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# *Senate*

*(Legislative day of Monday, January 30, 1995)*

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rabbi Joshua O. Haberman, of the Washington Hebrew Congregation.

## PRAYER

The guest Chaplain, Rabbi Joshua O. Haberman, offered the following prayer:

Dear God, we pause in this assembly of lawmakers to acknowledge Thee as the fountainhead of all law. Thine are the laws that govern physical reality; even so, Thou hast ordained the principles by which human beings must interact in order to prosper and live securely with one another.

Enlighten our minds so that our manmade laws conform to the God-given designs for humanity. Give us the sensitivity to detect and remove injustice and the good sense to temper legislative zeal with humility to listen to colleagues of either party, to those who agree as well as those who disagree with us. Let mercy and kindness neither blind us nor altogether forsake us as we counsel and act together for the good of our country. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

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

Mr. LOTT. Thank you, Mr. President.

### SCHEDULE

Mr. LOTT. Mr. President, this morning, the time for the two leaders has been reserved and there will now be a period for the transaction of morning business until the hour of 10 a.m., with Senators permitted to speak for up to 5 minutes each, with Senator HATFIELD to speak for up to 10 minutes and Senator BIDEN for up to 30 minutes.

At the hour of 10 a.m., the Senate will resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

I yield the floor, Mr. President.

## 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 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. The distinguished senior Senator from Oregon.

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

(Mr. ASHCROFT assumed the chair.)

## BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. HATFIELD. Mr. President, the American people elected the Republican Congress with the expectation that we show leadership and a willingness to make difficult decisions. In my view, the public shares the point of view that Government has grown too expensive. It has become bloated and ponderous. I believe that the programs of the New Deal and the Great Society put safety nets in place for those who are in greatest need, but those nets now strangle the Federal Government by tying up precious funding in a knot of regulations and poor management.

As I explain my thoughts on the balanced budget amendment, I want to make it very clear that I believe the deficit must be reduced and that a balanced budget is worth achieving. It is possible that I will be the lone Republican to vote against the balanced budget amendment, but I say now to my colleagues that I share my party's goals, but happen to disagree on the means.

The debate on the balanced budget amendment is not about reducing the budget deficit, it is about amending the Constitution of the United States with a procedural gimmick. This amendment that is before Members now puts new Senate and House rules regarding voting procedures into the Constitution. It does not balance the budget and gives no indication of how this might be done. Furthermore, it will not force Congress to budget responsibly. If indeed this is an amendment requiring a balanced budget, then how can we allow Congress to essentially suspend the Constitution with a three-fifths vote? This was a dangerous idea last year, and it is a dangerous idea this year as well. What other constitutional requirements would we like to waive with a three-fifths vote? Freedom of religion? Free speech? What other civil liberties shall we waive? A balanced budget amendment would allow the Congress to ignore the requirement for a balanced budget and to ignore the Constitution. This idea of Congress suspending a constitutional requirement cuts against the separation of powers principle so crucial to the foundation of the Constitution.

Given the make-up of the 104th Congress, passage of the balanced budget amendment may seem inevitable to some. Many people attribute this increased likelihood to the elections which occurred in November of last year. The election has been interpreted by some as proving that the American people are demanding that Congress balance our Federal budget. Or it may be interpreted by some who say that the Congress now has the political will to make the hard choices to make Federal revenues match Federal outlays. This is an important point, because

Congress does not have the political will to tackle the budget deficit, a balanced budget amendment to the Constitution is nothing more than an empty promise.

As optimistic as I am about the opportunities this Republican Congress has before it, I am sobered by a recent event. I want to underscore this because I believe many have lost sight of it; that is, the demise of the Bipartisan Commission on Entitlements and Tax Reform. The Commission set out to tackle an enormous task. That task was to address the Federal Government's long-term spending commitments and to determine what the fiscal impact would be if this spending were left unchecked.

According to the Commission's report, the Commission was created,

* * * to frame the long-term issue, educate the American people and policy leaders about the problem and potential choices, and to make specific recommendations on how to bring our future entitlement commitments and revenues into balance.

Now, Mr. President, the Commission, despite the dedication of all of its participants, was unable to agree on a specific set of recommendations on how to address these issues. In explaining the inability of the Commission to come to a consensus on this issue, a letter signed by the chairman, Senator KERREY, and the vice-chairman, Senator DANFORTH, states,

* * * this result should not be surprising in an environment where political leaders in both parties are focusing more on short-term initiatives than on long-term, politically sensitive economic and social issues that sit on the horizon.

