to, in a more informed way, develop vaccines for infectious disease as well as tumors,'' he said.

The vaccines could help doctors ''harness the potential of the immune system'' to treat cancers, Conry said. ''Since these vaccines have little or no side effects, it will provide a welcome alternative to chemotherapy, which has significant side effects.''

Cancer develops from the uncontrolled growth of cells within the body. Normally, the body's immune system would destroy disease, but cancer, because it developed from the body's own cells, goes undetected.

To trick the immune system into attacking the colon cancer cells, scientists enlisted the help of the virus used to eliminate smallpox, the vacinia virus, and a protein called carcinoembryonic antigen (CEA).

Scientists found a way to use insect cells to safely produce the CEA protein.

The smallpox vaccine with the CEA protein genetically added to it triggers an immune response to malignant cells. The scientists' goal is to prevent recurrence of colon cancer by destroying remaining cancer cell ''floaters'' that are left circulating in the body after surgery.

In the breast cancer research, scientists will be using a genetically engineered vaccine to both produce an immune response to breast cancer cells and eradicate cancer cells.

One woman has been selected to soon begin the anti-tumor vaccine pilot study, and cancer center officials hope to include 30 women in the trial.

The women must have breast cancer that has spread, but that is responding to hormonal treatments, said Janis Zeanah, a spokeswoman for the cancer center.

Women will be injected with a vaccine containing the CEA protein. Scientists hope that it will cause the immune system to respond the same way as it has in the colon cancer test and destroy the cancerous cells.

MEXICAN LOAN GUARANTEE

Mr. DASCHLE. Mr. President, the New York Times report this morning about the American job losses that may result from Mexico's currency crisis is sobering.

The loss of jobs as the economy of Mexico responds to the peso devaluation is a price that will be paid by American workers and their families. The past 2 years of strong export sales to Mexico have helped create about 770,000 American jobs directly tied to that export market. When that market

collapses, those jobs are placed in jeopardy.

That is why we should recognize that the proposed loan guarantee to address Mexico's economic situation is in our national interest. The loan guarantee has been called a bailout and worse, but those who like to throw such terms around don't take into account that real working people's jobs are also at stake.

The loan guarantee is not a foreign aid package.

It is structured to avoid placing Government funds at risk. Mexico would be required to pay loan guarantee fees up front—before the guarantee took effect and before loans would be extended. Those fees would indemnify American taxpayers in exchange for Mexico's right to use our guarantee.

In addition, Mexico would provide security in the form of proceeds from the state-owned petroleum company, guaranteeing that America would be repaid if the loan guarantees were ever activated.

As a result, the extension of loan guarantees would not implicate any Treasury costs in taxpayer dollars. And the risk of exposing tax dollars to possible future loss would be protected by our access to Mexico's export oil earnings.

Even today, the Mexican economy is fundamentally sound. It will rebound and grow. The question for Americans to consider is how long the rebound will take and what potential depths of turmoil the country is likely to encounter in the meantime.

Both those questions matter to Americans because turmoil and joblessness in Mexico will inevitably lead to even greater pressures on our southern border, as people search for a way to earn a living and feed their families.

How long it will take for a Mexican economic recovery matters very much to workers whose products are sold in the Mexican market. They are the Americans whose jobs are at risk today, particularly in the southern border States.

Not only are States like Texas, Arizona, and California the ones to which illegal entrants are first drawn, these are also the States with some of the highest export sales to Mexico.

California sells $5 billion worth of products to Mexico each year. Nearly 20 percent of Arizona's export sales are made in Mexico. Texas relies on the Mexican market for more than one-third of all its overseas sales—$13 billion per year.

So, while the jobs of American workers will be placed at risk because of the collapse of the Mexican market for their goods, those border States will also face the pressures of increased illegal entrants.

But the job and income losses will not be limited to the southern border States. States all over the country sell products to Mexico, and residents of practically every State are employed in the process. Even South Dakota, which is one of the Nation's smaller States in terms of population, had sales of $4 million per year to the Mexican market.

I know $4 million doesn't sound like much compared to $13 billion from Texas, but, in a small State, we take our millions very seriously.

Changes in traditional export relationships are occurring very quickly in today's new global marketplace. Our premier trading partners are Canada and Japan. However, last year our sales to Mexico practically equalled our sales to Japan.

More American exports mean more American jobs. Export-related jobs are relatively high-wage jobs, typically paying between 10 and 20 percent more than the average American job. So, export jobs are among the most desirable in the economy. When they're placed at risk, more income is jeopardized, and a replacement job at a similar income is harder to find.

The growth of our Mexican exports to a total of $41 billion in 1993 is estimated to have reached more than 10 percent in 1994. In all, since 1987, American sales to Mexico have almost doubled. It's not surprising that private economic forecasters are predicting the potential for significantly large American job losses if this market is allowed to crumble.

We cannot change what has already happened. The peso devaluation that caused the temporary economic reaction in Mexico is a fact of history. But we can help determine how severe its fallout will be for Americans by the speed and firmness with which we act now.

This should not be an opportunity for partisan posturing. We are not talking about the loss of Republican jobs or Democratic jobs. We are talking about the loss of American jobs. Those workers ought to be able to rely on their Congress to set partisanship aside when their livelihood is at stake.

The former President of the United States, President Bush, on January 19, agreed that it is vital for Congress to move promptly on the loan guarantee package.

President Bush stated,

> The plan is not a giveaway. * * * In my view, the guarantees will never have to be called.

On January 18, President Clinton said,

> The guarantees we will provide are not foreign aid. They are not a gift. They are not a bailout. They are not U.S. Government loans. And they will not affect our current budget deficit. * * * no guarantees will be issued unless we are satisfied that Mexico can provide assured means of repayment.

Both Presidents are right. The plan is not a giveaway. It is the loan of a hose to a neighbor whose house is on fire. We're not proposing to build a fire station and equip it. We're just passing the hose across the fence.

I hope the Congress can agree to set aside partisan bickering and do the right thing now. It's never easy to stand up and vote for something when the polls indicate that people may not understand it, or might draw the wrong conclusions.

But it is the task of leaders to lead. This is the right thing to do—not just for our neighbor and trading partner to the south, but for America. I hope my colleagues in the Senate—on both sides of the aisle—will work with the administration to approve the proposed loan guarantee legislation as quickly as possible.

THE PATH TO A BUDGET PACKAGE

Mr. DOMENICI. Mr. President, there will be much discussion about what will be in the budget package this year. The President will present his list of program terminations, reforms, and money saving proposals. The Congress working with Governors, State and local officials, and many others will start work on a fiscal blueprint for the country's future. And newspapers every day for the next few weeks will be filled with stories about various money saving ideas that are under consideration.

I want to describe the decision-making process that will be going on over the next few months. I also want to tell you why these budget proposals are under consideration in the first place, and how they fit into the bigger picture—the future prosperity of our country. Most important, keep in mind that these are only preliminary proposals and final decisions won't be made until a great deal of fact finding has been done.

The United States currently has $4.8 trillion in outstanding debt. Just paying the interest on the debt takes 14 cents out of every dollar Americans are paying in Federal income taxes. Every man, woman, and child's share of the national debt is more than $18,000. Current estimates show our annual deficit increasing every year, growing from $175 billion this year to over $250 billion in the year 2000. We are mortgaging our children's and grandchildren's future.

This premise was eloquently stated by Laurence Tribe of Harvard Law School:

> Given the centrality in our revolutionary origins of the precept that there should be no taxation without representation, it seems especially fitting in principle that we cannot spend our children's legacy.

Deficit spending and adding to the national debt cannot go on. Governments are no different than families. We all know friends who have let their personal finances get out of hand. Some of us have experienced it ourselves. At some point the out-of-control spending catches up and the credit cards have to be cut up or the family goes bankrupt.

When governments let their deficit spending get out of control, citizens suffer. The economy produces fewer and lower paying jobs. This relationship between our Nation's spending

habits and their impact on our economy's ability to create good jobs gives every American an important stake in putting our fiscal house in order.

To achieve this goal, every Federal program and expenditure, except Social Security, is being evaluated in a bottom-up and top-down review. During the next few months Congress will be considering how to best reduce the size of the Federal Government and implement fiscal policies that will create a strong economy and good jobs. There are hundreds of proposals that are under consideration. Some are sound, others less so. Some are fair, others are not.

One of the best fiscal policies for a prosperous future is a balanced budget. A balanced budget constitutional amendment requires the Federal Government to spend $1.1 trillion less than it is currently projected to spend over the next 7 years, and yet total Federal spending will still increase every year. In the year 2002—if we reach balance—the Federal Government will expend $1.9 trillion; this year the Federal Government will expend $1.5 trillion.

Part of the task is to establish the appropriate metes and bounds of the Federal Government. We need to determine how and on what programs the Government in Washington should be spending our taxpayers' money. There will be a philosophical discussion about the role of the Federal Government in our daily lives. Important questions will be answered. How can taxpayer dollars best and most efficiently be spent? How can we make programs work better and save money? Are there better ways to provide Government services? Are there lessons Congress could learn from State and local governments? Could the private sector do a better job in providing those services that are not quintessential government functions?

There is a feeling that the Government in Washington has been trying to micromanage everyone's lives. And while the Federal Government has been attempting to run everyone else's business, there is a sense that no one has been adequately managing the Government in Washington. Reversing this trend is part of putting our fiscal house in order by developing this year's budget plan.

It would be more consistent with our Founding Fathers' vision of a limited Federal Government with enumerated powers if the Federal Government did less.

Our country would be a better country if some services were provided by the State and local governments instead of the Federal Government. I believe the Federal Government should enter into a new partnership with the States so that the Federal Government imposes fewer strings, fewer rules, and fewer regulations. In addition to achieving more sensible Government, this new Federal-State and local government partnership could provide the same level of service with fewer taxpayers' dollars. If the strings attached to Federal funding were cut, fewer Federal dollars would be needed to do the same job and fewer taxes being paid by hard working families. This is a win-win-win solution.

In New Mexico, the Governor and I are eager to forge this new partnership so that government, at all levels, sets the right priorities.

We already know what some of the priorities are; improving crime prevention, detection, and prosecution; preserving the national laboratories; and, making sure New Mexico's military bases maximize their contribution to our national defense.

If the future means lower taxes and less Washington-dictated Government, this evaluation needs to take place. This is what will be going on in the Senate Budget Committee.

On the first day of the new Congress, the Senate cut the size of congressional committee budgets by 15 percent. We are going to lead by example. We are also going to proceed with caution and compassion. I want you to know that throughout this process, it is my intention for everyone to be treated fairly. In making the Federal Government more responsive to its citizens, we must keep in mind the neediest among us. We are a great nation founded on the notion of equal opportunity. Unfortunately, too many of our programs create unintended dependency traps. Part of this Congress' work program is to provide more intelligent programs that provide choices and restore opportunity.

I hope the budget we produce will reflect the priorities of the American people, forge a new partnership with the States, meet the requirements of the balanced budget constitutional amendment, and most important, put into law responsible fiscal policies that will let the economy create good paying jobs and a brighter future for our children and grandchildren.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is a lot like television's well-known energizer bunny—it keeps going and going—at the expense, of course, of the American taxpayer.

A lot of politicians talk a good game, when they are back home, about bringing Federal deficits and the Federal debt under control. But so many of these same politicians regularly voted in support of bloated spending bills during the 103d Congress—which perhaps is a primary factor in the new configuration of U.S. Senators.

This is a rather distressing fact as the 104th Congress gets down to business. As of Friday, January 27, 1995, the Federal debt stood—down to the penny—at exactly $4,805,320,933,038.83 or $18,241.08 per person.

Mr. President, it is important that all of us monitor, closely and constantly the incredible cost of merely paying the interest on this debt. Last year, the interest on the Federal debt totaled $190 billion.

Mr. President, my hope is that the 104th Congress can bring under control the outrageous spending that created this outrageous debt. If the party now controlling both Houses of Congress, as a result of the November elections last year, does not do a better job of getting a handle on this enormous debt, the American people are not likely to overlook it in 1996.

THE LATE LORNA SIMPSON

Mr. THURMOND. Mr. President, the Senate is a place of great camaraderie and congeniality, and over the past four decades, I have been fortunate to have made a number of very good friends here. Regrettably, I rise today to memorialize one of them, Mrs. Lorna Simpson.

Lorna is known to all of us as the mother of our colleague, Senator AL SIMPSON, the dedicated and gregarious senior Senator from Wyoming. While most Members probably had the opportunity to meet this kind and warm woman, few are fortunate to have known her as well as I.

I first came to know Lorna in 1962 when her husband was elected to the U.S. Senate and he moved into an office near mine. The Simpsons quickly became my close friends and I very much enjoyed spending time with Al and Lorna.

While Lorna was a consummate entertainer, she was a woman who was civically active and took a strong role in supporting her husband's business enterprises. Every community in which the Simpsons lived benefited from the efforts of Lorna as she contributed her time and efforts to numerous causes including the Red Cross and programs that restored various historic sites. During World War II, Lorna contributed to the war effort by chairing Cody Wyoming's black and scrap metal committees and even served as the acting editor of the local paper. Among her many other activities in the subsequent years, she assisted her husband in negotiations with the Israeli Government concerning gas and oil exploration in that country, and later she served as the representative of the women of the United States to the Organization of American States.

Mr. President, I know everyone will agree with me that Lorna Simpson was a unique woman and a lady in every respect. She possessed high ideals, a lovely character, a friendly personality and all the good qualities that signify the perfect lady. She was a woman who was devoted to her husband and family and she added much to the lives of those whom she touched. Senator AL SIMPSON and his lovely wife Ann have my deepest sympathies and they, along with AL's brother Peter and the entire Simpson family, are in my thoughts and prayers.

BUDGET SCOREKEEPING REPORT

Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through January 27, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget, House Concurrent Resolution 218, show that current level spending is below the budget resolution by $2.3 billion in budget authority and $0.4 billion in outlays. Current level is $0.8 billion over the revenue floor in 1995 and below by $8.2 billion over the 5 years 1995–99. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $238.7 billion, $2.3 billion below the maximum deficit amount for 1995 of $241.0 billion.

Since my last report, dated January 17, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 30, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1995 shows the effects of Congressional action on the 1995 budget and is current through January 27, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1995 Concurrent Resolution on the Budget (H.Con.Res. 218). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements of Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated January 17, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS JANUARY 27, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 218)[1]	Current level[2]	Current level over/ under resolution
On-budget:			
Budget Authority	$1,238.7	$1,236.5	−2.3
Outlays	1,217.6	1,217.2	−0.4
Revenues:			
1995	977.7	978.5	0.8
1995–1999[3]	5,415.2	5,407.0	−8.2
Maximum deficit amount	241.0	238.7	−2.3

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS JANUARY 27, 1995—Continued

[In billions of dollars]

	Budget resolution (H. Con. Res. 218)[1]	Current level[2]	Current level over/ under resolution
Debt subject to limit	4,965.1	4,711.4	−253.7
Off-budget:			
Social Security Outlays:			
1995	287.6	287.5	−0.1
1995–1999	1,562.6	1,562.6	*0.
Social Security Revenues:			
1995	360.5	360.3	−0.2
1995–1999	1,998.4	1,998.2	−0.2

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Includes effects, beginning in fiscal year 1996, of the International Antitrust Enforcement Act of 1994 (P.L. 103–438).

* Less than $50 million.

Note: Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995 AS OF CLOSE OF BUSINESS JANUARY 27, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions			
Revenues			$978,466
Permanents and other spending legislation	$750,307	$706,236	
Appropriation legislation	738,096	757,783	
Offsetting receipts	(250,027)	(250,027)	
Total previously enacted	1,238,376	1,213,992	978,466
Entitlements and mandatories			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	(1,887)	3,189	
Total current level[1]	1,236,489	1,217,181	978,466
Total budget resolution	1,238,744	1,217,605	977,700
Amount remaining:			
Under budget resolution	2,255	424	
Over budget resolution			766

[1] In accordance with the Budget Enforcement Act, the total does not include $1,244 million in budget authority and $6,361 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $1,027 million in budget authority and $1,040 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

* Less than $500 thousand.

Notes: Numbers in parentheses are negative. Detail may not add due to rounding.

ON THE 50TH ANNIVERSARY OF THE LIBERATION OF AUSCHWITZ

Mr. HATCH. Mr. President, I rise to solemnize the 50th anniversary last Friday of the liberation of Auschwitz, the concentration camp where nearly 1½ million innocents were exterminated by the Nazi regime, most of them for the simple reason that they were Jews.

The Nazi Holocaust represents one of the blackest eras of the 20th century, a time which casts a shadow across the landscape of the entire second half of this century.

I quote Paul Johnson, one of our eminent living historians, from one of his many great books, ''A History of the Jews'':

Hitler had wiped out a third of all Jews, especially the pious and the poor, from whom Judaism had drawn its peculiar strength. The loss could be seen in secular terms. In the nineteenth century and early twentieth century the world had been immeasurably enriched by the liberated talent streaming out of the old ghettos, which had proved a principal creative force in modern European and North American civilization. The supply continued until Hitler destroyed the source forever. No one will ever know what the world thereby sacrificed. For Israel the deprivation was devastating. It was felt at a personal level, for so many of its citizens had lost virtually all their families and childhood friends, and it was felt collectively: one in three of those who might have built the state was not there. It was felt spiritually perhaps most of all.

''No one will ever know what the world sacrificed.'' We will always live with that absence; we will always live with the darkness of what was lost.

Churchill called it ''the crime without a name.'' Last Friday at the ceremonies in Poland, Lech Walesa spoke of ''the martyrdom of all nations, especially the Jewish Nation.'' And in Germany Helmut Kohl said it was ''the darkest and most terrible chapter in German history.'' They were all correct.

Civilized men and women are fortunate today that the lands where the Holocaust occurred are free. But the truly free societies must bear burdens, and a burden of freedom is to examine one's past—for the purpose of recognizing the most brutal of realities; for the purpose, perhaps, of understanding; but most importantly, for the purpose of never forgetting. I submit that nations are never completely free until they have the ability, will, and courage to examine their pasts free of censorship, free of cant, free of willful neglect.

The Holocaust Museum in Washington provides a somber, moving ,and dramatic memorial to man's most evil capabilities, and it draws thousands to pay homage to the millions of victims of genocide. There is strength in a society that can bear such witness.

Fifty years later, we still live in the shadow of the Holocaust, and indeed, until we can say that all men will respond instinctively and courageously with the highest outrage against genocide, we can never stray far from this darkness.

Last week we commemorated the liberation of Auschwitz. In the same week, 19 Israeli men were killed in a terrorist attack by one of the extremist groups dedicated to the destruction of Israel. In the same week, more intelligence reports surfaced about Iran's nerve gas production, which, combined with its current ballistic missile capabilities, puts it in a position to threaten Israel with gas attacks.

Again, I will quote Paul Johnson:

The overwhelming lesson the Jews learned from the Holocaust was the imperative need to secure for themselves a permanent, self-contained and above all sovereign refuge where if necessary the whole of world Jewry could find safety from its enemies. The First World War made the Zionist state possible. The Second World War made it essential.

It is a bitter realization to know that 50 years after the Nazi Holocaust, the Jewish State remains under attack; anti-Semitism is growing in certain parts of the world, as in Russia; genocide is practiced and ignored, as in Rwanda and, on the European Continent drenched in Jewish blood, in Bosnia.

The Nazi Holocaust demonstrated a human depravity that many refused to believe was possible. We must never forget that men are capable of the most heinous destruction of their fellow men. The name of Auschwitz should forever echo in the memories and consciences of civilized people as one of the pinnacles of evil achieved in the 20th century. For it was in Auschwitz and the other concentration camps of the Nazi era that genocide was practiced as a tool of nationalism. And if we ever choose to ignore the shadows of such a loss, of such a despicable past, we do so at the risk of blindly allowing it to happen again.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. KEMPTHORNE). Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

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

The 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 proceeded to consider the joint resolution.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, we are happy at this point to have Senate Joint Resolution 1, the Hatch-Simon balanced budget constitutional amendment brought up. It is in the form of the House-passed amendment which is absolutely identical to the amendment that the distinguished Senator from Illinois and I and Members of the House, including CHARLES STENHOLM, from Texas, and, at that time, LARRY CRAIG back in the early days over in the House, who is now one of the leaders on the Senate floor, have been working on for years, ever since the 1982 balanced budget fight.

When I was chairman of the Constitution Subcommittee, we brought it to the floor and then to the leadership of Senator THURMOND, Senator DOLE, and Senator Baker at that time. We were able to pass it through the Senate.

This is slightly changed from then, but the basic principles are the same. Basically, there are three things that the general public needs to know are very worthy reasons for passing this balanced budget amendment that is now in the form of the House resolution that was passed by 300 votes to 132 last Thursday evening.

No. 1 is that if this amendment is passed by the requisite two-thirds vote of the Senate and is ratified by the requisite three-quarters of the States, then from that point on, it will take three-fifths of both bodies in order to increase the deficit.

That is a supermajority vote, and the reason we have done that on the deficit is because the deficit is going out of control and we would have to have a supermajority vote in order to have real considerations as to whether or not we want to continue to expand the deficit.

So, No. 1, you would have to have a three-fifths vote if you want to increase deficit spending. No. 2, if you want to increase taxes to pay for the costs of Government, then you no longer can do it by a simple majority vote.

Some of the media in this country have had the idea that this amendment just has a simple majority vote. It is not true. It has what is called—and we put it into the 1982 amendment that passed the Senate by 60 percent but died in the House, then led by Tip O'Neill; he beat us over there—but we came up with the idea of a constitutional majority requisite vote in order to increase taxes.

Let me just explain that a little bit more. If this amendment becomes the 28th amendment to the Constitution, then in order to increase taxes, you are going to have to have 51 percent—a majority of the whole body of both the House and the Senate. So to put that in perspective, we could pass anything in this body as a general rule by a majority vote if we have a quorum of 51 Senators. We can pass anything by a vote of 26 to 25, if that is how close it was.

Under a constitutional majority, we cannot increase taxes without, No. 1, a vote and, No. 2, without getting at least, no less, than 51 U.S. Senators to vote for it and in the House at least no less than 218 Members of the House.

So those are two very important reasons for voting for this: No. 1, in order to increase the deficit, this amendment says you are going to have to have a three-fifths vote of both bodies, the Senate and the House. No. 2, if you want to increase taxes, you are going to have to have a constitutional majority to do so. And No. 3, you have to vote.

Right now, many times when we increase the deficit in this country, we do not vote at all. We just have a voice vote. Nobody knows who are the people that have put us into debt or put us into further debt. From here on in, in both cases, that of increasing the debt or increasing taxes, we are going to have to have rollcall votes. Those are the three pivotal and most important aspects of this amendment.

Let me just put it in further perspective, with regard to the constitutional majority necessary to raise taxes. If the President's fiscal stimulus bill had come up, as it came up last year, was passed the way it was, the Senate was equally divided 50–50. There were 50 who voted for it and 50 who voted against it. It took the Vice President to break the tie, and it passed 51 to 50.

If this amendment passes, my contention is it will take at least 51 Senators, regardless of the way the Vice President votes, in order to increase taxes.

So it will not be easy to increase taxes, although we have had many votes in the history of this body where we have had 51 votes for taxes.

I believe it will become the focal point from that point on. I believe the three-fifths vote will become the focal point on increasing the deficit.

Why are we even talking about a balanced budget amendment? I have talked to many of my constituents and there was more than one person who came to me and who said: ''What kind of a legacy are we leaving to our children? How can I and my generation continue to spend us into bankruptcy and leave our children high and dry?''

I have had a number of people on Social Security all over my State come to me and say, ''Look, Senator, if you don't get spending under control, our Social Security isn't going to be worth anything. We won't be able to survive because that is all we have to live on.''

If we do not get spending under control, they say, they are going to not get many benefits out of Social Security.

These people put the correct issue first: Are we going to live within our means so that our dollar is worth something, so that we do not ultimately have to monetize the debt, devalue the dollar, and make even Social Security less worthwhile for people? And they are the first to admit that we need a balanced budget constitutional amendment to make it necessary for Congress to choose among competing programs.

I have had people in the military say, ''What are we going to do? Military spending keeps going down.'' If we start getting into a range of inflation, because interest against the national debt is now over $300 billion a year and going up exponentially and will be over $400 billion, according to the Congressional Budget Office, after the first of the year, how are we going to keep our country safe and clear? And that is based on current interest rates. Will inflation not go up even more? The answer to that is probably so.

They said to me, as much as we want the military to be strong and our Nation to be secure, you are going to have to pass the balanced budget amendment.

The average person out there understands this. They do not get all caught up in the special interest concerns of the day. People who think clearly

know that we have to do something about this profligate Federal spending.

So I rise today with a very strong feeling that this is one of the most important debates in this country's history that has ever taken place in the Senate.

The subject matter goes to the heart of our Founding Fathers' hope for our constitutional system, a system that has and will protect individual freedoms to the maxim of limited Government.

In the latter half of this century, however, the intention of the Framers of the Constitution has been betrayed by Congress' inability to control its own spending habits. The size of the Federal leviathan has grown to such an extent that the very liberties of our American people are threatened.

History has already been made in the House of Representatives; 300 of our courageous colleagues in the House, both Democrats and Republicans, approved this balanced budget amendment to the Constitution, which parallels word for word Senate Joint Resolution 1, the Hatch-Simon-Thurmond-Heflin-Craig balanced budget amendment, under the leadership of the distinguished majority leader, ROBERT DOLE.

The eyes of the people, 85 percent of whom favor a balanced budget amendment, now turn to us in the Senate. They know this is the battleground. They know this is where the real battle is going to occur. We need to follow the example of the House and pass this balanced budget amendment.

This amendment has broad support in the country, and among Democrats and Republicans who believe we need to get this Nation's fiscal house in order so that we can leave a legacy of strong national economy and a responsible national Government to our children and our grandchildren.

THE PROBLEM: THE WORSENING DEBT CRISIS

We have a tremendous debt problem, and it is worsening. Mr. President, our Nation is faced with a $4.8 trillion national debt that gets worse and worse every year that we run a budget deficit. The Government is using capital that would otherwise be available to the private sector to create jobs and to invest in our future. Increased amounts of capital are being wasted on merely financing the debt because of spiraling interest costs. This problem presents risks to our long-term economic growth and endangers the well-being of our elderly, our working people, and especially our children and grandchildren. The debt burden is a mortgage on our children and grandchildren's future.

The trend is clear and uninterrupted. The magnitude of the annual deficits has increased enormously and continues to do so. During the 1960's, deficits averaged $6 billion per year. In the 1970's, the deficits averaged $38 billion per year. In the 1980's, the deficits averaged $156 billion per year, and in the 1990's so far deficits have averaged $259 billion per year.

The total national debt now stands at almost $5 trillion. That means that every man, woman and child in America has an individual debt burden of $18,500. We each owe that much money. Well, it took us over 200 years to acquire our first trillion dollars of debt, 200 years of history before we got to $1 trillion. We have recently been adding another trillion dollars of debt about every 5 years and will continue to do so under current projections at a slightly faster rate as we approach the end of the decade—$18,500 each of us owes. Back in 1975, we thought it was outrageous that we each owed $2,500.

When I ran for the Senate in 1976, it was a little higher than $2,500, and we just thought that was unbelievable. Here it is $18,500, caused by both parties, caused by Presidents, whether Republican or Democrat, caused by a profligate Congress mainly that has not been willing to get spending under control.

Well, it comes as no surprise that these increases in our national debt are mirrored by increases in Federal spending. The first $100 billion budget in the history of our Nation occurred as recently as fiscal year 1962. It took us until then to spend the first $100 billion a year. That was more than 179 years after the founding of the Republic.

The first $200 billion budget, however, followed only 9 years later in fiscal year 1971. The first $300 billion budget occurred only 4 years later in fiscal year 1975, the first $400 billion budget 2 years later in fiscal 1977, the first $500 billion budget in fiscal year 1981, the first $700 billion budget in fiscal 1982, $800 billion in 1983, $900 billion in 1985, and the first $1 trillion budget in fiscal year 1987. The budget for fiscal year 1995 has been projected to exceed $1.5 trillion.

And yet, Mr. President, opponents of the balanced budget amendment claim there is no problem. They repeatedly point to the marginal slowdown in the growth of the debt last year as though all of our problems are solved. They say that President Clinton has dealt with this problem.

But they are dead wrong. Only inside the beltway can people claim that with a debt approaching $5 trillion we are on the right track. Everyone on Capitol Hill knows that starting in 1996, President Clinton's budget leads us on a path of steadily increasing deficits, beyond anything that we have ever seen before. The simple fact is that with every additional dollar we borrow, we throw more coal into the fire of the runaway train on which we are all riding.

INTEREST ON THE DEBT: A TIME BOMB

Mr. President, one of the most pernicious effects of the enormous deficit beast is the interest costs required to feed it. Interest on the national debt in 1993, the last year for which we have a full actual set of budget figures, amounted to nearly $293 billion.

Now, that is more than the total revenues to the Federal Government were back in 1975—just interest against the debt. In 1993, interest took 26 percent of all Federal revenues and 57 percent of all individual income tax revenues.

The Office of Management and Budget projected last year that interest on the debt will rise substantially over the next 5 years. It is now going up exponentially. OMB projected that interest costs will pass the $300 billion mark in 1995 and reach $373 billion in 1999.

Opponents of the balanced budget amendment suggest that we cannot afford to cut the deficit because decreased social spending will have severe adverse effects on our economy. But think of how much we could do in crime control, disaster relief, health, science and education if we had that $300 billion available that we are spending on interest each year.

I do not understand the logic of continuing to waste over 20 percent of our entire budget on interest on the rationale that we cannot afford to cut spending. What we cannot afford to do is to continue to throw away one-fifth of our national budget on interest payments.

Now, my colleagues, to put this in even better perspective, gross interest on the debt in 1993 amounted to more than the entire defense budget, which was $292.4 billion. It was 97 percent of Social Security payments, which were $302 billion—it will probably be more than Social Security this year—55 percent of all discretionary outlays, which were $542.5 billion; and 44 percent of all mandatory programs, which amounted to $666.9 billion.

The nearly $293 billion of gross interest costs in 1993 could have covered our entire health spending, including Medicare and Medicaid, $207.6 billion; all veterans' benefits and services, $19.3 billion; unemployment compensation, $35.5 billion; our entire international discretionary spending, $21.6 billion; and also covered the costs of the earned income tax credit, $8.8 billion. All of that could have been paid for just out of the interest on the national debt we have been paying.

Without the gross interest on the debt, we would not have even had a deficit last year; in fact, we would have run a budget surplus of $93 billion.

Interest on the debt is wasted money. Over the 5 years of so-called deficit reduction under President Clinton's plan, OMB's own calculation last year was that interest on the public debt will total roughly $1.7 trillion. This amount could have fully funded the entire 1994 budget, with money left over.

Interest compounds and gets larger by itself, even without new deficits. And, if interest rates go back up, the problem will be increased exponentially. Self-propelled interest costs will continue to eat a larger share of our national treasury, destroying our choices to fund new programs and eroding our ability to keep the commitments we have already made.

You can see how interest on the Federal debt through the year 2005 from 1994, which is a little less than $300 billion, will go up because of the exponential increase of compounded interest. Look at how it just shoots up in the air until, in 2005 it is somewhere over $520 billion. It is really a problem. And we have to face it. The only way I know to face it is to enact this balanced budget amendment. I do not know of anybody who has a better idea.

THE NEED FOR A BALANCED BUDGET

Mr. President, if one thing is crystal clear, it is that we need to move toward a balanced budget. During this debate, both sides will cite lots of numbers and figures. One such figure is our current $4.8 trillion national debt. But how does one communicate the implications of our staggering debt?

In 1975, before this recent borrowing spree, the Federal debt amounted to approximately $2,500 per person, and the annual interest charges were roughly $250 per taxpayer. At the present, the Federal debt amounts to about $18,500 per person, with annual interest charges exceeding $2,575 per taxpayer. And that is at today's interest rates, which could go even higher.

The Congressional Budget Office predicts that in 1999, total Federal debt will be nearly $6.4 trillion. That means $23,700 of debt per person, with annual interest costs projected to be over $3,500 per taxpayer. We would each owe that much in annual costs.

These last figures would mean a tenfold increase in per-capita debt, and a nearly fourteenfold increase in annual interest charges per taxpayer, since 1975.

Over time, the disproportionate burdens imposed on today's children and their children by a continuing pattern of deficits could include some combination of the following: Increased taxes; reduced public welfare benefits; reduced public pensions; reduced expenditures on infrastructure and other public investments; diminished capital formation, job creation, productivity enhancement, and real wage growth in the private economy; higher interest rates; higher inflation; increased indebtedness to and economic dependence on foreign creditors; and increased risk of default on the Federal debt.

Mr. President, this is fiscal child abuse, and it must end. We have to end it. We have to end it.

This sociopathic economic policy is continued under the Clinton so-called deficit reduction plan, which does not really reduce the deficit in an absolute sense and does not reduce our staggering $4.8 trillion national debt one penny. It only slows the growth in the national debt; it does not reverse its upward climb. And, it reduces annual deficits only in the sense that deficits are smaller than what were previously projected. It still has substantial annual deficits which get bigger as time goes on. Even OMB's estimates from last year's budget, which predict lower debt totals than CBO, projects that gross Federal debt will top $6.3 trillion, exceeding 72 percent of our gross domestic product, by 1999. That is only 4 years away.

In other words, the so-called Clinton deficit reduction plan only cuts the deficit in the Washington sense of not going as far into the red as we earlier expected. I do not believe that kind of math works outside the beltway. As one commentator suggested, try explaining to your bank after your check bounces that you saved $300 by buying a $200 suit instead of a $500 television. Put another way, it is like putting a 400-pound man on diet and claiming he lost weight when he only goes up to 500 pounds instead of the 600 that was contemplated.

What's more, even under the current plan, the Congressional Budget Office's 10-year projections show that after an initial relative slowdown in its growth, the deficit roars back up. As I mentioned, the deficit in 1994 was $203 billion. It dips to $176 billion in 1995. But that is as low as it goes. Starting in 1996, it shoots up again, topping $253 billion in 1999 and hitting all time highs of $351 billion in 2003, $383 billion in 2004, and $421 billion in 2005.

Think about it. That is what is happening even if we give all of the benefit of the doubt to what President Clinton has tried to do. And he has tried.

A milestone of sorts will be passed in 2004 when we will rack up over $1 billion in debt every day. Personally, I do not think that this is a milestone any one of us should be too proud of.

That means the Clinton deficit reduction plan will add over $1 trillion to the national debt in the next 5 years and over $2.7 trillion in the next 10 years.

Look, who is to blame for this? Why, we all are, every last one of us. If I had to lay real blame why it be on the Congress more than any other group, because this is where the money bills originate. This is where the decisions are made. This is where we have allowed entitlements to run out of control.

I do not particularly blame any of the Presidents and I certainly am not blaming President Clinton who is trying his best within the framework of his political philosophy to do his best. I do not blame President Bush or President Reagan or President Carter either. The fact is, a lot of the buck stops right here in Congress.

Really can you blame Congress, too? The polls showed that 85 percent of the American people were for the balanced budget amendment. They want us to pass it. They believe it is critical to this country. They understand deep down. Viscerally, people know we are going to have to do this kind of fiscal restraint. But when you go and ask questions on individual programs, while they want us to pass a balanced budget amendment they want us to reduce taxes and they want us to increase spending on special interest programs.

So all of us have faults in this area. How do you overcome it? It seems to me you overcome it by putting a fiscal restraint into the Constitution that was implied by the Founding Fathers but was not put there. Jefferson thought it should have been in there and I think Jefferson was right. But, really, he was wrong through most of this country's history until the 1960's. Whenever we ran a deficit it was generally during time of war or depression. The minute we got back on top of things they would get the budget balanced. But in the last 30 years the Congress has run us into the ground and it is very difficult, unless we are forced to make priority choices among competing programs. It is very, very difficult to get this under control.

BENEFITS OF A CONSTITUTIONAL AMENDMENT

I might add that I think it is time for the Congress to pass this joint resolution, this constitutional amendment to permanently restore the linkage between Federal spending and taxing decisions. My friend from Illinois, the prime sponsor of this amendment, probably believes that taxes will be increased to help pay for these things. I do not. I think it will be tougher to increase taxes than it will be to increase the deficit. But I think both will be more difficult, and there will be votes so the American people know who voted which way.

I probably would prefer to cut spending. We are from two opposite poles—the two leaders in the Senate. We care a great deal for each other. And I have tremendous respect for Senator SIMON for being willing to lead the fight. He is much more liberal than I in leading this fight for a balanced budget amendment. He is doing it for the right reason. He believes that we will have to be more fiscally responsible. I believe that. That is why we are fighting side by side as we have for a number of items, but certainly on this amendment. I respect him for it.

On the proposed amendment that we have here—the House-passed amendment, which is identical to the Senate one we have been pushing—we have worked together on both sides of this Hill. We have done it for years. We have massaged this thing, and worked on it. It is a true bipartisan consensus amendment. It is a Democrat-Republican amendment. It is a Republican-Democrat amendment. We have worked together. Any one of us thinks we could write it better. This is the consensus amendment. That is the only one that has a chance of being passed. I could write a much tougher constitutional amendment than this. So could the distinguished Senator from Illinois. But this is what we have been able to negotiate, and as you can see by the first time in history, the only one that could pass the House of Representatives. Now we have the job of trying to get it through the important U.S. Senate.

I believe we can, if the people out there will speak to their Senators. But

it is going to be very close. There is no giving here. This is something we have to earn on the floor. We are going to do everything we can do. But the proposed amendment that we have before us does not propose to read any specific level of spending or taxing forever into the Constitution, and it does not propose to insert the Constitution into the day-to-day spending and taxing decisions of the representative branch of the Government. It merely proposes to create a fiscal environment in which the competition between the tax spenders and the taxpayers is a more equal one—one in which spending decisions will once more be constrained by available revenues.

Mr. President, the time has come for a solution strong enough that it cannot be evaded in the short term. We need a constitutional requirement to balance our budget. Mr. President, Senate Joint Resolution 1, and the House resolution which is before us, the Dole-Hatch-Simon consensus balanced budget amendment, is that solution. It is reasonable. It is enforceable, and necessary to force us to get our fiscal house in order.

There are those who oppose the balanced budget amendment because they say we can balance the budget right now. As a matter of law, that is true. But as a matter of real life, real-world politics, it is clear that Congress does not possess the courage to do it. They have been saying this for 30 years without any avail, without any success. Even if one extraordinary Congress does come along and manages to stop deficit spending, there would be nothing to prevent the next Congress from spending irresponsibly once again. We need a constitutional amendment if we are truly interested in solving this problem.

RESTORATION OF THE CONSTITUTIONAL BALANCE

Mr. President, the proposed constitutional amendment will help us end this dangerous deficit habit in a way that past efforts have not. It will do this by correcting a bias in the present political process which favors ever-increasing levels of Federal Government spending.

In seeking to reduce the spending bias in our present system—fueled largely by the unlimited availability of deficit spending —the major purpose of this constitutional balanced budget amendment is to ensure that, under normal circumstances, votes by Congress for increased spending will be accompanied either by votes to reduce other spending programs or to increase taxes to pay for such programs. For the first time since the abandonment of our historical norm of the balanced budgets, Congress will be required to cast a politically difficult vote as a precondition to a politically attractive vote to increase spending. We will be forced to do it so the American people will know, and it is about time.

ACCOUNTABILITY

While it is true that much of the enormous growth in Federal Government spending over the past two decades may be a response to evolving notions that the role of the public sector on the part of the American citizenry—that is, a genuine shift in the will and desire of the people—it is my contention that a substantial part of this growth stems from far less benign factors.

In short, the American political process is defective insofar as it is skewed toward artificially high levels of spending, that is, levels of spending that do not result from a genuine will and desire on the part of the people. It is skewed in part because the people often do not have complete information about the cost of programs or about the potential for cost growth of many programs. It is skewed in this direction because Members of Congress have every political incentive to spend money and almost no incentive to forego such spending. It is a fiscal order in which spending decisions have become increasingly divorced from the availability of revenues.

In fact, when I was on the Budget Committee I was shocked that we never began with how much we had in revenues available to spend. We always began with what we want to spend, and then we would massage the revenues to try to get them up to where we were spending. I just thought it was a backward way of going toward the budget.

The balanced budget amendment seeks to restore Government accountability for spending and taxing decisions by forcing Congress to prioritize spending projects within the available resources and by requiring tax increases to be done on the record. In this way, Congress will be accountable to the people who pay for the programs and the American people—including the future generations who must pay for our debts—will be represented in a way they are not now. Congress will be forced to justify its spending and taxing decisions as the Framers intended, but as Congress no longer does.

THE SOLUTION: A BALANCED BUDGET AMENDMENT

Mr. President, Senate Joint Resolution 1 represents both responsible fiscal policy and responsible constitutional policy. Passage of this resolution would constitute an appropriate response by Congress to the pending applications by nearly two-thirds of the States for a constitutional convention on this issue.

Mr. President, the Senate must approve Senate Joint Resolution 1, the balanced budget amendment. It is the right thing to do for ourselves, our children, and our grandchildren, and it will give us back responsible and accountable constitutional government. The faithful stewardship of public funds that was so prized by our Founding Fathers can be restored for 21st century Americans. The virtues of thrift and accountability can be rekindled by this very 104th Congress.

Mr. President, we have to do something about our irresponsible debt approaches—the runaway spending that is eating this country alive; destructive welfare which is really not doing any good for the average citizen; our antisaving Tax Code that really destroys savings in this country; the Washington bureaucracy that is eating us alive by mandating more and more on the States and on small business. We have to eliminate these things. We have to send Washington back home. We have to restore the American dream. We have to give our children a future that, and if we keep going the way we are going they will not have.

We have to put Government on a diet. At least that is my belief. We have to make the Federal Government afford to live within its means. Frankly, I think the Federal Government could afford to be anorexic for a while. It is far too fat, and it needs to be brought down to a more diet-conscious methodology. We have to cut the waste, cut the fat, and get people to work instead of depending upon the Government. And I think we have to just get together as a group and call our Senators to tell them they need to support this; create a groundswell of force for this balanced budget amendment. And, if we do, we will save our country for generations to come; for your children, my children, your grandchildren, my grandchildren.

In talking about that, I have thought very often. Elaine and I have six children, and our 15th grandchild is on its way. It will be here in another few months. I have to tell you, I just pity these kids and what they have to face if we do not make this decision now. We can no longer afford to listen to those who say we should have the will to do what we have to do. It just is not happening and is not going to happen. The will is not there. We have not had a President who is willing to say: This is what we have to do, and blame me if we cannot get it done, but this is what we have to do to help put our fiscal house in order.

Pass this balanced budget amendment and you will find there will be a renewed effort to try to get us to live within our means. Your grandchildren and my grandchildren will have a future like we had when we were raised.

When I was born in 1934, my folks had just lost their home in the Depression. My dad built our home out of a torn-down building. In fact, I thought for years afterwards that all homes should be brown like ours was, with burned lumber, and that one side should have a Pillsbury Flour sign on it. We did not have indoor facilities, but we were happy people. We raised our own chickens, eggs, and we had our own little garden that kept us alive. We did not have a lot, but we were able to survive. I have to tell you that those were tough days, but I would not trade them for anything.

My future was a sure future. There was no question that I was going to go to school and have the opportunity to grow. My dad taught me his trade. I worked in the building construction

trade union for 10 years, with my bare hands, and I was proud of it. I could do that work today if I had to. We used to hang suspended ceilings and build partitions, and other things. I did all of that, and I can still do it.

There was no limit to our future. We were able to do it. This Government was living within its means. At least, it was just at the throes of starting to not live within its means. Today you have to say, with interest exponentially rising, with the debt rising so fast, in the future we might have to monetize the debt and devalue the American dollar in order to pay off debts with worthless money—which could be done, by the way, but the United States will never recover from it. We would never again have the recognition financially that we have throughout the world, nor would we be as powerful again, or be as great again, if we have to go to that methodology—which we will do if we do not pass this amendment.

I want the future of your children and my children, your grandchildren and my grandchildren, to be secure. That is what we are fighting for here today. There is no question that there are many wonderful programs all of us would like to have. But there still is a necessity to live within our means, which we are not doing.