I submit that the inability of the Commission to reach a consensus on these very important issues is proof that the Congress still does not yet have the political will to tackle the tough issues which it will need to balance the budget.

Mr. President, that statement attributed to the Commission was made after the November elections.

It is also important to note some statistics which are contained in the budget just submitted by the President which relate to the proposal to exempt certain Federal programs from being covered by this amendment. According to the President's budget, interest on the debt, defense, and mandatory spending combined make up 82 percent of the Federal budget in 1995, and this percentage will grow to 85 percent of the budget by the year 2000. Unless reform of all aspects of Federal expenditures occurs, projected outlays for entitlements and interest on the debt will consume all revenues of the Federal Government by the year 2012. That is only 17 years away. With those facts looming before us, how can the Congress decide today what should and should not be taken off the table during the debate on balancing the budget. The Congress must look at every aspect of the budget, politically sensitive items included.

A balanced budget can come only through leadership and compromise. This compromise must come from each one of us. But, more importantly, it must come from those we represent—those who do not want their taxes raised any more than we want to raise them—those who do not want their benefits cut any more than we want to cut them. In the end there is no easy answer, and there never will be. Regardless of the procedural restraint in place, where there is political will to create a balanced budget we will create one, where there is will to avoid one, we will avoid it. The finding of the Bipartisan Commission I mentioned earlier indicates that the Congress still does not have the will to address the tough issues. As I stated during the debate on a balanced budget amendment last year, a vote for this balanced budget constitutional amendment is not a vote for a balanced budget, it is a vote for a fig leaf.

If I am skeptical about the ability of a gimmick to fix our budget, I am not skeptical about the ability of the people to demand and keep demanding that we respond to the budget challenge with real action. Real action is not a vote for an amendment to the Constitution which calls for a balanced budget by the year 2002. Real action is rolling up our sleeves and getting our fiscal house in order. Real action is working together, in a bipartisan fashion, to create a balanced budget, not to simply promise one. Real action means ending some programs—programs with popular appeal and vocal constituencies. Balancing the budget will result in an impact on each and every one of us—do we have the will to do that?

Bipartisan negotiation, leadership, and compromise have been the cornerstones upon which we have built all effective decisions on tough issues since the formation of our Government. Compromises are difficult to reach, but they are not impossible to reach. We have all just received the President's budget. The ensuing debate on the budget will provide the chance for the Congress to work together to balance the Federal programs of this budget. I hope the Congress does not miss this opportunity to debate the real issue of balancing the budget. Voting for a balanced budget amendment is easy, working to balance the budget will not be.

Although I will not support the legislation put before the Senate promoting a balanced budget amendment, I stand ready to get to the necessary work of crafting a long-term, sound fiscal policy which addresses the need to balance the budget. As chairman of the Senate Appropriations Committee I am committed to a thorough review of Federal programs to determine if they are wisely spending the taxpayers' money and whether or not programs have outlived their usefulness. Some programs are undoubtedly in need of reduction, and a few should be abolished.

But successful, long-term fiscal responsibility will not only depend upon program cuts. It demands a radical transformation in the way we do business as a government. My home State of Oregon has embarked upon a truly exciting effort to end the obsession with program compliance—and all the paperwork and bureaucracy which comes with that obsession—and instead making success government's goal. Success in training workers for new jobs. Success in getting families off public assistance. Success in reducing teen pregnancies. Government can and should do more with less. It is my hope that Congress will lead the way in making this a reality.

The Congress should not promise to the people that it will balance the Federal budget through a procedural gimmick. If the Congress has the political will to balance the budget, it should simply use the power that it already has and do so. There is no substitute for political will and there never will be. I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

## TRIBUTE TO J. WILLIAM FULBRIGHT

Mr. PRYOR. I thank the Chair for recognizing me this morning.

Mr. President, we, in the U.S. Senate, are often very fortunate to be witnesses to history as it is being made, and we often talk of the need to have a vision for America, for the country, for our Government, for our world and for our people. But very few of us ever, in and among ourselves, make history—very few of us. We often fall short of articulating a true vision, settling instead to seize upon symbols as a substitute.

With that in mind, Mr. President, this morning I rise to pay tribute today to a former Member of this body who has repeatedly made history in his lifetime and who dare to articulate a vision throughout his lifetime. That man is J. William Fulbright, a native son of Arkansas, who served with the with distinction in the Congress for 32 years, 30 of those years as a Member of this body, the U.S. Senate.

He loved this body. Senator Fulbright died early this morning, and I would like to take a few moments of the Senate's time to remind the people of this body and the people of this Capitol and certainly the people of this land of the significant impact this remarkable human being had on the lives of Americans.

J. William Fulbright was born in the year 1905 to a family that became quite prominent in northwestern Arkansas. His father was a banker, a successful businessman, while his mother ran the Northwest Arkansas Times, the newspaper in Fayetteville. In fact, Mr. President, the public library in Fayetteville, AR, bears the name of Roberta Fulbright Library.

After graduating from the University of Arkansas at Fayetteville, Bill Fulbright attended Oxford University on a Rhodes scholarship, an experience that we will see later having a profound effect upon his life and his philosophy and, yes, upon his vision.

After earning his law degree from George Washington University, he joined the antitrust division in the Justice Department where Senator Fulbright, or Bill Fulbright at that time, helped to prosecute the landmark Schechter case, the ''chicken case,'' as we call it, which helped establish the boundaries of Federal authority to regulate interstate versus intrastate commerce. It was a landmark case.

In 1936, Bill Fulbright returned to his native State of Arkansas to teach law at Fayetteville and there, 3 years later, he was appointed president of the University of Arkansas. At age 34, he was the youngest university president in America, and he gained national attention at that time for his efforts to raise the educational standards of not only the University of Arkansas but all educational institutions in America.

In 1943, Bill Fulbright won a seat in the U.S. House of Representatives, and he was appointed to the House Foreign Affairs Committee. He wasted little time making history.

In the spring of that year, he introduced a resolution that, even by today's standards, was remarkable for its brevity and its directness. Yet, it was powerful as a vision of young Bill Fulbright. The resolution read as follows, and it is one sentence:

*Resolved*, That the House of Representatives expresses itself as favoring the creation of an appropriate machinery with power adequate to prevent future aggression and to maintain lasting peace, and as favoring participation of the United States therein.

Mr. President, this was the Fulbright resolution. It became known as that and soon it passed overwhelmingly by both Houses of the Congress.

This Fulbright resolution is credited as being one of the very major stepping stones that led to the creation of the United Nations. And with this resolution, a very young Bill Fulbright brought an official end to longstanding American policies of isolationism and made our country formally commit to becoming a willing, ongoing partner in global affairs.

Bill Fulbright did not stop there. The very next year, he served as a delegate to an international conference, at which officials from 17 nations sought to find a way to reconstruct the educational institutions of the world in the wake of the ravages of World War II. Congressman Fulbright then was unanimously named as chairman of this Congress, and he presented a four-point proposal that became the foundations for the U.N. Economic and Social Council.

In April 1945, Mr. President, delegates of 50 nations gathered in San Francisco to draft a charter of the United Nations Approval by the U.S. Senate became critical at that point, so critical that President Harry Truman came to this body and stood in the well of the U.S. Senate and pled with his former colleagues in the Senate on July 2, 1945, to persuade this body to adopt this charter. President Truman briefly sketched the history of the U.N. effort, and he mentioned the passage of the Fulbright resolution.

President Truman said that this resolution had played a major part in shaping certain proposals, and the Senate approved the charter by an 89 to 2 vote. It took effect October 24, 1945.

I might add, Mr. President, that this year in June in San Francisco, 50 years later, there will be a commemoration, or a birthday, an anniversary of the founding of the United Nations.

By this time, Congressman Fulbright had become Senator Fulbright, after winning a Senate seat in the 1944 elections. He did not rest upon his laurels, and despite being named to the Banking and Currency Committee instead of the Foreign Relations Committee, he did not abandon his interest in global relations.

During his very first year in the Senate, Senator Fulbright sponsored legislation that became one of the major accomplishments of his distinguished legislative career. This bill established a program that exchanged scholars, students, and educators between the United States and other countries, and the program eventually was called the Fulbright Scholarship Program. It drew heavily from Senator Fulbright's experiences as a Rhodes scholar and from his belief and deep feeling that academic exchange would contribute to better understanding among all countries.

Foreign students coming to the United States received money for travel and sometimes received an allowance, modest as it might be, while tuition and books were provided through scholarships from American colleges and universities.

While he fervently believed in the value of such exchange programs, Senator Fulbright also knew full well that his plan had a number of hurdles to overcome—financial, governmental, partisan. The U.S. Treasury was not in a position to directly finance such a venture at a time of massive war debts.

Meanwhile, the State Department voiced its reservations, as had Senate Republicans. But Senator Fulbright was undaunted, and he persevered. He came up with a very novel way of financing this venture by combining the need to fund it with the problem of disposing of surplus U.S. equipment overseas that had been left behind.