Mr. President, we are going to do everything we can, the distinguished Senator from Illinois, myself, and others, and I urge Senators to join with us—Senators DOLE, SIMON, THURMOND, HEFLIN, CRAIG, and so many others—in supporting this resolution, the balanced budget constitutional amendment, this bicameral, bipartisan consensus balanced budget amendment. If we do, this country will be much better off in 5 years, 7 years, 10 years from today, and our children will have the future we would like them to have.

I yield the floor.

[Applause in the galleries]

The PRESIDING OFFICER. The Chair advises all in the galleries to refrain from any form of approval or disapproval.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts, Mr. [KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, I rise to oppose the so-called balanced budget constitutional amendment. I strongly support deficit reduction to achieve the goal of a balanced budget. But it is unnecessary, unwise, and destructive of principles at the core of our constitutional democracy to adopt this proposed constitutional amendment.

As the Senate begins this debate, let us consider some recent history. For 12 years, during the Reagan and Bush administrations, the deficit soared out of control—largely because of the excessive 1981 tax cut, which was described at the time by Senate Republican majority leader Howard Baker as a ''riverboat gamble.''

Not every Senator supported that riverboat gamble. I am proud to be among 11 Senators who voted against it.

The budget deficit we face today is the result of that failed gamble. The entire deficit for the current fiscal year represents the interest ownedon the $2.4 trillion of debt run up during the Reagan-Bush years. The rest of the budget is already balanced, and it did not require a constitutional amendment to do it.

What it did require was the courage to make tough decisions. In 1993, under President Clinton's leadership, Congress passed a reconciliation bill that will reduce the debt by approximately $600 billion for fiscal years 1994 through 1998. For the first time since the Truman administration, deficits will fall 3 years in a row.

That landmark deficit reduction package was passed by Congress without a single Republican vote in either the House or the Senate. Indeed, Democrats in the House and Senate were attacked for supporting the deficit reduction bill.

For years, we heard charges from the Republican party that Democrats in control of Congress were responsible for the Federal budget deficit. For years, Republican Presidents refused to make the tough decisions necessary to reduce the Federal deficit, choosing instead to blame Congress. ''Give us a Republican Congress,'' they said, ''and we will reduce the budget deficit.''

In November, the voters gave the Republican Party the majority it sought. And now, without even so much as presenting a single budget bill before either House of Congress, the Republican Party is saying to the American people that the Republican Congress lacks the political will to make the tough decisions necessary to continue the deficit reduction achieved during the past 2 years. Before offering a single piece of legislation to reduce the deficit, the Republican majority in Congress is saying that they need a constitutional amendment to get the job done.

We do not need a constitutional amendment to balance the budget. All we need is leadership. If Congress is not willing to balance the budget, the Constitution can not do it for us.

The refusal of the Republican Party to spell out for the American people the specific changes needed to balance the budget is a failure of leadership. The American people have a right to know what this proposed constitutional amendment would require.

The Congressional Budget Office estimates that a total of $1.2 trillion in deficit reduction will be required to balance the budget by the year 2002. And that is not including the defense increases called for by the Republicans' Contract With America.

If Social Security, defense, and interest on the national debt are excluded from the calculations, all other Federal programs will have to be cut by 22 percent to achieve a balanced budget in 2002. That is a 22 percent cut in spending on Medicare, Medicaid, veterans benefits, student loans, farm benefits, and all of the other Federal programs. If the tax cuts called for in the Republicans' Contract With America are also included, the across-the-board cut needed to balance the budget will be 30 percent.

The Treasury Department has estimated the impact of these cuts on the States. It predicts that that an across-the-board deficit reduction package that excluded Social Security and Defense would require cuts in Federal grants to States of $71 billion, and cuts of an additional $176 billion in other Federal spending that directly benefits States in programs such as Medicaid, highway funds, aid to families with dependent children, education, job training, environment, housing, and other areas.

The Treasury Department also estimated how much each State's taxes would have to be raised for the State to offset the reduction in Federal grants under the proposed constitutional amendment. State taxes would have to increase an average of 12 percent just to offset the loss of Federal grants.

The American people have a right to know if that is how the Republican majority will balance the budget. Why will they not tell us? What have they got to hide. They are using the smokescreen of this constitutional amendment as a trick to hide the scheme of deep cuts in basic social programs that the country will not accept if the reality is known.

Amending the Constitution could well make all our problems worse. Adopting this proposed amendment could jeopardize our economy, diminish the Constitution, distort its system of checks and balances, and undermine the principle of majority rule that is at the core of our democracy.

The proposed constitutional amendment could jeopardize our economy by requiring that the Federal budget be balanced each fiscal year, regardless of the state of the economy, unless three-fifths of the Senate and House vote to approve a specific deficit.

All of us know that when the economy is in a recession, revenues fall, and outlays increase. Fewer people hold jobs and pay taxes, so revenues go down.

Costs for unemployment insurance, food stamps, and public assistance go up.

These so-called countercylical actions maintain demand for goods and services during recessionary times. They help to prevent mild downturns from becoming recessions, and they help prevent recessions from turning into depressions. We have not had a depression in over 50 years.

This proposed constitutional amendment could well prevent the operation of the countercylical effects needed to help keep the economy on an even keel. Supporters of the amendment argue that the existing budget deficit has made countercylical deficit spending

ineffective as a way to stimulate demand and avoid recessions, because the deficit is already so large. But they neglect to mention that the constitutional amendment would require the Government to engage in fiscal practices that will make any recession worse.

Section 1 of the amendment prohibits total outlays from exceeding total receipts unless three-fifths of the House and Senate vote to authorize a specific deficit. When a recession causes revenues to fall below estimates during a fiscal year, the proposed constitutional amendment would require the Government to reduce outlays to avoid an unauthorized deficit.

This fundamental point was stated by Alice Rivlin, Director of the Office of Management and Budget, during her testimony before the Judiciary Committee.

> [E]nforcing a rule that we must balance the budget every year, regardless of the state of the economy, would be a big economic mistake. Now one can think that, and still think that budget deficits ought to be much smaller than they are now, and I do believe that.
>
> But if we were living in a world in which the budget had to be balanced every year, when a recession threatened * * *, and people were laid off, they would naturally be paying less taxes. So there would be an automatic deficit in the Federal budget. Now, if the Congress were then required to rectify that by either cutting spending, or raising taxes, the recession would be worse. People would have less income. More people would be laid off. The Congress might have to cut back on unemployment benefits, and things like that.
>
> So you would have exactly the wrong kind of fiscal policy in a recession. Now, you might say three-fifths of the Congress could be wise enough to foresee that, and do something about it, even if the amendment were in place.
>
> But forecasting is very uncertain. Even people who do it professionally, full time, are not very good at it, and the Congress of the United States is unlikely to be very good at it.
>
> So I think we would have worse recessions, and it would just exaggerate the boom/bust cycle if we had to balance every year.

The proposed constitutional amendment is unwise economic policy for another reason—because it would prohibit capital budgeting. Capital budgeting is the commonsense practice of paying for the cost of capital assets over their useful lives. If Congress intends to require a balanced budget, at least the calculation of the balance should be made sensibly, not irrationally.

American families engage in capital budgeting when they borrow money to pay the cost of purchasing a home. They spread the payments over many years. This same logic applies to paying for college education or purchasing a car. Millions of American businesses use capital budgets as well. They depreciate the cost of buildings over many years. They do the same for many other types of long-term assets.

We also hear a lot of Republican rhetoric about how States are able to live under balanced budget requirements in their State constitutions. But 42 States rely on capital budgets to calculate the balance.

Supporters of the proposed Federal constitutional amendment say that a future Congress will be able to pass implementing legislation that allows capital budgeting to be used in meeting the balanced-budget requirement. They should read their own amendment.

Section 7 of the amendment states that:

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

''All'' means ''all.'' If the balanced budget constitutional amendment is adopted, Congress cannot pass legislation exempting capital budgets.

The language of section 1 also means Congress cannot pass legislation exempting Social Security. Adopting this proposed constitutional amendment would force Congress to include the Social Security trust fund in its balanced-budget calculations.

As many observers have pointed out, the amendment would enable Congress to use the existing surplus in the Social Security trust fund to avoid the tough decisions needed to achieve a balanced budget in the near term. The Social Security trust fund will essentially be raided to achieve a phony budget balance. As a result, the solemn commitment between the American people and their Government to keep the Social Security trust fund separate from the operating expenses of the Federal Government would be broken.

The proposed amendment is also unwise as a matter of basic constitutional principle in our federal system.

First, the amendment would embroil State and Federal courts in complex, endless litigation. It would require them to resolve sensitive budget issues that should be left to the elected branches of Government. It would empower them to cut spending and raise taxes in order to achieve a balanced budget.

In The Federalist No. 78, Alexander Hamilton described the judiciary as ''the least dangerous branch'' because it ''has no influence over either the sword or the purse.'' He then warned ''that there is no liberty, if the power of judging be not separated from the legislative and executive powers.''

Yet the proposed constitutional amendment would do exactly that—place the power of the purse in the hands of unelected judges. Supporters of the amendment argue that judges would only rarely have occasion to use these powers. That view is not shared by legal scholars from across the philosophical spectrum. Former Judge Robert Bork predicted:

> The result * * * would likely be hundreds, if not thousands, of lawsuits around the country, many of them on inconsistent theories and providing inconsistent results. By the time the Supreme Court straightened the whole matter out, the budget in question would be at least four years out of date, and lawsuits involving the next three fiscal years would be slowly climbing toward the Supreme Court.

Supporters argue that few people would have standing in court to assert claims under the amendment. But the Supreme Court has upheld taxpayer standing to challenge Government action that violates specific constitutional limitations imposed upon the exercise of the congressional taxing and spending power.

Even if taxpayers are not given standing to sue, it is easy to imagine numerous situations where individuals will suffer actual injury as a result of violations of the proposed amendment.

If a President impounds Social Security benefits to avoid an unauthorized deficit, Social Security recipients will have standing to sue.

If a President withholds a pay increase due Federal workers in order to avoid an unauthorized deficit, the workers will have standing to sue.

When courts do hear cases under this constitutional amendment, they will be forced to resolve complex issues in trials that could take months or even years. What are the total outlays by the entire Federal Government for a particular year? Are loan guarantees included in those outlays? How many home mortgages and student loans did the Government insure? For how much? How may defaulted?

Even in the markup in the past week, we inquired of the proponents whether the loan for Mexico, for example, would be included, whether that would be covered or not covered by the proposed constitutional amendment. And the response we got from the proponents was, ''Well, it depends whether there is a default or not.''

Well, with the proposed loan, $40 billion, are we supposed to say that $40 billion loan guarantee must be authorized by a three-fifths vote of each House of Congress under the terms of the balanced budget amendment? How are we going to be able to make those kinds of judgments now that kind of emergency loan guarantee—of which both the administration and a bipartisan group have indicated support—how would that affect all of these deficit calculations? Clearly that has not been thought through.

Just one of the cases that will arise under the proposed amendment would make the O.J. Simpson case look simple.

And when a court finds that a constitutional violation has occurred, what relief should it order? Five years ago, in Missouri versus Jenkins, the Supreme Court ruled that a Federal court could order a local government to raise taxes to pay for court-ordered desegregation. Will Federal courts order Congress to raise taxes to cure an unauthorized deficit? Will they order the Treasury to stop paying interest on Treasury bonds? Will they order the President to stop spending Federal

funds? What future constitutional crises will we face because of this foolish constitutional amendment.

Last year, the supporters of this amendment accepted a proposal offered by Senator Danforth that would have prevented the courts from raising taxes or cutting spending. The failure to include a similar limitation in this year's amendment means that Federal courts will sit as super budget committees under the amendment.

The proposed amendment would also give the President unprecedented authority to impound appropriated funds when a deficit occurs. The President has a sworn duty to uphold the Constitution. When an unauthorized deficit takes place, the President will have a duty to take action, including impounding appropriated funds, to prevent a constitutional violation.

That is not just my opinion. That is the option of the President's own legal advisor, Assistant Attorney General Walter Dellinger. And it is the opinion of a wide range of constitutional scholars from Reagan administration Solicitor General Charles Fried to Johnson administration Attorney General Nicholas Katzenbach, and many, many others.

So, basically, this is the second key area of concern, Mr. President, and that is the question of enforcement. Who will have the powers of enforcement? We had during the course certainly of the hearings that were held last year by Senator BYRD and others, the direct testimony about whether the President would have the power to impound. The overwhelming constitutional authority was that the President would have that kind of power under this amendment. Which means that if the President made the judgment that the receipts and revenues were out of balance, that they probably have a responsibility to impound funds to avoid the deficit.

Is that what we are saying, that we want the President of the United States to make those judgments, without any instruction as to what particular area we want them to impound? Do we want to give him all of that authority and all of that power? Well, we tried to address that in the Judiciary Committee. I offered an amendment to say that we do not want to do that. We do not want to grant that kind of a power to the executive. That amendment was defeated. That was defeated in the Judiciary Committee.

Then we come back and say are we going to leave enforcement up to the courts and give them the authority and the power? Under the Missouri versus Jenkins case, we have seen the consternation that was raised about that order that required the raising of certain funds in order to move ahead to enforce the court's desegregation orders. We heard the roar that came from across the country that we do not want our courts to be making the judgments about raising taxes.

Quite clearly that outcome would be in complete conflict with what our Founding Fathers said ought to be the responsibility of the courts.

Are we prepared to say, well, all right, we will not let the President of the United States move ahead on impoundment? We will not let our courts move ahead on enforcement. Who does that leave? What it leaves is the legislative branch. That leaves us, which goes just back to our point from the very beginning: ultimately the question comes back to us. If it ultimately comes back to us, why go through the whole amendment process? If we believe ultimately that we must deal with these tough issues, why are we not prepared to deal with them now? Why go through these kind of gymnastics and say, ''OK, maybe we will give enforcement authority to the President.'' The supporters say, ''We do not want to give it to the President so we will leave it indefinite.'' Do we say we will give it to the courts, or say we will not give it to the courts. If the President and the courts are excluded, the only other enforcement is the Members of the Congress and the Senate.

That is what our Founding Fathers intended. That is what the Constitution points out. That is what the principal constitutional authorities from Republican and Democratic administrations and thoughtful men and women who have not been a part of administrations have felt. And that, I think, raises some the very, very, important weaknesses of this amendment—that there is no certainty on enforcement. We do not know.

Those proposing are not prepared to tell the American people where the necessary cuts would come. They are not prepared to lay that out before them prior to the time of the passage of this amendment. They are not prepared to tell them how the amendment will be enforced. And that is against a background where the Congress had taken action to see important reductions in the Federal deficit in the recent times. And where there certainly can be additional attention to the deficit in the future.

But we are being denied, and the American people are being denied, the right to know what they really intend. What expenditures they intend to reduce, what taxes they intend to impose, and they are unwilling to state what their position is in terms of the enforcement mechanism. Wait down the road, wait another several years. Well, what will happen in the meantime? The problem is that the deficit will be going up again. Why have we not gotten the balanced budgets coming forward from the Budget Committee in the House and the Senate to let the American people understand where they are going, to challenge us to take responsible positions on this deficit? But they are not even prepared to do that. They are not prepared to wait and see whether there will be some action in that area. They are just saying go ahead and pass this and send it out to the States.

I support giving the President statutory line-item veto authority. But the impoundment authority given the President by the balanced budget amendment is far broader. As Professor Dellinger testified, it would enable the President to order across-the-board cuts, or specific cuts affecting specific programs or specific areas of the country.

The amendment could also be read to give future Presidents power to impose taxes, duties, or fees to avoid an unconstititional deficit.

Supporters of the amendment deny any intention to give the President authority to impound funds or raise taxes. But they rejected the straightforward amendment I offered in the Judiciary Committee to prevent it.

Supporters of the amendment argue that all questions on enforcement of the amendment will be answered when Congress passes the enforcement legislation required by section 6. But although balanced budget constitutional amendments have been before the Judiciary Committee and the Congress for many years, year after year, we will hear the proponents of that balanced budget talk about how they have supported this for 10, 15 years, and still we do not have any recommendation on how we are going to achieve it. The only one that had the courage to do it was Republican Congressman GERALD SOLOMON, from the State of New York, and that was overwhelmingly defeated in the House of Representatives a year ago. And many of those who are talking about the balanced budget voted against it and said, well, we can wait. It is not necessary to address that issue at that time.

Where is it? We have written budget laws for years in the Congress—Gramm-Rudman, the 1990 and 1993 budget deficit laws. Why won't the proponents of this amendment show us the enforcement legisaltion.

Finally, the proposed constitutional amendment will severely undermine the principle of majority rule enshrined in our Constitution. By requiring a three-fifths vote to authorize a deficit or raise the debt limit, the amendment would give unprecedented power to a minority in either House of Congress.

Alexander Hamilton painted an alarming picture in The Federalist No. 22 of the destructive consequences of these supermajority voting requirements:

> [W]hat at first sight may seem a remedy, is in reality a poison. To give a minority a negative upon the majority (which is always the case where more than a majority is requisite to a decision) is, in its tendency, to subject the sense of the greater number to that of the lesser number. * * * This is one of those refinements which, in practice, has an effect the reverse of what is expected from it in theory. * * * The necessity of unanimity in public bodies, or of something approaching

towards it, has been founded upon a supposition that it would contribute to security. But its real operation is to embarrass the administration, to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junta to the regular deliberations and decisions of a respectable majority.

We should heed Hamilton's warning. The filibuster is bad enough as a rule of the Senate. Enacting a supermajority requirement as part of this amendment will enshrine gridlock in the Constitution. It will enable a willful minority to prevent any action they wish in connection with the deficit, or to demand unacceptable conditions from the majority as the price of their agreement.

For over 200 years, the principle of majority rule established in the Constitution has served this Nation well in wars, depressions, and a vast range of domestic and international crises. We should not abandon it now, simply because the elected Members of Congress at this moment lack the political courage to balance the budget.

There is nothing wrong with the Constitution. Let us act responsibly to deal with the deficit, not irresponsibly by tampering with the Constitution. This proposal is a sham and a gimmick, and it deserves no place in the Constitution.

I yield the floor.

Mr. HATCH. Mr. President, I would like to respond to certain arguments presented by Senator KENNEDY. These include issues involving: First, implementation and enforcement; second, judicial taxation; and third, Presidential impoundment.

I. IMPLEMENTATION AND ENFORCEMENT ISSUES

Mr. President, opponents of the balanced budget amendment, including Senator KENNEDY, have over the past decade carefully crafted Machiavellian arguments designed to place opponents of the amendment between, what Abraham Lincoln termed, ''the devil and the deep blue sea.'' One of the most pernicious is the contention that on the one hand the balanced budget amendment is a sham because it is unenforceable, and on the other hand that there will be too much enforcement—particularly that courts will themselves balance the budget by ordering the cutting of spending programs, by placing the budgetary process into judicial receivership, or by ordering that taxes be raised. This contention is, of course, so exaggerated, so contradictory, that it almost refutes itself. Yet it has become so pervasive that it gives new life to Shakespeare's aphorism that, ''foolery, sir, does walk about the orb like the sun; it shines everywhere.''

IMPLEMENTATION AND ENFORCEMENT

I want to first address the false notion advanced by opponents of the balanced budget amendment that it is a paper tiger—that Congress will flout its constitutional authority to balance the budget. These notions are simply wrong. First, the amendment has sharp teeth. It is self-enforcing. Because, historically, it has been easier for Congress to raise the debt ceiling, rather than reduce spending or raise taxes, the primary enforcement mechanism of House Joint Resolution 1 is section 2, which requires a three-fifths vote to increase the debt ceiling. This provision is a steel curtain that will shield the American public from an ill-disciplined and profligate Congress.

Furthermore, Members of Congress overwhelmingly conform their actions to constitutional precepts out of fidelity to the Constitution itself. We are bound by article VI of the Constitution to ''support this Constitution.'' I fully expect fidelity by Members of Congress to the oath to uphold the Constitution. Honoring this pledge requires respecting the provisions of the proposed amendment. Flagrant disregard of the proposed amendment's clear and simple provisions would constitute nothing less than a betrayal of the public trust. In their campaigns for reelection, elected officials who flout their responsibilities under this amendment will find that the political process will provide the ultimate enforcement mechanism.

JUDICIAL ENFORCEMENT

I would like at this point to address the contention of opponents of the balanced budget amendment like Senator KENNEDY that there will be too much enforcement—specifically by the courts. They march out a veritable judicial parade of horribles where courts strike down spending measures, put the budgetary process under judicial receivership, and like Charles I of England, raise taxes without the consent of the people's representatives. All of this is a gross exaggeration. This parade has no permit.

I believe that House Joint Resolution 1 strikes the right balance in terms of judicial review. By remaining silent about judicial review in the amendment itself, its authors have refused to establish congressional sanction for the Federal courts to involve themselves in fundamental macroeconomic and budgetary questions, while not undermining their equally fundamental obligation to say what the law is, *Marbury* v. *Madison*, 1 Cranch 137, 177 (1803). I also strongly agree with former Attorney General William P. Barr who stated that there is:

> * * * little risk that the amendment will become the basis for judicial micromanagement or superintendence of the Federal budget process. Furthermore, to the extent such judicial intrusion does arise, the amendment itself equips Congress to correct the problem by statute. On balance, moreover, whatever remote risk there may be that courts will play an overly intrusive role in enforcing the amendment, that risk is, in my opinion, vastly outweighed by the benefits of such an amendment.

There exists three basic constraints that prevents the courts from becoming unduly involved in the budgetary process: First, limitations on Federal courts contained in article III of the Constitution, primarily the doctrine of ''standing,'' particularly as enunciated by the Supreme Court in *Lujan* v. *Defenders of Wildlife*, 112 S.Ct. 2130 (1992); second, the deference courts owe to Congress under both the political question doctrine and section 6 of the amendment itself, which confers enforcement authority in Congress; and third, the limits on judicial remedies to be imposed on a coordinate branch of government—limitations on remedies that are self-imposed by courts and that, in appropriate circumstances, may be imposed on the courts by Congress. These limitations, such as separation of power concerns, prohibit courts from raising taxes, a power exclusively delegated to Congress by the Constitution and not altered by the balanced budget amendment. Consequently, contrary to the contention of opponents of the balanced budget amendment, separation of power concerns further the purpose of the amendment in that it assures that the burden to balance the budget falls squarely on the shoulders of Congress—which is consistent with the intent of the Framers of the Constitution that all budgetary matters be placed in the hands of Congress.

Concerning the doctrine of ''standing,'' it is beyond dispute that to succeed in any lawsuit, a litigant must demonstrate standing to sue. To demonstrate article III standing, a litigant at a minimum must meet three requirements: First, injury in fact—that the litigant suffered some concrete and particularized injury; second, traceability—that the concrete injury was both caused by and is traceable to the unlawful conduct; and third, redressibility—that the relief sought will redress the alleged injury. This is the test enunciated by the Supreme Court in the fairly recent and seminal case of *Lujan* v. *Defenders of Wildlife*, 112 S.CT. 2130, 2136, (1992). (See, e.g., *Valley Forge Christian College* v. *Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 482–83 (1982)). In challenging measures enacted by Congress under a balanced budget regime, it would be an extremely difficult hurdle for a litigant to demonstrate something more concrete than a generalized grievance and burden shared by all citizens and taxpayers, the injury in fact requirement. I want to emphasize that this is hardly a new concept. (See *Frothingham* v. *Mellon*, 262 U.S. 447, 487 (1923)). Furthermore, courts are extremely unlikely to overrule this doctrine since standing has been held to be an article III requirement. (See *Simon* v. *Eastern Ky. Welfare Rights Org.*, 426 U.S. 26, 41 n.22 (1976)).

Even in the vastly improbable case where an injury in fact was established, a litigant would find it near impossible to establish the traceability and redressibility requirements of the article III standing test. Litigants would have a difficult time in showing that any alleged unlawful conduct—the unbalancing of the budget or the shattering of the debt ceiling—caused or is traceable to a particular spending

measure that harmed them. Furthermore, because the Congress would have numerous options to achieve balanced budget compliance, there would be no legitimate basis for a court to nullify the specific spending measure objected to by the litigant.

As to the redressibility prong, this requirement would be difficult to meet simply because courts are wary of becoming involved in the budget process—which is legislative in nature—and separation of power concerns will prevent courts from specifying adjustments to any Federal program or expenditures. Thus, for this reason, *Missouri* v. *Jenkins,* 495 U.S. 33 (1990), where the Supreme Court upheld the district court's power to order a local school district to levy taxes to support a desegregation plan, is inapposite because it is a 14th amendment case not involving, as the Court noted, an instance of one branch of the Federal Government invading the province of another. Jenkins at 67. Plainly put, the Jenkins case is not applicable to the balanced budget amendment because the 14th amendment—from which the judiciary derives its power to rule against the States in equal protection claims—does not apply to the Federal Government and because the separation of powers doctrine prevents judicial encroachments on Congress' bailiwick. Courts simply will not have the authority to order Congress to raise taxes.

Furthermore, the well-established political question and justiciability doctrines will mandate that courts give the greatest deference to congressional budgetary measures, particularly since section 6 of House Joint Resolution 1 explicitly confers on Congress the responsibility of enforcing the amendment, and the amendment allows Congress to rely on estimates of outlays and receipts. (See *Baker* v. *Carr,* 369 U.S. 186, 217 (1962)). Under these circumstances, it is unlikely that a court would substitute its judgment for that of Congress.

Moreover, despite the argument of some opponents of the balanced budget amendment, the taxpayer standing case, *Flast* v. *Cohen,* 392 U.S. 83 (1968), is not applicable to enforcement of the balanced budget amendment. First, the Flast case has been limited by the Supreme Court to Establishment Clause cases. This has been made clear by the Supreme Court in *Valley Forge Christian College,* 454 U.S. at 480. Second, by its terms, Flast is limited to cases challenging legislation promulgated under Congress' constitutional tax and spend powers when the expenditure of the tax was made for an illicit purpose. Sections 1 and 2 of House Joint Resolution 1, limit Congress' borrowing power and the amendment contains no restriction on the purposes of the expenditures. Finally, in subsequent cases, particularly the Lujan case, the Supreme Court has reaffirmed the need for a litigant to demonstrate particularized injury, thus casting doubt on the vitality of Flast. (See *Lujan,* 112 S. Ct. at 2136.)

I also believe that there would be no so-called congressional standing for Members of Congress to commence actions under the balanced budget amendment. Although the Supreme Court has never addressed the question of congressional standing, the D.C. Circuit has recognized congressional standing, but only in the following circumstances: First, the traditional standing tests of the Supreme Court are met; second, there must be a deprivation within the zone of interest protected by the Constitution or a statute—generally, the right to vote on a given issue or the protection of the efficacy of a vote; and third, substantial relief cannot be obtained from fellow legislators through the enactment, repeal, or amendment of a statute—the so-called equitable discretion doctrine. (See *Melcher* v. *Open Market Comm.,* 836 F.2d 561 (D.C. Cir. 1987); *Reigle* v. *Federal Open Market Committee,* 656 F.2d 873 (D.C. Cir.), cert. denied, 454 U.S. 1082 (1981)). Because Members of Congress would not be able to demonstrate that they were harmed in fact by any dilution or nullification of their vote—and because under the doctrine of equitable discretion, Members would not be able to show that substantial relief could not otherwise be obtained from fellow legislators through the enactment, repeal, or amendment of a statute—it is hardly likely that Members of Congress would have standing to challenge actions under the balanced budget amendment.

Finally, a further limitation on judicial interference is section 6 of House Joint Resolution 1 itself. Under this section, Congress must adopt statutory remedies and mechanisms for any purported budgetary shortfall, such as sequestration, rescission, or the establishment of a contingency fund. Pursuant to section 6, it is clear that Congress, if it finds it necessary, could limit the type of remedies a court may grant or limit courts' jurisdiction in some other manner to proscribe judicial overreaching. This is nothing new. Congress has adopted such limitations in other circumstances pursuant to its article III authority. Here are a few: First, the Norris-LaGuardia Act, 29 U.S.C. secs. 101–115, where the courts were denied the use of injunctive powers to restrain labor disputes; second, the Federal Tax Injunction Act, 28 U.S.C. sec. 2283, where a prohibition on State court proceedings by Federal courts was legislated; and third, the Tax Injunction Act, 26 U.S.C. sec. 7421(a), where Federal courts were prohibited from enjoining the collection of taxes.

In fact, Congress may also limit judicial review to particular special tribunals with limited authority to grant relief. For instance, the Supreme Court in *Yakus* v. *United States,* 319 U.S. 182 (1943), upheld the constitutionality of a special Emergency Court of Appeals vested with exclusive authority to determine the validity of claims under the World War II Emergency Price Control Act. In more recent times, the Supreme Court, in *Dames & Moore* v. *Reagan,* 453 U.S. 654 (1981), upheld the legality of the Iranian-United States Claims Tribunal as the exclusive forum to settle claims to Iranian assets.

Mr. President, it is clear from the above discussion that the enforcement issues propounded by our opponents do not amount to a hill of beans.

II. JUDICIAL TAXATION

The contention that the balanced budget amendment would allow Federal courts to order the raising of taxes is absolutely without merit. This belief is based on a misunderstanding of the Supreme Court's opinion in *Missouri* v. *Jenkins,* 495 U.S. 33 (1990).

In this case, the Supreme Court in essence approved of a lower court remedial remedy of ordering local State or county political subdivisions to raise taxes to support a court ordered school desegregation order. Intentional segregation, in violation of the 14th amendment's equal protection clause, had been found by the lower court in a prior case against the school district.

The concern that the balanced budget amendment would allow a Federal court to order Congress to raise taxes to reduce the budget is without merit. This is true for the following reasons: First, Jenkins is a 14th amendment case. Under 14th amendment jurisprudence, Federal courts may perhaps issue this type of remedial relief against the States, but not against Congress—a coequal branch of Government. The 14th amendment, of course, does not apply to the Federal Government; second, separation of powers concerns would prohibit the judiciary from interfering with budgetary taxing, borrowing, and spending powers that are exclusively delegated to Congress by the Constitution; and third, Congress cannot simply be made a party defendant. To order taxes to be raised, Congress must be named defendant. Presumably, suits to enforce the balanced budget amendment would arise when an official or agency of the executive branch seeks to enforce or administer a statute whose funding is in question in light of the amendment. Thus, the court in *Reigle* v. *Federal Open Market Committee,* 656 F.2d 873, 879 n.6 (D.C. Cir. 1981), noted that ''[w]hen a plaintiff alleges injury by unconstitutional action taken pursuant to a statute, his proper defendants are those acting under the law * * * and not the legislature which enacted the statute.''

III. IMPOUNDMENT RESPONSE

Mr. President, I also wish to respond to the impoundment argument. In each of the years the balanced budget amendment has been debated, I have noticed that one spacious argument is presented as a scarce 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 House Joint Resolution 1 that allows for impoundment. It is not the intent of the amendment to grant the President any impoundment authority under House 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?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Idaho.

Mr. CRAIG. Mr. President, this afternoon, the issue that brings Senators to the floor is the beginning of what I believe will be a historic debate in this Chamber, as it has been in the House the last several days of last week, and that is to debate and consider House Joint Resolution 1, a balanced budget resolution to the Constitution of our country.

If I could, for a few brief moments, read to you, Mr. President, and to those who might be listening, the actual resolution. The reason I believe it is so fundamentally important that the American people and my colleagues in the Senate hear and understand what the resolution itself says is because a great deal will be said over the course of the next 3 weeks about this single 2-page document that will simply not be true.

By the time we are through debating it, it will appear to some who might listen to be an overburdening action that this Government should not take. I think what is important in the processes of our constitutional requirement is for all of the Senate, and certainly for the American people, to understand that the Congress of the United States is only proposing—is only proposing—to the American people and to the 50 States a resolution that would establish a process to cause this Congress to begin to construct a budget for our country that would come into balance.

Let me read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within 7 years after the date of its submission to the States for ratification:

Therein itself is a very clear statement, Mr. President, that this Senate begins today only the debate that would cause us to agree by a two-thirds vote to send forth to the States this simple document for them to consider, and by three-fourths to ratify, for it to become the 28th amendment to the Constitution of this country.

Article—

One article, not article I, not article II, not article III, but one article with eight sections, 1½ pages in total.

SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

SECTION 2. The limit of the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed receipts.

SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

SECTION 8.

And the last section.

This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.

Passed by the U.S. House of Representatives January 26, 1995.

And, of course, introduced into the Senate and brought to this floor today for the purposes of beginning the debate.

Mr. President, the reason I read this document and the reason it is important that the RECORD show that it is but 1½ pages in length, it is 8 sections and only 1 article, as proposed as the 28th amendment to the Constitution of our country, is because if the average citizen just listened to the debate, they would think that the magnitude of this statement, so defined and so articulated by the opposition to it, surely must be 1,000 pages in length, or it must be one of those 1,700- or 2,000-page bills, like the health care bill of a year ago. If it is to cause for this country all of the dire predictions that the Senator from Massachusetts just proposed, how could a document so simple cause so much problem? In fact, how could a document so simple even suggest after it were ratified by the States that the Congress shall enforce and implement this article by appropriate legislation?

In fact, what we are hearing and what we will hear for 3 or 4 weeks, and potentially hundreds of amendments later, is that the Congress itself has the cart before the horse; that we, the Senators, must see in great detail every item that will be cut, every

change in the budget that will be proposed over the next 7-year period, and yet the constitutional amendment itself, as proposed, says that:

The Congress shall enforce and implement this article by appropriate legislation—

And that will come logically, at least, only after we find out if three-fourths of the States of our Nation are willing to ratify it.

I think myself and the Senator from Utah and the Senator from Illinois know that we will try to do better than that. We will work at explaining and trying to articulate what we believe this process, this procedure would require as it relates to changes in budget and changes in budgetary practices.

But I think for all of us who will become involved in this debate over the next several weeks, it is constantly important that we remember that it is but a simple document proposed to the States and, yes, out of that simplicity will probably come one of the most significant changes in the way the central Government of this country operates than ever in the history of its central Government since the Constitutional Convention and the proposed Constitution that this would become an amendment of as it was proposed some 208 years ago.

The Senator from Utah, who leads the debate on this side, has clearly spelled out the efforts and the work that has gone into the crafting of this amendment. Certainly, the Senator from Illinois, who is here in the Chamber this afternoon, and the Senator from South Carolina know, because they have been involved in this issue for a good many years, as have I, that it is not a partisan issue, that it cannot be a partisan issue. By the very nature of the two-thirds vote that is required in this body, it is uniquely bipartisan. And over the years we have worked hard to accomplish that.

The vote in the House of last week demonstrates very clearly that it was again a uniquely bipartisan debate and vote, with many members of both parties voting for it, to acquire that two-thirds vote.

The gravity and the magnitude of changing the Constitution of this country must be something that a majority, a very large majority, of the American people agree with, two-thirds in the Senate and the three-fourths of the States. It is so critically necessary.

I have mentioned PAUL SIMON of Illinois, former chairman of the Constitution Subcommittee, leader on the Democrat side on this issue. STROM THURMOND, who is here to speak this afternoon, from South Carolina, President pro tempore of the Senate and former Judiciary chairman who introduced this issue in the 1950's; ORRIN HATCH, who now chairs the Judiciary Committee, who spoke and opened up this debate as he brought the House resolution to the floor; and HOWELL HEFLIN, CAROL MOSELEY-BRAUN, PETE DOMENICI, and many other Senators including myself have been involved in this issue for well over a decade now.

The reason I mentioned breadth of time and all of those from a bipartisan point of view that have been involved in this issue is because, as attitude and ideas change here in this body or in the other about how we govern our country, one idea that has been around now for well over two decades has been this idea. I think it has met the test of change and time. And I think all of us recognize that, if we truly are going to bring about the kind of changes in the central Government of this country that many of us believe the American people spoke to on November 8, this is the issue, this is the resolution, that can bring that change because while all of those ideas change about how we change our Government and how we look at it, this one has not changed.

Interestingly enough, it was not just one of those items in the Contract With America that Republican candidates for the House of Representatives ran on last year and now work on as Members of the Congress. It was the centerpiece. The reason it was the centerpiece, and the reason we know why it should be, was the importance it plays in what it will cause this Congress and this Senate to do differently.

The Senator from Massachusetts was talking about a variety of very important programs. Many of us call them Great Society welfare programs, ideas of the past, ideas that appeared to be good in their day, ideas that would have solved a great many problems for our country. But when you look at the breadth of time that they have been funded and have been operating, have they addressed our problems? Have they solved the problems they set out to solve?

The answer is quite simply no, because if they had and had there have been no more poverty and been no more people on welfare, if the budget had been balanced, I doubt that the election last November would have been the way it was, that our American people would have spoken so strongly to this issue and to other issues and would have demanded the change.

So it is not in spite of them; it is largely because of a variety of ideas that have transformed our Government that have caused us to have a $4.6 trillion debt and on average $200 billion deficit and a $300 billion annualized interest payment. The American people are saying in a very loud way and in a very clear way, Congress, pass a balanced budget amendment and in so doing transform our Government for us and do as you will to change it. Be kind. Use good priority. Recognize those in need. But do not continue to fund it by deficit in the manner that you have.

This year in a Wirthlin poll, 70 percent of the American people said that, or said some form of what I have just said, and 19 percent disagreed. A Washington Post-ABC poll beginning this year showed that 80 percent of the American people agreed or said something like that when asked the question. Even when the question was asked, well, what about, or if, or this might be changed, they said, we want a balanced budget because we fear that the Government and those who govern us have lost sight of the impact of a debt and a deficit of the kind we have as a country and its potential impact on future generations.

Well, those polls were taken in 1994 and 1995, just this year. But in September 1992, again, 81 percent of the American people spoke out and said change, balance the budget, pass a balanced budget amendment, begin to restrict yourselves, begin to control yourselves as a government.

So it is an issue that has withstood the test of time. It is not something new, nor is it unique or different. You will hear in the course of this debate quotes from our Founding Fathers. You have heard the Senator from Massachusetts refer to the Federalist papers.

Let the new Federalist papers of 1995 be crafted by this Congress to speak to the States of our Nation and to tell them the virtues of a balanced budget amendment and what it will do to change the powerful central Government and what it will do to bring back the 10th amendment and the 14th amendment and the power to the States and the power to the citizens to once again control themselves. Yes, this is a most critical time in our Nation's history, and, yes, I believe this is a most historic debate we begin this afternoon.

Coincidentally, as we meet here in the Chamber of the Senate today, Governors from all 50 States are meeting in this Capital City, and they are gathered around preparing to convene a national conference of Governors in the coming months to develop a dialog and a presentation to the central Government, to the Congress of the United States, cajoling, arguing, emphatically stating that it is time the States began to reclaim some of their power under the 10th and 14th amendments.

A Democrat Governor this morning from Indiana said on national television: And if the Congress does not listen, then maybe we will have to do what States did when they brought about a Constitutional Convention as a result of a meeting in Annapolis, as a result of a failing document called the Articles of Confederation. That was a Democrat Governor that said that this morning in a mild but direct way.

A Republican Governor sitting right beside him said, yes; it is absolutely true. If the arrogance of power today in the central Government and here in this Senate and in the House is to say to our States, we do not hear you and we do not care; we will continue to put down upon you one Federal law after another that will erode your power and your ability to govern under a Constitution that puts States in a preeminent power position and put the

central Government second in almost all, if you do not do that—and that is what those Governors were saying this morning—we will speak even louder to transform our Government once again like the States over 200 years ago had to do because of a central Government that was not working.

If we pass this resolution, if we send to the States the 28th amendment to the Constitution of this country, and if it is ratified, then we will begin a historic dialog with those Governors and State legislatures to decide what of these programs that make up this huge Federal budget have priority to the States and to the citizens of those States, which should be paid for by the State legislatures and the taxpayers of States and which should be funded by the Federal Government. And I sincerely believe until we pass this amendment, that kind of debate, that kind of dialog, that kind of cooperative relationship between the States and their central Government will really never begin.

Last Friday night we passed another historic piece of legislation, the unfunded mandates legislation. My colleague from Idaho authored that and brought it to the floor of the U.S. Senate. There is no doubt that was a phenomenally important step. But, still, there is adequate room for the Federal Government to create great havoc with State governments and their ability to control. That unfunded mandates bill, coupled with a constitutional amendment to balance the Federal Government's budget would for the first time in the life and the history of this Government under this Constitution create a dialog and debate that will go on for a long, long while as we begin the process I have just outlined: A sorting out of our differences and deciding what we can do and what we cannot do and what is within the fiscal means of our country to do.

Yes, to the Senator from Massachusetts, we would establish a lot of unique and new priorities. You see what he was saying a few moments ago when he talked about all those cuts, is that his vision of America is a Government like the one we currently have, only bigger and bigger and bigger. Not changed, not rejuvenated, not redistributed, not redesigned and reenvisioned and recreated. But that is what the American people are saying. And that is why we began this debate this afternoon.

Over the course of the next several weeks I am sure all of my colleagues who are joined in this debate in favor of a balanced budget amendment will work overtime to explain to our colleagues here in the Senate and to the American people how the processes will work. But one thing we know is clear. We must pass a clean amendment, because it is nothing but a prescription, a process, a procedure placed in the Constitution which mandates to the Congress of the United States that they will bring their receipts and expenditures into balance on an annual basis and they will do so in a certain manner.

And if they find it impossible to do they will offer it up in another different manner under a different prescription. But it will be so required and the American people will know why we are spending in deficit if we must. But more important, that in the good years we will pay it off. We will get back in balance. We will do what our Founding Fathers did for well over 100 years during the history of this country, the first 100 years, when a balanced budget was an ethic. It was believed to be the responsibility of a central Government. Slowly but surely we have walked away from that. Slowly but surely our debt began to mount. Slowly but surely we began to lose control of our Government to an autopilot that now many will argue we must retain. I do not believe that is what our Governors are saying. It is most certainly not what the citizens are speaking to. And it is something this Congress should never agree to again.

So we begin this debate with the recognition that House Joint Resolution 1 that is before us as a resolution proposed to the States to provide a balanced budget amendment to our Constitution can bring about profound change. But it will bring about change so designed in the image of the citizens of this country, as they envision their central Government.

I yield the remainder of my time.

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

Mr. THURMOND. Mr. President, today, we begin consideration of a proposed constitutional amendment to require the Federal Government to achieve and maintain a balanced budget. We are pleased that the House acted with wide bipartisan support as it adopted the balanced budget amendment by a vote of 300 to 132.

Also, before we have extended debate on this proposed amendment in the Senate, I want to commend the chairman of the Judiciary Committee, Senator HATCH. He is to be congratulated on the manner in which he handled this matter in the Judiciary Committee and bringing it to the floor for consideration. I have worked over the years with Senator HATCH on the balanced budget amendment and due in large part to his tireless efforts we are close to sending this proposal to the American people for ratification. I also wish to commend Senator LARRY CRAIG of Idaho for his fine leadership on this matter. He has been a stalwart in this fight. Also, I wish to commend Senator PAUL SIMON of Illinois, who has been a leader in this cause for a number of years.

Mandating balanced Federal budgets is not a new idea. The first constitutional amendment to balance the budget was proposed in 1936 by Minnesota Representative Harold Knutson. Then came World War II and attention was distracted from efforts to secure annual balanced budgets, although Senator Tydings and Representative Disney introduced several balanced budget amendments during that period.

Following World War II, a Senate joint resolution on balanced budgets was introduced by Senators Tydings of Maryland and Bridges and reported out by the Committee on Appropriations in 1947 but received no further action. During the 1950's, an increasing number of constitutional initiatives for balanced budgets came to be introduced regularly in Congress. It was during that time that I supported legislation such as that offered by Senators Bridges, Curtis, and Harry Byrd to require the submission by the President of an annual balanced budget and to prevent Congress from adjourning without having enacted such a budget. No action was taken on these measures. Yet, since the beginning of the 84th Congress in 1955, an average of four constitutional amendments to require a balanced Federal budget have been proposed during each Congress. There was little substantive action in the 1960's and 1970's on our proposals. But finally, in 1982 while I was chairman of the Judiciary Committee, the Senate passed a balanced budget amendment which I authored. Our victory was short-lived, however, because the Speaker and the majority leader at that time led the movement to kill it in the House of Representatives. That was our high water mark as we fell one vote short in 1986 and four votes short last year. With the recent action in the House of Representatives and wide bipartisan support in the Senate, I am ever optimistic that this is the year the Congress will deliver to the American people a balanced budget amendment.