Under Senator Fulbright's plan, any country that purchased part of the U.S. surplus would then be eligible to participate in the exchange program. He won the support of the State Department by giving the State Department greater control over the program disbursements. He won the support of the Congress by getting an endorsement from former President Herbert Hoover. President Truman signed the Fulbright Scholarship Program into being August 1, 1946. It was another tribute to the vision and to the brilliance and to the perseverance of J. William Fulbright and his fervent belief that education and communication hold the power to save man from himself.

Bill Fulbright's career was not without controversy, Mr. President. He certainly did not shrink from it. He once suggested that President Truman resign from office, but soon he suggested that President Truman was absolutely correct, even a year later, and he defended Harry Truman in the wake of President Truman's firing of Gen. Douglas MacArthur and bringing him back from the Far East. He sparred repeatedly with Joseph McCarthy, a former Member of this body, defending against McCarthy's attacks on the Fulbright Scholarship Program and then defending himself from McCarthy's attacks and charges that he, Senator Fulbright, might be subversive because Senator Fulbright's first wife belonged to and was active in, of all things, the Red Cross.

Ultimately, Senator Fulbright led the way in getting the Senate to condemn Senator McCarthy in 1954 for his red-baiting tactics. In doing so, he helped deliver this body out of one of its sadder chapters in history.

In 1959, Mr. President, Senator Fulbright became chairman of the Senate Foreign Relations Committee, and by the time he left the Senate in 1974, he had held the title of chairman of the Senate Foreign Relations Committee longer than any previous Senator.

Yes, he was controversial. He was a controversial chairman, and he dared to insist that cold war relations should not be dictated solely by militarism. He warned all of us in 1961 that our efforts in Vietnam were doomed to failure as long as we placed our stress on military rather than long-term economic and educational assistance, a warning that now seems prophetic. He placed his reservations aside to support the Gulf of Tonkin resolution when he felt that American soldiers were threatened and then had the courage to publicly call that action his most humiliating experience. He became one of the country's most vocal critics of that war even though it cost him his long-time friendship with Lyndon B. Johnson, and many believe it ultimately might have cost him his seat in the Senate.

J. William Fulbright did not believe that his return to private life meant the end of his need to articulate a vision for his beloved America. He continued to write books and to give lectures about how he felt government could be run more effectively, how countries could better deal with one another, and about the arrogance of power.

Those of us who were fortunate to know him and even to be close to him

during some of his life during those years knew him as a man of continued brilliance, of foresight and wisdom, and he continued to command our respect.

Mr. President, when the Fulbright Program was threatened, when it was endangered by cuts, he took to the phones in recent years to galvanize support. He roamed the Halls of the House of Representatives and the Senate for his beloved Fulbright Program. After all, all over the world, many leaders of the free world had been called Fulbright scholars.

We will miss this great man, Mr. President. I first met him when he was speaking at the Ouachita County Courthouse in Camden, AR. The year was 1944, and he was seeking his seat in the Senate. I was 10 years old at that time, but I could still take you to that corner in Camden, AR, where I first had the opportunity and the privilege of meeting J. William Fulbright. I just knew that I had met a great person. And through these many years, I was never quite able to ever bring myself to call him ''Bill.'' To me, he was and he will always be Senator Bill Fulbright.

He spent his life attempting to end the obsession with war. He spent his life attempting to educate us that using war as the solution for our conflicts was a course of action that would bring us nothing in the end but sorrow. We will miss this great man, this great Senator, and this great person who has contributed so much to peace in the world and understanding among all men.

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

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware, under the previous order, is recognized to speak for up to 30 minutes.

Mr. BIDEN. I thank the Chair.

Before I begin what I wish to speak to, let me compliment my friend from Arkansas. I had the great privilege of being a young Senator serving with Chairman Fulbright. I did not know him nearly as well, nor was I as close to him, by any stretch of the imagination, as my friend from Arkansas, but it was a real honor and privilege and, let me say, something that I tell my children and will tell my grandchildren and I am sure they will tell their children, that their father and grandfather had a chance to serve with such a great man.

I will tell you one anecdote in my relationship with him. I remember him as a young man. I had just been elected. I was 29 years old. I had not turned 30 yet. I came down here to meet with what was then referred to as the old bulls of the Senate. I went around and made my obligatory stops at the offices. Senator Fulbright asked me what I wanted to do, and I said how very much I would like to be on the Foreign Relations Committee.