Simply stated, this legislation calls for a constitutional amendment requiring that outlays not exceed receipts during any fiscal year. Also, the Congress would be allowed by a three-fifths vote to adopt a specific level of deficit spending. Further, there is language to allow the Congress to waive the amendment during time of war or imminent military threat. Finally, the amendment requires that any bill to increase taxes be approved by a majority of the whole number of both Houses.

This legislation would provide an important step to reduce and ultimately eliminate the Federal deficit. The American people have expressed their strong opinion that we focus our efforts on reducing the deficit. Making a balanced budget amendment part of the Constitution is appropriate action for addressing our Nation's runaway fiscal policy.

Over the past half-century, the Federal Government has become jeopardized by an irrational and irresponsible pattern of spending. As a result, this firmly entrenched fiscal policy is a threat to the liberties and opportunities of our present and future citizens.

The national debt as of December 30, 1994 was $4.65 trillion. The Federal deficit in fiscal year 1993 was $225 billion. Mr. President, in 1957, my third year in the Senate, the entire national debt was less than $275 billion and there was not a deficit, but rather a $3 billion surplus.

Today, the payment of interest on the debt is the second largest item in the budget. That accounts for the estimate that this year it will take over 40 percent of all personal income tax receipts to pay the interest on the debt.

The tax dollars that go to pay interest on the debt are purely to service a voracious congressional appetite for spending. Payment of interest on the debt does not build roads, it does not fund medical research, it does not provide educational opportunities, it does not provide job opportunities, and it does not speak well for the Federal Government. Payment of interest on the debt merely allows the Federal Government to carry a debt which has been growing at an alarming rate. It is deficit spending which has brought us to these crossroads. Congress has balanced the Federal budget only once in the last 32 years and only 8 times in the last 64 years. A balanced budget amendment as part of the Constitution will mandate the Congress to adhere to a responsible fiscal policy.

The American businessmen and businesswomen have become incredulous as they witness year in and year out the spending habits of the Congress. Anyone who runs a business clearly understands that they cannot survive by continuing to spend more money than they take in. It is time the Congress understands this simple yet compelling principle.

For many years, I have believed, as have many Members of Congress, that the way to reverse this misguided direction of the Federal Government's fiscal policy is by amending the Constitution to mandate, except in extraordinary circumstances, balanced Federal budgets. The Congress should adopt this proposal and send it to the American people for ratification. The balanced budget amendment is a much needed addition to the Constitution and it would establish balanced budgets as a fiscal norm, rather than a fiscal abnormality.

The tax burdens which today's deficits will place on future generations of American workers is staggering. Future American workers are our children and our children's children. We are mortgaging the future for generations yet unborn. This is a terrible injustice we are imposing on America's future and it has been appropriately referred to as fiscal child abuse.

Our third President, Thomas Jefferson, stated: The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.

It is time we show the fiscal discipline advocated by Thomas Jefferson and adopt a balanced budget amendment. I yield the floor.

Mr. DASCHLE. Mr. President, as the Senate begins to debate the resolution to send to the States a proposed constitutional amendment to require a balanced budget, I am hopeful it can also be an educational experience for both participants and spectators. Like the gulf war debate, I hope it will lead to an informed judgment for all of us. For it has been a debate that has gone on for centuries.

The words of Andrew Jackson and Thomas Jefferson have always made sense to me. They did not believe in permanent debt. Jackson said,

I am one of those who do not believe a national debt is a national blessing, but rather a curse to a republic; inasmuch as it is calculated to raise around the administration a moneyed aristocracy dangerous to the liberties of the country.

I am sensitive to the significance of amending our Constitution and the care we should exercise when we propose to do so. In more than 200 years, the Constitution has been amended 27 times. Two of those occasions reflect the effort to annul with the 21st amendment the problems created by the 18th, prohibition.

Passage of the repeal amendment could no more undo the damaged caused by Prohibition than it could turn back the clock.

Throughout most of our history, the discipline of balanced budgets was part of our tradition. It was so much a part of the culture of government that no external discipline was necessary to enforce it.

That has not been true for the last quarter century. The discipline of strong political parties has eroded. In the last quarter-century, self-styled conservatives got tired of preaching fiscal austerity. The free lunch theory of politics was born. It proved successful, and we are its heirs.

History is unforgiving. What has been done changes the world, whether or not, in hindsight, we think it should have been done. We are forced to deal with the changed world. We can no more return to the tradition-inspired fiscal discipline that ruled our Nation's first 150 years than we could undo the damage of Prohibition by repealing it.

In this changed world, proponents argue that the only institution in American life that still commands the respect necessary to impose discipline in the face of competing demands is the Constitution.

So I have supported the idea of amending the Constitution. I have done so in the hope that it would have a salutary effect on smoke-and-mirrors budgeting that has won all too many of the battles while the Nation is steadily losing the war.

From the beginning of the American constitutional system in 1789, the Federal budget was in rough balance in most of its first 150 years.

Following the end of the Second World War, that has not been the case. Until the end of the 1960's, deficits were small, relative to the gross national product, and some fiscal years showed small surpluses. The oil price shocks of the 1970's and other factors began to fuel the ominous upward drift of deficits.

Even then, despite the efforts by some to rewrite history, the growth of the national debt was not exponential. Deficits reflected economic stress, not an out-of-control budget.

That changed dramatically in 1981.

Fourteen years ago, with the first Reagan budget, deficits exploded and the national debt began its upward spiral.

The combination of supply-side economics in the form of a massive tax cut and a trillion-dollar defense buildup led to record-setting deficits.

In the 12 years of Reagan-Bush economics, a national debt that had taken two centuries to reach $1 trillion was quadrupled.

If your family built up a $9,000 debt over 5 years and your feckless brother-in-law ran up $27,000 on your credit card in 45 days, you'd be facing the equivalent of what happened at the Federal level. Your monthly interest charges would go sky high. That happened to Federal interest charges, too.

Today the interest payment on our debt is $212 billion. If it were not for the Reagan-Bush portion of the debt, our budget would be virtually in balance today.

High deficits that persist in good economic times as well as bad damage our economy. They sap economic growth by diverting resources from productive investments. They add to the debt burden and its servicing cost, the interest we pay on the debt each year. That diverts resources from longer range investment in infrastructure and education.

Everyone knows what must be done to balance the budget. Revenues have to equal or exceed outlays. you can reach that result by increasing revenues or reducing outlays or both.

But you can't do it with mirrors.

Despite three versions of the Gramm-Rudman Act since 1985, each of which was supposed to produce a balanced budget, the budget, as we all know, is far from balanced.

The first real action to get the deficits under control occurred in 1990, when Congress and President Bush agreed on $500 billion in deficit reduction.

Again in 1993, Congress and President Clinton agreed on another $500 billion in deficit reduction that has given us the first 3 consecutive years of declining deficits in half a century. Yet the 1993 action, which has been enormously beneficial to our economy, was fiercely resisted on a partisan basis. Not one Republican voted for that deficit reduction package.

We were warned that passing the President's budget would throw the

country into recession, cost countless jobs, put Americans into the poorhouse through tax hikes, and make the deficit go through the roof.

Exactly the opposite happened. The economy grew stronger and expanded; more than 5 million new jobs were created; 20 million working Americans were taken off the tax rolls; and the deficit has come down for 3 years in succession.

The dire warnings in 1993 weren't qualified. They were presented as factual conclusions, predictions so sound they were without possibility of error. So supremely confident was the partisan opposition that the President's plan passed by just a single-vote margin in the House and the Senate.

Today, the same people whose confident predictions of economic disaster have been proven so totally wrong are making confident assertions about how easy it will be to balance the budget.

We are hearing with increased frequency that nothing but a freeze is needed to balance the budget by the year 2002, so States and cities need not worry that programs that target funds for them will be seriously affected.

The same people who so confidently predicted in 1993 that the President's budget plan would lead to economic disaster, and who have been proven so totally wrong, are now asking us to have confidence in their claims that balancing the budget won't be difficult because it can be done by freezing spending.

The same people who want Americans to believe this are hoping no one will notice that they're using the exact opposite argument about defense spending.

The defense budget has been frozen since 1987. It has been about $280 billion a year. According to the logic of those who say balancing the budget will be painless if you just freeze all spending, we should expect defense resources to be what they were in 1987.

But that is not what you are hearing. What you are hearing is that defense has suffered deep cuts, that spending reductions have done all sorts of damage, and, to the contrary, that we must increase spending for the military if we are to avert imminent disaster.

But in freeze terms, there haven't been any spending reductions. There just hasn't been inflation-adjusted growth. That, we are told, isn't a cut—it's a freeze.

Since 1987, the dollar amounts available to the Pentagon have remained steady in nominal dollars—and that's exactly what a freeze is.

Since 1987, the number of Army divisions has fallen from 28 to 20, Air Force fighter wings have fallen from 36 to 22, the Navy fleet has been trimmed from 568 ships to 387, and the number of men and women in uniform has fallen from 2.2 million to 1.6 million.

The military has discovered that a freeze is not a freeze because resources do not stay frozen. Instead, divisions and fighter wings melt away. That is because $280 billion just does not go as far in 1995 as it did in 1987.

It does not take a mathematical genius to figure this out.

I do not think anyone in America would have much trouble figuring out that living in 1995 on what they earned in 1987 would mean some cutbacks. I do not think most Americans have trouble figuring out that if they had exactly the same dollar amounts to spend on rent and food and clothing today that they spent in 1987, they would be buying a lot less of everything.

This is why our city mayors and our Governors are wondering what will happen to their budgets and the services they are responsible for under this freeze theory. No wonder they are concerned. They should be.

The proposed balanced budget amendment sets very strong conditions and standards to be applied to the budget.

It would require a three-fifths majority, not a simple majority, to raise the debt ceiling or adopt a budget that is out of balance.

This so-called supermajority is the Senate's filibuster rule. All of America had a good taste of how the filibuster rule worked in the 103d Congress. It brought work to a full stop. It put into the hands of a minority the power to bargain for, hold hostage, blackmail, or simply block anything they wanted.

The Constitution is straightforward about the few instances in which more than a majority of the Congress must vote: A veto override, a treaty, and a finding of guilt in an impeachment proceeding. Every other action by the Congress is taken by majority vote.

The Founders debated the idea of requiring more than a majority to approve legislation. They concluded that putting such immense power into the hands of a minority ran squarely against the democratic principle. Democracy means majority rule, not minority gridlock.

Even the Senate, with its veneration for the filibuster rule, limits its reach when it comes to the budget. The Senate has specifically protected the reconciliation process against manipulation by a minority. You cannot filibuster a reconciliation bill.

When we seek to override a veto or ratify a treaty, two-thirds of those present and voting decide the issue. If 10 Senators are absent, a veto can be overridden by 60 votes instead of the 67 needed when there's full attendance. If 15 Senators are absent, we can ratify a treaty with 57 votes.

But when an absolute number of 60 ''yes'' votes is needed, absent Members—Senators who don't even show up to vote—have the same power to affect the outcome as if they were present to cast a ''no'' vote.

In addition, the proposal before us requires that a majority of the entire body, not of those present and voting, is required for the approval of any revenue increase and that such approval shall require a rollcall vote.

I do not understand why we would permit 47 of 88 Senators on the floor to vote the country into war—as we would, if that were the issue and 12 Senators were absent—but we should never allow fewer than 51 Senators to vote for the smallest revenue increase.

This means accelerated gridlock. The Senate could not act on anything that involved revenues, no matter how trivial, if the outcome were close, if just one Senator were absent—not an uncommon occurrence. If one Senator is absent, and the body is evenly split on an issue, a 50-vote win would not suffice. I need not remind anyone how often we legislate with more than one absentee.

The proposal requires that this vote be taken by a rollcall. That means the end of any voice-voted conference reports that include any revenues, no matter how trivial, and no matter how broadly supported.

These will strike some as minimal objections to a grand scheme, but it is often over the most trivial things that grand schemes come to an unhappy end.

A failure to observe the requirement would open any law to challenge in the courts, as having been enacted unconstitutionally.

There are already many Americans, including well-respected economists and nonpartisan political observers, who think the effect of a constitutional commandment to balance the budget will be a series of ever-more-ingenious evasions by the Congress.

They believe that as the difficulties and inconveniences of living up to the promise are encountered in the real world, Congress will create loopholes just as it has changed other budgeting laws when they became inconvenient in past years.

But it is one thing to change statutory budget law. It is quite another to play fix-up games with the Constitution.

I support a constitutional amendment to balance the budget because only the Constitution commands universal respect. But I am seriously concerned that the amendment must be crafted carefully. Otherwise, it will invite tampering with a constitutional requirement that will undermine that universal respect which we all now recognize.

Perhaps we should consider adopting, as a Senate rule, the requirements on voting that are now embodied in the measure.

Let us see on a practical basis whether it makes sense to give a minority the right to block this year's budget resolution.

If this is a good idea to impose on a Congress in which many of today's Members will not serve, let us consider imposing it on this Congress, in which we are all serving. And if not, let us at least consider modifying this language to more closely conform to the constitutional standards for voting on other important legislation.

In the present climate of contract-induced hysteria, I suppose many are ready to pledge their lives and sacred honor on their willingness to be present and vote for each and every cent of revenue that may ever be raised in the unknowable future.

But how strongly will new Congresses, not in the grip of hysteria, feel about this provision?

I note that the House does not intend to apply this requirement as a House rule when it considers the contract's tax cut bill. I wonder if that is because it is expected that bill will contain some revenue-raising offsets as well as spending cuts?

The proposal before us has little in the way of interpretative language. It is unclear what constitutes a revenue increase. If a tax benefit expires, for example, does that constitute a revenue increase within the meaning of this language? Does it mean we cannot simply allow it to expire but must take affirmative action to vote in favor of doing what an earlier Congress already determined should be done? Would a taxpayer have standing to sue if a tax benefit expired without an affirmative vote?

I hope this facet of the proposal can be clarified. I think Americans have a right to know what this language means.

We are often told that if the average family can balance its budget, we ought to be able to balance the Federal budget. I do not know how many American families pay for their houses with a single cash payment or buy their cars cash down. I know that is not too common in South Dakota.

Likewise, we are told the States balance their budgets each year, and so the Federal Government should balance its budget each year.

But this is not true, either. States balance their books each year. They do not balance their budgets. State debt has, in fact, been rising. State debt rose by $26 billion from 1991 to 1992—8 percent. State debt has been rising because States are not balancing their budgets. They are balancing their books.

That is what families with mortgages, car payments, and credit card debt to. It is what every business in the country does.

Today, the only entity for which investment and operating costs are considered interchangeable is the Federal Government. That is something that deserves more attention than it has received so far.

Another popular idea floating about is that the Consumer Price Index so greatly overstates the inflation rate that it could be taken at a third of its value, thus saving enormous amounts of money.

The only thing wrong with this is that is not true. It is wishful thinking. The measurement of all economic statistics undergoes a continuous process of refinement, regardless of which political party is in power. The Consumer Price Index is in the process of being reviewed in this fashion, and the process ought to be left alone. We do not need hopeful economic statistics. We need accurate ones.

The thing supporters of this convenient theory do not want Americans to remember is that if the value of the consumer price index were halved, the indexing of tax deductions would also be halved.

Today, because of the 1986 tax reform bill, the amount of income that is excluded from taxes rises along with the cost of living each year.

If the Consumer Price Index is devalued, what you get is a backdoor tax hike. It will cause taxes to rise significantly, compared to inflation. No surprise, the people paying the bulk of the increased taxes will be working, middle-class people whose income comes from salaries and wages, not interest earnings and investments.

I said at the outset that there is no magic to balancing the budget. You do it by cutting spending or increasing revenues. Those who are relying on spending freezes or understated consumer price indexes plan to use revenues. They just do not want to admit it.

The reality is that, if we are going to balance the budget by 2002, we ought to face up to the fact that it will be a difficult process. It will be difficult, because it will mean asking people to give up services and benefits they are used to receiving.

That is why I so strongly believe that if we're going to do this, people deserve to find out what is involved.

The State officers who deal with State budgets have produced estimates of the cost to every State of a balanced Federal budget, based on the funds that States receive today from the Federal Government. Although the degree of dependence on Federal benefits varies, on average, at least one-fifth of State budgets is now comprised of Federal funds.

These are the so-called ''discretionary domestic spending'' funds that are the target of the freeze idea. They are the programs directly at risk if we decide to balance the budget by not taking inflation into account and simply keeping all programs level in nominal dollars for the next 7 years.

Some say the success of the President's budget plan of 1993 means there is no need to amend the Constitution. I would like to be able to agree. But the razor-thin, one-vote margins by which we succeeded in 1993 are a slender reed on which to rest our prosperity in the next century.

At the same time, the deficit of today and the politics of today are not what they were in 1979, when I first proposed a constitutional amendment to balance the budget.

In the intervening years, we have been subjected to free-lunch promises, to tax hikes called ''revenue enhancements'' and ''user fees,'' to budgets with magical asterisks that stand for spending cuts that cannot be outlined, and prophecies of one disaster after another. We reinvented our Tax Code with the 1986 Tax Reform Act. The 1986 reform is not even a decade old, and it's already being denounced by some who voted for it. The Speaker of the House says we must now scrap the income tax and turn instead to a national sales tax.

It is not surprising that Americans don't know what to think or whom to trust. I doubt that anyone casting a ballot last November thought he or she had just voted to impose a national sales tax on themselves. Because of the speed with which these ideas flash in and out of the political spotlight, and because each reappearance of an old discredited idea tricked out in brand-new slogans adds to the general confusion, I have concluded that it is no longer enough to establish a simple constitutional command to balance the budget.

This time, I believe the American people have a right to know what it is that we are proposing to do. So I have introduced and, with the support of over 40 of my colleagues, will be fighting for, the Right to know Act, a resolution whose adoption should precede passage of the constitutional balanced budget amendment.

I had always hoped that if the Senate ever were to undertake a debate on a constitutional amendment to balance the budget, our debate would be characterized by seriousness and honesty, not slogans and sound bites.

I hoped that because it seems to me that what the elected officials of Government say and do about the taxes that citizens pay to Government is as important as anything we do. People work hard for their wages. Families in my State of South Dakota do not earn the kinds of salaries that the aristocracy of wealth here in Washington considers normal. They deserve to have their taxes taken seriously.

That is why I am concerned about the freeze hoax and the other issue—dodging that is going on around here. It sounds too much like the stuff we have been hearing for years.

It does not matter whether you quote David Stockman, Reagan's first Budget Director, who concluded, ''After 4 years, I'm convinced a large share of the problem is us. By that I mean Republicans,'' or you quote Ronald Reagan, who said, ''This administration is committed to a balanced budget and we will fight to the last blow to achieve it in 1984.''

The bottom line is that, when they had the power, they did not fight to cut the deficit. When President Clinton proposed to cut the deficit, they fought, all right. They fought him.

I have tried to play by the rules. That is why I began with a constitutional amendment to balance the budget when I was first elected to Congress. But it seems that the rules keep changing.

When the President offers real cuts, fight him, misrepresent his program, predict disaster, obstruct, vote no. Then, when you are proven wrong, stick to your guns. When you are asked to be specific, duck the question. Say it will not be too tough. Talk about a national sales tax. Change the subject.

That is not my idea of responsible legislating.

This year—again, no surprise—we have the new House majority leader announcing that he is not about to present an honest accounting of what you have to cut to balance the budget, because, and I quote him directly, ''The fact of the matter is that once Members of Congress know exactly, chapter and verse, the pain that the Government must live with in order to get a balanced budget, their knees will buckle.''

He knows his membership better than I do. But none of us, including House Republicans, were sent here to do the easy stuff. We were sent here to do the work. We are being paid to do it, and it is about time we buckled down and did it.

I have listened to much talk, on and off the Senate floor, for many years now about the balanced budget. The longer I am here, the more obvious it is that those who talk the most act the least.

That is why this year I say, no more. I have had enough. We have heard the evasions, the hypocrisies, the half-truths and all the rest.

I sincerely believe that people on both sides of the aisle truly want to achieve a meaningful way with which to accomplish a balance Federal budget by the year 2002. This year, I say Americans cannot accept simply our promise to do so. They cannot accept simply our version of Trust us. Americans have the right to know what this means. They have a right to know how we will spell it out, how we will set it out, how we will let the people share in our decisionmaking. That is now up to us.

What I propose is that we trigger the reconciliation process, the process that does not let a minority hold us hostage, and start now on how we might go about reducing the deficit for the next 7 years. Let Members set the budget path to a balanced Federal budget by the year 2002. That is the heart of the right-to-know amendment. It is not just hot air or empty talk about people's knees buckling.

I want to know and the American people ought to know what all this talk means. If they cannot answer that question for the American people, they cannot answer it for me or anyone else. So today, let the Senate begin this debate with high expectations, with a realization that we cannot fail, with appreciation of what we must do to make this an honest debate. Let Senators make an informed judgment, and let Senators let the American people be a part of it.

With that, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent that Laurence Block, Victor Cabral, Michael O'Neill, Steven Schlesinger, and Elizabeth Kessler, detailees, be granted floor privileges for the remainder of this calendar year.

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

Mrs. HUTCHISON. Mr. President, I rise today to advocate passage of the balanced budget amendment, a measure which will fundamentally change the direction our Government has taken in the last 25 years.

Mr. President, if the people of this country said anything last November, it is that we should change the course of this country. The most important thing we can do to show the American people that we heard their call and that we are acting on it is to pass this balanced budget amendment.

During the last 25 years, Congress has become desensitized to the enormity of the fiscal and moral harm its habitual deficit spending is causing this country. Those of us who support the balanced budget amendment believe that, contrary to the thrust of many arguments that we will be hearing in the next few days, weeks, or even months, budget deficits of this magnitude are not the norm. With the exception of deficit spending during wartime, this country grew to be the most powerful on Earth while enjoying increasingly high standards of living without spending excessively.

But during the last few decades, we have accumulated a national debt of $4.4 trillion, nearly $18,000 for every man, woman, and child in this country. In fact, every child that is born today owes $18,000. That is not a birthright; that is a birth-wrong. Our per capita debt has increased more than sevenfold in the last 18 years. I do not think it is coincidence that at the same time there has arisen a crisis of confidence in the Government among many segments of our society.

We have now become the largest debtor nation in history, and a large portion of that debt is held by foreign interests. We have mortgaged our children's future in the very way Thomas Jefferson feared and warned us about 200 years ago.

He said:

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

Since the beginning of our slide down the slippery slope of deficit spending 25 years ago, it has become more and more evident that the problem is due in part to an inherent weakness in the way Congress goes about its business. The deficit is a result of the fact that it has become harder and harder to raise taxes but all too easy to increase spending.

The voters made themselves perfectly clear on this matter last November. To them, the deficit is not a result of the Government taxing too little. It is the result of Government spending too much. That is a simple concept instinctively grasped by our people but until now has seemed beyond the reach of Congress.

It is at this critical juncture that a balanced budget amendment would inject the element of accountability into the process. It should be just as hard for the Government to borrow as it is for the Government to raise taxes.

The balanced budget amendment would set up a tension in Congress when we deliberate over borrowing, taxing, and spending. And we need that tension, Mr. President. Other less drastic attempts to accomplish this change in attitude have failed. Gramm-Rudman was not allowed to function as its authors had planned. Too much was exempted from it. And every time its mandatory sequester treatment came into play, Congress backed down. The 1990 budget agreement did not hold water. We raised taxes, but real budget cuts never followed.

Budget deficits are doing enormous harm. Aside from the selfishly shortsighted way in which we are treating future generations, the impact of deficit spending already has begun to sap our economy. The Government is borrowing and spending money that would otherwise serve as capital needed for economic growth and job creation. Our standard of living no longer continues to rise in this country.

Our parents used to think that it was a matter of course that their children would have a better standard of living than they did. That is no longer the case. We are crippling the productive engine of our society and cheating those who make it run. Wealth that should be available as seed corn for the creation of new wealth and jobs is instead being consumed.

Opponents of the balanced budget amendment are now demanding that its supporters first reveal exactly how they plan to balance the budget. I would ask instead, when were the American people ever told precisely how they would be driven into a $4.4 trillion debt?

Did we ask the American people every time we forced them into this drastic debt? Was it explained to them that the Government was imposing such a burden on their children and grandchildren? How does every other government entity in America except Congress manage to write a balanced budget?

They determine what they have to spend, and then they set their spending priorities. That is how they do it. They set a balanced budget and then they say, OK, that is what we have to spend.

Here is how we are going to do it. They figure it out.

Every business, every household, every city, every county, and every State government in America does it. There is only one entity in this country that does not have a balanced budget and continues to function, and that has been the Congress of the United States.

Mr. President, this is the budget of Henderson, TX. It is a lot of computer pages. Henderson is a town of 11,000 people. They are very proud that they have a balanced budget. That is why they put this sign on the front of their budget.

The balanced budget for Henderson, TX, is $8 million; one-quarter of this budget is from unfunded Federal mandates. So 11,139 people in the city of Henderson, TX, have to split $2 million of unfunded mandates to pay for it—$2 million extra over 11,000 people.

Mr. President, I am pleased that this Congress has made some progress on unfunded mandates. But as we proceed to give relief to the people of Henderson, TX, and cities like it all across America, I hope we are also going to learn a lesson from cities that know how to balance their budget. The city council says to itself, we have $8 million in revenue, and we are going to spend no more than $8 million.

Many of the strongest voices being raised in opposition to this measure are the very ones, Mr. President, who are afraid that the balanced budget will work. They are unwilling to make the hard choices it will force on those in Congress. I can understand their reluctance even if I do not sympathize with it. In fact, the harm we are causing with continued deficit spending is precisely the kind of Government folly which the Constitution ought to prevent. We ought to prevent it in the Constitution, and that is what we are trying to do today.

I would like to close my remarks with another warning from Thomas Jefferson. He saw all too well the potential for tragedy if the young Republic were to taste the forbidden fruit of borrowing against its future. He said:

> There does not exist an engine so corruptive of the Government and so demoralizing of the Nation as a public debt. It will bring us more ruin at home than all the enemies from abroad.

Mr. President, he could say those words today, and it would be even more fitting.

Now, I do not think that Thomas Jefferson and the other Founding Fathers could ever have dreamed of a $4.4 trillion debt, but I will say this. Had they known that this was possible, I think they would have taken steps to prevent it in the Constitution.

I think it is incumbent upon us to say to the future generations of our country we are going to take the steps that will assure that every child born in this country will not be born with an $18,000 debt hanging over his or her head.

Mr. President, I thank the Senator from Utah, who is leading the charge for this balanced budget amendment. We must pass this constitutional amendment so that Congress can no longer, by majority vote, encumber our children and future generations with what we want to spend today as a matter of convenience.

I thank the Chair. I yield the floor.

Mr. HATCH. Mr. President, I thank the distinguished Senator from Texas for her excellent remarks and for her valiant efforts in trying to pass a balanced budget amendment. Without people like Senator HUTCHISON, I do not think we would be as far along as we are.

I have to say, when she arrived in the Congress, it gave a lot of us hope that we might be able to get this far. Now we have to see that we get far enough to pass the balanced budget amendment by the requisite, at least 67, votes in the Senate. That is not easy to do, but we are going to be about doing it and going to do everything we can.

Thanks to our distinguished friend from Texas for the work she is doing in trying to help bring this about.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, I would like to compliment the distinguished Senator from Idaho, Senator CRAIG, and, of course, our friend and colleague, the President pro tempore of the Senate, Senator THURMOND, for the excellent remarks they made earlier in the day.

When I think of Senator THURMOND, I think of 40 years here in the U.S. Senate, 38 of which have been spent trying to pass a balanced budget amendment. If we do finally pass this amendment through the Senate in the exact form that the House sent it over, I think Senator THURMOND will deserve a great deal of credit for all of his work through all of those years.

I also would like to praise Senator CRAIG for his excellent work. He is one of the leaders on this bill. He has been ever since he was the leader in the House. He does an awful lot of the coordination and the work behind the scenes to see that we all get where we want to be.

Mr. President, I yield the floor to my distinguished friend and colleague from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, we are, of course, at the outset of a debate on a profound and important issue to the future of the United States, a debate on the Constitution itself and on whether or not it should be amended to require or to encourage balanced budgets and, if so, how.

I hope to have a number of occasions on which to speak on this amendment, but in this first try, rather than to outline what is in it or even to deal with the important reasons for its passage which have already been explained with considerable eloquence by previous speakers this afternoon, I would like to share a few observations on the nature of the debate on which we are embarking.

First, we will be faced with a demand during the course of this debate that its proponents outline precisely and specifically, perhaps even to the extent of a specific bill with various mandatory requirements included in it how a balanced budget will be reached by the year 2002. And during the course of that debate, what is likely to be obscured will be the alternatives to this constitutional amendment.

It seems to me—and I stand to be corrected by my good friend from Utah if he has any addition to this group—that Members of the Senate will be divided essentially into three groups during the course of this debate.

First is that group represented by the Senator from Utah himself and the other sponsors, which will include those Members who feel that it is vitally important for the future of this country that the budget of the United States, in most years, absent emergencies, be balanced; that a continuation of the fiscal policies of the past, not just the recent past but almost the entire past since the end of World War II, of increasing budget deficits, of passing on a greater and greater debt to our children and grandchildren must be brought to an end and are unlikely to be brought to an end by any course of action less drastic than certain constitutional requirements. I believe, and I am sure my friend from Utah joins me in this belief, that a significant majority of the Members of this body hold to that belief.

The other two groups are less likely, it seems to me, to speak candidly and directly to their fundamental philosophies, but I suspect that there are some Members of this body who believe that it is important to reach a balanced budget but that we should try some method other than a constitutional amendment by which to attain that goal. I can speak rather fervently with respect to that group because 10 years ago that was the group to which I belonged. I voted against predecessor proposals of this nature on the basis that the Congress itself should act responsibly enough to balance the budget without the constraints of a constitutional amendment. And in fact, I played some minor role in the passage of the Gramm-Rudman Act in the mid 1980's, which was a statutory attempt to reach the goal now sought by this constitutional amendment. And in fact, Gramm-Rudman for 2 or 3 years was effective, at least in leading to smaller deficits.

But once the requirements of Gramm-Rudman required real sacrifice, real spending cuts, Gramm-Rudman was effectively abandoned by the Congress and budget deficits once again increased. As a consequence, it is my perspective, at least, that a statutory approach, a year-by-year approach simply will not result in our reaching a goal of a balanced budget.

I hope, however, that if there are Members of this body who stand for a balanced budget but against this constitutional amendment, they will clearly and emphatically say this is their goal, and since they are asking for a particular, specific blueprint of how we should reach that goal under the constitutional amendment, those Members should share with us their viewpoint of when and how they believe we should balance the budget without the constraints of this amendment.

To this point, Mr. President, while I have heard many pious statements about the necessity for fiscal responsibility on the part of opponents to this amendment, not one, to the best of my ability to judge, either inside this body or outside this body, has told us how we reach that goal without this constraint.

The third group, and I believe firmly that this group of Members will embody the great bulk of those who will vote against the constitutional amendment in any event and the great bulk of those who will set up the smokescreen that we must set out exactly the road by which we are going to reach this constitutional amendment, Mr. President, I believe the great bulk of those Members do not believe a balanced budget either to be a desirable goal for the United States of America or at least, if it is a goal, it is only a secondary or tertiary one that does not amount to much and is not nearly as important as the spending programs which they advocate increasing or protecting from reductions. And, as far as I can tell, the debate, at least in this body among its 100 Members, will divide all of us among those three groups and among no others.

I predict that the great majority—not all, the great majority of those who want this blueprint want this blueprint not to guide us to a balanced budget but to buttress their arguments that we never should balance the budget under any circumstances, that the pain is simply too great and that for one reason or another, at least during our careers, we can continue to put on the cuff $150 billion, $200 billion, $400 billion a year.

We have in this liberal administration great pride expressed as recently as last week in the State of the Union Address, over the reduction in budget deficits during the course of the last 2 or 3 years. We are rarely told, and then only in footnotes or in the back pages of long dusty dry documents, that current policies will result in a turnaround of those budgeted deficit reductions and increases in the deficit to $200, $250, $300, $350, $400 billion a year by and after the turn of the century.

So there really are no easy answers. You either believe that a balanced budget is a socially desirable goal, a goal worth sacrificing for, or you do not. If you do not, you ought to be willing to say, expressly, that you do not, that it simply is not as important. That it is more important to carry on with present spending policies than it is to balance the budget.

I believe that this grouping of three even applies to those who believe in a balanced budget but believe that it should be attained not primarily or exclusively by cutting spending but primarily or exclusively by increasing tax rates. It is certainly appropriate for a Member here to vote for this constitutional amendment on the basis that he or she will increase taxes to reach those goals in the year 2002 as it is to hold the opposite point of view, that the goal should be reached by reductions in spending, if those Members are willing to stand up and say this is the way, if my ideas are in power, I will reach that goal.

In fact, I believe that to be the best argument, the overwhelming argument, against anyone attempting to provide a 7- or 8-year blueprint today on the way in which a balanced budget will be reached. This Congress can bind this Congress, that is the next 2 years. It cannot bind the Congress which will take office in 1997 or in 1999 or in the year 2001. In fact, if we were to pass an express blueprint it would undoubtedly be changed by each of those Congresses. If those of a liberal persuasion who are today in the minority once again take over a majority and operate under the constraints of this constitutional amendment, they may very well decide to reach its goals by increasing taxes on the American people over the objection of those of us who do not believe that is the way to go. If so, let them say so. Let them give us their blueprint for reaching the goals which are set by this constitutional amendment itself.

It seems to me, therefore, that this is the argument. Does one believe, against all history, that a balanced budget is a desirable goal, a vitally important goal, but that we can do it by engaging in business as usual? Does one believe that it is not a goal at all? Does one, as many will on the liberal side of this body, believe that business as usual is just fine and we should go on in the future in exactly the way we have gone on in the past, spending more money than we take in, passing new programs that are not paid for? Let them stand up eloquently and firmly for the status quo. But I do not believe the status quo, either with respect to the Constitution or promises that Congress will somehow automatically act differently in the future than it has in the past, are what the people of this country want. I think they want us to change the very way in which we are doing business. I believe they want imposed on us constraints that are, by their very nature, imposed on them in their daily lives, on their families, on them as individuals, and are imposed by the very fact we control the money supply on our local governments and on our State governments, which now must balance their budgets.

I am convinced that the vast majority of the American people want imposed on us those individual and local and State government constraints which have been a part of their lives as long as any of them or us have been around, and that the real debate here is between the status quo and a different way of doing business. I believe that those who are promoting this constitutional amendment are not satisfied with the record of Congress for years, for decades, and want a new and different way of doing business.

One point which I think is often overlooked is to a certain extent even the title balanced budget amendment is in part a misnomer. This constitutional amendment, when it is in full force and effect, will not mandate a balanced budget in any given year or over a period of years. It will, however, make unbalanced budgets much more difficult to pass in the future. It will require, to pass an unbalanced budget, that the affirmative votes of 60 percent of the Members of this body and of the House of Representatives must be secured. That is to say under most circumstances—under all circumstances, for the better part of the last two decades—it will require a bipartisan majority to create an unbalanced budget. It will not be something which takes place as a result of a narrow partisan party-line vote. It will require the thoughts and the assent of Members of both major political parties in the country and, therefore, almost automatically will be accomplished in a more thoughtful and broadminded fashion when it is accomplished.

It will also, however, greatly constrain the ability of Members to begin new, unfunded spending programs. And that is its goal. When there is a crisis, however, it will be possible by that 60 percent majority vote to make an exception and not to balance the budget. It is a flexible and not a rigid constitutional amendment.

My final thought in these opening remarks is that I firmly believe that the men who wrote our Constitution in 1787 would have included a supermajority requirement themselves if they had been able to foresee the dynamics of politics in the late 20th century.

How many people asking for action by the Government who come into your office come into that office asking for financial restraint, for general responsibility? How many in comparison with those who come into your office asking for a favor from the Federal Government, an appropriation, the protection of an existing program, an increase in an existing program, or the creation of a new one? One to two?

Probably not that many. This is not to criticize those who come to us asking us to support one of the thousands of programs financed by the Federal Government. In many cases, in almost all cases, these are sincere, hardworking, and dedicated citizens to a certain end and the programs for which they ask, the program they support, has genuine positive social ends. They may not be well administered, but the goal which they seek is a good one. Therefore, it is easier for Members to say yes than it is to say no, and infinitely easier when we can put the costs on the cut, when we do not have to cut something else, when we do not have to increase taxes, when we can just borrow for that program.

This supermajority requirement will make that decision on our part somewhat more difficult because we will be unable to say yes unless we are willing to vote for more taxes at the same time or find a better program which can be cut at the same time. And it will provide a balance between the special interests, the specific interests of the individuals who lobby us and the general interests in a responsible and fiscally sound Federal Government which is I believe exactly the balance that the Founding Fathers wished when they created the Constitution in the first place without any ability to predict the way in which we communicate and deal with issues like this today.

So in the finest sense of the word this constitutional amendment is a conservative move. It desires to conserve what is best in our country and in its Government and its governmental programs. It will make us more responsible. It will require us to weigh one desirable program against another in a far better and more evenhanded fashion than we were able to do in the past.

As we go through this debate, Mr. President, I hope those who are watching it across the country will remember that there are really only three points of view being expressed here no matter how eloquent or how well those views are given. One is a balanced budget is not a particularly good idea. We do not need it. The status quo is just fine. The way this country has been run in the past is just fine, and we just need more of the same thing.

No. 2 is, yes, a balanced budget is a good idea but there are easier ways to get to it, less painful ways to get to it than to do it through the Constitution of the United States. Those people need to explain to us how it is they can do in the future what they have been unable or unwilling to do in the past.

The third is we need to do things differently. We need to make changes in this country. We need to require the Congress of the United States to act in a fiscally responsible fashion. Those who hold that point of view will be supporting this constitutional amendment.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

A BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. HEFLIN. Mr. President, I rise today as an original cosponsor and strong supporter of the resolution calling for a constitutional amendment mandating a balanced budget. It appears that in the next few days, the Senate will get still another opportunity to demonstrate to the American public that we are serious about deficit reduction and economic stability. The 300 to 132 bipartisan vote in the House of Representatives on January 26—12 more than what was needed—gives this resolution momentum that we cannot ignore.

I think that the momentum is also given by the selection of this resolution to be labeled—No. 1. It shows that this is a top priority of this Congress. Additional momentum has been given to the consideration of this resolution by the fact that the Judiciary Committee has moved rapidly and in an unprecedented manner to bring this resolution to the floor of the Senate. Additional momentum was given in that the staff worked diligently to report this bill with a written report in just a matter of a few short days.

I congratulate Chairman HATCH for his leadership in giving this momentum to bring forward to the Senate this very important resolution.

When Congress passed the largest deficit-reduction package in history in August 1993, It was a clear signal that most Members have finally come to terms with the reality that something must be done to bring our national debt and yearly deficits under control. While this legislation was an important first step in the long road toward a balanced budget, it was just that: a first step.

We know that reducing the deficit is important in the short term. But if we are going to ensure a stable economic future for our children and grandchildren, these deficits must be completely eliminated in the long term. That is precisely the goal of this resolution to add a balanced budget amendment to the Constitution.

I do not take amending the Constitution lightly. I wish that the U.S. Congress had the discipline as an institution to take the steps necessary on our own to eliminate the deficit without having to resort to such drastic action. But as we all know, that fiscal discipline and will power simply are not there. We tried it with the Gramm-Rudman-Hollings approach and we had to give in, at least some gave in regard to that. The bottom line is clear: Fiscal responsibility should and must be dictated by the Constitution.

Congress has made attempts in the past to bring the budget under control, only to see them compromised away when the momentum shifted to another issue, or another crisis. We have the momentum on our side once again. It is important that we seize that momentum, submit approval of this important amendment to the States, and finally put into place a mechanism by which our economic health will no longer be subject to the shifting currents of the day. We will know, first and foremost, that our budget priorities must be formulated under the dictates of our cherished Constitution. This amendment will provide the teeth we need to balance the Federal budget.

Since coming to the Senate, I have supported and advocated a balanced budget amendment to the Constitution. It was the first piece of legislation I introduced as a first-term Senator in 1979, Since then, the first bill I have introduced at the beginning of each new Congress—including the 104th—has been the balanced budget amendment.

Passage of this legislation has come close before. During the 97th Congress, a measure was passed with 69 votes in the Senate, but failed to garner the two-thirds necessary in the House of Representatives. In the 99th Congress, after extended debate, passage in the Senate failed by only one vote. Just 1 year ago, the Senate narrowly defeated this legislation by a vote of 63 to 37, only 4 short of the 67 required for passage.

I believe that it would have passed at that time, if the House had not previous to that voted not to pass the resolution.

Now, in the 104th Congress, we have seen a series of political and fiscal developments that make the chances of passage greater than at any other time. The overwhelming vote in the House on January 26 gave the amendment even greater momentum. The ever-increasing concern to do something about the deficit is intense. Our national debt is on the mind of every person who thinks about America's future.

For much of our history, a balanced budget at the national level of Government was a part of our ''unwritten constitution.'' A balanced or surplus budget was the norm for the first 100 years of the republic. In recent decades, however, Americans have witnessed a continuing cycle of deficits, taxes, and spending. And neither political party has a monopoly on virtue here: these fiscal policies have been pursued with equal fervor by Republicans and Democrats.

I have used the Thomas Jefferson quote on budget deficits before during debates on this amendment, but it is worth mentioning again. He warned, ''The public debt is the greatest of dangers to be feared by a republican government.'' Over the course of time, we have lost sight of Jefferson's warning.

Some argue that if we possessed and practiced stronger discipline as a legislative body, then such an amendment would be unnecessary. As I said before, I do not dispute that sentiment, only its reality. The last balanced budget we had was under President Lyndon Johnson. The last 18 years or so indicate

that the problem goes much deeper than individual and collective resolve. Rather, it is the institutional structure of Government that encourages short-term responses to problems instead of a focus on the greater good and the future.

There is no doubt about what our responsibilities as national leaders are. There is also no question as to what the American people want and deserve. There is a question as to whether the Congress will respond affirmatively by accepting this challenge. We have the momentum and the opportunity to finally stop mortgaging the future and saddling our children with unconscionable debts.

I look forward to the debate in the coming days. I hope we will find the strength and determination to do what we know must be done in order to restore our economic health.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. 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 CORPORATION FOR PUBLIC BROADCASTING

Mr. PRESSLER. Mr. President, I have spoken critically of the Corporation for Public Broadcasting and the whole system of public broadcasting with which it is associated on this floor on some occasions, but I would like to compliment CPB for something its board did last week.

The board decided to begin to require that the CPB will receive a percentage of income from sales exceeding $25,000 of toys, books, clothing, and other products related to shows funded by the CPB. I hope that this will begin immediately to substitute for taxpayers' payments to the Corporation for Public Broadcasting.

Mr. President, I have been one who has advocated reinventing or possibly privatizing the Corporation for Public Broadcasting. That means the corporation here in Washington, DC. Each State has its State public broadcasting system and a lot of them do a great deal of good in terms of education, and in terms of providing unique programming.

Indeed, it is my opinion that public broadcasting in South Dakota would be better off under a privatized or a reinvented system of public broadcasting.

I also want to commend the Corporation for Public Broadcasting in that the executives, I understand, are starting some meetings with at least one regional Bell operating company. I hope they meet with several cable companies and others to see how they can interact with the information superhighway and perhaps provide other income and enrich programming in public broadcasting in the United States.

Last Friday, I had a fascinating conversation with Glen Jones, of Jones Intercable of Colorado. He is privately providing educational materials and educational programming across the United States and around the world. He wants to expand upon this and finds it is a very marketable and useful thing to do for public service, as well as in terms of promoting his own company.

In addition, there are many privately run cable channels elsewhere which are making a great contribution in terms of quality educational programming. Nickelodeon is making a great contribution to children's programming and is even marketing children's programming in France. The Learning Channel, the History Channel, Arts and Entertainment, the Disney Channel, and many more, are providing good programming with which our public TV friends could interact and could achieve a great deal of income in some cases.

Earlier, I observed on this floor that we could privatize the Corporation for Public Broadcasting and other entities in public broadcasting; that if a private company would take a percentage of the program rights that the Corporation for Public Broadcasting, the Public Broadcasting Service or National Public Radio just give away, it would more than replenish the $300 million a year that the Congress gives the Corporation for Public Broadcasting. That has been verified by many corporate leaders who have told me they would like to buy public broadcasting entities or they would like to participate in partnerships for public broadcasting. These private sector leaders assured me they would accept conditions requiring preservation of a certain amount of rural service or small city service or children's programming.

I have compared the situation to a local telephone company which is a private company but which has public service requirements such as universal telephone service.

So, Mr. President, I think it is very appropriate that we should be working on reinventing and privatizing the Corporation for Public Broadcasting and public broadcasting in general. The Vice President, after all, asks that Government be reinvented and that we try to privatize certain agencies.

But I would strongly disagree with those who say we are trying to kill Barney or we are trying to kill children's programming. That is just not true. Or that we are trying to kill individual States' public broadcast programs. That is simply not true. What we are trying to do is to be inventive.

We are facing a budgetary crisis of profound proportions. Let's face it: the Corporation for Public Broadcasting most likely at least will receive a cut. We are in a situation where I think they would be grateful for ideas on how they could make more money. One of those is getting a percentage of the program revenues. Presently we have a lot of people making a lot of money from public broadcasting while the taxpayers don't share the wealth.

Also, Mr. President, the corporation has to look at its distribution of funds. I do not think my State of South Dakota gets a very good deal, very frankly. Much is made of $1.7 million in Federal funds that is sent to South Dakota. But the State legislature, individual contributors, and corporate grants provide an overwhelming majority of the funding.

If we take a look at where some of the money goes, one station in New York gets about $20 million from Federal taxpayers. That is not the State of New York, that is one station. That station has executives earning between $200,000 and $400,000 a year.

We have the so-called Children's Television Workshop, which has, as Senator DOLE has pointed out on this floor, paid salaries of between $400,000 and $600,000 a year. Those are taxpayers funds.

''Well,'' they say, ''we take that money out of what is contributed.'' But it all comes out of the same pot.

Now, I am not against people getting rich. I am not against people in the private sector getting high salaries, but these folks wrap themselves in the cloak of public service. They wrap themselves in the clothes of one serving the public and then collect taxpayers' money. Meanwhile, our States that are told, ''You are so lucky to get $1.7 million, you are so lucky, you should be so grateful.''

If you really look into it, most of the money is going to a small public broadcasting clique—an east coast and inside-the-beltway gang.

I think the board of the Corporation for Public Broadcasting acted correctly the other day when it voted to start getting a percentage of profits from the programs and related products. They should have done it long ago. I do not think they would have done it if it were not for the pressure from people such as myself on the Senate floor and elsewhere. The taxpayers should get some relief. I am going to make sure they do.

There was a 1981-to-1984 study about privatizing public broadcasting and getting revenue from more commercial advertising. Make no mistake about it, there are ads today on public radio and television. Granted, they are called by the code word, ''underwriting,'' but they are ads just the same. This study found that the viewers were not offended by having ads at the beginning and end of programming or even more extensive ads. This is one source of revenue.

There are the programming rights. That is another source of revenue. There is the chance to interact with the information highway. That is still another potential source of revenue. So, I think the public broadcasting executives should be creative in going

out and finding new sources of revenue and new sources of opportunity and, also, new sources of material.

I have been troubled by the fact that I think taxpayers' money is being used to lobby for more taxpayers' money. There is a nationwide grassroots program to contact your Congressman to be sure to continue full funding for the Corporation for Public Broadcasting. This is being done, in part, with Federal money, in my opinion. If you ask, they say, these are our affiliates doing this and they are doing it with money that is contributed in these beg-a-thons, money being contributed privately. But the contributors are not told that. They are told this is listener-supported radio and TV. They are not told part of their money will be used to lobby for Federal money. They should be told, ''This is a taxpayer-supported channel. We get some private contributions but much of it is taxpayer supported, both State and Federal.'' There should be honesty in these beg-a-thons.

But, also, let us be very careful about this business of lobbying for more Federal money with Federal money. Here we have a very sophisticated group concentrated in Boston, New York, and Washington, DC, that is doing so. They are not saying, ''Senator PRESSLER wants to keep public radio and TV at the State level.'' They are saying, ''Anybody who wants to change anything is trying to kill public radio and TV.''

I submit that public broadcasting will be stronger when it is reinvented and privatized. I submit that the entire public broadcasting system has become bureaucratic, inefficient, and wasteful. Taxpayers around the country would be amazed at how much money is being wasted.

The 20th Century Fund did a study in which they found that 75 cents of every $1 in public TV is spent on overhead. That has not been rebutted. So those who serve on the oversight committees—and I chair the Commerce Committee, which has a duty to conduct oversight over the Corporation for Public Broadcasting—it is our job to dig into things, to make suggestions, maybe to take some heat. But it is not the job of the Corporation for Public Broadcasting and the other public broadcasting entities to put false information out across the country. They are wrong when they say that people who are required to make budget cuts and suggest ways to reinvent the system are trying to kill local public broadcasting. That is not the case.

There was local public broadcasting before the Corporation for Public Broadcasting and its glut of Federal funding ever came along. In fact, some people feel we would have a stronger set of local public stations had the national Corporation for Public Broadcasting never been created in 1967.

We should think about that. Here we have a very intelligent, sophisticated, lobbying campaign that has people scared that their public broadcasting channels will be shut off if this group here in Washington, DC, does not get their Federal money. That is not true. That is not true at all. In fact, my State may well be better off in a reinvented or privatized system of public broadcasting. That is true of most States.

Again, I congratulate the CPB board for doing what they should have done long ago, getting a percentage of the program and product profits. That will provide them with a good deal of revenue. It might provide more revenue than they have ever gotten from the Federal Government, and that would not bother me a bit. I hope they continue to make such steps.

I hope public broadcasting executives have many meetings with the companies that are on the information superhighway, ranging from local telephone companies to cable companies to long distance companies to computer companies, to see what interrelation there can be.

Finally, I would like to know what is public broadcasting's own plan to reinvent itself? So far it seems only to be to get more Federal money, to stay just as things are, not to make any changes, and of course to be the self-appointed arbiters of American culture. But I am asking them to roll up their sleeves, get out, listen to a few people, and not expect increases in Federal funding because it will not be coming.

Mr. President, I yield the floor. I thank the chairman for allowing me to speak at this point.

REPORT RELATIVE TO THE NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT—PM 5

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of July 18, 1994, concerning the national emergency with respect to Libya that was declared in Executive Order No. 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c).

1. On December 22, 1994, I renewed for another year the national emergency with respect to Libya pursuant to IEEPA. This renewal extended the current comprehensive financial and trade embargo against Libya in effect since 1986. Under these sanctions, all trade with Libya is prohibited, and all assets owned or controlled by the Libyan government in the United States or in the possession or control of U.S. persons are blocked.

2. There has been one amendment to the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (the ''Regulations''), administered by the Office of Foreign Assets Control (FAC) of the Department of the Treasury, since my last report on July 18, 1994. The amendment (59 Fed. Reg. 51106, October 7, 1994) identified Arab Hellenic Bank (AHB), an Athens-based financial institution, 4 other entities, and 10 individuals as Specially Designated Nationals (SDNs) of Libya. (In addition to the recent SDN action against AHB, the Greek central bank has recently announced that AHB's banking license has been revoked.) Included among the individuals are three Italian shareholders in Oilinvest (Netherlands) B.V., who increased their positions in the Libyan government-controlled firm shortly before United Nations Security Council Resolution (UNSCR) 883 directed a freeze on certain Libyan assets owned or controlled by the Government or public authorities of Libya.

Pursuant to section 550.304(a) of the Regulations, FAC has determined that these entities and individuals designated as SDNs are owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya, or are agencies, instrumentalities, or entities of that government. By virtue of this determination, all property and interests in property of these entities or persons that are in the United States or in the possession or control of U.S. persons are blocked. Further, U.S. persons are prohibited from engaging in transactions with these individuals or entities unless the transactions are licensed by FAC. The designations were made in consultation with the Department of State and announced by FAC in notices issued on June 17 and July 22 and 25, 1994. A copy of the amendment is attached to this report.

3. During the current 6-month period, FAC made numerous decisions with respect to applications for licenses to engage in transactions under the Regulations, issuing 136 licensing determinations—both approvals and denials. Consistent with FAC's ongoing scrutiny of banking transactions, the largest category of license approvals (73) concerned requests by non-Libyan persons or entities to unblock bank accounts initially blocked because of an apparent Government of Libya interest. The largest category of denials (41) was for banking transactions in which FAC found a Government of Libya interest. Three licenses were issued authorizing intellectual property protection in Libya.

In addition, FAC issued eight determinations with respect to applications from attorneys to receive fees and reimbursement of expenses for provision of legal services to the Government of Libya in connection with wrongful

death civil actions arising from the Pan Am 103 bombing. Civil suits have been filed in the U.S. District Court for the District of Columbia and in the Southern District of New York. Representation of the Government of Libya when named as a defendant in or otherwise made a party to domestic U.S. legal proceedings is authorized by section 550.517(b)(2) of the Regulations under certain conditions.

4. During the current 6-month period, FAC continued to emphasize to the international banking community in the United States the importance of identifying and blocking payments made by or on behalf of Libya. The FAC worked closely with the banks to implement new interdiction software systems to identify such payments. As a result, during the reporting period, more than 210 transactions involving Libya, totaling more than $14.8 million, were blocked. As of December 9, 1994, 13 of these transactions had been licensed to be released, leaving a net amount of more than $14.5 million blocked.

Since my last report, FAC collected 15 civil monetary penalties totaling more than $76,000 for violations of the U.S. sanctions against Libya. Nine of the violations involved the failure of banks to block funds transfers to Libyan-owned or -controlled banks. Two other penalties were received for corporate export violations. Four additional penalties were paid by U.S. citizens engaging in Libyan oilfield-related transactions while another 76 cases of similar violations are in active penalty processing.

In October 1994, two U.S. businessmen, two U.S. corporations, and several foreign corporations were indicted by a Federal grand jury in Connecticut on three counts of violating the Regulations and IEEPA for their roles in the illegal exportation of U.S origin fuel pumps to Libya. Various enforcement actions carried over from previous reporting periods have continued to be aggressively pursued. The FAC has continued its efforts under the Operation Roadblock initiative. This ongoing program seeks to identify U.S. persons who travel to and/or work in Libya in violation of U.S. law.

Several new investigations of potentially significant violations of the Libyan sanctions have been initiated by FAC and cooperating U.S. law enforcement agencies, primarily the U.S. Customs Service. Many of these cases are believed to involve complex conspiracies to circumvent the various prohibitions of the Libyan sanctions, as well as the utilization of international diversionary shipping routes to and from Libya. The FAC has continued to work closely with the Departments of State and Justice to identify U.S. persons who enter into contracts or agreements with the Government of Libya, or other third-country parties, to lobby United States Government officials or to engage in public relations work on behalf of the Government of Libya without FAC authorization. In addition, during the period FAC hosted or attended several bilateral and multilateral meetings with foreign sanctions authorities, as well as with private institutions, to consult on issues of mutual interest and to encourage strict adherence to the U.N.-mandated sanctions.

5. The expenses incurred by the Federal Government in the 6-month period from July 7, 1994, through January 6, 1995, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the Libyan national emergency are estimated at approximately $1.4 million. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

6. The policies and actions of the Government of Libya continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. In adopting UNSCR 883 in November 1993, the Security Council determined that the continued failure of the Government of Libya to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests and decisions of the Security Council in UNSCRs 731 and 748, concerning the bombing of the Pan Am 103 and UTA 772 flights, constituted a threat to international peace and security. The United States continues to believe that still stronger international measures than those mandated by UNSCR 883, possibly including a worldwide oil embargo, should be imposed if Libya continues to defy the will of the international community as expressed in UNSCR 731. We remain determined to ensure that the perpetrators of the terrorist acts against Pan Am 103 and UTA 772 are brought to justice. The families of the victims in the murderous Lockerbie bombing and other acts of Libyan terrorism deserve nothing less. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya fully and effectively, so long as those measures are appropriate, and will continue to report periodically to the Congress on significant developments as required by law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 30, 1995.*

REPORT OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR FISCAL YEAR 1993—MESSAGE FROM THE PRESIDENT—PM 6

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

In accordance with the requirements of section 809 of the Housing and Community Development Act of 1974, as amended (12 U.S.C. 1701j–2(j)), I transmit herewith the annual report of the National Institute of Building Sciences for fiscal year 1993.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 30, 1995.*

REPORT OF THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968 FOR CALENDAR YEAR 1993—MESSAGE FROM THE PRESIDENT—PM 7

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1993.

The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Radiological Health Bulletin, and other publicly available sources. This annual report serves little useful purpose and diverts Agency resources from more productive activities.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 30, 1995.*

MESSAGES FROM THE HOUSE

At 2:43 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 273. An act to amend section 61h–6, of title 2, United States Code.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 209. A bill to replace the Aid to Families with Dependent Children Program under title IV of the Social Security Act and a portion of the food stamp program under the Food Stamp Act of 1977 with a block grant to give the States the flexibility to create innovative welfare-to-work programs, to reduce the rate of out-of-wedlock births, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, January 30, 1995, she had presented to the President of the United States the following enrolled bill:

S. 273. An act to amend section 61h–6, of title 2, United States Code.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–26. A resolution adopted by the House of the Legislature of the State of Alabama; to the Committee on the Judiciary.

''HR 27

''Whereas, with each passing year, this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues; and

''Whereas, as the federal debt grows, the stability of our national and world economy weakens, and the burden placed on future generations of Americans become more onerous; and

''Whereas, conjunctively with a required balancing of the federal budget is a necessary prohibition against the imposition of unfunded federal mandates and other cost reallocation to the several states; and

''Whereas, believing that fiscal uncertainties at the federal level is the greatest threat that our nation faces, and cognizant that statutory budget balancing remedies have failed, we firmly believe that constitutional restraint is vital to bring the fiscal discipline needed to restore financial responsibility;'' Now therefore be it

''*Resolved by the House of Representatives of the Legislature of Alabama,* That the Legislature urges the United States Congress to adopt an amendment to the United States Constitution which both requires the balancing of the federal budget and prohibits transferring the costs and burdens of federal responsibilities and inclinations to the states by unfunded mandates or similar means.

''*Be it Further Resolved,* that certified copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Majority Leader of the United States Senate, the Minority Leader of the United States Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, and to every member of the State's Congressional Delegation.''

POM–27. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Kentucky; to the Committee on the Judiciary.

''SENATE RESOLUTION

''Whereas, for far too many years, Congress has recklessly and repeatedly enacted federal budgets in which government expenditures have grossly exceeded available revenues, resulting in unparalleled federal budgetary deficits that unjustly mortgage the future of our nation's children; and

''Whereas, Congress has taken far too little action on its own initiative to implement responsible budgetary controls through the reduction or elimination of the need for federal spending for certain governmental programs or the imposition of sufficient tax levies that would generate adequate revenue to fund necessary federal government programs; and

''Whereas, Congressional attempts to control the federal budget deficit over the last decade have resulted in shifting the planning, operational, and funding responsibilities for many federally-mandated programs to the states and their local governments, while at the same time reducing federal financial support for those programs; and

''Whereas, those short-sighted budget deficit control efforts have forced some states and local governments to reduce budget expenditures for their own necessary programs and to raise taxes to fund the additional financial burden imposed by Congress; and

''Whereas, approximately eighty percent of the nation's state legislatures are currently required to enact a balanced state budget, either by their state constitutions, state statutes, or legislative rules, proving that this is a task that can be accomplished by fiscally responsible elected officials; and

''Whereas, fiscal restraint imposed by an amendment to the Constitution of the United States of America is necessary to curtail federal spending to conform to available federal revenues; and

''Whereas, Article V of the Constitution of the United States of America provides that amendments to the Constitution may be proposed by the Congress for submission to the states for their ratification when two-thirds of both houses deem it necessary;

''Now, therefore, be it

''*Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

''Section 1. That the Congress of the United States is hereby requested and petitioned to adopt an amendment to the Constitution of the United States of America, for submission to the states for their ratification, requiring that each federal budget enacted by the Congress and signed by the President of the United States be in balance.

''Section 2. That, notwithstanding the submission of a balanced budget amendment to the states, each Congress convened prior to the amendment's ratification should make every reasonable effort on its own initiative to enact a balanced federal budget prior to being subject to the amendment's mandate that it do so.

''Section 3. That the Congress, in striving to enact a balanced federal budget and to reduce the federal budget deficit, must begin by addressing spending needs and revenue generation possibilities at the federal level and by funding only what the federal government itself can afford instead of unjustly shifting the financial responsibility for continuing federally-mandated programs and services onto the overburdened back of state and local governments.

''Section 4. That the Clerk of the Senate is directed to send copies of this resolution to the Clerk of the United States House of Representatives, the Secretary of the United States Senate, and the members of Congress elected from the Commonwealth of Kentucky.''

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. CONRAD (for himself, Mr. DASCHLE, Mr. DORGAN, Mr. PELL, Mr. AKAKA, Mr. JEFFORDS, and Mr. GRAHAM):

S. 293. A bill to amend title 38, United States Code, to authorize the payment to States of per diem for veterans receiving adult day health care, and for other purposes; to the Committee on Veterans Affairs.

By Mr. COHEN:

S. 294. A bill to increase the availability and affordability of health care coverage for individuals and their families, to reduce paperwork and simplify the administration of health care claims, to increase access to care in rural and underserved areas, to improve quality and protect consumers from health care fraud and abuse, to promote preventive care, to make long-term care more affordable, and for other purposes; to the Committee on Finance.

By Mrs. KASSEBAUM (for herself, Mr. JEFFORDS, Mr. GREGG, and Mr. GORTON):

S. 295. A bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself, Mr. AKAKA, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. CAMPBELL, Mr. DODD, Mr. FEINGOLD, Mr. HARKIN, Mr. INOUYE, Mr. LAUTENBERG, Mr. LEAHY, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. ROBB, Mr. SIMON, and Mr. WELLSTONE):

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; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER (for himself, Mr. DASCHLE, Mr. GRAHAM, Mr. AKAKA, Mr. CAMPBELL, Mr. JEFFORDS, Mr. LEAHY, and Mr. BINGAMAN):

S. 297. A bill to amend the Internal Revenue Code of 1986 to clarify the exclusion from gross income for veterans' benefits; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD (for himself, Mr. DASCHLE, Mr. DORGAN, Mr. PELL, Mr. AKAKA, Mr. JEFFORDS, and Mr. GRAHAM):

S. 293. A bill to amend title 38, United States Code, to authorize the payment to States of per diem for veterans receiving adult day health care, and for other purposes; to the Committee on Veterans' Affairs.

STATE VETERANS HOME ACT

Mr. CONRAD. Mr. President, today I rise to introduce the State Veterans Home Act of 1995. The bill extends discretionary authority to the Department of Veterans Affairs to provide a per diem payment for adult day health care for veterans. The bill also authorizes the use of funds from the Extended Care Facilities Grants Program, section 8131, to construct or renovate existing facilities to provide adult day care for veterans.

The legislation I am introducing today is similar to S. 852 introduced at the beginning of the 103d Congress. In the last Congress, S. 852 was reported to the Senate as section 205 of S. 1030—Veterans Health Programs Improvement Act of 1993—and passed by the Senate on May 25, 1994. Regrettably due to the legislative log-jam at the end of the 103d Congress, it was not incorporated into the veterans health benefits measure, H.R. 3313, that passed the House in the closing days of the 103d Congress.

I am very pleased that the bill I am introducing today is cosponsored by Senators DASCHLE, DORGAN, AKAKA, JEFFORDS, PELL, and GRAHAM.

This legislation received support in the 103d Congress from veterans and their families in North Dakota, and from all major national veterans organizations during a hearing by the Senate Committee on Veterans' Affairs on June 23, 1993. I am hoping the 104th Congress will act expeditiously to pass this important health care measure for veterans. I am enclosing a letter of support from the National Association of State Veterans Homes.

Currently, under section 1741, the Department of Veterans Affairs is required to pay a per diem to States for each veteran that is assisted through the State Home Facilities Program with hospital, nursing home, or domiciliary care. The per diem payment is $15.11 for domiciliary care, and $35.37 for nursing home and hospital care. Under section 8131, State home facilities, the Department of Veterans Affairs is also authorized to provide matching grant assistance for the construction, expansion, or remodeling of existing facilities for domiciliary, nursing home, or hospital care for veterans who are eligible to reside in State veterans facilities.

Under the legislation that I am introducing today, the State Veterans Home Program would be amended to authorize a per diem payment for veterans that are assisted by States who provide adult day care including health care as needed. States would also be authorized to apply for matching grant assistance to provide facilities for adult day care. In fiscal year 1995, Congress appropriated $47.3 million under the State Home Facilities Program for the construction or expansion of State extended care facilities for veterans.

Mr. President, I have discussed the proposed legislation to amend the State Veterans Home Program relating to adult day care health care with State veterans officials in North Dakota and representatives of the National Association of State Veterans Homes. The arguments in support of amending the State Veterans Home Program to authorize adult day health care are compelling.

The opportunity for adult day health care services for veterans during the daytime hours in a community setting would enable many veterans to remain at home with their families in a supportive environment as an alternative to nursing home placement.

I ask my colleagues, how many people do each of us know who are in this circumstance? If the family could get relief during the day for a veteran who is ill or who is starting to fail, and would have a chance to have a place to go during the day, the family could take care of that individual at night, thereby preventing nursing home placement.

For a veteran who may be in the early stages of Alzheimer's disease or require limited supervision in a post-operative period, the opportunity for adult day health care would meet the requirements of a growing number of our veterans population, and at less cost than nursing and residential home care. Equally important, adult day health care would provide respite for the primary care givers of veterans.

People have often said to me: Senator, if we just had a chance to have a break, if we just had a chance to be able to go to work and have our loved one be able to be at home with us in the evening, we would be able to take care of him. We would be able to save a lot of money for the Government. There is no sense putting all these people in nursing homes. Our family would love to be able to take care of our grandfather or our father. We would love to have him at home but we work during the day, both spouses work during the day. The kids are at school. Nobody is home.

If we had a chance to have that veteran in a setting where he could be cared for during the day we would take care of him at night and save lots of money—save money for the families, save money for the Government.

Mr. President, as the health care requirements of our veterans population change, and the demands on limited Department of Veterans Affairs resources increase, I believe it important that States have the flexibility to provide adult day health care services for veterans.

We have heard a lot in the last 24 hours about State flexibility. Why should they not have flexibility with respect to a program like this? They are asking for it. Why do we not give it to them?

The 71 State veterans homes across the country have a proven record of providing excellent domiciliary, nursing home, and hospital care. They also have the expertise in geriatrics, and specialized health care that is required to provide the adult day health care services.

I urge the Senate Committee on Veterans' Affairs to support these amendments to the State Veterans Home Program, and to report legislation to authorize adult day health care services for veterans as soon as possible.

I ask unanimous consent Mr. President, that the full text of my bill along with a letter in support of this initiative from the National Association of State Veterans Homes be printed in the RECORD.

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

S. 293

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

SECTION 1. PAYMENT TO STATES OF PER DIEM FOR VETERANS RECEIVING ADULT DAY HEALTH CARE.

(a) PAYMENT OF PER DIEM FOR VETERANS RECEIVING ADULT DAY CARE.—Section 1741 of title 38, United States Code, is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following new paragraph (2):

''(2) The Secretary may pay each State per diem at a rate determined by the Secretary for each veteran receiving adult day health care in a State home, if such veteran is eligible for such care under laws administered by the Secretary.''.

(b) ASSISTANCE TO STATES FOR CONSTRUCTION OF ADULT DAY CARE FACILITIES.—(1) Section 8131(3) of title 38, United States Code, is amended by inserting ''adult day health,'' before ''or hospital care''.

(2) Section 8132 of such title is amended by inserting ''adult day health,'' before ''or hospital care''.

(3) Section 8135(b) of such title is amended—

(A) in paragraph (2)(C), by inserting ''or adult day health care facilities'' after ''domiciliary beds''; and

(B) in paragraph (3)(A), by inserting ''or construction (other than new construction) of adult day health care buildings'' before the semicolon.

NATIONAL ASSOCIATION OF
STATE VETERANS HOMES,
Marquette, MI, December 16, 1994.

Hon. KENT CONRAD,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CONRAD: This letter is in response to your recent inquiry regarding the National Association of State Veterans Homes (NASVH) position on re-introduction of proposed legislation to allow State Homes to develop an Adult Day Health Program.

As noted in Mr. Jack Dack's previous letter dated April 26, 1993, a 1993 survey had 38 State Homes respond positively out of 48 responses from 52 homes surveyed. We again recommend that Section 1741 be amended to authorize State Homes Adult Day Health Care. The section should be amended to provide for a per diem payment for Adult Day Health Care and additional construction grant monies to support expansion/remodeling to permit States to provide Adult Day Health Care.

This letter is offered as a reaffirmation of the NASVH commitment to providing this needed service to veterans pursuant to the aforementioned changes in Title 38 United States Code, Section 1741.

If you have any questions, please let me know.

Sincerely,

CLIFFORD A. KINNEY, II, MPA, NHA,
Chairperson, NASVH, Legislative Committee.

NATIONAL ASSOCIATION OF
STATE VETERANS HOMES,
Marshalltown, IA, April 26, 1993.

Hon. KENT CONRAD,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR CONRAD. This is to express the views of the National Association of State Veterans Homes pertinent to proposed legislation to improve (3) the State Home Program.

(A) Title 38 United States Code, Section 1741, authorizes per diem to State Homes for domiciliary, nursing home care and hospital care. We endorse legislation to provide authority to the Secretary, Department of Veterans Affairs, to provide a per diem payment for adult day health care and construction grant support for expansion, remodeling or alteration of existing buildings to permit provision of adult day health care.

A survey conducted by the National Association of State Veterans Homes in 1984 overwhelmingly supported an adult day health

care initiative if an appropriate reimbursement system through the Veterans Administration could be developed for State Homes. Of the 48 responses from 52 Homes surveyed, 38 responded positively.

It is recommended that Section 1741 be amended to include authorization for State Home Adult Day Health Care.

Often times, family and loved ones are the primary caregivers for adult persons. Trying to maintain adults in the home can be very stressful and care can be difficult to provide both physically and psychologically. Resources can be extremely limited, especially in rural communities and families may not be aware of what resources are available. Adult ''day care'' has been one concept implemented to address dependent adult care.

The seventy-one State Veterans Homes in forty-one states being long-term care facilities employ clinicians with expertise in geriatrics and staff with years of experience in working with dependent, infirm, and/or handicapped individuals. The Homes have the potential to offer adult day health care in a safe, structured environment with trained, caring staff. There could be provisions for meals and nutritious snacks, medication dispensing, exercise programming and the offering of health assessment and patient/family teaching. There could be planned activities and social interactions for adult participation.

Such a program would be an ideal option for the elderly veterans who are: in need of social stimulation to combat depression; in need of supervision and/or personal care; post-operative in need of supervision or medication; victims of early Alzheimer's Disease.

Involvement in adult day health care would provide a peace of mind and respite for the working and non-working caregivers.

The provisions of these services during daytime hours in a congregate setting would enable veterans to be maintained at home in a supportive environment and be an alternative to a nursing home placement. Participation in an Adult Day Health Care Program could possibly prolong the ability of the veteran to stay in his home thereby lowering the demands on the Department of Veterans Affairs system.

Besides providing respite for the primary caregivers, veterans could be screened and referred for medical and/or community resources, including Department of Veteran's Affairs medical care facilities. Pre-assessment for admission could take place if the veteran desires to make application for permanent living in the State Home. Other advantages to the individuals and family members are networking with family members and professionals, participation in support groups, gaining knowledge about community resources and how to access the system.

The National Association of State Veterans Homes supports that provisions in United States Code 38, Section 1741, be amended to authorize State Home Adult Day Health Care; per diem payments to states for providing same; and to permit the Department of Veterans Affairs to provide grants for expansion, remodeling or alteration of existing buildings to permit provision of such care.

We in the State Home Program do not know the level of participation by the states at this time; however, it is anticipated there would be activity initially by five to ten Homes in this area. Since the Department of Veterans is unable to approve requests for construction grants totaling more than the amount specifically appropriated by the Congress for that fiscal year, any additional grant requests for construction for adult day health care over the specified funding allowed would probably require a waiting period. This waiting period would allow an opportunity for the Department of Veterans Affairs and State Home Program to bring the increased need for additional construction funds to the attention of the Veterans Affairs' Committees for consideration.

The State Home Program has a proven track record of being able to blend Federal, State and private resources to maximize the resources available for providing care for the veterans of this Nation. Because of this track record, it is always wise to look for opportunities to expand the relationship, so as to further enhance the efficient use of the Department of Veterans Affairs' resources in its provision of care for veterans. The establishment of a per diem for these services is an expansion of the already successful State Home Program with the Department of Veterans Affairs. With this per diem as a starting point, the State Home Program in partnership with the Department of Veterans Affairs has the potential to move towards an efficient, effective means of providing this necessary service for its constituents.

(B) Sharing: While the United States Congress has been generous in providing for its veterans, and the Department of Veterans Affairs has done a commendable job within the confines of the budgeted amounts in taking care of the Nation's veterans, the resources to do so are becoming more limited. We must continue to work closer together, share ideas, stretch and share resources and assist one another if we are going to fulfill our mutual obligation to provide the necessary health care services for the Nation's veterans. This sharing proposal is an initiative to formalize a closer-working relationship between the Department of Veterans Affairs Medical Centers in states where State Veterans Homes presently exist. It will strengthen the long and successful partnership between the Department of Veterans Affairs and State Homes which has long been recognized as a vital resource for the Department of Veterans Affairs in providing care for the chronically ill, elderly veterans.

Since many State Homes are located within a radius of one hundred miles of a Department of Veterans Affairs medical facility, it is felt that sharing of services would result in service, efficiency and economy in provision of care. The ability to have Department of Veterans Affairs clinics, such as Urology, Psychiatric Consultation, Physical Medicine/Rehabilitation Consultation, etc., located within a State Veterans Home, would enhance continuity of care for the benefit of the veterans in State Homes. Chronically ill, debilitated, infirm veterans would not have to experience traveling to and from the medical centers for some clinics if such a sharing was possible. Other areas of sharing could be in non-clinical services such as laundry, Life/Safety, Quality Assurance programming, housekeeping, etc.

It is felt that by permitting the Department of Veterans' Affairs and the State Home Program to expand, their sharing will result in greater efficiencies and enhance care for veterans. The National Association of State Veterans Homes supports enactment of the concept of sharing in this proposed legislation and believes it to be a benefit to veterans, the Department of Veterans Affairs and the State Home Program.

On behalf of the National Association of State Veterans Homes, thank you for the opportunity to support legislation to improve the State Veterans Home Program.

Sincerely,

JACK J. DACK,
Chairperson, Legislative Committee.

By Mr. COHEN:

S. 294. A bill to increase the availability and affordability of health care coverage for individuals and their families, to reduce paperwork and simplify the administration of health care claims, to increase access to care in rural and underserved areas, to improve quality and protect consumers from health care fraud and abuse, to promote preventive care, to make long-term care more affordable, and for other purposes; to the Committee on Finance.

ACCESS TO AFFORDABLE HEALTH CARE ACT

Mr. COHEN. Mr. President, as the 104th Congress opened, it did so with a great deal of fanfare this month. Much of the discussion has been devoted to congressional reform, tax cuts, the balanced budget amendment, unfunded mandates, and welfare reform, but on one issue our colleagues have been notably silent.

I say that with one notable exception, my colleague from Illinois, who has just spoken rather eloquently on the whole subject of health care reform, which is what I would like to talk about this afternoon.

Health care reform was a dominant topic on everyone's mind during the last Congress. As I mentioned just a moment ago, today it is barely a whisper. I believe that this is a mistake. I think it is time for the Senate to put the issue back on the front burner of the public agenda.

Health care reform may not be a major clause in the House Republican's Contract With America, but rising health care costs and expanding gaps in coverage are still very much on the minds of the American people. In fact, postelection polls conducted for the Health Care Leadership Council and by the Washington Post and ABC News show that health care remains a top priority—as important even as cutting taxes, passing a balanced budget amendment, or enacting welfare reform.

Abraham Lincoln once observed that ''with public sentiment nothing can fail, and without it nothing can succeed.''

I think the American people wisely rejected the big-government approach advocated last year by the administration. More Government is clearly not the way to lower health care costs.

And when I say they rejected big government, this is a copy of the bill that in fact was being debated last year, some 1,443 pages long. The public did not understand it. They felt also that we were moving toward, if I can use that Tofflerian phrase, demasification of the centralized health care system. The fact is, they rejected it.

The fact is that Government spending on health care, with all of its bureaucratic endeavors and controls, has risen much faster than private health care spending. In fact, between 1970 and 1991 Medicare and Medicaid grew 427 percent, more than double the amount of 165 percent in the private sector. So we have seen a real disparity in terms of Government sponsored and funded

programs versus that of the private sector.

But the public rejection of the Clinton health care plan does not mean that American people do not want health care reform.

As my colleague from California, Senator DIANE FEINSTEIN, observed, the main reason the President's health care reform efforts collapsed was that the ''Democrats listened to the 15 percent of the public who had no coverage, while the Republicans listened to the 85 percent who did.'' What some Democrats in Washington derided as merely incremental was, to the American public, essential.

Susan Sontag wrote:

> Illness is the night-side of life, a more onerous citizenship. Everyone who is born holds dual citizenship, in the kingdom of the well and the kingdom of the sick. Although we all prefer to use only the good passport, sooner or later each of us is obliged, at least for a spell, to identify ourselves as citizens of that other place.

As such, the flaws in our health care system are ones that will—sooner or later—touch every American family.

The American people want health care reform, but they want something they can understand and afford. They want a program that gives them some reassurance against their growing sense of financial insecurity against potential illness—a program that gives them some protection should they cross over into that kingdom of the sick.

When the American people say they want reform, they mean: ''If I lose my job or get sick, I want to keep my health insurance and I do not want it to cost so much.'' They want Congress to enact targeted reforms to contain health care costs and to ensure that they do not lose the health care coverage that they have.

Health care reform, I think, as my colleague from Illinois has pointed out, is pretty familiar to most of us now. We have spent over 4 years studying the problem, countless hours of staff researching the issue, debating the issue, drafting legislation, negotiating compromise. We have something, I think, very valuable to show for that effort.

Despite the partisan and sometimes bitter debate in the last Congress, there is broad-based, bipartisan agreement on some key steps that can and should be taken to contain health care costs and increase access for millions of Americans. In fact, I believe that action could have been taken on these changes 3 years ago if some had not insisted that there be comprehensive reform, or no reform at all.

Today I am introducing legislation outlining a blueprint for reform that is based on principles upon which I believe a bipartisan majority in Congress could agree. The plan takes significant strides toward the goal of universal coverage by bringing millions more Americans into the system. While some might characterize these reforms as incremental, they are by no means insignificant.

They would include insurance market reforms to make insurance portable and prohibit insurers from denying, canceling, or limiting coverage or otherwise discriminating against individuals on the basis of their health status.

They would include refundable tax credits for low-income families and full tax deductibility for the self-employed to make insurance coverage more affordable.

They would include voluntary purchasing cooperatives to give individuals and small businesses access to more affordable coverage; administrative reforms to reduce costs and paperwork and make the system more efficient.

They would include malpractice reforms to reduce the costly practice of defensive medicine; expanded access to care in rural areas; more affordable long-term care; and, finally, stronger efforts to combat fraud and abuse, which currently rob our system of as much as $100 billion every year.

Many of my colleagues have heard me take the floor time and time again to complain about health care fraud in this country. In fact, just last week I introduced separate legislation dealing with health care fraud, because we are losing $100 billion every year to health care fraud. It amounts to $275 million a day, $11.5 million every single hour.

We could have taken action last year. We did not take action last year. The said wait until health care reform comes. Health care reform did not come. So by the time this legislation or some variation of this legislation is finally adopted, we will lost another $100 billion to health care fraud and abuse.

Many of the principles involved in this legislation—and, by the way, Mr. President, this contains about 200 typewritten pages—could have been adopted more than 4½ years ago when I first introduced it. In fact, it could have been adopted when Senator Lloyd Bentsen passed his version of the bill back in 1992.

Although action on health care reform has been deferred in the past. It simply cannot be deferred any longer.

The new Republican-controlled Congress has both the obligation and the political opportunity to enact health care reform, but the window of opportunity will not be open long. We simply cannot afford to repeat past mistakes and allow the issue to become complicated or obfuscated by election-year politics.

I listened with great interest to my colleagues from Illinois outline some of the letters he has received from constituents and others pointing out it is not a Republican or Democratic issue, it is an American problem.

Last month, one of my constituents, Leslie Mansfield, of Bar Harbor, testified before the Maine Health Care Reform Commission about the importance of health care reform for her family. Since her son was diagnosed with juvenile diabetes 6 years ago, the family has faced mounting insurance and medical bills. Even though the rest of the family is healthy, in 3 short years they have seen their insurance premiums jump from $190 to $600 a month, and they fear that they will soon be either dropped by their insurer or priced out of the market entirely.

If the new Congress does not move quickly on health care reform, millions of Americans like Leslie Mansfield and her family will be worse off, not better off.

Health care costs, which last year topped $1 trillion, will continue to rise, placing an increasing strain on families, employers, and governments alike, and pricing millions more Americans out of the market. Insurers and businesses will be able to continue to cut costs by avoiding customers at greater risk. People with preexisting medical conditions like heart disease and diabetes will face even steeper premiums or could lose their coverage entirely. And we will continue to lose an estimated $275 million a day—that is $11.5 million every hour—to health care fraud.

Health care reform does not have to be an all-or-nothing proposition. That mistake was made both in 1992 and in 1994 and should not be repeated. By building upon our areas of agreement, we can take major steps to contain costs, expand choice and extend access to care to millions more Americans.

We have come a long way to reach this point in the health care debate and we should move forward. While to do nothing may not be a breach of the Contract With America, it most certainly would be a breach of trust with the American people.

I urge my colleagues to join me in cosponsoring the Access to Affordable Health Care Act and ask unanimous consent that a section-by-section summary as well as the full text of the bill be printed in the CONGRESSIONAL RECORD.

Mr. SIMON. Mr. President, will the Senator yield for 30 seconds? I want to commend the Senator for his statement.

Mr. COHEN. I yield to the Senator.

Mr. SIMON. I, obviously, have not read the bill. But if we recognize the problem and work together, we can do something for the American people in this session of Congress. I commend him for his leadership.

Mr. COHEN. Mr. President, I thank my friend for his comments. Let me conclude with a few observations.

There has been so much partisanship discussed in the House and the Senate on various other issues. There was a great deal of partisanship on the health care debate as well. I remember when Senator DOLE asked the committee to put together a task force headed up by JOHN CHAFEE to meet with our Democratic counterpart; we ran into a stonewall.

It was not open to negotiation. There was no compromise. It was all-or-nothing, comprehensive or nothing at all. As a result, we had nothing at all. One of the members of the Democratic task force came to me just a couple of days ago and said, ''You know, if we had done what you had suggested 2 years ago, it would have been a great step forward.'' We did not do it then. We ought to do it now.

Let Senators put aside the partisanship and reach across the aisle and do something the American people will support—Republican, Democrat, independent, it does not matter. We need the relief. We need the reform. We ought not to defer this any longer. I yield the floor.

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

S. 294

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Access to Affordable Health Care Act''.

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

TITLE I—HEALTH INSURANCE MARKET REFORM

Subtitle A—Insurance Market Standards

SEC. 1001. NONDISCRIMINATION BASED ON HEALTH STATUS.

(a) IN GENERAL.—Except as provided in subsection (b) and section 1003(d), a health plan may not deny, limit, or condition the coverage under (or benefits of) the plan, or vary the premium, for an individual based on the health status, medical condition, claims experience, receipt of health care, medical history, anticipated need for health care services, disability, or lack of evidence of insurability.

(b) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

(1) IN GENERAL.—A health plan may impose a limitation or exclusion of benefits relating to treatment of a condition based on the fact that the condition preexisted the effective date of the plan with respect to an individual only if—

(A) the condition was diagnosed or treated during the 3-month period ending on the day before the date of enrollment under the plan;

(B) the limitation or exclusion extends for a period not more than 6 months after the date of enrollment under the plan;

(C) the limitation or exclusion does not apply to an individual who, as of the date of birth, was covered under the plan; or

(D) the limitation or exclusion does not apply to pregnancy.

(2) CREDITING OF PREVIOUS COVERAGE.—A health plan shall provide that if an individual under such plan is in a period of continuous coverage as of the date of enrollment under such plan, any period of exclusion of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in the period of continuous coverage.

(3) DEFINITIONS.—For purposes of this subsection:

(A) PERIOD OF CONTINUOUS COVERAGE.—

(i) IN GENERAL.—The term ''period of continuous coverage'' means the period beginning on the date an individual is enrolled under a health plan or an equivalent health care program and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

(ii) EQUIVALENT HEALTH CARE PROGRAM.—The term ''equivalent health care program'' means—

(I) part A or part B of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),

(II) the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.),

(III) the health care program for active military personnel under title 10, United States Code,

(IV) the veterans health care program under chapter 17 of title 38, United States Code,

(V) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1073(4) of title 10, United States Code, and

(VI) the Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

(B) PREEXISTING CONDITION.—The term ''preexisting condition'' means, with respect to coverage under a health plan, a condition which was diagnosed, or which was treated, within the 3-month period ending on the day before the date of enrollment (without regard to any waiting period).

(c) LIMITATIONS PROHIBITED.—

(1) IN GENERAL.—A health plan may not impose a lifetime limitation on the provision of benefits under the plan.

(2) RULE OF CONSTRUCTION.—The prohibition contained in paragraph (1) shall not be construed as prohibiting limitations on the scope or duration of particular items or services covered by a health plan.

SEC. 1002. GUARANTEED ISSUE AND RENEWAL

(a) SMALL GROUP MARKET.—Each health plan offering coverage in the small group market shall guarantee each individual purchaser and small employer (and each eligible employee of such small employer) applying for coverage in such market the opportunity to enroll in the plan.

(b) LARGE EMPLOYER MARKET.—Each health plan offering coverage in the large employer market shall guarantee any individual eligible for coverage under the plan the opportunity to enroll in such plan.

(c) CAPACITY LIMITS.—Notwithstanding this section, a health plan may apply a capacity limit based on limited financial or provider capacity if the plan enrolls individuals in a manner that provides prospective enrollees with a fair chance of enrollment regardless of the method by which the individual seeks enrollment.

(d) RENEWAL OF POLICY.—

(1) SMALL GROUP MARKET.—A health plan issued to a small employer or an individual purchaser in the small group market shall be renewed at the option of the employer or individual, if such employer or individual purchaser remains eligible for coverage under the plan.

(2) LARGE EMPLOYER MARKET.—A health plan issued to an individual eligible for coverage under a large employer plan shall be renewed at the option of the individual, if such individual remains eligible for coverage under the plan.

(e) GROUNDS FOR REFUSAL TO RENEW.—A health plan may refuse to renew a policy only in the case of—

(1) the nonpayment of premiums;

(2) fraud on the part of the employer or individual relating to such plan; or

(3) the misrepresentation by the employer or individual of material facts relating to an application for coverage of a claim or benefit.

(f) NOTIFICATION OF AVAILABILITY.—Each health plan sponsor shall publicly disclose the availability of each health plan that such sponsor provides or offers in a small group market. Such disclosure shall be accompanied by information describing the method by which eligible employers and individuals may enroll in such plans.

SEC. 1003. RATING LIMITATIONS.

(a) IN GENERAL.—A health plan offering coverage in the small group market shall comply with the standards developed under this section.

(b) ROLE OF NAIC.—The Secretary shall request that the NAIC—

(1) develop specific standards in the form of a model Act and model regulations that provide for the implementation of the rating limitations described in subsection (d); and

(2) report to the Secretary concerning such standards within 6 months after the date of enactment of this Act.

(c) ROLE OF THE SECRETARY.—The Secretary, upon review of the report received under subsection (b)(2), shall not later than January 1, 1997, promulgate final standards implementing this section. Such standards shall be the applicable health plan standards under this section.