I say to my friend from Arkansas, back in those days I do not think there was anybody on the committee under the age of 55 and it was only senior Senators, very senior Senators who were on the committee, made up of great men like Jack Javits and Mike Mansfield, Bill Fulbright, Stuart Symington, Hubert Humphrey, et cetera. And I realized it was a reach, and I did not expect to get on as soon as I did. But I just wanted to let him know.

He said, ''Why do you want to be on the Foreign Relations Committee?'' I said, ''Mr. Chairman, one of the great concerns I have is our foreign policy, American foreign policy. It is my avocation, my interest. Quite frankly,'' I said, ''Mr. Chairman, if as a Senator I would not be able to deal with foreign policy, there would be no reason to run for the U.S. Senate; I might as well run for Governor. But the reason I am here is because I care about that.''

He looked at me, and he said, ''Well, I understand your sincerity. Let me think about it.'' So I saw him coming over on the subway a little while later, a week later, and he said, ''I thought about it.'' He said, ''You really want to affect foreign policy?'' I said, ''Yes, I would like to eventually, Mr. Chairman.'' He said, ''Why don't you go see my colleague, Senator McClellan.'' I said, ''I beg your pardon, Mr. Chairman. He is the No. 2 man''—then was about to be the chairman—''of the Appropriations Committee.'' And I said, ''That's appropriations.'' He said, ''Yes, but that's where foreign policy is made.''

I will never forget that.

Mr. PRYOR. A good story.

Mr. BIDEN. And he did support me, I might add, to go on Foreign Relations. But he told me if I really wanted to affect foreign policy, I should go with the other Senator from Arkansas, the chairman of the Appropriations Committee.

TRIBUTE TO J. WILLIAM FULBRIGHT

Mr. BUMPERS. Mr. President, I come this morning sadly to eulogize one of the truly great political and intellectual giants of my home State of Arkansas. In a way, it is especially difficult for me because in 1974 I ran against him for the Senate.

J.W. ''Bill'' Fulbright had been a Congressman, president of the University of Arkansas, U.S. Senator, chairman of the Foreign Relations Committee, and an icon to millions of people, not just in Arkansas, but all over the world.

In 1974 Senator Fulbright had served in the Senate for 30 years and was prepared to run for his sixth term. I was Governor of my State, completing my second term, and I can tell my colleagues that being a Senator is infinitely more enjoyable and less stressful than being Governor. I was not interested in running for the House of Representatives, nor was I particularly interested in returning to the practice of law.

While I had been a great fan of Bill Fulbright's, I was late in opposing the war in Vietnam, long after he opposed it. I had admired his courage in speaking out against that war almost from its inception. I suppose now would be a good time to say that he once told me that his vote on the Gulf of Tonkin resolution was the worst vote he ever cast, and that he regretted it.

But I had to make a decision about the Senate race, and I had to make it by March 1974. So I made what was one of the most difficult decisions of my life—to run against him in the Democratic primary. There are people, needless to say, who never forgave me for it, and I understand that.

I do not mean this to sound self-serving, but it is not terribly uncommon for people to come up to me and say, ''How does Arkansas elect the quality of people that it does?'' And they always include Bill Fulbright's name. We have a saying in Arkansas that we defeat better men than most States have a chance to vote for.

So while our relationship was not close even before that primary election, it was certainly not close afterward. Happily, about 5 years ago, we had a 2-hour luncheon, which I would have to say was one of the highlights of my life. It was not spectacular from a content standpoint, but we obviously liked each other and regretted that we had not been closer the first 15 years I was here.

Out of that luncheon grew a very, very warm friendship, not only with him, but with his beloved wife Harriet, who is one of the truly superior people I have ever known.

I might say at this point that Harriet has been as loyal, faithful, caring, and compassionate during Senator Fulbright's illness as anybody could possibly be.

Mr. President, I will introduce more formal remarks into the RECORD sometime in the near future, but I hastened here this morning after his death last night to say that I know I speak for all of the people of my State in expressing our genuine sadness at the loss of this truly great man.

Bill Fulbright believed in public service. I was just a youngster when he was first elected to the Senate, but in the time I did know him, while I was Governor and in the past few years, I never heard him express any idea that was not noble, an idea that was not motivated by his commitment to his country, or an idea that would not inspire our young people to choose politics as a career. Though he did not suffer fools gladly, he was not a cynical man.

I came here to say he was a great icon, a great public servant, and a brilliant man who loved his country beyond the love of anything else. I will personally miss him and the warm relationship we had been enjoying.