(d) RATING STANDARDS.—The standards described in this section shall provide for the following:

(1) A determination of factors that health plans may use to vary the premium rates of such plans. Such factors—

(A) shall be applied in a uniform fashion to all enrollees covered by a plan;

(B) shall include age (as specified in paragraph (3)), family type, and geography; and

(C) except as provided in paragraph (2)(A), shall not include gender, health status, or health expenditures.

(2)(A) Factors prohibited under paragraph (1)(C) shall be phased out over a period not to exceed 3 years after the effective date of this section.

(B) Other rating factors (other than age) may be phased out to the extent necessary to minimize market disruption and maximize coverage rates.

(3) Uniform age categories and age adjustment factors that reflect the relative actuarial costs of benefit packages among enrollees. By the end of the 3-year period beginning on the effective date of this section, for individuals who have attained age 18 but not age 65, the highest age adjustment factor may not exceed 3 times the lowest age adjustment factor.

(e) DISCOUNTS.—Standards developed under this section shall permit health plans to provide premium discounts based on workplace health promoting activities.

SEC. 1004. DELIVERY SYSTEM QUALITY STANDARDS.

(a) IN GENERAL.—Each health plan shall comply with the standards developed under this section.

(b) ROLE OF THE SECRETARY.—Not later than 9 months after the date of enactment of this Act, the Secretary, in consultation with the NAIC and other organizations with expertise in the areas of quality assurance (including the Joint Commission on Accreditation of Health Care Organizations, the National Committee for Quality Assurance, and peer review organizations), shall establish minimum guidelines specified in subsection (c) for the issuance by each State of delivery system quality standards. Such standards shall be the applicable health plan standards under this section.

(c) MINIMUM GUIDELINES.—The minimum guidelines specified in this subsection are as follows:

(1) Establishing and maintaining health plan quality assurance, including—

(A) quality management;

(B) credentialing;

(C) utilization management;

(D) health care provider selection and due process in selection; and

(E) practice guidelines and protocols.

(2) Providing consumer protection for health plan enrollees, including—

(A) comparative standardized consumer information with respect to health plan premiums and quality measures, including health care report cards;

(B) nondiscrimination in plan enrollment, disenrollment, and service provision;

(C) continuation of treatment with respect to health plans that become insolvent; and

(D) grievance procedures.

(3) Ensuring reasonable access to health care services, including access for vulnerable populations in underserved areas.

SEC. 1005. RISK ADJUSTMENT.

Each health plan offering coverage in the small group market in a State shall participate in a risk adjustment program developed by such State under standards established by the Secretary.

SEC. 1006. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on January 1, 1996.

(b) RATING LIMITATIONS AND RISK ADJUSTMENTS.—The standards promulgated under sections 1003 and 1005 shall apply to plans that are issued or renewed after December 31, 1996.

Subtitle B—Establishment and Application of Standards

SEC. 1011. GENERAL RULES.

(a) CONSTRUCTION.—

(1) IN GENERAL.—A requirement or standard imposed on a health plan under this Act shall be deemed to be a requirement or standard imposed on the insurer or sponsor of such plan.

(2) PREEMPTION OF STATE LAW.—

(A) IN GENERAL.—No requirement of this title shall be construed as preempting any State law unless such State law directly conflicts with such requirement. The provision of additional consumer protections under State law as described in subparagraph (B) shall not be considered to directly conflict with any such requirement.

(B) CONSUMER PROTECTION LAWS.—State laws referred to in subparagraph (A) that are not preempted by this title include—

(i) laws that limit the exclusions or limitations for preexisting medical conditions to periods that are less than those provided for under section 1001;

(ii) laws that limit variations in premium rates beyond the variations permitted under section 1003; and

(iii) laws that would expand the small group market in excess of that provided for under this title.

(C) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health plans offered to small employers in the State to include specified items and services other than those described in section 1005(b)(2)(B) shall apply with respect to a health plan offered by an insurer to a small employer.

(b) REGULATIONS.—The Secretary, in consultation with NAIC, and the Secretary of Labor are each authorized to issue regulations as are necessary to implement this Act.

SEC. 1012. ENCOURAGEMENT OF STATE REFORMS.

Nothing in this Act shall be construed as prohibiting States from enacting health care reform measures that exceed the measures established under this Act, including reforms that expand access to health care services, control health care costs, and enhance quality of care.

SEC. 1013. ENFORCEMENT OF STANDARDS.

(a) IN GENERAL.—Except as provided in subsection (b), each State shall require that each health plan issued, sold, offered for sale, or operated in such State meets the insurance reform standards established under this title pursuant to an enforcement plan filed by the State with, and approved by, the Secretary. If the State does not file an acceptable plan, the Secretary shall enforce such standards until a plan is filed and approved.

(b) SECRETARY OF LABOR.—With respect to any health plan for which the application of State insurance laws are preempted under section 514 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144), the enforcement of the insurance reform standards established under this title shall be by the Secretary of Labor.

Subtitle C—Definitions

SEC. 1021. DEFINITIONS.

(a) HEALTH PLAN.—For purposes of this title and title II, the term ''health plan'' means a plan that provides, or pays the cost of, health benefits. Such term does not include the following, or any combination thereof:

(1) Coverage only for accidental death, dismemberment, dental, or vision.

(2) Coverage providing wages or payments in lieu of wages for any period during which the employee is absent from work on account of sickness or injury.

(3) A medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)).

(4) Coverage issued as a supplement to liability insurance.

(5) Worker's compensation or similar insurance.

(6) Automobile medical-payment insurance.

(7) A long-term care insurance policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy provides sufficiently comprehensive coverage of a benefit so that it should be treated as a health plan).

(8) Any plan or arrangement not described in any preceding subparagraph which provides for benefit payments, on a periodic basis, for a specified disease or illness or period of hospitalization without regard to the costs incurred or services rendered during the period to which the payments relate.

(9) Such other plan or arrangement as the Secretary determines is not a health plan.

(b) TERMS AND RULES RELATING TO THE SMALL GROUP AND LARGE EMPLOYER MARKETS.—For purposes of this title and title II:

(1) SMALL GROUP MARKET.—The term ''small group market'' means the market for health plans which is composed of small employers and individual purchasers.

(2) SMALL EMPLOYER.—The term ''small employer'' means, with respect to any calendar year, any employer if, on each of 20 days during the preceding calendar year (each day being in a different week), such employer (or any predecessor) employed less than 51 employees for some portion of the day.

(3) INDIVIDUAL PURCHASER.—The term ''individual purchaser'' means an individual who is not eligible to enroll in a health plan sponsored by a large or small employer.

(4) LARGE EMPLOYER MARKET.—The term ''large employer market'' means the market for health plans which is composed of large employers.

(5) LARGE EMPLOYER.—The term ''large employer''—

(A) means an employer that is not a small employer; and

(B) includes a multiemployer plan as defined in section 3(37) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)) and a plan which is maintained by a rural electric cooperative or a rural telephone cooperative association (within the meaning of section 3(40) of such Act (29 U.S.C. 1002(40)).

(c) ADDITIONAL DEFINITIONS.—For purposes of this title and title II:

(1) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

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

TITLE II—GRANTS TO STATES FOR SMALL GROUP HEALTH INSURANCE PURCHASING ARRANGEMENTS

SEC. 2001. GRANTS TO STATES FOR SMALL GROUP HEALTH INSURANCE PURCHASING ARRANGEMENTS.

(a) IN GENERAL.—The Secretary shall make grants to States that submit applications meeting the requirements of this section for the establishment and operation of small group health insurance purchasing arrangements.

(b) USE OF FUNDS.—Grant funds awarded under this section to a State may be used to finance administrative costs associated with developing and operating a small group health insurance purchasing arrangement, including the costs associated with—

(1) engaging in marketing and outreach efforts to inform individuals and small employers about the small group health insurance purchasing arrangement, which may include the payment of sales commissions;

(2) negotiating with insurers to provide health insurance through the small group health insurance purchasing arrangement; or

(3) providing administrative functions, such as eligibility screening, claims administration, and customer service.

(c) APPLICATION REQUIREMENTS.—An application submitted by a State to the Secretary shall describe—

(1) whether the program will be operated directly by the State or through 1 or more State-sponsored private organizations and the details of such operation;

(2) program goals for reducing the cost of health insurance for, and increasing insurance coverage in, the small group market;

(3) the approaches proposed for enlisting participation by insurers and small employers, including any plans to use State funds to subsidize the cost of insurance for participating individuals and employers; and

(4) the methods proposed for evaluating the effectiveness of the program in reducing the number of uninsured in the State and on lowering the cost of health insurance for the small group market in the State.

(d) GRANT CRITERIA.—In awarding grants, the Secretary shall consider the potential impact of the State's proposal on the cost of health insurance for the small group market and on the number of uninsured, and the need for regional variation in the awarding of grants. To the extent the Secretary deems appropriate, grants shall be awarded to fund programs employing a variety of approaches for establishing small group health insurance purchasing arrangements.

(e) PROHIBITION ON GRANTS.—No grant funds shall be paid to States that do not meet the requirements of this title with respect to small group health plans, or to States with group purchasing programs involving small group health plans that do not meet the requirements of this title.

(f) ANNUAL REPORT BY STATES.—States receiving grants under this section shall report to the Secretary annually on the numbers and rates of participation by eligible insurers and small employers, on the estimated impact of the program on reducing the number of uninsured, and on the cost of insurance available to the small group market in the State.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1996, 1997, and 1998, such sums as may be necessary to carry out this section.

(h) SECRETARIAL REPORT.—The Secretary shall report to Congress by not later than January 1, 1997, on the number and amount of grants awarded under this section, and include with such report an evaluation of the impact of the grant program on the number of uninsured and cost of health insurance to small group markets in participating States.

TITLE III—TAX INCENTIVES TO ENCOURAGE THE PURCHASE OF HEALTH INSURANCE

SEC. 3001. PERMANENT EXTENSION AND INCREASE OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) DEDUCTION MADE PERMANENT.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(b) INCREASE IN DEDUCTION.—Section 162(l) of such Code, as amended by subsection (a), is amended—

(1) by striking ''25 percent'' in paragraph (1) and inserting ''the applicable percentage'', and

(2) by adding at the end the following new paragraph:

''(6) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined as follows:

For taxable years beginning in:	The applicable percentage is:
1994, 1995 and 1996	25
1997	50
1998 and 1999	75
2000 and thereafter	100.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 3002. CREDIT FOR HEALTH INSURANCE EXPENSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by inserting after section 34 the following new section:

''SEC. 34A. HEALTH INSURANCE EXPENSES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of the qualified health insurance expenses paid by such individual during the taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means 60 percent reduced (but not below zero) by 10 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds the applicable dollar amount.

''(3) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection, the term 'applicable dollar amount' means—

''(A) in the case of a taxpayer filing a joint return, $28,000,

''(B) in the case of any other taxpayer (other than a married individual filing a separate return), $18,000, and

''(C) in the case of a married individual filing a separate return, zero.

For purposes of this subsection, the rule of section 219(g)(4) shall apply.

''(b) QUALIFIED HEALTH INSURANCE EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified health insurance expenses' means amounts paid during the taxable year for insurance which constitutes medical care (within the meaning of section 213(d)(1)(C)). For purposes of the preceding sentence, the rules of section 213(d)(6) shall apply.

''(2) DOLLAR LIMIT ON QUALIFIED HEALTH INSURANCE EXPENSES.—The amount of the qualified health insurance expenses paid during any taxable year which may be taken into account under subsection (a)(1) shall not exceed $1,200 ($2,400 in the case of a taxpayer filing a joint return).

''(3) ELECTION NOT TO TAKE CREDIT.—A taxpayer may elect for any taxable year to have amounts described in paragraph (1) not treated as qualified health insurance expenses.

''(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means, with respect to any period, an individual who is not covered during such period by a health plan maintained by an employer of such individual or such individual's spouse.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) COORDINATION WITH ADVANCE PAYMENT AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply to any credit to which this section applies.

''(2) MEDICARE-ELIGIBLE INDIVIDUALS.—No expense shall be treated as a qualified health insurance expense if it is an amount paid for insurance for an individual for any period with respect to which such individual is entitled (or, on application without the payment of an additional premium, would be entitled to) benefits under part A of title XVIII of the Social Security Act.

''(3) SUBSIDIZED EXPENSES.—No expense shall be treated as a qualified health insurance expense to the extent—

''(A) such expense is paid, reimbursed, or subsidized (whether by being disregarded for purposes of another program or otherwise) by the Federal Government, a State or local government, or any agency or instrumentality thereof, and

''(B) the payment, reimbursement, or subsidy of such expense is not includible in the gross income of the recipient.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(b) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 is amended by inserting after section 3507 the following new section:

''SEC. 3507A. ADVANCE PAYMENT OF HEALTH INSURANCE EXPENSES CREDIT.

''(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a health insurance expenses eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

''(b) HEALTH INSURANCE EXPENSES ELIGIBILITY CERTIFICATE.—For purposes of this title, a health insurance expenses eligibility certificate is a statement furnished by an employee to the employer which—

''(1) certifies that the employee will be eligible to receive the credit provided by section 34A for the taxable year,

''(2) certifies that the employee does not have a health insurance expenses eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

''(3) states whether or not the employee's spouse has a health insurance expenses eligibility certificate in effect, and

''(4) estimates the amount of qualified health insurance expenses (as defined in section 34A(b)) for the calendar year.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

''(c) HEALTH INSURANCE EXPENSES ADVANCE AMOUNT.—

''(1) IN GENERAL.—For purposes of this title, the term 'health insurance expenses advance amount' means, with respect to any payroll period, the amount determined—

''(A) on the basis of the employee's wages from the employer for such period,

''(B) on the basis of the employee's estimated qualified health insurance expenses included in the health insurance expenses eligibility certificate, and

''(C) in accordance with tables provided by the Secretary.

''(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402(a) and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

''(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 25 of such Code is

amended by adding after the item relating to section 3507 the following new item:

''Sec. 3507A. Advance payment of health insurance expenses credit.''.

(c) COORDINATION WITH DEDUCTIONS FOR HEALTH INSURANCE EXPENSES.—

(1) SELF-EMPLOYED INDIVIDUALS.—Section 162(l) of the Internal Revenue Code of 1986, as amended by section 8001, is further amended by adding after paragraph (6) the following new paragraph:

''(7) COORDINATION WITH HEALTH INSURANCE PREMIUM CREDIT.—Paragraph (1) shall not apply to any amount taken into account in computing the amount of the credit allowed under section 34A.''.

(2) MEDICAL, DENTAL, ETC., EXPENSES.—Subsection (e) of section 213 of such Code is amended by inserting ''or section 34A'' after ''section 21''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 34 the following new item:

''Sec. 34A. Health insurance expenses.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE IV—INCENTIVES TO INCREASE THE ACCESS OF RURAL AND UNDERSERVED AREAS TO HEALTH CARE

SEC. 4001. NONREFUNDABLE CREDIT FOR CERTAIN PRIMARY HEALTH SERVICES PROVIDERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

''SEC. 23. PRIMARY HEALTH SERVICES PROVIDERS.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

''(1) the number of months during such taxable year—

''(A) during which the taxpayer is a qualified primary health services provider, and

''(B) which are within the taxpayer's mandatory service period, and

''(2) $1,000 ($500 in the case of a qualified practitioner who is not a physician).

''(b) QUALIFIED PRIMARY HEALTH SERVICES PROVIDER.—For purposes of this section, the term 'qualified primary health services provider' means, with respect to any month, any qualified practitioner who—

''(1) has in effect a certification by the Bureau as a provider of primary health services and such certification is, when issued, for a health professional shortage area in which the qualified practitioner is commencing the providing of primary health services,

''(2) is providing primary health services full time in the health professional shortage area identified in such certification, and

''(3) has not received a scholarship under the National Health Service Corps Scholarship Program or any loan repayments under the National Health Service Corps Loan Repayment Program.

For purposes of paragraph (2) and subsection (e)(3), a provider shall be treated as providing services in a health professional shortage area when such area ceases to be such an area if it was such an area when the provider commenced providing services in the area.

''(c) MANDATORY SERVICE PERIOD.—For purposes of this section, the term 'mandatory service period' means the period of 60 consecutive calendar months beginning with the first month the taxpayer is a qualified primary health services provider. A taxpayer shall not have more than 1 mandatory service period.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BUREAU.—The term 'Bureau' means the Bureau of Primary Health Care, Health Resources and Services Administration of the United States Public Health Service.

''(2) QUALIFIED PRACTITIONER.—The term 'qualified practitioner' means a physician, a physician assistant, a nurse practitioner, or a certified nurse-midwife.

''(3) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act.

''(4) PHYSICIAN ASSISTANT; NURSE PRACTITIONER.—The terms 'physician assistant' and 'nurse practitioner' have the meanings given to such terms by section 1861(aa)(5) of the Social Security Act.

''(5) CERTIFIED NURSE-MIDWIFE.—The term 'certified nurse-midwife' has the meaning given to such term by section 1861(gg)(2) of the Social Security Act.

''(6) PRIMARY HEALTH SERVICES.—The term 'primary health services' has the meaning given such term by section 330(b)(1) of the Public Health Service Act.

''(7) HEALTH PROFESSIONAL SHORTAGE AREA.—The term 'health professional shortage area' has the meaning given such term by section 332(a)(1)(A) of the Public Health Service Act.

''(e) RECAPTURE OF CREDIT.—

''(1) IN GENERAL.—If there is a recapture event during any taxable year, then—

''(A) no credit shall be allowed under subsection (a) for such taxable year and any succeeding taxable year, and

''(B) the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(i) the applicable percentage, and

''(ii) the aggregate unrecaptured credits allowed to such taxpayer under this section for all prior taxable years.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

''If the recapture event occurs during:	**The applicable recapture percentage is:**
Months 1–24	100
Months 25–36	75
Months 37–48	50
Months 49–60	25
Month 61 or thereafter	0.

''(B) TIMING.—For purposes of subparagraph (A), month 1 shall begin on the first day of the mandatory service period.

''(3) RECAPTURE EVENT DEFINED.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'recapture event' means the failure of the taxpayer to be a qualified primary health services provider for any month during the taxpayer's mandatory service period.

''(B) SECRETARIAL WAIVER.—The Secretary, in consultation with the Secretary of Health and Human Services, may waive any recapture event caused by extraordinary circumstances.

''(4) NO CREDITS AGAINST TAX; MINIMUM TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part or for purposes of section 55.''

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 22 the following new item:

''Sec. 23. Primary health services providers.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 4002. EXPENSING OF MEDICAL EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 (relating to dollar limitation on expensing of certain depreciable business assets) is amended to read as follows:

''(1) DOLLAR LIMITATION.—

''(A) GENERAL RULE.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $17,500.

''(B) HEALTH CARE PROPERTY.—The aggregate cost which may be taken into account under subsection (a) shall be increased by the lesser of—

''(i) the cost of section 179 property which is health care property placed in service during the taxable year, or

''(ii) $10,000.''

(b) DEFINITION.—Section 179(d) of such Code (relating to definitions) is amended by adding at the end the following new paragraph:

''(11) HEALTH CARE PROPERTY.—For purposes of this section, the term 'health care property' means section 179 property—

''(A) which is medical equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment,

''(B) which is owned (directly or indirectly) and used by a physician (as defined in section 1861(r) of the Social Security Act) in the active conduct of such physician's full-time trade or business of providing primary health services (as defined in section 330(b)(1) of the Public Health Service Act) in a health professional shortage area (as defined in section 332(a)(1)(A) of the Public Health Service Act), and

''(C) substantially all the use of which is in such area.''

(c) RECAPTURE.—Paragraph (10) of section 179(d) of such Code is amended by inserting before the period ''and with respect to any health care property which ceases (other than by an area failing to be treated as a health professional shortage area) to be health care property at any time''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 1994.

SEC. 4003. EXPANDED SERVICES FOR MEDICALLY UNDERSERVED INDIVIDUALS.

(a) IN GENERAL.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as amended by section 313) is amended by adding at the end the following new section:

''SEC. 330B. EXPANDED SERVICES FOR MEDICALLY UNDERSERVED INDIVIDUALS.

''(a) ESTABLISHMENT OF HEALTH SERVICES ACCESS PROGRAM.—From amounts appropriated under this section, the Secretary shall, acting through the Bureau of Health Care Delivery Assistance, award grants under this section to federally qualified health centers (hereinafter referred to in this section as 'FQHC's') and other entities and organizations submitting applications under this section (as described in subsection (c)) for the purpose of providing access to services for medically underserved populations (as defined in section 330(b)(3)) or in high impact areas (as defined in section 329(a)(5)) not currently being served by a FQHC.

''(b) ELIGIBILITY FOR GRANTS.—

''(1) IN GENERAL.—The Secretary shall award grants under this section to entities or organizations described in this paragraph and paragraph (2) which have submitted a proposal to the Secretary to expand such entities or organizations operations (including

expansions to new sites (as determined necessary by the Secretary)) to serve medically underserved populations or high impact areas not currently served by a FQHC and which—

''(A) have as of January 1, 1991, been certified by the Secretary as a FQHC under section 1905(l)(2)(B) of the Social Security Act; or

''(B) have submitted applications to the Secretary to qualify as FQHC's under such section 1905(l)(2)(B); or

''(C) have submitted a plan to the Secretary which provides that the entity will meet the requirements to qualify as a FQHC when operational.

''(2) NON FQHC ENTITIES.—

''(A) ELIGIBILITY.—The Secretary shall also make grants under this section to public or private nonprofit agencies, health care entities or organizations which meet the requirements necessary to qualify as a FQHC except, the requirement that such entity have a consumer majority governing board and which have submitted a proposal to the Secretary to provide those services provided by a FQHC as defined in section 1905(l)(2)(B) of the Social Security Act and which are designed to promote access to primary care services or to reduce reliance on hospital emergency rooms or other high cost providers of primary health care services, provided such proposal is developed by the entity or organizations (or such entities or organizations acting in a consortium in a community) with the review and approval of the Governor of the State in which such entity or organization is located.

''(B) LIMITATION.—The Secretary shall provide in making grants to entities or organizations described in this paragraph that no more than 10 percent of the funds provided for grants under this section shall be made available for grants to such entities or organizations.

''(c) APPLICATION REQUIREMENTS.—

''(1) IN GENERAL.—In order to be eligible to receive a grant under this section, a FQHC or other entity or organization must submit an application in such form and at such time as the Secretary shall prescribe and which meets the requirements of this subsection.

''(2) REQUIREMENTS.—An application submitted under this section must provide—

''(A)(i) for a schedule of fees or payments for the provision of the services provided by the entity designed to cover its reasonable costs of operations; and

''(ii) for a corresponding schedule of discounts to be applied to such fees or payments, based upon the patient's ability to pay (determined by using a sliding scale formula based on the income of the patient);

''(B) assurances that the entity or organization provides services to persons who are eligible for benefits under title XVIII of the Social Security Act, for medical assistance under title XIX of such Act or for assistance for medical expenses under any other public assistance program or private health insurance program; and

''(C) assurances that the entity or organization has made and will continue to make every reasonable effort to collect reimbursement for services—

''(i) from persons eligible for assistance under any of the programs described in subparagraph (B); and

''(ii) from patients not entitled to benefits under any such programs.

''(d) LIMITATIONS ON USE OF FUNDS.—

''(1) IN GENERAL.—From the amounts awarded to an entity or organization under this section, funds may be used for purposes of planning but may only be expended for the costs of—

''(A) assessing the needs of the populations or proposed areas to be served;

''(B) preparing a description of how the needs identified will be met; and

''(C) development of an implementation plan that addresses—

''(i) recruitment and training of personnel; and

''(ii) activities necessary to achieve operational status in order to meet FQHC requirements under 1905(l)(2)(B) of the Social Security Act.

''(2) RECRUITING, TRAINING AND COMPENSATION OF STAFF.—From the amounts awarded to an entity or organization under this section, funds may be used for the purposes of paying for the costs of recruiting, training and compensating staff (clinical and associated administrative personnel (to the extent such costs are not already reimbursed under title XIX of the Social Security Act or any other State or Federal program)) to the extent necessary to allow the entity to operate at new or expended existing sites.

''(3) FACILITIES AND EQUIPMENT.—From the amounts awarded to an entity or organization under this section, funds may be expended for the purposes of acquiring facilities and equipment but only for the cost of—

''(A) construction of new buildings (to the extent that new construction is found to be the most cost-efficient approach by the Secretary);

''(B) acquiring, expanding, and modernizing of existing facilities;

''(C) purchasing essential (as determined by the Secretary) equipment; and

''(D) amortization of principal and payment of interest on loans obtained for purposes of site construction, acquisition, modernization, or expansion, as well as necessary equipment.

''(4) SERVICES.—From the amounts awarded to an entity or organization under this section, funds may be expanded for the payment of services but only for the costs of—

''(A) providing or arranging for the provision of all services through the entity necessary to qualify such entity as a FQHC under section 1905(l)(2)(B) of the Social Security Act;

''(B) providing or arranging for any other service that a FQHC may provide and be reimbursed for under title XIX of such Act; and

''(C) providing any unreimbursed costs of providing services as described in section 330(a) to patients.

''(e) PRIORITIES IN THE AWARDING OF GRANTS.—

''(1) CERTIFIED FQHC's.—The Secretary shall give priority in awarding grants under this section to entities which have, as of January 1, 1991, been certified as a FQHC under section 1905(l)(2)(B) of the Social Security Act and which have submitted a proposal to the Secretary to expand their operations (including expansion to new sites) to serve medically underserved populations for high impact areas not currently served by a FQHC. The Secretary shall give first priority in awarding grants under this section to those FQHCs or other entities which propose to serve populations with the highest degree of unmet need, and which can demonstrate the ability to expand their operations in the most efficient manner.

''(2) QUALIFIED FQHC's.—The Secretary shall give second priority in awarding grants to entities which have submitted applications to the Secretary which demonstrate that the entity will qualify as a FQHC under section 1905(l)(2)(B) of the Social Security Act before it provides or arranges for the provision of services supported by funds awarded under this section, and which are serving or proposing to serve medically underserved populations or high impact areas which are not currently served (or proposed to be served) by a FQHC.

''(3) EXPANDED SERVICES AND PROJECTS.—The Secretary shall give third priority in awarding grants in subsequent years to those FQHCs or other entities which have provided for expanded services and project and are able to demonstrate that such entity will incur significant unreimbursed costs in providing such expanded services.

''(f) RETURN OF FUNDS TO SECRETARY FOR COSTS REIMBURSED FROM OTHER SOURCES.—To the extent that an entity or organization receiving funds under this section is reimbursed from another source for the provision of services to an individual, and does not use such increased reimbursement to expand services furnished, areas served, to compensate for costs of unreimbursed services provided to patients, or to promote recruitment, training, or retention of personnel, such excess revenues shall be returned to the Secretary.

''(g) TERMINATION OF GRANTS.—

''(1) FAILURE TO MEET FQHC REQUIREMENTS.—

''(A) IN GENERAL.—With respect to any entity that is receiving funds awarded under this section and which subsequently fails to meet the requirements to qualify as a FQHC under section 1905(l)(2)(B) or is an entity that is not required to meet the requirements to qualify as a FQHC under section 1905(l)(2)(B) of the Social Security Act but fails to meet the requirements of this section, the Secretary shall terminate the award of funds under this section to such entity.

''(B) NOTICE.—Prior to any termination of funds under this section to an entity, the entities shall be entitled to 60 days prior notice of termination and, as provided by the Secretary in regulations, an opportunity to correct any deficiencies in order to allow the entity to continue to receive funds under this section.

''(2) REQUIREMENTS.—Upon any termination of funding under this section, the Secretary may (to the extent practicable)—

''(A) sell any property (including equipment) acquired or constructed by the entity using funds made available under this section or transfer such property to another FQHC, provided, that the Secretary shall reimburse any costs which were incurred by the entity in acquiring or constructing such property (including equipment) which were not supported by grants under this section; and

''(B) recoup any funds provided to an entity terminated under this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 1999 to carry out this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to services furnished by a federally qualified health center or other qualifying entity described in this section beginning on or after October 1, 1996.

SEC. 4004. INCREASE IN NATIONAL HEALTH SERVICE CORPS AND AREA HEALTH EDUCATION CENTER FUNDING.

(a) NATIONAL HEALTH SERVICE CORPS.—Section 338H(b)(1) of the Public Health Service Act (42 U.S.C. 254q(b)(1)) is amended—

(1) by striking ''1991, and'' and inserting ''1991,''; and

(2) by striking ''through 2000'' and inserting '', 1994, and 1995, and $20,000,000 for each of the fiscal years 1996 through 2000''.

(b) AREA HEALTH EDUCATION CENTERS.—Section 746(i)(1) of such Act (42 U.S.C. 293j(i)(1)) is amended—

(1) in subparagraph (A), by striking ''1995'' and inserting ''1995, and $20,000,000 for each of the fiscal years 1996 through 2000''; and

(2) in subparagraph (C), by striking ''and 1995'' and inserting ''1995, and $20,000,000 for each of the fiscal years 1996 through 2000''.

SEC. 4005. ASSISTANT SECRETARY FOR RURAL HEALTH.

(a) APPOINTMENT OF ASSISTANT SECRETARY.—

(1) IN GENERAL.—Section 711(a) of the Social Security Act (42 U.S.C. 912(a)) is amended—

(A) by striking ''by a Director, who shall advise the Secretary'' and inserting ''by an Assistant Secretary for Rural Health (in this section referred to as the 'Assistant Secretary'), who shall report directly to the Secretary''; and

(B) by adding at the end the following new sentence: ''The Office shall not be a component of any other office, service, or component of the Department.''.

(2) CONFORMING AMENDMENTS.—(A) Section 711(b) of the Social Security Act (42 U.S.C. 912(b)) is amended by striking ''the Director'' and inserting ''the Assistant Secretary''.

(B) Section 338J(a) of the Public Health Service Act (42 U.S.C. 254r(a)) is amended by striking ''Director of the Office of Rural Health Policy'' and inserting ''Assistant Secretary for Rural Health''.

(C) Section 464T(b) of the Public Health Service Act (42 U.S.C. 285p–2(b)) is amended in the matter preceding paragraph (1) by striking ''Director of the Office of Rural Health Policy'' and inserting ''Assistant Secretary for Rural Health''.

(D) Section 6213 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 1395x note) is amended in subsection (e)(1) by striking ''Director of the Office of Rural Health Policy'' and inserting ''Assistant Secretary for Rural Health''.

(E) Section 403 of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 U.S.C. 300ff–11 note) is amended in the matter preceding paragraph (1) of subsection (a) by striking ''Director of the Office of Rural Health Policy'' and inserting ''Assistant Secretary for Rural Health''.

(3) AMENDMENT TO THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of Health and Human Services (5)'' and inserting ''Assistant Secretaries of Health and Human Services (6)''.

(b) EXPANSION OF DUTIES.—Section 711(a) of the Social Security Act (42 U.S.C. 912(a)) is amended by striking ''and access to (and the quality of) health care in rural areas'' and inserting ''access to, and quality of, health care in rural areas, and reforms to the health care system and the implications of such reforms for rural areas''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 4006. STUDY ON TRANSITIONAL MEASURES TO ENSURE ACCESS.

(a) IN GENERAL.—The Prospective Payment Assessment Commission shall conduct a study concerning the need for legislation or regulations to ensure that vulnerable populations have adequate access to health plans and health care providers and services.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Prospective Payment Assessment Commission shall prepare and submit to Congress a report concerning the findings and recommendations of the Commission based on the study conducted under subsection (a).

TITLE V—QUALITY AND CONSUMER PROTECTION

Subtitle A—Quality Improvement Foundations

SEC. 5001. QUALITY IMPROVEMENT FOUNDATIONS.

(a) ESTABLISHMENT.—

(1) GRANT PROCESS.—The Secretary shall, through a competitive grantmaking process, award demonstration grants for the establishment and operation of quality improvement foundations. In awarding such grants the Secretary shall consider geographic diversity, regional economics of scale, population density, regional needs and other regional differences.

(2) ELIGIBLE APPLICANTS.—To be eligible to receive a grant for the establishment of a quality improvement foundation under paragraph (1), and applicant entity shall—

(A) be a not-for-profit entity; and

(B) have a board that includes health care providers, representatives from relevant institutions of higher education in the region, consumers, purchasers of health care, and other interested parties.

(b) DUTIES.—

(1) IN GENERAL.—Each quality improvement foundation shall carry out the duties described in paragraph (2). The foundation shall establish a program of activities incorporating such duties and shall be able to demonstrate the involvement of a broad cross-section of the providers and health care institutions throughout the State or region.

(2) DUTIES DESCRIBED.—The duties described in this paragraph include the following:

(A) Collaboration with and technical assistance to providers and health plans in ongoing efforts to improve the quality of health care provided to individuals in the State.

(B) Population-based monitoring of practice patterns and patient outcomes,on an other than a case-by-case basis.

(C) Developing programs in lifetime learning for health professionals to improve the quality of health care by ensuring that health professionals remain informed about new knowledge, acquire new skills, and adopt new roles as technology and societal demands change.

(D) Disseminating information about successful quality improvement programs, practice guidelines, and research findings, including information on innovative staffing of health professionals.

(E) Assist in developing innovative patient education systems that enhance patient involvement in decisions relating to their health care, including an emphasis on shared decisionmaking between patients and health care providers.

(F) Issuing a report to the public regarding the foundation's activities for the previous year including areas of success during the previous year and areas for opportunities in improving health outcomes for the community, and the adoption of guidelines.

(c) RESTRICTIONS ON DISCLOSURE.—The restrictions on disclosure of information under section 1160 of the Social Security Act shall apply to quality improvement foundations under this section, except that—

(1) such foundations shall make data available to qualified organizations and individuals for research for public benefit under the terms set forth in section 5218;

(2) individuals and qualified organizations shall meet standards consistent with the Public Health Service Act and policies regarding the conduct of scientific research, including provisions related to confidentiality, privacy, protection of humans and shall pay reasonable costs for data; and

(3) such foundations may exchange information with other quality improvement foundations.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, the are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 2000.

Subtitle B—Administrative Simplification

PART 1—PURPOSE AND DEFINITIONS

SEC. 5101. PURPOSE.

It is the purpose of this subtitle to improve the efficiency and effectiveness of the health care system, including the medicare program under title XVIII of the Social Security Act and the medicaid program under title XIX of such Act, by encouraging the development of a health information network through the establishment of standards and requirements for the electronic transmission of certain health information.

SEC. 5102. DEFINITIONS.

For purposes of this subtitle:

(1) CERTIFIED.—The term ''certified'' means, with respect to a health information network service, that such service is certified under section 5141.

(2) CODE SET.—The term ''code set'' means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

(3) COORDINATION OF BENEFITS.—The term ''coordination of benefits'' means determining and coordinating the financial obligations of health plans when health care benefits are payable under two or more health plans.

(4) HEALTH CARE PROVIDER.—The term ''health care provider'' includes a provider of services (as defined in section 1861(u) of the Social Security Act), a provider of medical or other health services (as defined in section 1861(s) of the Social Security Act), and any other person furnishing health care services or supplies.

(5) HEALTH INFORMATION.—The term ''health information'' means any information, whether oral or recorded in any form or medium that—

(A) is created or received by a health care provider, health plan, health oversight agency (as defined in section 5202), health researcher, public health authority (as defined in section 5202), employer, life insurer, school or university, or certified health information network service; and

(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

(6) HEALTH INFORMATION NETWORK.—The term ''health information network'' means the health information system that is formed through the application of the requirements and standards established under this subtitle.

(7) HEALTH INFORMATION PROTECTION ORGANIZATION.—The term ''health information protection organization'' means a private entity or an entity operated by a State that accesses standard data elements of health information through the health information network and—

(A) processes such information into nonidentifiable health information and discloses such information;

(B) if such information is protected health information (as defined in section 5202), discloses such information only in accordance with subtitle C; and

(C) may store such information

(8) HEALTH INFORMATION NETWORK SERVICE.—The term ''health information network service''—

(A) means a private entity or an entity operated by a State that enters into contracts to—

(i) process or facilitate the processing of nonstandard data elements of health information into standard data elements;

(ii) provide the means by which persons are connected to the health information network

for purposes of meeting the requirements of this subtitle, including the holding of standard data elements of health information;

(iii) provide authorized access to health information through the health information network; or

(iv) provide specific information processing services, such as automated coordination of benefits and claims transaction routing; and

(B) includes a health information protection organization.

(9) HEALTH PLAN.—The term ''health plan'' has the meaning given such term in section 1021(a).

(10) NON-IDENTIFIABLE HEALTH INFORMATION.—The term ''non-identifiable health information'' means health information that is not protected health information as defined in section 5202.

(11) PATIENT MEDICAL RECORD INFORMATION.—The term ''patient medical record information'' means health information derived from a clinical encounter that relates to the physical or mental condition of an individual.

(12) STANDARD.—The term ''standard'' when referring to an information transaction or to data elements of health information means the transaction or data elements meet any standard adopted by the Secretary under part 2 that applies to such information transaction or data elements.

PART 2—STANDARDS FOR DATA ELEMENTS AND INFORMATION TRANSACTIONS

SEC. 5111. GENERAL REQUIREMENTS ON SECRETARY.

(a) IN GENERAL.—The Secretary shall adopt standards and modifications to standards under this subtitle that are—

(1) consistent with the objective of reducing the costs of providing and paying for health care;

(2) in use and generally accepted or developed or modified by the standards setting organizations accredited by the American National Standard Institute (ANSI); and

(3) consistent with the objective of protecting the privacy of protected health information (as defined in section 5202).

(b) INITIAL STANDARDS.—The Secretary may develop an expedited process for the adoption of initial standards under this subtitle.

(c) FAILSAFE.—If the Secretary is unable to adopt standards or modified standards in accordance with subsection (a) that meet the requirements of this subtitle—

(1) the Secretary may develop or modify such standards and, after providing public notice and an adequate period for public comment, adopt such standards; and

(2) if the Secretary adopts standards under paragraph (1), the Secretary shall submit a report to the appropriate committees of Congress on the actions taken by the Secretary under this subsection.

(d) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this subtitle, the Secretary shall rely on recommendations of the Health Information Advisory Committee established under section 5163 and shall consult with appropriate Federal agencies.

SEC. 5112. STANDARDS FOR TRANSACTIONS AND DATA ELEMENTS.

(a) IN GENERAL.—The Secretary shall adopt standards for transactions and data elements to make uniform and able to be exchanged electronically health information that is—

(1) appropriate for the following financial and administrative transactions: claims (including coordination of benefits) or equivalent encounter information, claims attachments, enrollment and disenrollment, eligibility, payment and remittance advice, premium payments, first report of injury, claims status, and referral certification and authorization;

(2) related to other transactions determined appropriate by the Secretary consistent with the goals of improving the health care system and reducing administrative costs; and

(3) related to research inquiries by a health researcher with respect to information standardized under paragraph (1) or (2).

(b) UNIQUE HEALTH IDENTIFIERS.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the health care system.

(c) CODE SETS.—

(1) IN GENERAL.—The Secretary, in consultation with experts from the private sector and Federal agencies, shall—

(A) select code sets for appropriate data elements from among the code sets that have been developed by private and public entities; or

(B) establish code sets for such data elements if no code sets for the data elements have been developed.

(2) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution of code sets and modifications made to such code sets under section 5113(b).

(d) ELECTRONIC SIGNATURE.—The Secretary, in coordination with the Secretary of Commerce, shall promulgate regulations specifying procedures for the electronic transmission and authentication of signatures, compliance with which will be deemed to satisfy Federal and State statutory requirements for written signatures with respect to information transactions required by this subtitle and written signatures on medical records and prescriptions.

(e) SPECIAL RULES—

(1) COORDINATION OF BENEFITS.—Any standards adopted under subsection (a) that relate to coordination of benefits shall provide that a claim for reimbursement for medical services furnished is tested by an algorithm specified by the Secretary against all records that are electronically available through the health information network relating to enrollment and eligibility for the individual who received such services to determine any primary and secondary obligors for payment.

(2) CLINICAL LABORATORY TESTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any standards adopted under subsection (a) shall provide that claims for clinical laboratory tests for which benefits are payable by a plan sponsor shall be submitted directly by the person or entity that performed (or supervised the performance of) the tests to the sponsor in a manner consistent with (and subject to such exceptions as are provided under) the requirement for direct submission of such claims under the medicare program.

(B) EXCEPTION.—Payment for a clinical laboratory test may be made—

(i) to a physician with whom the physician who performed or supervised the test shares a practice; or

(ii) on a pre-paid, at-risk basis to the person or entity who performs or supervises the test.

SEC. 5113. TIMETABLES FOR ADOPTION OF STANDARDS.

(a) INITIAL STANDARDS.—The Secretary shall adopt standards relating to the data elements and transactions for the information described in section 5112(a) not later than 9 months after the date of the enactment of this subtitle (except in the case of standards for claims attachments which shall be adopted not later than 24 months after the date of the enactment of this subtitle).

(b) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under this subtitle and shall adopt additional or modified standards as determined appropriate, but no more frequently than once every 6 months. Any addition or modification to standards shall be completed in a manner which minimizes the disruption and cost of compliance.

(2) SPECIAL RULES.—

(A) FIRST 12-MONTH PERIOD.—Except with respect to additions and modifications to code sets under subparagraph (B), the Secretary shall not adopt any modifications to standards adopted under this subtitle during the 12-month period beginning on the date such standards are adopted unless the Secretary determines that a modification is necessary in order to permit compliance with requirements relating to the standards.

(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

(ii) ADDITIONAL RULES.—If a code set is modified under this subsection, the modified code set shall include instructions on how data elements that were encoded prior to the modification are to be converted or translated so as to preserve the value of the data elements. Any modification to a code set under this subsection shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

(c) EVALUATION OF STANDARDS.—The Secretary may establish a process to measure or verify the consistency of standards adopted or modified under this subtitle. Such process may include demonstration projects and analysis of the cost of implementing such standards and modifications.

PART 3—REQUIREMENTS WITH RESPECT TO CERTAIN TRANSACTIONS AND INFORMATION

SEC. 5121. REQUIREMENTS ON HEALTH PLANS.

(a) IN GENERAL.—If a person desires to conduct any of the transactions described in section 5112(a) with a health plan as a standard transaction, the health plan shall conduct such standard transaction in a timely manner and the information transmitted or received in connection with such transaction shall be in the form of standard data elements.

(b) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirement imposed on such plan under subsection (a) by directly transmitting standard data elements or submitting nonstandard data elements to a certified health information network service for processing into standard data elements and transmission.

SEC. 5122. TIMETABLES FOR COMPLIANCE WITH REQUIREMENTS.

(a) INITIAL COMPLIANCE.—Not later than 12 months after the date on which standards are adopted under part 2 with respect to any type of transaction or data elements, a health plan shall comply with the requirements of this subtitle with respect to such transaction or data elements.

(b) COMPLIANCE WITH MODIFIED STANDARDS.—

(1) IN GENERAL.—If the Secretary adopts a modified standard under part 2, a health plan shall be required to comply with the modified standard at such time as the Secretary determines appropriate taking into account the time needed to comply due to the nature and extent of the modification.

(2) SPECIAL RULE.—In the case of modifications to standards that do not occur within

the 12-month period beginning on the date such standards are adopted, the time determined appropriate by the Secretary under paragraph (1) shall be no sooner than the last day of the 90-day period beginning on the date such modified standard is adopted and no later than the last day of the 12 month period beginning on the date such modified standard is adopted.

PART 4—ACCESSING HEALTH INFORMATION

SEC. 5131. ACCESS FOR AUTHORIZED PURPOSES.

(a) IN GENERAL.—The Secretary shall adopt technical standards for appropriate persons, including health plans, health care providers, certified health information network services, health researchers, and Federal and State agencies, to locate and access the health information that is available through the health information network due to the requirements of this subtitle. Such technical standards shall ensure that any request to locate or access information shall be authorized under subtitle C.

(b) GOVERNMENT AGENCIES.—

(1) IN GENERAL.—Certified Health information protection organizations shall make available to a Federal or State agency pursuant to a Federal Acquisition Regulation (or an equivalent State system), any non-identifiable health information that is requested by such agency.