I yield the floor, Mr. President.

CRIME AND JUSTICE IN AMERICA

Mr. BIDEN. Mr. President, I rise this morning to begin speaking on the issue of crime and justice in America and the Democratic crime bill, the Clinton

crime bill that was passed last year, and the proposals to change that crime bill. I realize there is sort of a frenzy underway here where, to use the old expression, the freight train is rolling down the tracks, the contract is underway, and we are in a great hurry to change everything here.

I am going to spend a half hour or so this morning, and then future mornings, as we approach the debate on the Senate floor on the changes in the Biden crime—in the crime bill, and try to lay out some of at least what I see to be the facts.

Last year, Congress completed a 6-year effort and enacted a major anticrime law in which the Federal Government launched a bold and multifaceted attack on violent crime and its roots back in our communities, not here at the national level. For the first time, the Federal Government made major commitments to help States and localities, the places where 95 percent of all the crimes are committed and all the crimes are prosecuted. We got involved, to help them redress the greatest shortcomings in our system. And after years of study and overwhelming consensus, it was agreed what those shortcomings in our criminal justice system were and are.

No. 1, first and foremost, there is a shortage of police out on the streets of our communities. That is number one.

No. 2, the shortage of prison space and the need for sentencing reform at the State level.

No. 3, the shortage of effective responses to drug offenders.

No. 4, the lack of serious response to rape and family violence.

No. 5, the lack of safe places and positive activities for those children referred to as at-risk children, who grow up surrounded by illegal drugs, crime, and violence.

Everybody I am aware of agrees these were the problems we had to speak to. I might point out we pretty well have taken care of—which is a much easier problem to take care—the Federal side of that equation. We have enough Federal prison space in the Federal prison system. When you get sentenced, you go to jail for the totality of that term. I was the coauthor of that bill. In the Federal courts, if a judge says you are going to go to prison for 10 years, you know you are going to go to prison for at least 85 percent of that time—8.5 years, which is what the law mandates. You can get up to 1.5 years in good time credits, but that is all. And we abolished parole. So you know you'll be in prison for at least 8.5 years.

But in the States, the average amount of time people serve once sentenced in the State court is 43 percent of the time. So on average, in the States—my State being one of the exceptions, the State of Delaware, which essentially has the same records as the Federal Government; they keep people, on average, 85 percent of the time—but most States keep people in jail, if they get sentenced to 10 years in the State court, they only serve 4 years 2 months in a State prison.

So we fixed it at the Federal level. This was to help begin to not send rules or regulations or mandates to the States, but to send them money to fix the problems. It was to help them fix the problems I have stated, which everyone agreed on: Lack of police, lack of serious response to rape, et cetera.

Now, in its breadth, the crime bill we passed reflects the lessons learned over the past decade as we studied crime and law enforcement and worked on passing this law; namely, that all of the shortcomings have to be addressed at one time. Correcting one without the other is futile because crime knows no easy single answer. What we found out in the States and what we found out in our earlier experience in the Federal Government is when you increase penalties and you do not increase the number of prison spaces, you do not do much. If you put more cops on the street, they make more arrests, you increase the penalties, and you do not have places to put the felons, then the people just walk. So now you have convicted felons who are out on the street, not having served their time. So we learned we cannot just deal with one piece of it.

The anticrime law we passed last year addressed each of these shortcomings, as I will detail in a moment. In its approach, as well as in many specifics, the law was a result of bipartisan efforts—at least at the outset.

The law is already at work; $1 billion has already been awarded to the States and localities to put almost 15,000 new police officers on the streets in the community policing program. That is already done. The law only passed last fall and already almost 15,000 cops, new cops, brand new—not supplanting cops that were on local forces, almost 15,000 new local cops that were not there before—within the next several months, after they finish their training, are going to be on the streets in the United States of America because of this crime bill. Dollars, under the drug court program, the Violence Against Women Act, are going to be awarded over the next few months.

I hoped I could spend the next several months watching over the smooth and speedy implementation of this law, as well as turning my focus to the substantial issues that still lie before us. Just to name two priorities, we must turn all our talk about our war on drugs into a real battle, and we have to reform our juvenile justice system as it struggles to deal with violent, youthful offenders unlike any the current system was designed to handle.

That is work still to be done. I thought we would be on the floor here this next year and the following year, dealing with finally doing something real about the drug problem and doing something more about juvenile justice because when I wrote the crime bill, I never advertised it as—as my grandfather would say, this is not a horse to carry the sleigh. The whole sleigh on crime is more than what the crime bill was about, and we have said that, frankly, from the beginning. What we did, we thought we were going to have in place; we thought we were going to be just implementing.