(2) CERTAIN INFORMATION AVAILABLE AT LOW COST.—If a health information protection organization described in paragraph (1) needs information from a health plan in order to comply with a request of a Federal or State agency that is necessary to comply with a requirement under this Act, such plan shall make such information available to such organization for a charge that does not exceed the reasonable cost of transmitting the information. An organization that receives information under the preceding sentence shall, upon request from any certified health information protection organization, make such information available to such an organization for a charge that does not exceed the reasonable cost of transmitting the information.

(c) FUNCTIONAL SEPARATION.—The standards adopted by the Secretary under subsection (a) shall ensure that any health information disclosed under such subsection shall not, after such disclosure, be used or released for an administrative, regulatory, or law enforcement purpose unless such disclosure was made for such purpose.

SEC. 5132. RESPONDING TO ACCESS REQUESTS.

(a) IN GENERAL.—The Secretary shall adopt, and modify as appropriate, standards under which a health plan shall respond to requests for access to health information consistent with this subtitle and subtitle C.

(b) STANDARDS DESCRIBED.—The standards under subsection (a) shall provide—

(1) for a standard format under which a plan will respond to each request either by satisfying the request or by responding with a negative response, which may include an explanation of the failure to satisfy the request; and

(2) that a plan shall respond to a request in a timely manner taking into account the age and amount of the information being requested.

(c) LENGTH OF TIME INFORMATION SHOULD BE ACCESSIBLE.—The Secretary shall adopt standards with respect to the length of time any standard data elements for a type of health information should be accessible through the health information network.

SEC. 5133. TIMETABLES FOR ADOPTION OF STANDARDS AND COMPLIANCE.

(a) INITIAL STANDARDS.—The Secretary shall adopt standards under this part not later than 9 months after the date of the enactment of this subtitle and such standards shall be effective upon adoption.

(b) MODIFICATIONS TO STANDARDS.—The provisions of paragraphs (1) and (2)(A) of section 5114(b) shall apply to modifications to standards under this part.

PART 5—STANDARDS AND CERTIFICATION FOR HEALTH INFORMATION NETWORK

SEC. 5141. STANDARDS AND CERTIFICATION FOR HEALTH INFORMATION NETWORK SERVICES.

(a) STANDARDS FOR OPERATION.—The Secretary shall establish standards with respect to the operation of health information network services ensuring that—

(1) such services have policies and security procedures that are consistent with the privacy requirements under subtitle C, including secure methods of access to and transmission of data; and

(2) such services, if they are part of a larger organization, have policies and procedures in place which isolate their activities with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

(b) CERTIFICATION BY THE SECRETARY.—

(1) ESTABLISHMENT.—Not later than 12 months after the date of the enactment of this subtitle, the Secretary shall establish a certification procedure for health information network services which ensures that certified services are qualified to meet the requirements of this subtitle.

(2) AUDITS AND REPORTS.—The procedure established under paragraph (1) shall provide for audits and reports as the Secretary determines appropriate in order to monitor such entity's compliance with the requirements of this subtitle.

(c) LOSS OF CERTIFICATION.—

(1) MANDATORY TERMINATION.—If a health information network service violates a requirement imposed under subtitle C, its certification under this section shall be terminated unless the Secretary determines that appropriate corrective action has been taken.

(2) DISCRETIONARY TERMINATION.—If a health information network service violates a requirement or standard imposed under this subtitle and a penalty has been imposed under section 5151, the Secretary shall review the certification of such service and may terminate such certification.

(d) CERTIFICATION BY PRIVATE ENTITIES.—The Secretary may designate private entities to conduct the certification procedures established by the Secretary under this section. A health information network service certified by such an entity in accordance with such designation shall be considered to be certified by the Secretary.

SEC. 5142. ENSURING AVAILABILITY OF INFORMATION.

The Secretary shall establish a procedure under which a health plan which does not have the ability to transmit standard data elements directly or does not have access to a certified health information network service shall be able to make health information available for disclosure as authorized by this subtitle.

PART 6—PENALTIES

SEC. 5151. GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall impose on any person that violates a requirement or standard imposed under this subtitle a penalty of not more than $1,000 for each violation. The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under section 1128A of the Social Security Act.

(b) LIMITATIONS.—

(1) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under subsection (a) if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person failed to comply with the requirement or standard described in subsection (a).

(2) FAILURES DUE TO REASONABLE CAUSE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a penalty may not be imposed under subsection (a) if—

(i) the failure to comply was due to reasonable cause and not to willful neglect; and

(ii) the failure to comply is corrected during the 30-day period beginning on the 1st date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

(B) EXTENSION OF PERIOD.—

(i) NO PENALTY.—The period referred to in subparagraph (A)(ii) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

(ii) ASSISTANCE.—If the Secretary determines that a health plan failed to comply because such plan was unable to comply, the Secretary may provide technical assistance to such plan during the period described in clause (i). Such assistance shall be provided in any manner determined appropriate by the Secretary.

(3) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under subsection (a) that is not entirely waived under paragraph (2) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

PART 7—MISCELLANEOUS PROVISIONS

SEC. 5161. EFFECT ON STATE LAW.

(a) IN GENERAL.—Except as provided in subsection (b), a provision, requirement, or standard under this subtitle shall supersede any contrary provision of State law, including—

(1) a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form, and

(2) a provision of State law which provides for requirements or standards that are more stringent than the requirements or standards under this subtitle;

except where the Secretary determines that the provision is necessary to prevent fraud and abuse, with respect to controlled substances, or for other purposes.

(b) PUBLIC HEALTH REPORTING.—Nothing in this subtitle shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

SEC. 5162. HEALTH INFORMATION CONTINUITY.

(a) HEALTH PLANS.—If a health plan takes any action that would threaten the continued availability of standard data elements of health information held by such plan, such data elements shall be transferred to a health plan in accordance with procedures established by the Secretary.

(b) HEALTH INFORMATION NETWORK SERVICES.—If a certified health information network service loses its certified status or takes any action that would threaten the

continued availability of the standard data elements of health information held by such service, such data elements shall be transferred to another such service, as designated by the Secretary.

SEC. 5163. HEALTH INFORMATION ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established a committee to be known as the Health Information Advisory Committee.

(b) DUTIES.—The committee shall—

(1) provide assistance to the Secretary in complying with the requirements imposed on the Secretary under this subtitle and subtitle C; and

(2) be generally responsible for advising the Secretary and the Congress on the status and the future of the health information network.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The committee shall consist of 15 members to be appointed by the President not later than 60 days after the date of the enactment of this subtitle. The President shall designate 1 member as the Chair.

(2) EXPERTISE.—The membership of the committee shall consist of individuals who are of recognized standing and distinction in the areas of information systems, consumer health, or privacy, and who possess the demonstrated capacity to discharge the duties imposed on the committee.

(3) TERMS.—Each member of the committee shall be appointed for a term of 5 years, except that the members first appointed shall serve staggered terms such that the terms of no more than 3 members expire at one time.

SEC. 5164. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.

Subtitle C—Privacy of Health Information

PART 1—DEFINITIONS

SEC. 5201. DEFINITIONS.

For purposes of this subtitle:

(1) PROTECTED HEALTH INFORMATION.—The term ''protected health information'' means any information, including demographic information collected from an individual, whether oral or recorded in any form or medium, that—

(A) is created or received by a health care provider, health plan, health oversight agency, health researcher, public health authority, employer, life insurer, school or university, or certified health information network service; and

(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and—

(i) identifies an individual; or

(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.

(2) DISCLOSE.—The term ''disclose'', when used with respect to protected health information, means to provide access to the information, but only if such access is provided to a person other than the individual who is the subject of the information.

(3) HEALTH INFORMATION TRUSTEE.—The term ''health information trustee'' means—

(A) a health care provider, health plan, health oversight agency, certified health information network service, employer, life insurer, or school or university insofar as it creates, receives, maintains, uses, or transmits protected health information;

(B) any person who obtains protected health information under section 5213, 5217, 5218, 5221, 5222, 5226, or 5231; and

(C) any employee or agent of a person covered under subparagraphs (A) or (B).

(4) HEALTH OVERSIGHT AGENCY.—The term ''health oversight agency'' means a person who—

(A) performs or oversees the performance of an assessment, evaluation, determination, or investigation relating to the licensing, accreditation, or certification of health care providers; or

(B)(i) performs or oversees the performance of an assessment, evaluation, determination, investigation, or prosecution relating to the effectiveness of, compliance with, or applicability of legal, fiscal, medical, or scientific standards or aspects of performance related to the delivery of, or payment for health care, health services, equipment, or research or relating to health care fraud or fraudulent claims regarding health care, health services or equipment, or related activities and items; and

(ii) is a public agency, acting on behalf of a public agency, acting pursuant to a requirement of a public agency, or carrying out activities under a Federal or State law governing the assessment, evaluation, determination, investigation, or prosecution described in clause (i).

(5) PUBLIC HEALTH AUTHORITY.—The term ''public health authority'' means an authority or instrumentality of the United States, a State, or a political subdivision of a State that is (A) responsible for public health matters; and (B) engaged in such activities as injury reporting, public health surveillance, and public health investigation or intervention.

(6) INDIVIDUAL REPRESENTATIVE.—The term ''individual representative'' means any individual legally empowered to make decisions concerning the provision of health care to an individual (where the individual lacks the legal capacity under State law to make such decisions) or the administrator or executor of the estate of a deceased individual.

(7) PERSON.—The term ''person'' includes an authority of the United States, a State, or a political subdivision of a State.

PART 2—AUTHORIZED DISCLOSURES

Subpart A—General Provisions

SEC. 5206. GENERAL RULES REGARDING DISCLOSURE.

(a) GENERAL RULE.—A health information trustee may disclose protected health information only for a purpose that is authorized under this subtitle.

(b) DISCLOSURE WITHIN A TRUSTEE.—A health information trustee may disclose protected health information to an officer, employee, or agent of the trustee for a purpose that is compatible with and related to the purpose for which the information was collected or received by that trustee.

(c) SCOPE OF DISCLOSURE.—Every disclosure of protected health information by a health information trustee shall be limited to the minimum amount of information necessary to accomplish the purpose for which the information is disclosed.

(d) NO GENERAL REQUIREMENT TO DISCLOSE.—Nothing in this subtitle that permits a disclosure of health information shall be construed to require such disclosure.

(e) USE AND REDISCLOSURE OF INFORMATION.—Protected health information about an individual that is disclosed under this subtitle may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual unless the action or investigation arises out of or is directly related to the law enforcement inquiry for which the information was obtained.

(f) IDENTIFICATION OF DISCLOSED INFORMATION AS PROTECTED INFORMATION.—Except as provided in this subtitle, a health information trustee may not disclose protected health information unless such information is clearly identified as protected health information that is subject to this subtitle.

(g) INFORMATION IN WHICH PROVIDERS ARE IDENTIFIED.—The Secretary may issue regulations protecting information identifying providers in order to promote the availability of health care services.

SEC. 5207. AUTHORIZATIONS FOR DISCLOSURE OF PROTECTED HEALTH INFORMATION.

A health information trustee may disclose protected health information pursuant to an authorization executed by the individual who is the subject of the information pursuant to regulations issued by the Secretary with regard to the form of such authorization, the information that must be provided to the individual for authorization, and the scope of the authorization.

SEC. 5208. CERTIFIED HEALTH INFORMATION NETWORK SERVICES.

A health information trustee may disclose protected health information to a certified health information protection organization for the purpose of creating non-identifiable health information.

Subpart B—Specific Disclosures Relating to Patient

SEC. 5211. DISCLOSURES FOR TREATMENT AND FINANCIAL AND ADMINISTRATIVE TRANSACTIONS.

(a) HEALTH CARE TREATMENT.—A health care provider, health plan, employer, or person who receives protected health information under section 5213, may disclose protected health information to a health care provider for the purpose of providing health care to an individual if the individual who is the subject of the information has been notified of the individual's right to object and has not previously objected in writing to the disclosure.

(b) DISCLOSURE FOR FINANCIAL AND ADMINISTRATIVE PURPOSES.—A health care provider or employer may disclose protected health information to a health care provider or health plan for the purpose of providing for the payment for, or reviewing the payment of, health care furnished to an individual.

SEC. 5212. NEXT OF KIN AND DIRECTORY INFORMATION.

(a) NEXT OF KIN.—A health care provider or person who receives protected health information under section 5213 may disclose protected health information to the next of kin, an individual representative of the individual who is the subject of the information, or an individual with whom that individual has a close personal relationship if—

(1) the individual who is the subject of the information—

(A) has been notified of the individual's right to object and has not objected to the disclosure;

(B) is not competent to be notified about the right to object; or

(C) exigent circumstances exist such that it would not be practicable to notify the individual of the right to object; and

(2) the information disclosed relates to health care currently being provided to that individual.

(b) DIRECTORY INFORMATION.—A health care provider and a person receiving protected health information under section 5213 may disclose protected health information to any person if—

(1) the information does not reveal specific information about the physical or mental condition of the individual who is the subject of the information or health care provided to that person;

(2) the individual who is the subject of the information—

(A) has been notified of the individual's right to object and has not objected to the disclosure;

(B) is not competent to be notified about the right to object; or

(C) exigent circumstances exist such that it would not be practicable to notify the individual of the right to object; and

(3) the information consists only of 1 or more of the following items:

(A) The name of the individual who is the subject of the information.

(B) If the individual who is the subject of the information is receiving health care from a health care provider on a premises controlled by the provider—

(i) the location of the individual on the premises; and

(ii) the general health status of the individual, described as critical, poor, fair, stable, or satisfactory or in terms denoting similar conditions.

(c) IDENTIFICATION OF DECEASED INDIVIDUAL.—A health care provider, health plan, employer, or life insurer, may disclose protected health information if necessary to assist in the identification of a deceased individual.

SEC. 5213. EMERGENCY CIRCUMSTANCES.

A health care provider, health plan, employer, or person who receives protected health information under this section may disclose protected health information in emergency circumstances where there is a reasonable belief that such information is needed to protect the health or safety of an individual from imminent harm.

Subpart C—Disclosure for Oversight, Public Health, and Research Purposes

SEC. 5216. OVERSIGHT.

(a) IN GENERAL.—A health information trustee may disclose protected health information to a health oversight agency for an oversight function authorized by law.

(b) USE IN ACTION AGAINST INDIVIDUALS.—Notwithstanding section 5206(e), protected health information about an individual that is disclosed under this section may be used in, or disclosed in, an administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information if the action or investigation arises out of or is directly related to—

(1) receipt of health care or payment for health care;

(2) an action involving a fraudulent claim related to health; or

(3) an action involving a misrepresentation of the health of the individual who is the subject of the information.

SEC. 5217. PUBLIC HEALTH.

A health care provider, health plan, public health authority, employer, or person who receives protected health information under section 5213 may disclose protected health information to a public health authority or other person authorized by law for use in a legally authorized—

(1) disease or injury reporting;

(2) public health surveillance; or

(3) public health investigation or intervention.

SEC. 5218. HEALTH RESEARCH.

(a) IN GENERAL.—A health information trustee may disclose protected health information to a health researcher if an institutional review board determines that the research project engaged in by the health researcher—

(1) requires use of the protected health information for the effectiveness of the project; and

(2) is of sufficient importance to outweigh the intrusion into the privacy of the individual who is the subject of the information that would result from the disclosure.

(b) RESEARCH REQUIRING DIRECT CONTACT.—A health care provider or health plan may disclose protected health information to a health researcher for a research project that includes direct contact with an individual who is the subject of protected health information if an institutional review board determines that direct contact is necessary and will be made in a manner that minimizes the risk of harm, embarrassment, or other adverse consequences to the individual.

(c) SPECIAL RULE FOR TRUSTEES OTHER THAN ACADEMIC CENTERS OR HEALTH CARE FACILITIES.—If a health researcher described in subsection (a) or (b) is not an academic center or a health care facility, the determinations required by an institutional review board shall be made by such a board that is certified by the Secretary.

(d) USE OF HEALTH INFORMATION NETWORK.—A health information trustee may disclose protected health information to a health researcher using the health information network only if the research project satisfies requirements established by the Secretary for protecting the confidentiality of information in the health information network.

Subpart D—Disclosure For Judicial, Administrative, and Law Enforcement Purposes

SEC. 5221. JUDICIAL AND ADMINISTRATIVE PURPOSES.

A health care provider, health plan, health oversight agency, employer, or life insurer may disclose protected health information in connection with litigation or proceedings to which the individual who is the subject of the information—

(1) is a party and in which the individual has placed the individual's physical or mental condition in issue; or

(2) is deceased and in which the individual's physical or mental condition is in issue.

SEC. 5222. LAW ENFORCEMENT.

A health care provider, health plan, health oversight agency, employer, life insurer, or person who receives protected health information under section 5213 may disclose protected health information to a law enforcement agency (other than a health oversight agency governed by section 5216) if the information is requested for use—

(1) in an investigation or prosecution of a health information trustee;

(2) in the identification of a victim or witness in a law enforcement inquiry;

(3) in connection with the investigation of criminal activity committed against the trustee or on premises controlled by the trustee; or

(4) in the investigation or prosecution of criminal activity relating to or arising from the provision of health care or payment for health care.

Subpart E—Disclosure Pursuant to Government Subpoena or Warrant

SEC. 5226. GOVERNMENT SUBPOENAS AND WARRANTS.

A health care provider, health plan, health oversight agency, employer, life insurer, or person who receives protected health information under section 5213 shall disclose protected health information under this section if the disclosure is pursuant to—

(1) a subpoena issued under the authority of a grand jury;

(2) an administrative subpoena or summons or a judicial subpoena or warrant; or

(3) an administrative subpoena or summons, a judicial subpoena or warrant, or a grand jury subpoena, and the disclosure otherwise meets the conditions of section 5216, 5217, 5218, 5221, or 5222.

SEC. 5227. ACCESS PROCEDURES FOR LAW ENFORCEMENT SUBPOENAS AND WARRANTS.

(a) PROBABLE CAUSE REQUIREMENT.—A government authority may not obtain protected health information about an individual under paragraph (1) or (2) of section 5226 for use in a law enforcement inquiry unless there is probable cause to believe that the information is relevant to a legitimate law enforcement inquiry being conducted by the government authority.

(b) WARRANTS.—A government authority that obtains protected health information about an individual under circumstances described in subsection (a) and pursuant to a warrant shall, not later than 30 days after the date the warrant was executed, serve the individual with, or mail to the last known address of the individual, a notice that protected health information about the individual was so obtained, together with a notice of the individual's right to challenge the warrant.

(c) SUBPOENA OR SUMMONS.—Except as provided in subsection (d), a government authority may not obtain protected health information about an individual under circumstances described in subsection (a) and pursuant to a subpoena or summons unless a copy of the subpoena or summons has been served on the individual, if the identity of the individual is known, on or before the date of return of the subpoena or summons, together with notice of the individual's right to challenge the subpoena or summons. If the identity of the individual is not known at the time the subpoena or summons is served, the individual shall be served not later than 30 days thereafter, with notice that protected health information about the individual was so obtained together with notice of the individual's right to challenge the subpoena or summons.

(d) APPLICATION FOR DELAY.—

(1) IN GENERAL.—A government authority may apply ex parte and under seal to an appropriate court to delay serving a notice or copy of a warrant, subpoena, or summons required under subsection (b) or (c).

(2) EX PARTE ORDER.—The court shall enter an ex parte order delaying or extending the delay of notice, an order prohibiting the disclosure of the request for, or disclosure of, the protected health information, and an order requiring the disclosure of the protected health information if the court finds that—

(A) the inquiry being conducted is within the lawful jurisdiction of the government authority seeking the protected health information;

(B) there is probable cause to believe that the protected health information being sought is relevant to a legitimate law enforcement inquiry;

(C) the government authority's need for the information outweighs the privacy interest of the individual who is the subject of the information; and

(D) there is reasonable ground to believe that receipt of notice by the individual will result in—

(i) endangering the life or physical safety of any individual;

(ii) flight from prosecution;

(iii) destruction of or tampering with evidence or the information being sought;

(iv) intimidation of potential witnesses; or

(v) disclosure of the existence or nature of a confidential law enforcement investigation or grand jury investigation is likely to seriously jeopardize such investigation.

SEC. 5228. CHALLENGE PROCEDURES FOR LAW ENFORCEMENT WARRANTS, SUBPOENAS, AND SUMMONS.

(a) MOTION TO QUASH.—Within 15 days after the date of service of a notice of execution or

a copy of a warrant, subpoena, or summons of a government authority seeking protected health information about an individual under paragraph (1) or (2) of section 5226, the individual may file a motion to quash.

(b) STANDARD FOR DECISION.—The court shall grant a motion under subsection (a) unless the government demonstrates that there is probable cause to believe the protected health information is relevant to a legitimate law enforcement inquiry being conducted by the government authority and the government authority's need for the information outweighs the privacy interest of the individual.

(c) ATTORNEY'S FEES.—In the case of a motion brought under subsection (a) in which the individual has substantially prevailed, the court may assess against the government authority a reasonable attorney's fee and other litigation costs (including expert's fees) reasonably incurred.

(d) NO INTERLOCUTORY APPEAL.—A ruling denying a motion to quash under this section shall not be deemed to be a final order, and no interlocutory appeal may be taken therefrom by the individual.

Subpart F—Disclosure Pursuant to Party Subpoena

SEC. 5231. PARTY SUBPOENAS.

A health care provider, health plan, employer, life insurer, or person who receives protected health information under section 5213 may disclose protected health information under this section if the disclosure is pursuant to a subpoena issued on behalf of a party who has complied with the access provisions of section 5232.

SEC. 5232. ACCESS PROCEDURES FOR PARTY SUBPOENAS.

A party may not obtain protected health information about an individual pursuant to a subpoena unless a copy of the subpoena together with a notice of the individual's right to challenge the subpoena in accordance with section 5233 has been served upon the individual on or before the date of return of the subpoena.

SEC. 5233. CHALLENGE PROCEDURES FOR PARTY SUBPOENAS.

(a) MOTION TO QUASH SUBPOENA.—After service of a copy of the subpoena seeking protected health information under section 5231, the individual who is the subject of the protected health information may file in any court of competent jurisdiction a motion to quash the subpoena.

(b) STANDARD FOR DECISION.—The court shall grant a motion under subsection (a) unless the respondent demonstrates that—

(1) there is reasonable ground to believe the information is relevant to a lawsuit or other judicial or administrative proceeding; and

(2) the need of the respondent for the information outweighs the privacy interest of the individual.

(c) ATTORNEY'S FEES.—In the case of a motion brought under subsection (a) in which the individual has substantially prevailed, the court may assess against the respondent a reasonable attorney's fee and other litigation costs and expenses (including expert's fees) reasonably incurred.

PART 3—PROCEDURES FOR ENSURING SECURITY OF PROTECTED HEALTH INFORMATION

Subpart A—Establishment of Safeguards

SEC. 5236. ESTABLISHMENT OF SAFEGUARDS.

A health information trustee shall establish and maintain appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of protected health information created or received by the trustee.

SEC. 5237. ACCOUNTING FOR DISCLOSURES.

A health information trustee shall create and maintain, with respect to any protected health information disclosed in exceptional circumstances, a record of the disclosure in accordance with regulations issued by the Secretary.

Subpart B—Review of Protected Health Information By Subjects of the Information

SEC. 5241. INSPECTION OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—Except as provided in subsection (b), a health care provider or health plan shall permit an individual who is the subject of protected health information or the individual's designee to inspect any such information that the provider or plan maintains. A health care provider or health plan may require an individual to reimburse the provider or plan for the cost of such inspection.

(b) EXCEPTIONS.—A health care provider or health plan is not required by this section to permit inspection or copying of protected health information if any of the following conditions apply:

(1) MENTAL HEALTH TREATMENT NOTES.—The information consists of psychiatric, psychological, or mental health treatment notes, and the provider or plan determines, based on reasonable medical judgment, that inspection or copying of the notes would cause sufficient harm.

(2) ENDANGERMENT TO LIFE OR SAFETY.—The provider or plan determines that disclosure of the information could reasonably be expected to endanger the life or physical safety of any individual.

(3) CONFIDENTIAL SOURCE.—The information identifies or could reasonably lead to the identification of a person (other than a health care provider) who provided information under a promise of confidentiality to a health care provider concerning the individual who is the subject of the information.

(4) ADMINISTRATIVE PURPOSES.—The information is used by the provider or plan solely for administrative purposes and not in the provision of health care to the individual who is the subject of the information.

(c) DEADLINE.—A health care provider or health plan shall comply with or deny (with a statement of the reasons for such denial) a request for inspection or copying of protected health information under this section within the 30-day period beginning on the date on which the provider or plan receives the request.

SEC. 5242. AMENDMENT OF PROTECTED HEALTH INFORMATION.

A health care provider or health plan shall, within 45 days after receiving a written request to correct or amend protected health information from the individual who is the subject of the information—

(1) correct or amend such information; or

(2) provide the individual with a statement of the reasons for refusing to correct or amend such information and include a copy of such statement in the provider's or plan's records.

SEC. 5243. NOTICE OF INFORMATION PRACTICES.

A health care provider or health plan shall provide written notice of the provider's or plan's information practices, including notice of individual rights with respect to protected health information.

Subpart C—Standards for Electronic Disclosures

SEC. 5246. STANDARDS FOR ELECTRONIC DISCLOSURES.

The Secretary shall promulgate standards for disclosing protected health information in accordance with this subtitle in electronic form.

PART 4—SANCTIONS

Subpart A—No Sanctions for Permissible Actions

SEC. 5251. NO LIABILITY FOR PERMISSIBLE DISCLOSURES.

A health information trustee who makes a disclosure of protected health information about an individual that is permitted by this subtitle shall not be liable to the individual for the disclosure under common law and shall not be subject to criminal prosecution under this subtitle.

Subpart B—Civil Sanctions

SEC. 5256. CIVIL PENALTY.

(a) VIOLATION.—Any health information trustee who the Secretary determines has substantially and materially failed to comply with this subtitle shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $10,000 for each such violation.

(b) PROCEDURES FOR IMPOSITION OF PENALTIES.—Section 1128A of the Social Security Act, other than subsections (a) and (b) and the second sentence of subsection (f) of that section, shall apply to the imposition of a civil monetary penalty under this section in the same manner as such provisions apply with respect to the imposition of a penalty under section 1128A of such Act.

SEC. 5257. CIVIL ACTION.

(a) IN GENERAL.—An individual who is aggrieved by negligent conduct in violation of this subtitle may bring a civil action to recover—

(1) the greater of actual damages or liquidated damages of $5,000, not to exceed $50,000;

(2) punitive damages;

(3) a reasonable attorney's fee and expenses of litigation;

(4) costs of litigation; and

(5) such preliminary and equitable relief as the court determines to be appropriate.

(b) LIMITATION.—No action may be commenced under this section more than 3 years after the date on which the violation was or should reasonably have been discovered.

Subpart C—Criminal Sanctions

SEC. 5261. WRONGFUL DISCLOSURE OF PROTECTED HEALTH INFORMATION.

(a) OFFENSE.—A person who knowingly—

(1) obtains protected health information relating to an individual in violation of this subtitle; or

(2) discloses protected health information to another person in violation of this subtitle,

shall be punished as provided in subsection (b).

(b) PENALTIES.—A person described in subsection (a) shall—

(1) be fined not more than $50,000, imprisoned not more than 1 year, or both;

(2) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both; and

(3) if the offense is committed with intent to sell, transfer, or use protected health information for commercial advantage, personal gain, or malicious harm, fined not more than $250,000, imprisoned not more than 10 years, or both.

PART 5—ADMINISTRATIVE PROVISIONS

SEC. 5266. RELATIONSHIP TO OTHER LAWS.

(a) STATE LAW.—Except as provided in subsections (b), (c), and (d), this subtitle preempts State law.

(b) LAWS RELATING TO PUBLIC OR MENTAL HEALTH.—Nothing in this subtitle shall be construed to preempt or operate to the exclusion of any State law relating to public

health or mental health that prevents or regulates disclosure of protected health information otherwise allowed under this subtitle.

(c) PRIVILEGES.—Nothing in this subtitle is intended to preempt or modify State common or statutory law to the extent such law concerns a privilege of a witness or person in a court of the State. This subtitle does not supersede or modify Federal common or statutory law to the extent such law concerns a privilege of a witness or person in a court of the United States. Authorizations pursuant to section 5207 shall not be construed as a waiver of any such privilege.

(d) CERTAIN DUTIES UNDER STATE OR FEDERAL LAW.—This subtitle shall not be construed to preempt, supersede, or modify the operation of—

(1) any law that provides for the reporting of vital statistics such as birth or death information;

(2) any law requiring the reporting of abuse or neglect information about any individual;

(3) subpart II of part E of title XXVI of the Public Health Service Act (relating to notifications of emergency response employees of possible exposure to infectious diseases); or

(4) any Federal law or regulation governing confidentiality of alcohol and drug patient records.

SEC. 5267. RIGHTS OF INCOMPETENTS.

(a) EFFECT OF DECLARATION OF INCOMPETENCE.—Except as provided in section 5268, if an individual has been declared to be incompetent by a court of competent jurisdiction, the rights of the individual under this subtitle shall be exercised and discharged in the best interests of the individual through the individual's representative.

(b) NO COURT DECLARATION.—Except as provided in section 5268, if a health care provider determines that an individual, who has not been declared to be incompetent by a court of competent jurisdiction, suffers from a medical condition that prevents the individual from acting knowingly or effectively on the individual's own behalf, the right of the individual to authorize disclosure may be exercised and discharged in the best interest of the individual by the individual's representative.

SEC. 5268. EXERCISE OF RIGHTS.

(a) INDIVIDUALS WHO ARE 18 OR LEGALLY CAPABLE.—In the case of an individual—

(1) who is 18 years of age or older, all rights of the individual shall be exercised by the individual; or

(2) who, acting alone, has the legal right, as determined by State law, to apply for and obtain a type of medical examination, care, or treatment and who has sought such examination, care, or treatment, the individual shall exercise all rights of an individual under this subtitle with respect to protected health information relating to such examination, care, or treatment.

(b) INDIVIDUALS UNDER 18.—Except as provided in subsection (a)(2), in the case of an individual who is—

(1) under 14 years of age, all the individual's rights under this subtitle shall be exercised through the parent or legal guardian of the individual; or

(2) 14, 15, 16, or 17 years of age, the rights of inspection and amendment, and the right to authorize disclosure of protected health information of the individual may be exercised either by the individual or by the parent or legal guardian of the individual.

Subtitle D—Health Care Fraud Prevention

SEC. 5301. SHORT TITLE.

This title may be cited as the ''Health Care Fraud Prevention Act of 1995''.

PART A—ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM

SEC. 5311. 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 title 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,

(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, and

(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 5313.

(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), 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 Act 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 5311(b) and 5312(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 part.

(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. 5312. 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.

SEC. 5313. HEALTH CARE FRAUD AND ABUSE GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act the (42 U.S.C. 1320a–7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a–7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL STATE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (hereafter in this section referred to as the ''Inspector General'') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Government health care programs.

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Government health care programs.

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (hereafter in this section referred to as an ''interpretive ruling'').

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling in response to a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this provision shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) (hereafter in this subsection referred to as a ''special fraud alert'').

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall in consultation with the Attorney General, issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. 5314. REPORTING OF FRAUDULENT ACTIONS UNDER MEDICARE.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a program through which individuals entitled to benefits under the medicare program may report to the Secretary on a confidential basis (at the individual's request) instances of suspected fraudulent actions arising under the program by providers of items and services under the program.

PART B—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 5321. 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. 5322. 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. 5323. 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. 5324. 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. 5325. 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. 5326. EFFECTIVE DATE.

The amendments made by this part shall take effect January 1, 1996.

PART C—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 5331. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database. The amount of such a fee may not exceed the costs of processing the requests for disclosure and of providing such information. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1) The term ''final adverse action'' includes:

(A) Civil judgments against a health care provider in Federal or State court related to the delivery of a health care item or service.

(B) Federal or State criminal convictions related to the delivery of a health care item or service.

(C) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(i) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(ii) any other loss of license of the provider, supplier, or practitioner, by operation of law, or

(iii) any other negative action or finding by such Federal or State agency that is publicly available information.

(D) Exclusion from participation in Federal or State health care programs.

(E) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(2) The terms ''licensed health care practitioner'', ''licensed practitioner'', and ''practitioner'' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term ''health care provider'' means a provider of services as defined in section 1861(u) of the Social Security Act, and any entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term ''supplier'' means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act.

(5) The term ''Government agency'' shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term ''health plan'' has the meaning given to such term by section 1128(i) of the Social Security Act.

(7) For purposes of paragraph (2), the existence of a conviction shall be determined under paragraph (4) of section 1128(j) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) of the Social Security Act is amended by inserting ''and section 301 of the Health Care Fraud Prevention Act of 1995'' after ''section 422 of the Health Care Quality Improvement Act of 1986''.

PART D—CIVIL MONETARY PENALTIES

SEC. 5341. 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) 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.''.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

PART E—AMENDMENTS TO CRIMINAL LAW

SEC. 5351. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 1347. Health care fraud

''(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

''(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person shall be imprisoned for any term of years.

''(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128(i) of the Social Security Act.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1347. Health care fraud.''.

(b) CRIMINAL FINES DEPOSITED IN THE HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section 5311(b) an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 5352. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

''(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that—

''(i) is used in the commission of the offense if the offense results in a financial loss or gain of $50,000 or more; or

''(ii) constitutes or is derived from proceeds traceable to the commission of the offense.

''(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

''(i) section 1347 of this title;

''(ii) section 1128B of the Social Security Act;

''(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title if the violation or conspiracy relates to health care fraud; and

''(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud.''.

(b) PROPERTY FORFEITED DEPOSITED IN HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section 5311(b) an amount equal to amounts resulting from forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

SEC. 5353. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by inserting ''or'' at the end of subparagraph (B); and

(3) by adding at the end the following:

''(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);''.

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting ''or a Federal health care offense (as defined in section 982(a)(6)(B))'' after ''title)''.

SEC. 5354. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

''(1) received in the course of duty as an attorney for the Government; or

''(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.''.

SEC. 5355. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47, of title 18, United States Code, is amended by adding at the end the following:

''§ 1033. False statements relating to health care matters

''Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United State Code, in amended by adding at the end the following:

''1033. False statements relating to health care matters.''.

SEC. 5356. VOLUNTARY DISCLOSURE PROGRAM.

In consultation with the Attorney General of the United States, the Secretary of Health and Human Services shall publish proposed regulations not later than 9 months after the date of enactment of this Act, and final regulations not later than 18 months after such date of enactment, establishing a program of voluntary disclosure that would facilitate the enforcement of sections 1128A and 1128B of the Social Security Act (42 U.S.C. 1320a-7a and 1320a-7b) and other relevant provisions of Federal law relating to health care fraud and abuse. Such program should promote and provide incentives for disclosures of potential violations of such sections and provisions by providing that, under certain circumstances, the voluntary disclosure of wrongdoing would result in the imposition of penalties and punishments less substantial than those that would be assessed for the same wrongdoing if voluntary disclosure did not occur.

SEC. 5357. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.

''(a) IN GENERAL.—Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) FEDERAL HEALTH CARE OFFENSE.—As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

''(c) CRIMINAL INVESTIGATOR.—As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United State Code, in amended by adding at the end the following:

''1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.''.

SEC. 5358. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 669. Theft or Embezzlement in Connection with Health Care.

''(a) IN GENERAL.—Whoever willfully embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care benefit program, shall be fined under this title or imprisoned not more than 10 years, or both.

''(b) FEDERAL HEALTH CARE OFFENSE.—As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United State Code, in amended by adding at the end the following:

''669. Theft or Embezzlement in Connection with Health Care.''.

SEC. 5359. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

''(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.''.

PART F—PAYMENTS FOR STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 5361. 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 part.

(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 part.

SEC. 5362. 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 5364(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 5311.

SEC. 5363. 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. 5364. 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 5362(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 part 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—MALPRACTICE REFORM

SEC. 6001. ALTERNATIVE DISPUTE RESOLUTION.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (hereafter referred to in this title as the ''Secretary'') shall establish a program of grants to assist States in establishing alternative dispute resolution systems.

(b) USE OF FUNDS.—A State may use a grant awarded under subsection (a) to establish alternative dispute resolution systems that—

(1) identify claims of professional negligence that merit compensation;

(2) encourage early resolution of meritorious claims prior to commencement of a lawsuit; and

(3) encourage early withdrawal or dismissal of nonmeritorious claims.

(c) AWARD OF GRANTS.—The Secretary shall allocate grants under this section in accordance with criteria issued by the Secretary.

(d) APPLICATION.—To be eligible to receive a grant under this section, a State, acting through the appropriate State health authority, shall submit an application at such time, in such manner, and containing such agreements, assurances, and information as the Assistant Secretary determines to be necessary to carry out this section, including an assurance that the State system meets the requirements of section 6002.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the 1996 through 1999 fiscal years.

SEC. 6002. BASIC REQUIREMENTS.

A State's alternative dispute resolution system meets the requirements of this section if the system—

(1) applies to all medical malpractice liability claims under the jurisdiction of the courts of that State;

(2) requires that a written opinion resolving the dispute be issued not later than 6 months after the date by which each party against whom the claim is filed has received notice of the claim (other than in exceptional cases for which a longer period is required for the issuance of such an opinion), and that the opinion contain—

(A) findings of fact relating to the dispute, and

(B) a description of the costs incurred in resolving the dispute under the system (including any fees paid to the individuals hearing and resolving the claim), together with an appropriate assessment of the costs against any of the parties;

(3) requires individuals who hear and resolve claims under the system to meet such qualifications as the State may require (in accordance with regulations of the Secretary);

(4) is approved by the State or by local governments in the State;

(5) with respect to a State system that consists of multiple dispute resolution procedures—

(A) permits the parties to a dispute to select the procedure to be used for the resolution of the dispute under the system, and

(B) if the parties do not agree on the procedure to be used for the resolution of the dispute, assigns a particular procedure to the parties;

(6) provides for the transmittal to the State agency responsible for monitoring or disciplining health care professionals and health care providers of any findings made under the system that such a professional or provider committed malpractice, unless, during the 90-day period beginning on the date the system resolves the claim against the professional or provider, the professional or provider brings an action contesting the decision made under the system; and

(7) provides for the regular transmittal to the Administrator for Health Care Policy and Research of information on disputes resolved under the system, in a manner that assures that the identity of the parties to a dispute shall not be revealed.

SEC. 6003. ALTERNATIVE DISPUTE RESOLUTION ADVISORY BOARD.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish an Alternative Dispute Resolution Advisory Board to advise the Secretary regarding the establishment of alternative dispute resolution systems at the State and Federal levels.

(b) COMPOSITION.—The ADR Advisory Board shall be composed of members appointed by the Secretary from among representatives of the following:

(1) Physicians.

(2) Hospitals.

(3) Patient advocacy groups.

(4) State governments.

(5) Academic experts from applicable disciplines (including medicine, law, public health, and economics) and specialists in arbitration and dispute resolution.

(6) Health insurers and medical malpractice insurers.

(7) Medical product manufacturers.

(8) Pharmaceutical companies.

(9) Other professions and groups determined appropriate by the Secretary.

(c) DUTIES.—The ADR Advisory Board shall—

(1) examine various dispute resolution systems and provide advice and assistance to States regarding the establishment of such systems;

(2) not later than 1 year after the appointment of its members, submit to the Secretary—

(A) a model alternative dispute resolution system that may be used by a State for purposes of this title, and

(B) a model alternative Federal system that may be used by the Secretary; and

(3) review the applications of States for certification of State alternative dispute resolution systems and make recommendations to the Secretary regarding whether the systems should be certified under section 6004.

SEC. 6004. CERTIFICATION OF STATE SYSTEMS; APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.

(a) CERTIFICATION.—

(1) APPLICATION BY STATE.—Each State shall submit an application to the ADR Advisory Board describing its alternative dispute resolution system and containing such information as the ADR Advisory Board may require to make a recommendation regarding whether the system meets the requirements of this title.

(2) BASIS FOR CERTIFICATION.—Not later than October 1 of each year (beginning with 1995), the Secretary, taking into consideration the recommendations of the ADR Advisory Board, shall certify a State's alternative dispute resolution system under this subsection for the following calendar year if the Secretary determines that the system meets the requirements of section 6002.

(b) APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.—

(1) ESTABLISHMENT AND APPLICABILITY.—Not later than October 1, 1995, the Secretary, taking into consideration the model alternative Federal system submitted by the ADR Advisory Board under section 6003(c)(2)(B), shall establish by rule an alternative Federal ADR system for the resolution of medical malpractice liability claims during a calendar year in States that do not have in effect an alternative dispute resolution system certified under subsection (a) for the year.

(2) REQUIREMENTS FOR SYSTEM.—Under the alternative Federal ADR system established under paragraph (1)—

(A) paragraphs (1), (2), (6), and (7) of section 6002(a) shall apply to claims brought under the system;

(B) if the system provides for the resolution of claims through arbitration, the claims brought under the system shall be heard and resolved by arbitrators appointed by the Secretary in consultation with the Attorney General; and

(C) with respect to a State in which the system is in effect, the Secretary may (at the State's request) modify the system to take into account the existence of dispute resolution procedures in the State that affect the resolution of medical malpractice liability claims.

(3) TREATMENT OF STATES WITH ALTERNATIVE SYSTEM IN EFFECT.—If the alternative

Federal ADR system established under this subsection is applied with respect to a State for a calendar year, the State shall make a payment to the United States (at such time and in such manner as the Secretary may require) in an amount equal to 110 percent of the costs incurred by the United States during the year as a result of the application of the system with respect to the State.

SEC. 6005. REPORTS ON IMPLEMENTATION AND EFFECTIVENESS OF ALTERNATIVE DISPUTE RESOLUTION SYSTEMS.

(a) IN GENERAL.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a report describing and evaluating State alternative dispute resolution systems operated pursuant to this title and the alternative Federal system established under section 6004(b).

(b) CONTENTS OF REPORT.—The Secretary shall include in the report prepared and submitted under subsection (a)—

(1) information on—

(A) the effect of the alternative dispute resolution systems on the cost of health care within each State,

(B) the impact of such systems on the access of individuals to health care within the State, and

(C) the effect of such systems on the quality of health care provided within the State; and

(2) to the extent that such report does not provide information on no-fault systems operated by States as alternative dispute resolution systems pursuant to this part, an analysis of the feasibility and desirability of establishing a system under which medical malpractice liability claims shall be resolved on a no-fault basis.

SEC. 6006. OPTIONAL APPLICATION OF PRACTICE GUIDELINES.

(a) DEVELOPMENT AND CERTIFICATION OF GUIDELINES.—Each State may develop, for certification by the Secretary if the Secretary determines appropriate, a set of specialty clinical practice guidelines.

(b) PROVISION OF HEALTH CARE UNDER GUIDELINES.—Notwithstanding any other provision of law, in any medical malpractice liability action arising from the conduct of a health care provider or health care professional, if such conduct was in accordance with a guideline developed by the State in which the conduct occurred and certified by the Secretary under subsection (a), the guideline—

(1) may be introduced by any party to the action (including a health care provider, health care professional, or patient); and

(2) if introduced, shall establish a rebuttable presumption that the conduct was in accordance with the appropriate standard of medical care, which may only be overcome by the presentation of clear and convincing evidence on behalf of the party against whom the presumption operates.

(c) RESTRICTION ON PARAMETERS CONSIDERED APPROPRIATE.—

(1) PARAMETERS SANCTIONED BY SECRETARY.—For purposes of subsection (a), a specialty clinical practice guideline may not be considered appropriate with respect to actions brought during a year unless the Secretary has sanctioned the use of the guideline for purposes of an affirmative defense to medical malpractice liability actions brought during the year in accordance with paragraph (2).

(2) PROCESS FOR SANCTIONING PARAMETERS.—Not less frequently than October 1 of each year (beginning with 1996), the Secretary shall review the practice guidelines and standards submitted by the State under subsection (a), and shall sanction those guidelines which the Secretary considers appropriate for purposes of an affirmative defense to medical malpractice liability actions brought during the next calendar year as appropriate practice parameters for purposes of subsection (a).

(d) PROHIBITING APPLICATION OF FAILURE TO FOLLOW PARAMETERS AS PRIMA FACIE EVIDENCE OF NEGLIGENCE.—No plaintiff in a medical malpractice liability action may be deemed to have presented prima facie evidence that a defendant was negligent solely by showing that the defendant failed to follow the appropriate practice guidelines.

TITLE VII—HEALTH PROMOTION AND DISEASE PREVENTION

SEC. 7001. DISEASE PREVENTION AND HEALTH PROMOTION PROGRAMS TREATED AS MEDICAL CARE.

(a) IN GENERAL.—For purposes of section 213(d)(1) of the Internal Revenue Code of 1986 (defining medical care), qualified expenditures (as defined by the Secretary of Health and Human Services) for disease prevention and health promotion programs shall be considered amounts paid for medical care.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to amounts paid in taxable years beginning after December 31, 1995.

SEC. 7002. WORKSITE WELLNESS GRANT PROGRAM.

(a) GRANTS.—The Secretary of Health and Human Services (hereafter referred to in this title as the ''Secretary'') shall award grants to States (through State health departments or other State agencies working in consultation with the State health agency) to enable such States to provide assistance to businesses with not to exceed 100 employees for the establishment and operation of worksite wellness programs for their employees.

(b) APPLICATION.—To be eligible for a grant under subsection (a), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the manner in which the State intends to use amounts received under the grant; and

(2) assurances that the State will only use amounts provided under such grant to provide assistance to businesses that can demonstrate that they are in compliance with minimum program characteristics (relative to scope and regularity of services offered) that are developed by the Secretary in consultation with experts in public health and representatives of small business.

Grants shall be distributed to States based on the population of individuals employed by small businesses.

(c) PROGRAM CHARACTERISTICS.—In developing minimum program characteristics under subsection (b)(2), the Secretary shall ensure that all activities established or enhanced under a grant under this section have clearly defined goals and objectives and demonstrate how receipt of such assistance will help to achieve established State or local health objectives based on the National Health Promotion and Disease Prevention Objectives.

(d) USE OF FUNDS.—Amounts received under a grant awarded under subsection (a) shall be used by a State to provide grants to businesses (as described in subsection (a)), nonprofit organizations, or public authorities, or to operate State-run worksite wellness programs.

(e) SPECIAL EMPHASIS.—In funding business worksite wellness projects under this section, a State shall give special emphasis to—

(1) the development of joint wellness programs between employers;

(2) the development of employee assistance programs dealing with substance abuse;

(3) maximizing the use and coordination with existing community resources such as nonprofit health organizations; and

(4) encourage participation of dependents of employees and retirees in wellness programs.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary in each of the fiscal years 1995 through 1999.

SEC. 7003. EXPANDING AND IMPROVING SCHOOL HEALTH EDUCATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (b), such sums as may be necessary for each of the fiscal years 1995 through 1999.

(b) GENERAL USE OF FUNDS.—The Secretary shall use amounts appropriated under subsection (a) to expand comprehensive school health education programs administered by the Centers for Disease Control and Prevention under sections 301 and 311 of the Public Health Service Act (42 U.S.C. 241 and 243).

(c) SPECIFIC USE OF FUNDS.—In meeting the requirement of subsection (b), the Secretary shall expand the number of children receiving planned, sequential kindergarten through 12th grade comprehensive school education as a component of comprehensive programs of school health, including

(1) physical education programs that promote lifelong physical activity;

(2) healthy school food service selections;

(3) programs that promote a healthy and safe school environment;

(4) schoolsite health promotion for faculty and staff;

(5) integrated school and community health promotion efforts; and

(6) school nursing disease prevention and health promotion services.

(d) COORDINATION OF EXISTING PROGRAMS.—The Secretary of Health and Human Services, the Secretary of Education and the Secretary of Agriculture shall work cooperatively to coordinate existing school health education programs within their Departments in a manner that maximized the efficiency and effectiveness of Federal expenditures in this area.

TITLE VIII—TAX INCENTIVES FOR LONG-TERM CARE

SEC. 8001. SHORT TITLE.

This title may be cited as the ''Private Long-Term Care Family Protection Act of 1995''.

SEC. 8002. 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—Tax Treatment of Long-Term Care Insurance

SEC. 8101. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking ''or'' at the end of subparagraph (B), by striking subparagraph (C), and by inserting after subparagraph (B) the following new subparagraphs:

''(C) for qualified long-term care services (as defined in subsection (f)),

''(D) for insurance covering medical care referred to in—

''(i) subparagraphs (A) and (B), or

''(ii) subparagraph (C), but only if such insurance is provided under a qualified long-term care insurance policy (as defined in section 7702B(b)) and the deduction under this section for amounts paid for such insurance is not disallowed under section 7702B(d)(4), or

''(E) for premiums under part B of title XVIII of the Social Security Act, relating to

supplementary medical insurance for the aged.''.

(b) QUALIFIED LONG-TERM CARE SERVICES DEFINED.—Section 213 (relating to the deduction for medical, dental, etc., expenses) is amended by adding at the end the following new subsection:

''(f) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, curing, mitigating, treating, preventive, therapeutic, and rehabilitative services, and maintenance and personal care services (whether performed in a residential or nonresidential setting), which—

''(A) are required by an individual during any period the individual is an incapacitated individual (as defined in paragraph (2)),

''(B) have as their primary purpose—

''(i) the provision of needed assistance with 1 or more activities of daily living (as defined in paragraph (3)), or

''(ii) protection from threats to health and safety due to severe cognitive impairment, and

''(C) are provided pursuant to a continuing plan of care prescribed by a licensed professional (as defined in paragraph (4)).

''(2) INCAPACITATED INDIVIDUAL.—The term 'incapacitated individual' means any individual who has been certified by a licensed professional as—

''(A) being unable to perform, without substantial assistance from another individual, at least 2 activities of daily living (as defined in paragraph (3)),

''(B) having moderate cognitive impairment as defined by the Secretary in consultation with the Secretary of Health and Human Services, or

''(C) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in subparagraph (A).

''(3) ACTIVITIES OF DAILY LIVING.—

''(A) IN GENERAL.—Each of the following is an activity of daily living:

''(i) Eating.

''(ii) Toileting.

''(iii) Transferring.

''(iv) Bathing.

''(v) Dressing.

''(vi) Continence.

''(B) DEFINITIONS.—For purposes of this paragraph:

''(i) EATING.—The term 'eating' means the process of getting food from a plate or its equivalent into the mouth.

''(ii) TOILETING.—The term 'toileting' means the act of going to the toilet room for bowel and bladder function, transferring on and off of the toilet, cleaning oneself after elimination, and arranging clothes.

''(iii) TRANSFERRING.—The term 'transferring' means the process of getting in and out of bed or in and out of a chair or wheelchair.

''(iv) BATHING.—The term 'bathing' means the overall complex behavior of using water for cleansing the whole body, including cleansing as part of a bath, shower, or sponge bath, getting to, in, and out of a tub or shower, and washing and drying oneself.

''(v) DRESSING.—The term 'dressing' means the overall complex behavior of getting clothes from closets and drawers and then getting dressed.

''(vi) CONTINENCE.—The term 'continence' means the ability to voluntarily control bowel and bladder function and to maintain a reasonable level of personal hygiene.

''(4) LICENSED PROFESSIONAL.—

''(A) IN GENERAL.—The term 'licensed professional' means—

''(i) a physician or registered professional nurse,

''(ii) a qualified community care case manager (as defined in subparagraph (B)), or

''(iii) any other individual who meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services.

''(B) QUALIFIED COMMUNITY CARE CASE MANAGER.—The term 'qualified community care case manager' means an individual or entity which—

''(i) has experience or has been trained in providing case management services and in preparing individual care plans,

''(ii) has experience in assessing individuals to determine their functional and cognitive impairment, and

''(iii) meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services.

''(5) CERTAIN SERVICES NOT INCLUDED.—The term 'qualified long-term care services' shall not include any services provided to an individual—

''(A) by a relative (directly or through a partnership, corporation, or other entity) unless the relative is a licensed professional with respect to such services, or

''(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in paragraphs (1) through (8) of section 152(a).''.

(c) TECHNICAL AMENDMENTS.—Paragraph (6) of section 213(d) is amended—

(1) by striking ''subparagraphs (A) and (B)'' and inserting ''subparagraphs (A), (B), and (C)'', and

(2) by striking ''paragraph (1)(C) applies'' in subparagraph (A) and inserting ''subparagraphs (C) and (D) of paragraph (1) apply''.

SEC. 8102. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

''SEC. 7702B. TREATMENT OF LONG-TERM CARE INSURANCE.

''(a) IN GENERAL.—For purposes of this subtitle—

''(1) a qualified long-term care insurance policy (as defined in subsection (b)) shall be treated as an accident and health insurance contract,

''(2) any plan of an employer providing coverage under a qualified long-term care insurance policy shall be treated as an accident and health plan with respect to such coverage,

''(3) amounts (other than policyholder dividends (as defined in section 808) or premium refunds) received under a qualified long-term care insurance policy (including nonreimbursement payments described in subsection (b)(6)) shall be treated—

''(A) as amounts received for personal injuries and sickness, and

''(B) as amounts received for the permanent loss of a function of the body and as amounts computed with reference to the nature of injury under section 105(c) to the extent that such amounts do not exceed the dollar amount in effect under subsection (f) for the taxable year,

''(4) amounts paid for a qualified long-term care insurance policy described in subsection (b)(11) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

''(5) a qualified long-term care insurance policy shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

''(b) QUALIFIED LONG-TERM CARE INSURANCE POLICY.—For purposes of this title—

''(1) IN GENERAL.—The term 'qualified long-term care insurance policy' means any long-term care insurance policy (as defined in paragraph (10)) that—

''(A) limits benefits under such policy to incapacitated individuals (as defined in section 213(f)(2)), and

''(B) satisfies the requirements of paragraphs (2) through (9).

''(2) PREMIUM REQUIREMENTS.—The requirements of this paragraph are met with respect to a long-term care insurance policy if such policy provides that premium payments may not be made earlier than the date such payments would have been made if the policy provided for level annual payments over the life expectancy of the insured or 20 years, whichever is shorter. A policy shall not be treated as failing to meet the requirements of the preceding sentence solely by reason of a provision in the policy providing for a waiver of premiums if the insured becomes an incapacitated individual (as defined in section 213(f)(2)).

''(3) PROHIBITION OF CASH VALUE.—The requirements of this paragraph are met with respect to a long-term care insurance policy if such policy does not provide for a cash value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed, other than as provided in paragraph (4).

''(4) REFUNDS OF PREMIUMS AND DIVIDENDS.—The requirements of this paragraph are met with respect to a long-term care insurance policy if such policy provides that—

''(A) policyholder dividends are required to be applied as a reduction in future premiums or to increase benefits described in subsection (a)(2),

''(B) refunds of premiums upon a partial surrender or a partial cancellation are required to be applied as a reduction in future premiums, and

''(C) any refund on the death of the insured, or on a complete surrender or cancellation of the policy, cannot exceed the aggregate premiums paid under the policy.

Any refund on a complete surrender or cancellation of the policy shall be includable in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

''(5) COORDINATION WITH OTHER ENTITLEMENTS.—The requirements of this paragraph are met with respect to a long-term care insurance policy if such policy does not cover expenses incurred to the extent that such expenses are also covered under title XVIII of the Social Security Act. For purposes of this paragraph, a long-term care insurance policy which coordinates expenses incurred under such policy with expenses incurred under title XVIII of such Act shall not be considered to duplicate such expenses.

''(6) REQUIREMENTS OF MODEL REGULATION AND ACT.—

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to a long-term care insurance policy if such policy meets—

''(i) MODEL REGULATION.—The following requirements of the model regulation:

''(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

''(II) Section 7B (relating to prohibitions on limitations and exclusions).

''(III) Section 7C (relating to extension of benefits).

''(IV) Section 7D (relating to continuation or conversion of coverage).

''(V) Section 7E (relating to discontinuance and replacement of policies).

''(VI) Section 8 (relating to unintentional lapse).

''(VII) Section 9 (relating to disclosure), other than section 9F thereof.

''(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

''(IX) Section 11 (relating to minimum standards).

''(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

''(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

''(ii) MODEL ACT.—The following requirements of the model Act:

''(I) Section 6C (relating to preexisting conditions).

''(II) Section 6D (relating to prior hospitalization).

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted in January of 1993).

''(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

''(7) TAX DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to a long-term care insurance policy if such policy meets the requirements of section 4980C(d)(1).

''(8) NONFORFEITURE REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to a long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements specified in subparagraph (B).

''(B) REQUIREMENTS OF PROVISION.—The requirements specified in this subparagraph are as follows:

''(i) The nonforfeiture provision shall be appropriately captioned.

''(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying policies approved by the Secretary for the same policy form.

''(iii) The nonforfeiture provision shall provide at least 1 of the following:

''(I) Reduced paid-up insurance.

''(II) Extended term insurance.

''(III) Shortened benefit period.

''(IV) Other similar offerings approved by the Secretary.

''(9) RATE STABILIZATION.—

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to a long-term care insurance policy, including any group master policy, if—

''(i) such policy contains the minimum rate guarantees specified in subparagraph (B), and

''(ii) the issuer of such policy meets the requirements specified in subparagraph (C).

''(B) MINIMUM RATE GUARANTEES.—The minimum rate guarantees specified in this subparagraph are as follows:

''(i) Rates under the policy shall be guaranteed for a period of at least 3 years from the date of issue of the policy.

''(ii) After the expiration of the 3-year period required under clause (i), any rate increase shall be guaranteed for a period of at least 2 years from the effective date of such rate increase.

''(iii) In the case of any individual age 75 or older who has maintained coverage under a long-term care insurance policy for 10 years, rate increases under such policy shall not exceed 10 percent in any 12-month period.

''(C) INCREASES IN PREMIUMS.—The requirements specified in this subparagraph are as follows:

''(i) IN GENERAL.—If an issuer of a long-term care insurance policy, including any group master policy, plans to increase the premium rates for a policy, such issuer shall, at least 90 days before the effective date of the rate increase, offer to each individual policyholder under such policy the option to remain insured under the policy at a reduced level of benefits that maintains the premium rate at the rate in effect on the day before the effective date of the rate increase.

''(ii) INCREASES OF MORE THAN 50 PERCENT.—If an issuer of a long-term care insurance policy, including any group master policy, increases premium rates for a policy by more than 50 percent in any 3-year period—

''(I) in the case of an individual long-term care insurance policy, the issuer shall discontinue issuing all individual long-term care policies in any State in which the issuer issues such policy for a period of 2 years from the effective date of such premium increase, and

''(II) in the case of a group master long-term care insurance policy, the issuer shall discontinue issuing all group master long-term care insurance policies in any State in which the issuer issues such policy for a period of 2 years from the effective date of such premium increase.

This clause shall apply to any issuer of long-term care insurance policies or any other person that purchases or otherwise acquires any long-term care insurance policies from another issuer or person.

''(D) MODIFICATIONS OR WAIVERS OF REQUIREMENTS.—The Secretary may modify or waive any of the requirements under this paragraph if—

''(i) such requirements will adversely affect an issuer's solvency,

''(ii) such modification or waiver is required for the issuer to meet other State or Federal requirements,

''(iii) medical developments, new disabling diseases, changes in long-term care delivery, or a new method of financing long-term care will result in changes to mortality and morbidity patterns or assumptions,

''(iv) judicial interpretation of a policy's benefit features results in unintended claim liabilities, or

''(v) in the case of a purchase or other acquisition of long-term care insurance policies of an issuer or other person, the continued sale of other long-term care insurance policies by the purchasing issuer or person is in the best interests of individual consumers.

''(10) LONG-TERM CARE INSURANCE POLICY DEFINED.—

''(A) IN GENERAL.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance (as defined in subparagraph (B)).

''(B) LONG-TERM CARE INSURANCE.—

''(i) IN GENERAL.—The term 'long-term care insurance' means any insurance policy or rider—

''(I) advertised, marketed, offered, or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis for 1 or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital, and

''(II) issued by insurers, fraternal benefit societies, nonprofit health, hospital, and medical service corporations, prepaid health plans, health maintenance organizations or any similar organization to the extent such organizations are otherwise authorized to issue life or health insurance.

Such term includes group and individual annuities and life insurance policies or riders which provide directly or which supplement long-term care insurance and includes a policy or rider which provides for payment of benefits based on cognitive impairment or the loss of functional capacity.

''(ii) EXCLUSIONS.—The term 'long-term care insurance' shall not include—

''(I) any insurance policy which is offered primarily to provide basic coverage to supplement coverage under the medicare program under title XVIII of the Social Security Act, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage, or

''(II) life insurance policies—

''(aa) which accelerate the death benefit specifically for 1 or more of the qualifying events of terminal illness or medical conditions requiring extraordinary medical intervention or permanent institutional confinement,

''(bb) which provide the option of a lump-sum payment for such benefits, and

''(cc) under which neither such benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

''(11) NONREIMBURSEMENT PAYMENTS PERMITTED.—For purposes of subsection (a)(4), a policy is described in this paragraph if, under the policy, payments are made to (or on behalf of) an insured individual on a per diem or other periodic basis without regard to the expenses incurred or services rendered during the period to which the payments relate.

''(c) TREATMENT OF LONG-TERM CARE INSURANCE POLICIES.—For purposes of this title, any amount received or coverage provided under a long-term care insurance policy that is not a qualified long-term care insurance policy shall not be treated as an amount received for personal injuries or sickness or provided under an accident and health plan and shall not be treated as excludable from gross income under any provision of this title.

''(d) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations, in the case of any long-term care insurance coverage provided by rider on a life insurance contract, the following rules shall apply:

''(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract or policy.

''(2) PREMIUMS AND CHARGES FOR LONG-TERM CARE COVERAGE.—Premium payments for long-term care insurance policy coverage and charges against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage, shall be treated as premiums for purposes of subsection (b)(2).

''(3) APPLICATION OF 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing, as of any date, the guideline premium limitation with

respect to a life insurance contract by an amount equal to—

''(A) the sum of any charges (but not premium payments) described in paragraph (2) made to that date under the contract, reduced by

''(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

''(4) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includable in income as a result of the application of section 72(e)(10) and the coverage provided by the rider is a qualified long-term care insurance policy under subsection (b).

For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a qualified long-term care insurance policy.

''(e) EMPLOYER PLANS NOT TREATED AS DEFERRED COMPENSATION PLANS.—For purposes of this title, a plan of an employer providing coverage under a qualified long-term care insurance policy shall not be treated as a plan which provides for deferred compensation by reason of providing such coverage.

''(f) DOLLAR AMOUNT FOR PURPOSES OF GROSS INCOME EXCLUSION.—

''(1) DOLLAR AMOUNT.—

''(A) IN GENERAL.—The dollar amount in effect under this subsection shall be $200 per day.

''(B) INFLATION ADJUSTMENTS.—In the case of any taxable year beginning in a calendar year after 1996, the dollar amount contained in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) AGGREGATION RULE.—For purposes of this subsection, all policies issued with respect to the same taxpayer shall be treated as 1 policy.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the requirements of this section, including regulations to prevent the avoidance of this section by providing long-term care insurance coverage under a life insurance contract and to provide for the proper allocation of amounts between the long-term care and life insurance portions of a contract.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

''Sec. 7702B. Treatment of long-term care insurance.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to policies issued after December 31, 1995. Solely for purposes of the preceding sentence, a policy issued prior to January 1, 1996, that satisfies the requirements of a qualified long-term care insurance policy as set forth in section 7702B(b) of the Internal Revenue Code of 1986 (as added by this section) shall, on and after January 1, 1996, be treated as having been issued after December 31, 1995.

(2) TRANSITION RULE.—If, after the date of enactment of this Act and before January 1, 1996, a policy providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance policy (as defined in such section 7702B(b)), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance policy, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a policy providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance policy within 60 days thereafter shall be treated as an exchange.

(3) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of determining whether section 7702 or 7702A of the Internal Revenue Code of 1986 applies to any contract, the issuance, whether before, on, or after December 31, 1995, of a rider on a life insurance contract providing long-term care insurance coverage shall not be treated as a modification or material change of such contract.

SEC. 8103. TREATMENT OF QUALIFIED LONG-TERM CARE PLANS.

(a) EXCLUSION FROM COBRA CONTINUATION REQUIREMENTS.—Subparagraph (A) of section 4980B(f)(2) (defining continuation coverage) is amended by adding at the end the following new sentence: ''The coverage shall not include coverage for qualified long-term care services (as defined in section 213(f)).''.

(b) BENEFITS INCLUDED IN CAFETERIA PLANS.—Section 125(f) (defining qualified benefits) is amended by adding at the end the following new sentence: ''Such term includes coverage under a qualified long-term care insurance policy (as defined in section 7702B(b)) which is includible in gross income only because it exceeds the dollar limitation of section 105(c)(2).''.

SEC. 8104. TAX RESERVES FOR QUALIFIED LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Subparagraph (A) of section 807(d)(3) (relating to tax reserve methods) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) QUALIFIED LONG-TERM CARE INSURANCE POLICIES.—In the case of any qualified long-term care insurance policy (as defined in section 7702B(b)), a 1 year full preliminary term method, as prescribed by the National Association of Insurance Commissioners.''.

(b) CONFORMING AMENDMENTS.—Section 807(d)(3)(A) (relating to tax reserve methods), is amended—

(1) in clause (v), as redesignated by subsection (a), by striking ''or (iii)'' each place it appears and inserting ''(iii), or (iv)''; and

(2) in clause (iii), by inserting ''(other than a qualified long-term care insurance policy)'' after ''insurance contract''.

SEC. 8105. TAX TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

''(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

''(1) IN GENERAL.—For purposes of this section, any amount distributed to an individual under a life insurance contract on the life of an insured who is a terminally ill individual (as defined in paragraph (3)) shall be treated as an amount paid by reason of the death of such insured.

''(2) NECESSARY CONDITIONS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any distribution unless—

''(i) the distribution is not less than the present value (determined under subparagraph (B)) of the reduction in the death benefit otherwise payable in the event of the death of the insured, and

''(ii) the percentage derived by dividing the cash surrender value of the contract, if any, immediately after the distribution by the cash surrender value of the contract immediately before the distribution is equal to or greater than the percentage derived by dividing the death benefit immediately after the distribution by the death benefit immediately before the distribution.

''(B) REDUCTION VALUE.—The present value of the reduction in the death benefit occurring by reason of the distribution shall be determined by—

''(i) using as the discount rate a rate not in excess of the highest rate set forth in subparagraph (C), and

''(ii) assuming that the death benefit (or the portion thereof) would have been paid at the end of a period that is no more than the insured's life expectancy from the date of the distribution or 12 months, whichever is shorter.

''(C) RATES.—The rates set forth in this subparagraph are the following:

''(i) the 90-day Treasury bill yield,

''(ii) the rate described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for the calendar month ending 2 months before the date on which the rate is determined,

''(iii) the rate used to compute the cash surrender values under the contract during the applicable period plus 1 percent per annum, and

''(iv) the maximum permissible interest rate applicable to policy loans under the contract.

''(3) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who, as determined by the insurer on the basis of an acceptable certification by a licensed physician, has an illness or physical condition which can reasonably be expected to result in death within 12 months of the date of certification.

''(4) APPLICATION OF SECTION 72(e)(10).—For purposes of section 72(e)(10) (relating to the treatment of modified endowment contracts), section 72(e)(4)(A)(i) shall not apply to distributions described in paragraph (1).''.

SEC. 8106. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

''(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

''(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

''(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract which provides for a distribution to an individual upon the insured becoming a terminally ill individual (as defined in section 101(g)(3)).''.

(b) DEFINITIONS OF LIFE INSURANCE AND MODIFIED ENDOWMENT CONTRACTS.—Paragraph (5)(A) of section 7702(f) (defining qualified additional benefits) is amended by striking ''or'' at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:

''(v) any qualified accelerated death benefit rider (as defined in section 818(g)), or''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after December 31, 1995.

(2) TRANSITIONAL RULE.—For purposes of determining whether section 7702 or 7702A of the Internal Revenue Code of 1986 applies to any contract, the issuance, whether before, on, or after December 31, 1995, of a rider on a life insurance contract permitting the acceleration of death benefits (as described in section 101(g) of such Code (as added by section 8105)) shall not be treated as a modification or material change of such contract.

Subtitle B—Standards For Long-Term Care Insurance

SEC. 8201. NATIONAL LONG-TERM CARE INSURANCE ADVISORY COUNCIL.

(a) IN GENERAL.—Congress shall appoint an advisory board to be known as the National Long-Term Care Insurance Advisory Council (hereafter referred to in this subtitle as the ''Advisory Council'').

(b) MEMBERSHIP.—The Advisory Council shall consist of 5 members, each of whom has substantial expertise in matters relating to the provision and regulation of long-term care insurance or long-term care financing and delivery systems.

(c) DUTIES.—The Advisory Council shall—

(1) provide advice, recommendations on the implementation of standards for long-term care insurance, and assistance to Congress on matters relating to long-term care insurance as specified in this section and as otherwise required by the Secretary of Health and Human Services;

(2) collect, analyze, and disseminate information relating to long-term care insurance in order to increase the understanding of insurers, providers, consumers, and regulatory bodies of the issues relating to, and to facilitate improvements in, such insurance;

(3) develop educational models to inform the public on the risks of incurring long-term care expenses and private financing options available to them; and

(4) monitor the development of the long-term care insurance market and advise Congress concerning the need for statutory changes.

(d) ADMINISTRATION.—In order to carry out its responsibilities under this section, the Advisory Council is authorized to—

(1) consult individuals and public and private entities with experience and expertise in matters relating to long-term care insurance;

(2) conduct meetings and hold hearings;

(3) conduct research (either directly or under grant or contract);

(4) collect, analyze, publish, and disseminate data and information (either directly or under grant or contract); and

(5) develop model formats and procedures for insurance products, and develop proposed standards, rules and procedures for regulatory programs, as appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for activities of the Advisory Council, $1,500,000 for fiscal year 1996, and each subsequent year.

SEC. 8202. ADDITIONAL REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

''SEC. 4980C. FAILURE TO MEET REQUIREMENTS FOR QUALIFIED LONG-TERM CARE INSURANCE POLICIES.

''(a) GENERAL RULE.—There is hereby imposed on the issuer of any qualified long-term care insurance policy with respect to which any requirement of subsection (c) or (d) is not met a tax in the amount determined under subsection (b).

''(b) AMOUNT OF TAX.—

''(1) IN GENERAL.—

''(A) PER POLICY.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirement of subsection (c) or (d) is not met with respect to the policy.

''(B) LIMITATIONS.—

''(i) PER CARRIER.—The amount of the tax imposed under subparagraph (A) against any insurance carrier, association, or any subsidiary thereof, shall not exceed $25,000 per policy.

''(ii) PER AGENT.—The amount of the tax imposed under subparagraph (A) against insurance agent or broker shall not exceed $15,000 per policy.

''(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

''(c) ADDITIONAL RESPONSIBILITIES.—The requirements of this subsection with respect to any qualified long-term care insurance policy are as follows:

''(1) REQUIREMENTS OF MODEL PROVISIONS.—

''(A) MODEL REGULATION.—The following requirements of the model regulation shall be met:

''(i) Section 13 (relating to application forms and replacement coverage).

''(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expended as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

''(iii) Section 20 (relating to filing requirements for marketing).

''(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

''(I) in addition to such requirements, no person shall, in selling or offering to sell a qualified long-term care insurance policy, misrepresent a material fact; and

''(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for qualified long-term care insurance has accident and sickness insurance.

''(v) Section 22 (relating to appropriateness of recommended purchase).

''(vi) Section 24 (relating to standard format outline of coverage).

''(vii) Section 25 (relating to requirement to deliver shopper's guide).

''(B) MODEL ACT.—The following requirements of the model Act must be met:

''(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

''(ii) Section 6G (relating to outline of coverage).

''(iii) Section 6H (relating to requirements for certificates under group plans).

''(iv) Section 6I (relating to policy summary).

''(v) Section 6J (relating to monthly reports on accelerated death benefits).

''(vi) Section 7 (relating to incontestability period).

''(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(b)(6)(B).

''(2) DELIVERY OF POLICY.—If an application for a qualified long-term care insurance policy (or for a certificate under a group qualified long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificate-holder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

''(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a qualified long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificate-holder (or representative)—

''(A) provide a written explanation of the reasons for the denial, and

''(B) make available all information directly relating to such denial.

''(d) DISCLOSURE.—The requirements of this subsection are met with respect to any qualified long-term care insurance policy if the following statement is prominently displayed on the front page of the policy and in the outline of coverage required under subsection (c)(1)(B)(ii):

'''This is a federally qualified long-term care insurance contract. The policy meets all the Federal consumer protection standards necessary to receive favorable tax treatment under section 7702B(b) of the Internal Revenue Code of 1986.'.

''(e) QUALIFIED LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'qualified long-term care insurance policy' has the meaning given such term by section 7702B(b).''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

''Sec. 4980C. Failure to meet requirements for long-term care insurance policies.''.

SEC. 8203. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this subtitle shall be construed as preventing a State from applying standards that provide greater protection of policyholders of qualified long-term care insurance policies (as defined in section 7702B(b) of the Internal Revenue Code of 1986 (as added by section 8102)).

SEC. 8204. UNIFORM LANGUAGE AND DEFINITIONS.

(a) IN GENERAL.—Not later than June 30, 1996, the Advisory Council shall promulgate standards for the use of uniform language and definitions in qualified long-term care insurance policies (as defined in section 7702B(b) of the Internal Revenue Code of 1986 (as added by section 8102)).

(b) VARIATIONS.—Standards under subsection (a) may permit the use of nonuniform language to the extent required to take into account differences among States in the licensing of nursing facilities and other providers of long-term care.

Subtitle C—Incentives to Encourage the Purchase of Private Insurance

SEC. 8301. ASSETS OR RESOURCES DISREGARDED UNDER THE MEDICAID PROGRAM.

(a) MEDICAID ESTATE RECOVERIES.—

(1) IN GENERAL.—Section 1917(b) of the Social Security Act (42 U.S.C. 1396p(b)) is amended—

(A) in paragraph (1), by striking subparagraph (C);

(B) in paragraph (3), by striking ''(other than paragraph (1)(C))''; and

(C) in paragraph (4)(B), by striking ''(and shall include, in the case of an individual to whom paragraph (1)(C)(i) applies)''.

(2) EFFECTIVE DATE.—Section 1917(b) of the Social Security Act (42 U.S.C. 1396p(b)) shall be applied and administered as if the provisions stricken by paragraph (1) had not been enacted.

(b) REPORTING REQUIREMENTS FOR CERTAIN ASSET PROTECTION PROGRAMS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

''(aa)(1) The Secretary shall not approve any State plan amendment providing for an

asset protection program (as described in paragraph (2)) unless the State requires all insurers participating in such program to submit reports to the State and the Secretary at such times, and containing such information, as the Secretary determines appropriate. The information included in the reports required to be submitted under the preceding sentence shall be submitted in accordance with the data standards established by the Secretary under paragraph (3).

''(2) An asset protection program described in this paragraph is a program under which an individual's assets and resources are disregarded for purposes of the program under this subtitle—

''(A) to the extent that payments are made under a qualified long-term care insurance policy (as defined in section 7702B(b) of the Internal Revenue Code of 1986); or

''(B) because an individual has received (or is entitled to receive) benefits under a qualified long-term care insurance policy (as defined in section 7702B(b) of such Code).

''(3)(A) Not later than 90 days after the date of the enactment of the Private Long-Term Care Family Protection Act of 1995, the Secretary shall select data standards for the information required to be included in reports submitted in accordance with paragraph (1). Such data standards shall be selected from the data standards included in the Long-Term Care Insurance Uniform Data Set developed by the University of Maryland Center on Aging and Laguna Research Associates, and used by the States of California, Connecticut, Indiana, and New York for reports submitted by insurers under the asset protection programs conducted by such States.

''(B) The Secretary shall modify the standards selected under subparagraph (A) as the Secretary determines appropriate.''.

SEC. 8302. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR THE PURCHASE OF LONG-TERM CARE INSURANCE COVERAGE.

(a) EXCLUSION FROM GROSS INCOME FOR CERTAIN INDIVIDUALS.—Subsection (d) of section 408 (relating to tax treatment of distributions from individual retirement accounts) is amended by adding at the end the following new paragraph:

''(8) DISTRIBUTIONS TO PURCHASE LONG-TERM CARE INSURANCE.—Paragraph (1) shall not apply to any amount paid or distributed out of an individual retirement account or individual retirement annuity to the individual for whose benefit the account or annuity is maintained if—

''(A) the individual has attained age 59½ by the date of the payment or distribution, and

''(B) the entire amount received (including money and any other property) is used within 90 days to purchase a qualified long-term care insurance policy (as defined in section 7702B(b)) for the benefit of the individual or the spouse of the individual (if the spouse has attained age 59½ by the date of the payment or distribution).''.

(b) NO PENALTY FOR DISTRIBUTIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 72(t)(2) (relating to distributions from qualified retirement plans not subject to 10 percent additional tax) is amended to read as follows:

''(B) MEDICAL EXPENSES.—

''(i) IN GENERAL.—Distributions made to the employee (other than distributions described in clause (ii) or subparagraph (A) or (C)) to the extent such distributions do not exceed the amount allowable as a deduction under section 213 to the employee for amounts paid during the taxable year for medical care (determined without regard to whether the employee itemizes deductions for such taxable year).

''(ii) CERTAIN DISTRIBUTIONS TO PURCHASE LONG-TERM CARE INSURANCE.—Distributions made to the taxpayer out of an individual retirement plan if the entire amount received (including money and any other property) is used within 90 days to purchase a qualified long-term care insurance policy (as defined in section 7702B(b)) for the benefit of the individual or the spouse of the individual.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 72(t)(3) is amended by striking ''(B)'' and inserting ''(B)(i)''.

(c) DEDUCTION FOR EXPENSES TO PURCHASE A QUALIFIED LONG-TERM CARE INSURANCE POLICY.—

(1) IN GENERAL.—Paragraph (8) of section 408(d) (relating to distributions from individual retirement accounts to purchase long-term care insurance), as added by subsection (a), is amended by adding at the end the following new subparagraph:

''(D) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for expenses incurred to purchase a qualified long-term care insurance policy (as defined in section 7702B(b)) using amounts paid or distributed out of an individual retirement account or individual retirement annuity in accordance with this paragraph.''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 213(d)(1)(D) (relating to definition of medical care), as added by section 8101(a), is amended by striking ''section 7702(d)(4)'' and inserting ''section 408(d)(8)(D) or section 7702(d)(4)''.

Subtitle D—Effective Date

SEC. 8401. EFFECTIVE DATE OF TAX PROVISIONS.

Except as otherwise provided in this title, the amendments made by this title to the Internal Revenue Code of 1986 shall apply to taxable years beginning after December 31, 1995.

TITLE IX—BUDGET NEUTRALITY

SEC. 9001. ASSURANCE OF BUDGET NEUTRALITY.

Notwithstanding any other provision of law, this Act and the amendments made by this Act shall not become effective until the date of the enactment of a provision of law, specifically referring to this section, that by its terms provides for the Federal budget neutrality of this Act.

THE ACCESS TO AFFORDABLE HEALTH CARE ACT OF 1995—SECTION-BY-SECTION

A bill to increase the availability and affordability of health care coverage for individuals and their families, to reduce paperwork and simplify the administration of health care claims, to increase access to care in rural and underserved areas, to improve quality and protect consumers from health care fraud and abuse, to promote preventive care, to make long-term care more affordable, and for other purposes.

TITLE I—HEALTH INSURANCE MARKET REFORM

a. Non-discrimination based on health status

In general, a health plan may not deny, limit, or condition the coverage under the plan (or vary the premium) for an individual on the basis of their health status, medical condition, claims experience, receipt of health care, medical history, anticipated need for services, disability, or lack of insurability.

The plan may limit or exclude benefits relating to a pre-existing condition that was diagnosed or treated during the 3-month period prior to enrollment in that plan for up to 6 months. However, if the individual had been in a period of continuous coverage under another health plan prior to enrollment, the exclusion period would be reduced by 1 month for each month of continuous coverage.

b. Guaranteed issue and renewal

Health plans offering coverage in the small group market shall guarantee each individual purchaser and small employer (and each employee of that small employer) access to the plan. In addition, health plans must be renewed at the option of the employer or individual if they remain eligible for coverage under the plan. Plans may refuse to renew a policy in the case of: nonpayment of premiums; fraud on the part of the employer or individual related to the plan; or misrepresentation by the employer or individual of material facts relating to an application for coverage of a claim or benefit.

c. Rating limitations

The Secretary of HHS shall request that the National Association of Insurance Commissioners develop specific standards in the form of a model Act and model regulations to implement rating stands for the small group market. Factors that health plans may use to vary premium rates include age (not to exceed a 3:1 ratio), family type and geography. Health plans would be prohibited from using gender, health status or health expenditures to vary rates. These factors would be phased out within three years in order to minimize market disruption and maximize coverage rates. The standards developed would also permit health plans to provide premium discounts based on workplace health promotion activities.

d. Encouragement of State efforts

None of the provisions of the bill shall be construed as preempting State law unless that State law directly conflicts with the bills' requirements. In addition, the following state consumer protection laws shall not be considered to directly conflict with any such requirement and are specifically not preempted: laws that limit the exclusions or limitations for preexisting medical conditions to periods that are less than those provided in this title; laws that limit variations in premium rates beyond the variations permitted in this title; and laws that would expand the small group market in excess of that provided for under this title. In addition, nothing in this bill shall be construed as prohibiting States from enacting health care reform measures that exceed the measures established in the bill, including reforms that expand access to health care services, control health care costs, and enhance quality of care.

TITLE II—GRANTS TO STATES FOR SMALL GROUP HEALTH INSURANCE PURCHASING ARRANGEMENTS

Authorizes the Secretary of Health and Human Services to make grants to States for the establishment and operation of small group health insurance purchasing arrangements to increase access to more affordable coverage for small businesses and individuals.

TITLE III—TAX INCENTIVES TO ENCOURAGE THE PURCHASE OF HEALTH INSURANCE

Insurance would be made more affordable for low and middle-income individuals (individuals with incomes up to $23,000 and families with incomes up to $33,000) by providing a refundable tax credit to those without employer-provided insurance. A credit of 60 percent would apply to premiums of up to $1,200 a year for individuals and $2,400 for families. Individuals with adjusted gross incomes of less than $18,000 and families with adjusted gross incomes of less than $28,000 would be eligible for the full credit. The credit would be phased out for individuals with incomes between $18,000 and $23,000 and families with incomes between $28,000 and $33,000.

Also makes the tax deduction for health insurance costs for self-employed individuals permanent (retroactive to 1994) and phases it up from the current 25% level to 100% by 2000.

TITLE VI—INCENTIVES TO INCREASE THE ACCESS OF RURAL AND UNDERSERVED AREAS TO HEALTH CARE

Provides a special tax credit and other incentives for physicians and other primary care providers serving in rural and other underserved areas. Increased funding is also provided to expand the National Health Service Corps and Area Health Education Centers, which will also help to increase the number of health care professionals in medically underserved areas. Increased grant funding would also be available to expand the number of community health centers, which provide comprehensive health services in rural and inner-city neighborhoods to millions of Americans who need care regardless of their ability to pay.

TITLE V—QUALITY AND CONSUMER PROTECTION

Authorizes the Secretary of Health and Human Services to award demonstration grants for the establishment and operation of regional Quality Improvement Foundations.

Improves the efficiency and effectiveness of the health care system by encouraging the development of a national health information network to reduce administrative complexity, paperwork, and costs; to provide information on cost and quality; and to provide information tools that allow improved fraud detection, outcomes research, and quality of care.

Establishes a stronger, better coordinated federal effort to combat fraud and abuse in our health care system. This section expands criminal and civil penalties for health care fraud to provide a stronger deterrent to the billing of fraudulent claims and to deter fraudulent utilization of health care services.

TITLE VI—MALPRACTICE REFORM

Encourages states to establish alternative dispute resolution mechanisms like prelitigation screening panels, which have had great success in a number of states in reducing medical malpractice costs. Also allows health care providers to use practice guidelines approved by the Secretary of HHS as a rebuttable defense in medical liability cases.

TITLE VII—HEALTH PROMOTION AND DISEASE PREVENTION

Encourages participation in qualified health promotion and prevention programs by clarifying that expenditures for these programs are considered amounts paid for medical care for tax purposes. Also establishes a new grant program for states to provide assistance to small businesses in the establishment and operation of worksite wellness programs for their employees. And finally, expands the comprehensive school health education programs administered by the Centers for Disease Control.

TITLE VIII—ACCESS TO AFFORDABLE LONG-TERM CARE

Removes tax barriers and creates incentives for individuals and their families to finance their future long-term care needs. Long-term care policies that meet federal consumer protection standards would receive favorable tax treatment. Like health insurance, business expenditures on premiums would be deductible as a business expense and employer-provided long-term care insurance would be excluded from an employee's taxable income. Also allows States to develop programs under which individuals can keep more of their assets and still qualify for Medicaid if they take steps to finance their own long-term care needs. And finally, provides various incentives, such as tax-free withdrawals from IRAs, 401(k) plans, and other qualified pension plans to promote the purchase of private long-term care insurance.

TITLE IX—ASSURANCE OF BUDGET NEUTRALITY

No amendment or provision made by the bill will take effect until legislation is enacted which provides for budget neutrality.

By Mrs. KASSEBAUM (for herself, Mr. JEFFORDS, Mr. GREGG, and Mr. GORTON):

S. 295. A bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes; to the Committee on Labor and Human Resources.

TEAMWORK FOR EMPLOYEES AND MANAGEMENT ACT

Mrs. KASSEBAUM. Mr. President, I rise today to introduce, along with Senators JEFFORDS, GREGG, and GORTON, the Teamwork for Employees And Management [TEAM] Act, a bill to encourage worker-management cooperation.

Mr. President, when I served many years ago on the school board in Maize, KS, we frequently met on an informal basis with teachers to discuss problems the teachers faced in the classroom. The teachers had an important perspective to share, and we addressed their concerns. Sometimes we agreed with them and implemented their recommendations, and sometimes we agreed to disagree. But the important thing was that we felt free to exchange information.

School boards and teachers are governed by State law and not Federal law, so we did not face the problems on the school board that private sector workers and supervisors face today. We had the benefit of being able to work cooperatively with our teachers, and I continue to believe that we improved the quality of education for our students and enhanced the quality of work life for our teachers.

Mr. President, our current Federal labor laws do not allow this sort of cooperative effort, because our labor laws assume that labor and management have an adversarial relationship. This may have been true 50 years ago, but today, employers recognize that productivity and efficiency improve when workers operate in partnership with management, and that partnership occurs best in a cooperative rather than an adversarial environment. Yet our labor laws currently prohibit these cooperative efforts.

Mr. President, the TEAM Act responds to a National Labor Relations Board [NLRB] decision in 1992 called Electromation that has had significant consequences for attempts to improve cooperation between workers and employers. Specifically, the NLRB held that employer-employee committees, where workers met with management to discuss attendance, compensation and no-smoking policies, violated the National Labor Relations Act's [NLRA] prohibition against ''employer-dominated'' labor organizations.

The TEAM Act amends our Federal labor laws to permit these types of voluntary programs to continue. The legislation allows employers and employees to meet together to address issues of mutual interest, including issues related to quality, productivity, and efficiency, as long as the committees or other joint programs do not engage in collective bargaining.

I believe that our Federal labor laws should not stand in the way of work place cooperative efforts, such as quality circles and employee involvement programs. Our workers like to have input on their working conditions and our international competitors use employee involvement to improve plant productivity.

I urge my colleagues to support the TEAM Act.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 295

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 ''Teamwork for Employees And Management Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the escalating demands of global competition have compelled an increasing number of American employers to make dramatic changes in workplace and employer-employee relationships;

(2) these changes involve an enhanced role for the employee in workplace decisionmaking, often referred to as ''employee involvement'', which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;

(3) employee involvement structures, which operate successfully in both unionized and non-unionized settings, have been established by over 80 percent of the largest employers of the United States and exist in an estimated 30,000 workplaces;

(4) in addition to enhancing the productivity and competitiveness of American businesses, employee involvement structures have had a positive impact on the lives of those employees, better enabling them to reach their potential in their working lives;

(5) recognizing that foreign competitors have successfully utilized employee involvement techniques, Congress has consistently joined business, labor and academic leaders in encouraging and recognizing successful employee involvement structures in the workplace through such incentives as the Malcolm Baldridge National Quality Award;

(6) employers who have instituted legitimate employee involvement structures have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930s when employers established deceptive sham ''company unions'' to avoid unionization; and

(7) employee involvement is currently threatened by interpretations of the prohibition against employer-dominated ''company unions''.