Very soon, the Senate will embark on a debate, not about new challenges, but of the anticrime law we just enacted last fall. The House is already taking apart this law piecemeal.

What is motivating a retreat on the bill that contained so many provisions drafted and once supported by Republicans, as well as Democrats, quite frankly, escapes me. I will let you draw your own conclusions. But I ask you walk with me through the changes the Republican leadership seeks to make in the anticrime law. I suspect the merits will speak for themselves.

At the same time, I want to make clear what I will fight for and what I will fight against, as we revisit the issues debated in the crime bill last year so thoroughly. Let me turn first to the central provision of the present new crime law, a program designed to address the first major law enforcement shortcoming I mentioned, a program that deserves, in my view, to be preserved and one I will fight to save from the Republican chopping block. Let me speak first about that program.

That program puts 100,000 new police on the street. I do not know a responsible police leader, an academic expert, a public official who does not agree that putting more police officers on our streets back home and in our neighborhoods is a good idea, a good idea that goes by the name of community policing. The true innovation of community policing is that it enables police officers to pursue dual goals. They are better positioned to respond to and apprehend suspects when crime occurs. But they are also better positioned to keep crime from occurring in the first place.

Today, too many police officers are strangers in their own communities. From headquarters or cruisers, they respond to radio calls only after crime has occurred, forever behind the curve. Police officers are a part of their community. Community police officers will be a part of their community. They know their community—the hot spots, the troublemakers, the gang members—and they can work to prevent crime in the first place.

I do not want to go back to a nostalgic and romantic view of what used to be the case. But most of us who grew up in anything that remotely resembles a city or a town that had an identity when we were kids, those of us in this Chamber, when we were kids, we knew the local cop. He walked down the street. He knew everybody. He knew who owned what store. He knew the kids who were troublemakers and those who were not. We knew if we got into trouble, he would call our mothers or call our fathers.

Things have not been working too well is for a whole range of reasons—mainly the shortage of bodies—but one of the reasons is that we have moved away from community policing. In my own State, community policing took the form of foot patrols with a particular focus on breaking up street-level drug dealing that had turned one of Wilmington's neighborhoods into a crime zone. These efforts successfully suppressed drug activity without displacing it to another part of the city. The Wilmington example fits the shorthand description often used for community policing; that is, putting cops on the streets to walk the beat. But in practice, community policing takes on many forms, depending on the needs of any particular community.

The form of community policing takes various forms. From community to community, the results coming in from the field are all the same. Community policing works. In New York City, a place where crime can seem insurmountable, the police commissioner began an aggressive community policing program that contributed to a significant decrease in serious offenses last year.

## EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. THOMAS). The time for morning business has expired.

Mr. BIDEN. Mr. President, I do not want to ask unanimous consent to continue morning business if my friends are ready to go on the bill. I do not want to do that. But, if they are in no hurry, I would ask unanimous consent to continue for another 15 minutes.

Mr. CRAIG. Mr. President, there others who are seeking time for morning business, including myself.

How much more time does the Senator feel he needs?

Mr. BIDEN. About 15 minutes.

Mr. CRAIG. All right. Mr. President, I ask unanimous consent that we be in morning business until 10:45 with 15 minutes allotted to the Senator from Delaware and 15 minutes allotted to the Senator from North Dakota, and the balance of the time for this side, until the hour of 10:45.

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

The Senator from Delaware.

Mr. BIDEN. I thank my colleague from Idaho.

Mr. President, with the New York City community policing, since they instituted community policing, murders have dropped 19 percent, robberies have dropped 16 percent, burglaries went down 11 percent, and auto thefts were reduced to 15 percent.

In Tampa, FL, police committed themselves to moving crack dealers off the street corners and forged an unprecedented alliance with the citizens of the community to achieve that. Through a combination of standard buy-bust operations, new outreach to the community involvement of other city agencies and local media, the dealers have been driven off within a year and the streets within the targeted area returned to normal.

In New Haven, CT, one of the most innovative police chiefs in the Nation, Nick Pastore, with his aggressive community policing effort, led to a 10-percent drop in serious crime in the year 1992, the last time we have the figures.

Policing community techniques were introduced in the New York subway system 4 years ago, and the results have been phenomenal. Robberies have fallen by 52 percent. In the Inglewood section of Chicago, community policing is credited with a 6-percent decrease in violent crime last year.