(b) PURPOSES.—It is the purpose of this Act to—

(1) protect legitimate employee involvement structures against governmental interference;

(2) preserve existing protections against deceptive, coercive employer practices; and

(3) permit legitimate employee involvement structures where workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.

SEC. 3. AMENDMENT TO SECTION 8(a)(2) OF THE NATIONAL LABOR RELATIONS ACT.

Section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) is amended by adding at the end thereof the following: ''*Provided further,* That it shall not constitute or be evidence of an unfair labor practice under this paragraph for an employer to establish, assist, maintain or participate in any organization or entity of any kind, in which employees participate to address matters of mutual interest (including issues of quality, productivity and efficiency) and which does not have, claim or seek authority to negotiate or enter into collective bargaining agreements under this Act with the employer or to amend existing collective bargaining agreements between the employer and any labor organization;''.

SEC. 4. CONSTRUCTION CLAUSE LIMITING EFFECT OF ACT.

Nothing in the amendment made by section 3 shall be construed as affecting employee rights and responsibilities under the National Labor Relations Act other than those contained in section 8(a)(2) of such Act.

By Mr. KENNEDY (for himself, Mr. AKAKA, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. CAMPBELL, Mr. DODD, Mr. FEINGOLD, Mr. HARKIN, Mr. INOUYE, Mr. LAUTENBERG, Mr. LEAHY, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. ROBB, Mr. SIMON, and Mr. WELLSTONE):

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; to the Committee on Labor and Human Resources.

EQUAL REMEDIES ACT

Mr. KENNEDY. Mr. President, on behalf of myself and 20 other Senators, it is an honor to reintroduce the Equal Remedies Act to repeal the caps on the amount of damages available in employment discrimination cases brought under the Civil Rights Act of 1991.

The Civil Rights Act of 1991 for the first time gave women, religious minorities, and the disabled the right to recover compensatory and punitive damages when they suffer intentional discrimination on the job—but only up to specified limits. Victims of discrimination on the basis of race or national origin, by contrast, can recover such damages without such limits. No similar caps on damages exist in other civil rights laws, and they are not appropriate in this instance.

The Equal Remedies Act will end this double standard by removing the caps on damages for victims of intentional discrimination on the basis of sex, religion, or disability.

The caps on damages deny an adequate remedy to the most severely injured victims of discrimination. For example, if a woman proves that as a result of discrimination or sexual harassment she needs extensive medical treatment exceeding the caps, she will be limited to receiving only partial compensation for her injury.

In addition, the caps on punitive damages limit the extent to which employers who intentionally discriminate—particularly the worst violators—are punished for their discriminatory acts and deterred from engaging in such conduct in the future. The more offensive the conduct and the greater the damages inflicted, the more the employer benefits from the caps.

The caps on damages in the Civil Rights Act of 1991 were a compromise necessitated by concern about passing a bill that President Bush would sign. The issue was only one of the important issues covered in that piece of legislation, which also reversed a series of Supreme Court decisions that had made it far more difficult for working Americans to challenge discrimination.

The bill as a whole represented a significant advance in the ongoing battle to overcome discrimination in the workplace. In order to guarantee that the bill would become law, the unfortunate compromise on damages was included. However, many of us made clear that we intended to work for enactment of separate legislation to remove the caps. By reintroducing the Equal Remedies Act today, we reaffirm our commitment. We must end the double standard that relegates women, religious minorities, and the disabled to second-class remedies under the civil rights laws.

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. 296

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 ''Equal Remedies Act of 1995''.

SEC. 2. EQUALIZATION OF REMEDIES.

Section 1977A of the Revised Statutes (42 U.S.C. 1981a), as added by section 102 of the Civil Rights Act of 1991, is amended—

(1) in subsection (b)—

(A) by striking paragraph (3), and

(B) by redesignating paragraph (4) as paragraph (3), and

(2) in subsection (c), by striking ''section— '' and all that follows through the period and inserting ''section, any party may demand a jury trial.''.

By Mr. ROCKEFELLER (for himself, Mr. DASCHLE, Mr. GRAHAM, Mr. AKAKA, Mr. CAMPBELL, Mr. JEFFORDS, Mr. LEAHY, and Mr. BINGAMAN):

S. 297. A bill to amend the Internal Revenue Code of 1986 to clarify the exclusion from gross income for veterans' benefits; to the Committee on Finance.

VETERANS' TAX FAIRNESS ACT

• Mr. ROCKEFELLER. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am introducing today the proposed Veterans' Tax Fairness Act of 1995. I am enormously pleased that a number of my colleagues, both members of the committee and others, have joined me as original cosponsors of this important measure—Senators TOM DASCHLE, BOB GRAHAM, DANIEL AKAKA, BEN NIGHTHORSE CAMPBELL, JIM JEFFORDS, PAT LEAHY, and JEFF BINGAMAN. This bill would clarify and reiterate the longstanding rule that veterans benefits are not taxable—a rule that, until action taken in 1992 by the Internal Revenue Service, had never been questioned.

On February 27, 1992, the Internal Revenue Service, in a letter to the general counsel of the Department of Veterans Affairs, reinterpreted a 1986 law and reached a conclusion that could jeopardize the historical tax-exempt status of many veterans benefits, including various benefits provided to service-disabled veterans, dependency and indemnity compensation for survivors, veterans and survivors pensions, education benefits under the Montgomery GI bill, and veterans medical care.

The IRS ruling addressed a narrow issue of whether veterans must pay taxes when VA forgives a debt the veteran owes to the Federal Government after VA pays a guaranty on the Veteran's home loan. Congress liberalized the criteria for VA debt waivers in 1989. In the February 1992 opinion, IRS interpreted a 1986 tax code provision as requiring taxation of any debt waiver granted under the 1989 law that would not have been granted under the old law. IRS concluded that any modification or adjustment of a veterans benefit would make the benefit taxable.

Mr. President, our committee strongly disagreed with the IRS interpretation, for reasons stated in a May 13, 1992, letter from then-Chairman Alan Cranston to then-Secretary of the Treasury Nicholas F. Brady.

Mr. President, although the IRS opinion attempts to address only the narrow question of the taxability of VA debt waivers, its conclusions could support IRS assessing taxes for many other veterans benefits that have been modified or adjusted after September 9, 1986.

Since 1986, for example, Congress has expanded and increased education benefits paid under the GI bill on rehabilitation benefits provided to disabled veterans; adjusted the categories of eligibility for VA medical care; overhauled the survivors Dependency and Indemnity Compensation [DIC] Program and made several adjustments in the rates of DIC; expanded various health care services; and increased other benefits, such as housing and

automobile grants for certain veterans with every severe service-connected disabilities. The IRS interpretation would exempt adjustment based on an inflation index, but fails to protect the many VA benefits that are adjusted without reference to an index. Under the February 27, 1992 IRS opinion, any of these modifications or adjustments might have made the benefits involved taxable.

Section 5301 of title 38, United States Code, explicitly exempts veterans benefits and services from taxation. The provision of the tax code interpreted by IRS concerns military benefits, and it seems clear to me that Congress did not intend to make veterans benefits taxable for the first time in our Nation's history through enactment of a tax code provision addressing military benefits. Veterans benefits, provided to veterans and their survivors under laws administered by VA, always have been distinct from military pay and benefits provided to active-duty or retired servicemembers under laws administered by the Department of Defense.

In fact, Mr. President, another tax code provision, section 136, explicitly references the title 38 provision exempting veterans benefits from taxation. I am not aware of any previous suggestion that the tax code section that IRS has interpreted was intended to make veterans benefits taxable. If Congress had wanted to make such a radical change in the tax-exempt status of veterans benefits, it certainly would have done so much more explicitly than through an ambiguously worded provision that does not even mention veterans or the Department of Veterans Affairs.

Mr. President, it is clear that, before February 1992, in previous administration had interpreted this tax code provision to require taxation of veterans benefits. During the almost 7 years since the provision took effect, IRS has not collected or attempted to collect any taxes based on the receipt of VA-administered benefits—even in connection with VA debt waivers, which the IRS opinion had concluded could be subject to taxation in certain circumstances.

In fact, every official IRS publication of which I am aware that mentions veterans benefits, including ''Publication 17—Your Income Taxes'' and a 1988 IRS private letter ruling, explicitly states that veterans benefits are not taxable. Many IRS publications even list all available veterans benefits to indicate that each is nontaxable.

Mr. President, in 1992, the committee found a very receptive ally in then-Senator Lloyd Bentsen, who chaired the Finance Committee. Senator Bentsen successfully inserted a version of our clarifying legislation into 1992's tax bill, H.R. 11. Unfortunately, President Bush vetoed H.R. 11.

Mr. President, during the last Congress, efforts were made, both by the administration—where Senator Bentsen was then serving as Secretary of Treasury—which submitted proposed legislation substantively identical to H.R. 11, and by me in the introduction of such legislation in S. 1083, to replicate the success we had with H.R. 11. Unfortunately, no action was taken on that legislation during the 103d Congress.

The legislation I am introducing today is substantively identical to H.R. 11, the legislation recommended by the administration last Congress, and to S. 1083, and I am hopeful that action will be taken on it in the first appropriate tax legislation.

I believe it is vitally important to reiterate and clarify by statute the tax-exempt status of all veterans benefits and services, in order to preclude any future tinkering with these most fundamental benefits, particularly in the current climate of anything goes in the name of deficit reduction.

Mr. President, it is obvious that, since IRS previously has not collected or attempted to collect taxes on veterans benefits, this legislation will not affect Federal revenues.

Mr. President, in closing, I acknowledge and thank Senator MOYNIHAN and the fine Finance Committee staff for the technical assistance provided in connection with the development of this measure. I urge my colleagues to support this bill and pledge to do all I can to see it enacted quickly.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 297

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 ''Veterans' Tax Fairness Act of 1995''.

SEC. 2. CLARIFICATION OF TREATMENT OF VETERANS' BENEFITS.

(a) IN GENERAL.—Subsection (a) of section 134 of the Internal Revenue Code of 1986 (relating to certain military benefits) is amended to read as follows:

''(a) GENERAL RULE.—Gross income shall not include—

''(1) any qualified military benefit, and

''(2) any allowance or benefit administered by the Secretary of Veterans Affairs which is received by a veteran (as defined in section 101 of title 38, United States Code) or a dependent or survivor of a veteran.''

(b) TECHNICAL AMENDMENT.—Paragraph (3) of section 137(a) of such Code is amended to read as follows:

''(3) Benefits under laws administered by the Secretary of Veterans Affairs, see section 5301 of title 38, United States Code.''

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.●

ADDITIONAL COSPONSORS

S. 5

At the request of Mr. DOLE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 5, a bill to clarify the war powers of Congress and the President in the post-Cold War period.

S. 105

At the request of Mr. DASCHLE, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 105, a bill to amend the Internal Revenue Code of 1986 to provide that certain cash rentals of farmland will not cause recapture of special estate tax valuation.

S. 110

At the request of Mr. DASCHLE, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 110, a bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer may elect to include in income crop insurance proceeds and disaster payments in the year of the disaster or in the following year.

S. 112

At the request of Mr. DASCHLE, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 112, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by a cooperative telephone company.

S. 208

At the request of Mr. DASCHLE, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 208, a bill to require that any proposed amendment to the Constitution of the United States to require a balanced budget establish procedures to ensure enforcement before the amendment is submitted to the States.

S. 252

At the request of Mr. LOTT, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Florida [Mr. MACK], the Senator from New Hampshire [Mr. SMITH], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 252, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 253

At the request of Mr. LOTT, the names of the Senator from New Mexico [Mr. DOMENICI], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 253, a bill to repeal certain prohibitions against political recommendations relating to Federal employment, to reenact certain provisions relating to recommendations by Members of Congress, and for other purposes.

S. 254

At the request of Mr. LOTT, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Alabama [Mr. HEFLIN], the Senator from Nebraska [Mr. EXON], the Senator from Oregon [Mr. HATFIELD], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related

benefits for veterans of certain service in the United States merchant marine during World War II.

S. 268

At the request of Mr. BUMPERS, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 268, a bill to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.

S. 275

At the request of Mr. GRASSLEY, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 275, a bill to establish a temporary moratorium on the Interagency Memorandum of Agreement Concerning Wetlands Determinations until enactment of a law that is the successor to the Food, Agriculture, Conservation, and Trade Act of 1990, and for other purposes.

SENATE RESOLUTION 37

At the request of Mr. PACKWOOD, the name of the Senator from Maryland [Mr. SARBANES] 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.''

ADDITIONAL STATEMENTS

DOMESTIC VIOLENCE AS A HEALTH CARE ISSUE

• Mr. SIMON. Mr. President, one of the finest things that has happened in the U.S. Senate since I've been here was the election of PAUL WELLSTONE.

I was reminded of that the other day when I was catching up on my reading and read in the magazine Tikkun his article on domestic violence as a health care issue.

It really goes beyond discussing it as a health care issue.

He talks about the necessity to have education and be sensitive and to protect all of our citizens better than we are now protecting them.

I ask to insert into the RECORD the Paul Wellstone article.

The article follows:

DOMESTIC VIOLENCE AS A HEALTH-CARE ISSUE

(Paul Wellstone)

Domestic violence is a crime. Surely this statement is not a matter of contention or debate anymore—or it certainly should not be.

But it wasn't too long ago that we did have to make the argument, because domestic violence was a secret, something that happened behind closed doors, a ''family matter.'' Police would be called; they would arrive; and they would leave. And then they would be called again. And again.

Now, of course, it's different, because everyone knows that domestic violence is a crime as pervasive—if not more so—than murder, armed robbery, or drug dealing. The only argument now involves what to do about this seemingly intractable problem.

Domestic violence is a health-care issue. Now this is something new. Once this perspective on the problem is introduced, however, informed opinion-makers pause a moment, think about it, and say, ''Oh, yes, of course it is.''

But what are the implications of approaching domestic violence in this way?

Evidence indicates that domestic violence is the leading cause of injury to women, more common than auto accidents, muggings, and rapes by strangers combined. Indeed, it is the most frequent cause for women to seek attention at hospital emergency rooms. Not surprisingly, the health consequences of domestic violence include bruises, broken bones, birth defects, miscarriages, and emotional distress, as well as long-term mental health problems.

Although domestic violence touches men as well as women, we know that women and children are the primary victims. We know that the very place in which a woman and her children should feel the safest and most protected—their home—is all too often the most violent, dangerous, and even deadly place. The emotional and physical well-being of women and children is compromised when they suffer or witness abuse. And the costs are staggering.

As a member of Congress, steeped in the current health-care debate, I can't and won't let this information simply be stored away to be trotted out as factoids for rhetorical purposes: Congress is on the threshold of actually doing something to address the domestic violence health issue.

In the course of the national debate over health care, we have been hearing the arguments for comprehensive reform. The prevalence of domestic violence and the toll it takes on the nation's heath are two of the reasons we need health-care reform that includes universal coverage, and a good, affordable package of benefits.

The victims of domestic violence are living, breathing, suffering women and children. They, along with other Americans who need care, give a soul to this debate that goes beyond technical discussions of ''employer mandates,'' ''hard and soft triggers,'' and all the other process jargon that so easily takes center stage in a Washington debate.

Health-care reform—to meet the needs of victims of domestic violence—needs to include universal coverage, elimination of preexisting condition clauses, public-health efforts to prevent domestic violence, and training for health-care providers to identify, treat, and refer victims. It should contain a benefits package that includes a visit to a doctor who will routinely ask about abuse and violence in the family just as she asks about a history of smoking or heart disease.

Universal coverage would mean that a woman who stays in a relationship because she is dependent on an intimate partner for health coverage for herself and her children would know that coverage was guaranteed even if she left the relationship.

Leaving an abusive relationship is already terribly difficult; many of the women involved worry about not being able to support their children or themselves. Many are ashamed to let relatives know of the abuse. And, when women do leave abusive partners, they must worry that the rage behind the abuse will become homicidal. A woman seeking to leave an abusive relationship should not have to worry about loss of health insurance for herself and her children—especially when experience shows that victims of abuse are heavy users of the health-care system.

When congressional discussion turns to ''universal coverage'' as being only a goal, or meaning 95 percent (or so) of the population, I will be reminding my colleagues about these women and their children.

Along with universal coverage, we need to prohibit insurance companies from denying coverage to people because of preexisting conditions. Eliminating preexisting condition clauses would protect women who are now denied coverage because their medical records explicitly indicate they have been battered, or because of repeated health problems that have occurred as a result of domestic abuse and violence.

The federal government should be a leader in developing and implementing innovative community-based strategies to provide health promotion and disease prevention activities for the prevention of violence by training providers and other health-care professionals to identify victims of domestic violence, to provide appropriate examination and treatment, and to refer the victims to available community resources.

This should include the development and implementation of training curricula that teach health-care providers to identify and name the symptoms, the promotion and importance of developing a plan of action should the abuser return, and how to refer their patients to safe and effective resources. Already we have taken some steps in this direction by adopting my Violence Reduction Training Act, which is now being implemented by the Centers for Disease Control and Prevention.

A comprehensive benefits package would include clinic visits that gather a complete medical history and entail an appropriate physical exam and risk assessment, including the screening for victims of domestic violence, targeted health advice and counseling, and the administration of age-appropriate immunizations and tests.

This type of clinic visit would mean that a doctor would ask about a history or incidents of violence as part of her regular medical history interview. Doctors already ask about their patients' medical history with cancer, smoking, diet, or heart disease. Sadly, family violence is not something about which doctors, or other health professionals, often inquire.

Some of my congressional colleagues and my constituents will continue to remind me that passing this type of health-care reform is going to be expensive. Of course it is. But we are already spending the money one way or the other. The annual medical costs alone of reported domestic violence injuries are astounding: A study conducted at Chicago's Rush Medical Center found that the average charge for medical services provided to abused women, children, and older people is $1,633 per person per year. This would amount to a national cost of $857.3 million. Many of these costs are borne by emergency departments—the most expensive way to provide these services.

As with the current discussion surrounding the criminal nature of domestic violence, we are now at the point of asking: given that domestic violence is a health issue, what do we do?

One of the important things that we can do is to pass comprehensive health-care reform that is universal, comprehensive, and affordable. By passing comprehensive reform, Congress will be taking an important step to prevent and reduce the incidence of domestic violence.

Passing health-care reform will not be a panacea for the victims of family violence. In the same way that police cannot solve the crime of domestic violence, health-care professionals are not going to solve this problem.

If we are to break this cycle of violence, we must recognize that all of us in the community are stakeholders. We all need to be involved: health-care providers, educators, business people, clergy, law enforcement officers, advocates, judges, media, and community residents.

But there is another level in this debate. Even if Congress enacts health-care reform and even if communities start to deal with this escalating problem, as a country we are still faced with a whole host of problems that we are only beginning to comprehend. For instance, we now have to ask about the responsibility of the healthcare community to provide leadership for community collaboration. And how should the role of healthcare providers intersect with others in the community?

Furthermore, the provider is now confronted with serious ethical questions such as whether physicians should be mandated to report information about abuse and if so, to whom? Is the obligation to notify the law enforcement or legal systems greater than the responsibility to respect the victim's autonomy? If a victim asks that there be no action, should a doctor or nurse or therapist honor the request? And what are the responsibilities of health professionals with regard to the perpetrators? What is the role of neighbors who hear much too much through thin walls?

I don't have all the answers to these types of questions. Indeed, since we have just opened the door to this discussion, I'm not sure anyone does. But that, in part, is the point. We have now initiated this debate, and we have begun talking as a community—knowing full well that because of this conversation we will begin solving one of the most devastating social and medical problems facing every one of us.

For the last two years, my wife Shelia and I have been traveling throughout Minnesota, convening gatherings and attending events where such issues are being discussed. The conversations are having an impact. We are seeing community action throughout the state, and we are seeing a tremendous number of providers, judges, and police getting involved. My own experience in Minnesota makes me believe that similar efforts nationwide will also be successful.

We must begin this discussion with a sense of urgency—peoples' lives and safety are at stake.●

ON ECONOMIST ARTICLE

● Mr. SIMON. Mr. President, a few months ago, we passed the dubious milestone of having 1 million inmates serving time in prison. That number is expected to soar further as Congress and the States respond to the public's fear of crime by enacting longer prison terms for drug offenders and other criminals.

Before we head full-steam down this prison-building path, I think we need to consider carefully whether we are being smart about how we punish criminals. Last year, I asked my staff to survey prison wardens around the Nation for their views on our crime policies. The results were surprising. Only 39 percent recommended building more prisons. But 65 percent said we should use our existing prison space more efficiently, by imposing shorter sentences on nonviolent offenders, and longer prison terms on violent ones.

A few States, such as Florida and Georgia, have begun to respond in this way. They have begun to look at innovative ways to free up prison space by sentencing nonviolent criminals to ''intermediate sanctions,'' such as home detention and work release. As a recent article in the Economist noted, these programs are highly cost-efficient. In Florida, for example, these alternative programs cost only $6.49 per day per felon, compared with nearly $40 per day for prison.

And, the programs don't compromise public safety. As the Economist reported, ''A 6 year survey by the National Council on Crime and Delinquency shows that in Florida, people sentenced to such penalties are less likely to be arrested within 18 months of their release than similar offenders who had been sentenced to between 12 and 30 months in jail.''

That is what I call being both tough on crime and smart. It is an approach Congress should consider before it spends billions more on another incarceration binge. I ask that the full text of the Economist article be reprinted in the RECORD.

The article follows:

[From the Economist, Nov. 19, 1994]

ALTERNATIVES TO PRISON—CHEAPER IS BETTER

RICHMOND, VA.—Self-preservation requires American politicans to be slap-'em-inside tough on crime these days. The argument for toughness stands on uncertain ground: the number of Americans in prison has more than doubled since 1982, now standing at over 1m, and yet notified violent crime has risen by two-fifths, according to the Federal Bureau of Investigation. Still, the voters want to lock the villains up, and the politicans reckon they had better get on with it. The next question is how much it will cost the taxpayer.

In Virginia, whose capital has the country's second-highest homicide rate, the General Assembly recently met in extraordinary session to lengthen prison terms for violent criminals and—like 13 other states and the federal government—to abolish discretionary parole for newly convicted felons. That needs nearly 30 new prisons. Some say this could cost $2 billion. The new Republican governor, George Allen, says that the true cost is closer to $1 billion, and that the state's prison population would anyway have doubled, without the new measures, by 2005.

But the Democrats who control the legislature balked even at that figure, and have given Mr. Allen only about $40m to erect a handful of the work camps needed to accommodate the queue of prisoners waiting for space in the local jails. Mr. Allen, who has promised not to raise taxes, will have to go back to the Assembly next year and try to find the rest of the $370m that he describes as a down-payment for safer streets. It costs $19,800 a year to keep an inmate behind bars. It is doubtful whether the governor can raise what he needs by cutting expenditure elsewhere and selling off surplus state properties. Many state agencies are still operating on recession budgets. The sale of state land and equipment is expected to net a paltry $26m.

On the other side of the country, in Oregon, where parole was abolished in 1989, a cheaper way of coping with over-full prisons is being tried. Oregon's voters are not keen on paying more, either: the advocates of tougher penalties for crimes against property failed to get enough signatures to put their proposal on the ballot last year, presumably because it would have cost $300m a year. So the state legislature, in providing more money for the corrections department, said that most of it should go into alternatives to prison for non-violent offenders. That would free some existing prison space for more dangerous criminals.

This approach has already been tried in states with some of the highest incarceration rates in the nation, among them Florida and Georgia. So-called ''intermediate sanctions'' for non-violent felons—for instance, house arrest or work programmes—are cheap. In Florida, they cost only $6.49 per day per felon, compared with prison's near-$40 a day. They may also be working. A six-year study by the National Council on Crime and Delinquency shows that in Florida people sentenced to such penalties are less likely to be arrested within 18 months of their release than similar offenders who had been sentenced to between 12 and 30 months in jail.

Texas, though, stays old-fashioned about its prison problem: it throws money at it. Twice this year, the Texas legislature has taken $100m from other parts of the state government to pay for more prisons. The voters, who rejected a $750m bond issue for schools, backed $1 billion for the Corrections Department. The trouble is that new parole restrictions look like further increasing the demand for Texan prison space. In the Lone Star state, getting into prison may prove tougher than getting out of it.●

ON PRISON WARDEN SURVEY

● Mr. SIMON. Mr. President, there has been much talk recently about rewriting last year's Federal crime bill. That talk has focused on spending billions more for prison construction and longer sentences, while drastically reducing funds for prevention programs.

I urge my colleagues to think hard about whether these changes represent smart policy. Last month, I conducted a survey of 157 wardens, and I asked them to comment on our present crime policies. By large margins, the wardens warned that our overwhelming emphasis on building prisons just isn't working. They urged a far more balanced approach to crime-fighting, that mixes punishment, prevention, and treatment.

The Daily Southtown, in a recent editorial, called on Congress to listen to the advice of these experts, rather than moving rapidly ahead with policies that may be politically popular, but ultimately shortsighted. That is a message we would all do well to heed.

I ask that this editorial be reprinted following my remarks.

The editorial follows:

[From the Daily Southtown, Dec. 8, 1994]

WARDENS' VIEW ON CRIME: MANDATORY SENTENCING WON'T SOLVE PROBLEM

Is ''locking them up and throwing away the key'' the most effective approach to reducing crime? Not if you listen to the prison wardens across the country who are in charge of the nation's inmates.

Some 157 prison wardens were surveyed by a U.S. Senate subcommittee, and 85 percent of them said the politically popular approach—mandatory, longer incarceration—didn't work.

The survey was conducted at the request of Sen. Paul Simon (D–Ill.). The survey showed that ''the idea we can solve our crime problem by putting more people in prison just has not worked,'' Simon said. The senator said most of the wardens favored approaches

that mixed prevention, treatment and punishment. Sixty-five percent said they preferred increasing sentences for violent criminals and cutting sentences for non-violent inmates.

Some 92 percent favored placing non-violent drug offenders in residential treatment programs, halfway houses, home detention and boot camps rather than prisons. And contrary to the rhetoric that proved so popular in the November election, the wardens said they wanted programs in prison for drug treatment, vocational training and educational programs.

Simon said he asked for the survey because he feared the new Republican majority in Congress would rewrite the 1994 crime bill to remove prevention and treatment programs and replace them with more costly punishment approaches.

Our elected officials ought to give some serious thought to the recommendations of the experts—the people who run our prisons—rather than setting new policies based on what would serve the politicians best in future elections.●

ORDERS FOR TOMORROW

Mr. HATCH. Mr. President, 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 Tuesday, January 31, 1995, that following the prayer, the Journal of proceedings be deemed approved to date, 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 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 DOMENICI for 15 minutes, and Senator BREAUX for 15 minutes.

I further ask unanimous consent that at 10 a.m. the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment, and further that the Senate stand in recess between the hours of 12:30 to 2:15 p.m., for the weekly party luncheons to meet.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, if there is no further business to come before the Senate and no other Senator seeking recognition, I now ask unanimous consent that, following the majority leader's remarks, the Senate stand in recess under the previous order.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senate is on House Joint Resolution 1.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent there be a period for morning business not to exceed 5 minutes.

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

HEINZ AWARDS

Mr. DOLE. Mr. President, this April will mark the fourth anniversary of the untimely passing of our friend and colleague, John Heinz. And those of us who were privileged to serve with this remarkable public servant continue to miss his friendship and his leadership.

Many of John's friends gathered last Thursday in Statuary Hall for the presentation of the first Heinz Awards. These awards were established by Teresa Heinz and the Heinz Family Foundation, and will be awarded to individuals who have made a difference in five issue areas where John was most active.

It was a very moving and inspiring ceremony, and it reminded us again that, as John Heinz proved throughout his career, good people can do great things.

Mr. President, I ask unanimous consent that the very eloquent remarks delivered at the ceremony by Teresa Heinz be printed in the RECORD, and that they be followed by brief biographies of the six Heinz Award recipients.

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

REMARKS OF TERESA HEINZ AT THE HEINZ AWARDS, STATUARY HALL, JANUARY 26, 1995

Thank you.

This is a deeply gratifying and poignant day. It is the culmination of nearly four years of careful thought about how to pay tribute to the memory and spirit of my late husband John Heinz. And it is the culmination of four years of hard work toward that goal. I know John would be greatly honored that we are all here today in this hallowed hall, to celebrate his memory in a place that meant so much to him. I want to thank Speaker Gingrich and our sponsor, Congressman Curt Weldon, for making this possible. And I especially want thank all of you for being here.

If you have ever done it, you know that the making of a tribute is a terribly difficult matter. That is especially true when the goal is to honor someone as complex and multifaceted as my late husband. I realized early on that, for John Heinz, no static monument or self-serving exercise in sentimentality would do. He would have wanted no part of such things. The only tribute befitting him would be one that celebrated his spirit by honoring those who live and work as he did.

To me, the value of remembering John Heinz is and always will be in remembering what he stood for and how he stood for it. His life said something important about how life can be lived, and should be lived. I wanted to remember him in a way that would inspire not just me, but the rest of us.

And so the Heinz Awards were born. They are intended to recognize outstanding achievers in five areas in which John was particularly active. But they are meant less as a reward for the people we will honor here today, than as a reminder for the rest of us—a reminder of what can happen when good people, regardless of who they are or where they come from, set out to make a difference.

There is a saying in the Heinz family that dates back to my husband's great-grandfather, the founder of the Heinz Company. Quite aside from his business acumen, H.J. Heinz was an exceptional man who battled his food industry peers on behalf of food purity laws, created the most progressive workplace of his day, and fostered in his offspring an abiding sense of social responsibility. And yet H.J. Heinz dismissed the notion that he was truly exceptional. His aim, he said humbly, was merely ''to do a common thing uncommonly well.''

In much the same way, H.J. Heinz's great-grandson never saw greatness in his great accomplishments. For John Heinz, public service was a common thing, one that he wanted to do uncommonly well. He was a dedicated achiever, but he was distinguished mostly by intangible qualities—qualities of mind and spirit: intellectual curiosity; a love of people; an informed optimism; a willingness to take risks; a passion for excellence; a belief that he could make the world a better place; the stubborn determination to make it so. And, above all, a contagious, effervescent joy in life.

These are the qualities celebrated by the Heinz Awards. They are, in fact, in addition to excellence, the criteria. In our first year, our nominators sent us some two hundred nominations from across the country. And as we began culling through these, we took excellence as a given. But then we looked beyond achievement. We looked for vision, and character and intent.

And finally, after our jurors and board of directors had met, we had settled on six remarkable individuals. They are an eclectic group. To the extent they share world views, that is more by accident than design. Their underlying spirit was what we asked our nominators and jurors to assess. And it is that spirit, a spirit that I regard as uniquely American, that we are here today to salute.

Many people in our society wish that they could make the world a better place. Too few believe that they actually can. And fewer still act on that belief.

Many people have dreams. Too few pursue those dreams. And, tragically, fewer still persist until dream becomes reality.

We live in cynical times, and one aspect of that cynicism is the corrosive notion that individuals are powerless to make a difference. But history is still made by people, one person at a time. Our first recipients of the Heinz Awards illustrate just how much we can do when we apply ourselves and care enough to try.

They are an antidote, if you will, not just to cynicism, but to the culture of powerlessness so ascendant now in our society. These six have believed in the power of one. They have dreamed great dreams. And they have made that belief and that dreaming the basis of their life's work, to the betterment of us all.

Their stories, I hope, will remind Americans that we really do have power as individuals, that good people still can achieve great things. Our world has been improved by the six individuals you are about to meet. But the secret of their impact transcends their films, their books, their programs, their treaties, and their microchips. These things

were made great by the qualities of the people who made them, by their joy, their love of people, their optimism, their willingness to take risks, their passion for excellence, their belief that they can improve the world, their gritty determination. Their work, accomplished as it is, has been the product of something internal—an incandescence that burns brightly in the human spirit.

Our faith in luminous qualities of heart and mind made this a great country. And if there is to be any future for this thing we so blithely call the American spirit, we must embrace those qualities again. Can it be done? Is it important? As evidence and proof, I offer you six extraordinary people.

Thank you.

BIBLIOGRAPHIES OF THE SIX HEINZ AWARD WINNERS

PAUL AND ANNE EHRLICH

Paul and Anne Ehrlich receive the Heinz Award in the Environment in recognition of their thoughtful study of difficult environmental issues, their commitment to bringing their findings to the attention of policy makers and the public, and their willingness to suggest solutions.

Anne and Paul Ehrlich have been producing important scientific research for over three decades. But they are distinguished by their passionate determination to communicate their findings to non-scientific audiences. They have long seen it as their responsibility to alert humanity to the dangers of ecological carelessness and arrogance. This perspective, uncommon among scientists, has made them the target of sometimes strident criticism, which they accept with grace as the price of forthrightness.

They are distinguished as well by their willingness to offer and seek solutions to the problems they identify. Their prescriptions, sometimes misrepresented as draconian, are rooted in the same Judeo-Christian principles that are the source of the Ehrlich's profound ethic of stewardship. It would be difficult to name any other couple who have made such a long-standing and substantive contribution to scientific and policy understanding of population, environment, and resource issues.

As scientists, authors and educators, Paul and Anne Ehrlich have for 30 years devoted themselves to enhancing public understanding of a wide range of environmental issues, including conservation biology, biodiversity and habitat preservation.

The basis of the Ehrlichs work has always been their science, and they have compiled an important body of scientific research over the years. But it is for their environmental advocacy, particularly in the area of population, that the Ehrlichs are most well known to the general public, and little wonder. Paul Ehrlich made a memorable debut on the world scene with the publication of his 1968 book, The Population Bomb, in which he warned that the Earth's resources could not indefinitely support the planet's growing population. In a 1990 sequel, The Population Explosion, Anne and Paul Ehrlich provided an unflinching update.

Setting forth challenging but prescient work was to become a hallmark of the Ehrlich's careers. Several decades ago, the Ehrlichs were the first to raise the alarm about a possible resurgence of infectious diseases, another controversial theory now taken seriously.

Paul Ehrlich, who is Bing Professor of Population Studies in the Department of Biological Sciences at Stanford University, and Anne Ehrlich, senior research associate in biology and policy coordination at Stanford's Center for Conservation Biology, which the couple founded, have never suggested that population issues represent the whole of the planet's problems. In fact they have been forceful advocates for broadening the agenda of the environmental movement to include such issues as biodiversity, poverty, consumption, carrying capacity, energy supplies, agriculture and food, global warming, nuclear weapons, international economics, environmental ethics, and sustainable development.

The Ehrlichs have displayed rare leadership in seeking to translate meaningful science into workable policy. Far from being prophets of doom, they are spirited optimists, whose unrivaled contributions have flowed from a belief that the future is still ours to make.

GEOFFREY CANADA

Geoffrey Canada receives the Heinz Award for the Human Condition in recognition of his battle against what he calls the ''monsters'' preying on the children of the depressed inner-city. As President and CEO of the New York-based Rheedlen Centers for Children and Families, he not only has created model programs, but sets an example for all adults wanting to protect children from crime, drugs, lawlessness and despair.

Geoffrey Canada knows life in the inner city at first hand. It's where he grew up, and he remembers what it's like to be a child there. ''I haven't forgotten about the monsters,'' he says. ''I remember being small, vulnerable and scared.''

Geoffrey Canada was one of those rare and fortunate young men and women who are able to rise above and move beyond the inner city. Once they leave, they rarely return. But Canada did return, motivated by a desire to save young people whose lives might otherwise be snuffed out by bullets or smothered by hopelessness. He decided to live in Harlem, the community in which he works, in order to provide what, in his own youth, he so wished for: a role model. He is optimistic in seeking practical answers to what pessimists view as intractable problems. The fact that he has no illusions is the very thing that makes him so effective.

Geoffrey Canada grew up poor on welfare, in a household headed by a single woman in the blighted tenements of New York's South Bronx. Despite the many things he did not have, he realized what he did have: a hard-working and loving mother who gave him a strong set of values, a deep sense of responsibility, a belief in the importance of education, and an almost ardent commitment to make things better not only for himself, but for those around him.

In 1963, having completed his graduate education, he joined the staff of the New York-based Rheedlen Centers for Children and Families. He was named its President/CEO in 1990. At Rheedlen, he has been instrumental in creating or developing such programs as Rheedlen's Beacon School, Community Pride, the Harlem Freedom Schools, and Peacemakers.

The Beacon Schools program uses public school buildings to provide inner-city families with safe shelters and constructive activities 17 hours a day, 365 days a year. There are now 37 Beacon Schools in New York. The program has been replicated in Connecticut, Illinois, and California.

To combat the culture of violence in the inner-city, Canada conceived of the Peacemakers Program. He was concerned by the media's easy promotion of violence as a way of settling disputes, and he set out to develop an alternative: a program to teach children how to use communication to resolve conflicts. His Peacemakers curriculum trains young people in conflict resolution, mediation, and violence prevention and reduction techniques. He is the author of the forthcoming Fist Stick Knife Gun, a book on conflict resolution.

Geoffrey Canada believes that, if today's urban youth are to be convinced that a disadvantaged background does not demand despair or dictate defeat, they must have real role models and real heroes. And they need them on the spot: successful, educated men and women who continue to live alongside them in their communities, shop at their stores, play in their parks, and ride the buses and subways just as they do. Geoffrey Canada's life teaches by example.

AMBASSADOR JAMES GOODBY

Ambassador James Goodby receives the Heinz Award for Public Policy. Virtually unknown to his countrymen or to the world, Ambassador Goodby is a quiet titan in the delicate, high stakes arena of international nuclear weapons negotiations.

Both the esoteric and security-sensitive nature of his specialty have required him to work almost entirely behind the scenes. But for more than four decades, under nine Presidents, James Goodby has made the world a safer place, beginning with his leadership of the effort to achieve a nuclear test ban treaty in the 1950s and 1960s. After retiring from the foreign service in 1989, Ambassador Goodby was called back into service in 1993 to serve as Chief U.S. Negotiator for the Safe and Secure Dismantlement of Nuclear Weapons. He negotiated over 30 agreements with several former Soviet Republics to assist in the dismantling of nuclear weapons, preventing weapons proliferation and converting military facilities to civilian enterprises.

As Secretary of Defense William Perry has written, ''Jim's life has been dedicated to serving the public and humanity. He is an unselfish individual who is touched by the needs of others and responds in a vigorous way to bring about change.''

James Goodby came of age in the shadow of the atomic bomb. The post-war years—the late 1940s and early 1950s—saw the disintegration of wartime alliances and the escalation of East-West tensions. Goodby graduated from Harvard in 1951 and entered the foreign service in 1952. With the exception of the two years he served as U.S. Ambassador to Finland (1980–1981), most of his career has dealt with international peace and security negotiations.

His reputation as a negotiator quickly spread through foreign policy and government circles: he was strong and dependable; he was smart; and he seemed to have the knack for devising creative solutions to complicated questions. While assigned to the U.S. Mission to NATO in the early 1970s, he negotiated alliance positions on human rights and security provisions for the Conference on Security and Cooperation in Europe, many of which became part of the Helsinki Final Act. After a stint as vice chairman of the U.S. delegation to the Strategic Arms Reduction Talks (START), he became head of the U.S. delegation to the Stockholm Conference on Confidence and Security Building Measures and Disarmament in Europe in 1984. In that position, he negotiated the framework that laid the basis for negotiations on conventional force reductions in Europe. Former Secretary of State George Shultz, who describes Goodby as a ''thoroughly laudable person,'' has written that ''Ambassador Goodby got the ball rolling very effectively, standing up to the Soviets and rallying our allies.''

Praise for his accomplishments makes James Goodby, now a Distinguished Service Professor at Carnegie Mellon University in Pittsburgh, Pa., uncomfortable. A native New Englander, he modestly demurs: ''Where I come from, we don't feel comfortable with

such talk * * * I had a lot of people to help me do it.''

It may surprise some that a single individual, bucking modern media worship by purposely eschewing publicity, could make such a difference to the fate of the world. But James Goodby, compelled to a life of public service by a desire to make the world a safer place, offers reassurance that there still exist in America men and women with brilliant minds and distinguished careers who need nothing more than the inner satisfaction of a vision fulfilled and the knowledge that they have truly made a difference.

ANDREW S. GROVE

Andrew Grove receives the Heinz Award for Technology and the Economy in recognition not just of his astounding technological and business accomplishments, but also of his determination and vision. In a story as old as America, those traits transformed him from a young immigrant into a leading figure in the birth of the information society.

His accomplishments range from the technical to the commercial, from contributing to the development of the microprocessor chip—perhaps the most important advancement in the history of computing—to helping create the personal computer industry. As more Americans start traveling down the information highway, at speeds and prices to their liking, a tip of their symbolic hats to Andy Grove would be in order.

More than an engineering genius, he is an enlightened corporate executive and employer whose ability to nurture talent is legendary. His peers as well as his employees call him Andy, and that speaks volumes about the man's character, about his approach to business and, most certainly, about his approach to life.

A native of Hungary, Andrew Grove fled during the 1956 Soviet invasion. When he arrived in New York, he was twenty years old, had only a few dollars in his pocket, and knew even fewer words of English.

The boy from Budapest has lived the quintessential American success story. By working any job he could find, he put himself through New York's City College, earning a BS. in Chemical Engineering. He received his masters and Ph.D. from the University of California at Berkeley.

Andrew Grove has played perhaps the pivotal role in the development and popularization of the 20th century's most remarkable innovation—the personal computer. The technologies pioneered by Grove and his associates, first at Fairchild Semiconductor and then at Intel, which he co-founded in 1968, made the entire personal computing revolution possible. The world has barely begun to scratch the surface of the technological and economic benefits that revolution can bring.

No stranger to controversy, Andrew Grove has shown an ability to learn from experience. And, while others panicked over problems or setbacks, he has always managed to maintain his focus on what is important and what he does best: developing even faster, more affordable and more powerful technology.

Thanks in large measure to Andrew Grove's genius and vision, millions of people now have instant and inexpensive access to the kinds of information and entertainment about which even the elites of previous generations could only dream.

HENRY HAMPTON

Henry Hampton receives the Heinz Award in Arts and Humanities for his creativity, his curiosity and his seriousness of purpose, as manifested in the outstanding contributions of Blackside, Inc., the independent film and television company he founded in 1968.

From modest beginnings, Blackside has become one of the successful independent production companies in the world. But success hasn't changed Henry Hampton, who, remembering his early struggles, regularly mentors young minority filmakers.

Among Blackside's productions are the landmark television series Eyes on the Prize I and II. Other Blackside documentaries have included The Great Depression, Malcolm X, and the recently-broadcast America's War on Poverty.

Hampton's work and that of his producing team, has been described as ''history as poetry''—but it is not the kind of poetry that sugar-coats difficult and divisive issues. He believes that Americans of all races must truly understand their past before they can deal with the present, much less master the future.

Henry Hampton grew up in St. Louis. After deciding against a career in medicine, he went to work as an editor, and later as director of information, for the Unitarian Universalist Church. When a Unitarian minister was killed in Selma, Alabama, the churchleaders, including Hampton, went to the South to join Dr. Martin Luther King, Jr.'s march.

During this first visit to the deep south, Hampton started to think about capturing the struggle for civil rights on film. He had no experience, but he set about learning. Questioning the conventional approaches, he and his colleagues slowly began devising a unique style for Blackside's work. Finally he was ready to make exactly the kinds of documentaries he envisioned.

Eyes on the Prize has received six Emmys, a Peabody, and an Academy Award nomination. It has been broadcast around the world, and is used as a teaching tool on as many as half of four-year college campuses in the U.S.

Henry Hampton pushes his company to deal with what he calls ''messy history''—the kind that doesn't supply the neat conclusion the public so often wants. He believes that media can help people use the perspective history offers as they deal with contemporary problems.

Depsite the weighty issues with which his films deal, Henry Hampton remains an optimistic man. He is undeterred by the effects of both childhood polio and of a more-recent cancer. His vision of a just and compassionate future for all Americans fuels his spirit and permeates his work.

RECESS UNTIL TOMORROW AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 9:30 a.m., Tuesday, January 31,

Thereupon, the Senate, at 5:51 p.m. recessed until Tuesday, January 31, 1995, at 9:30 a.m.