The new anticrime law enacted last year targets $8.8 billion in funds to State and local law enforcement to be used specifically to train and hire 100,000 community police officers across the Nation. Like community policing itself, this program works. Already, the Justice Department has awarded almost 15,000 new officers to State and local communities.

All of these are local officers with no Federal control, no Federal mandate. These are local cops for which the Federal Government is kicking in $70,000 per cop.

In short, in only the first 6 months following the passage of the new crime law, almost 15,000 new police officers will be on the street. So much for the critics who claim that the new crime bill would fund only 22,000 police officers in 6 years. We have almost 15,000 that will be on the streets, new ones, in 6 months; not 22,000 in 6 years as our critics say. In fact, the law will fund 15,000, as I said, in the first 6 months alone, and we will be well on the way by the time the first year is over to surpassing the 20,000 mark.

The effectiveness of the cops program derives from its design. The cops program is a result of setting a precise goal, and enacting in a responsible program to achieve a precise goal. When he took office, President Clinton called on us to put 100,000 more police on the streets over the next 6 years.

To put it another way, we have roughly 530,000 local police officers in all of America, State cops to town cops to county cops. At the end of the process, there will be 630,000 cops on the streets of America. Already, that number will be up by 15,000 at the end of the first 6 months.

So he asked us to put 100,000 cops on the street. We then designed a program that funds that effort and that effort alone. The Federal dollars were awarded for the sole purpose of hiring new police officers so that in 6 year's time America will have 635,000 police doing community policing.

The position of this program stands in stark contrast to the Republicans' new law enforcement block grant which would spend roughly the same amount of Federal funds—to be specific, $8.5 billion—without guaranteeing a single, solitary additional cop back home. Read their proposal. Money is sent, not like it is now directly to a police department to hire a cop locally. Money will be sent to Governors back in our home States. With that money the Governor, out of that $8.5 billion we are going to send to the Governors now—not to the police—they will be able to hire or pay overtime to undefined law enforcement officers, or to procure equipment, technology or other material that is directly related to basic law enforcement functions, such as the detection or investigation of crime or the prosecution of criminals.

That may sound fine on the surface. But let us look at it a little bit closer. Let us call this what I call the first weakness of the Republican change. I call it the officer loophole because the Republicans do not define law enforcement officers as career officers dedicated to enforcing the criminal laws, as it is defined in the Biden crime bill. Indeed, the Republicans do not define law enforcement officer at all in their new crime bill.

Let us call the second weakness what I call the equipment loophole. The Republican proposal would fund any equipment or technology related to law enforcement functions, and those functions are specifically defined to include prosecution.

These two loopholes mean that the Governor of a State who will get the money now—it will not go to your local police department. It is the same old bureaucracy that is going to be set up. Right now all the police department has to do, they do not have to go to get anybody's permission. They can make an application. Once they check with their local government, their local civilian officials and send an application directly to the Attorney General of the United States, and the Attorney General of the United States can send back directly the money to hire those new local cops. But now we are going back to the bad old days, which is the Governors sit there and say, This is what I want to do with the money. Send me the money. I will take care of it. The two loopholes I mentioned means that the State can spend all of their money to hire prosecutors, all their money to improve the court systems or anything related to law enforcement. Arguably, the money could even be used to hire officers to enforce the civil laws as well as the criminal laws in the State. For example, the Governor could use the money to hire public health officers; they could use the money to hire the public health officers to inspect restaurants and businesses.

Equipment as defined by the Republicans could include not merely police equipment, which the new anticrime law already grants a portion of funds to provide for new equipment, but it could—in this case, they could use this money, which was heretofore only to

be used to hire a cop, to buy computers for prosecutors or judges or telephone booths or lighting or whatever the Governor decided would relate to law enforcement functions. And 100 percent of the Federal funds could be used for this equipment, or to fund prosecutors, or to pay judge's salaries, without one single penny having to go to hire an additional cop.

I support many of these functions. In the crime bill, for example, we provide for a significant amount of money to the States to hire State judges. We put in money for new equipment. But we segregate, in the present crime law, almost $9 billion. It says you must hire a sworn officer, that is somebody who is a criminal law enforcement officer. That is all you can do with the money now.

This new law proposed by the Republicans will, in fact, guarantee that we will not get 100,000 cops on the street. I am opposed to replacing the program that guarantees 100,000 new cops on our streets with the proposal that could spend over $8 billion in Federal funds, without putting any new cops anywhere.

The Republican proposal suffers from an additional fatal flaw. It requires no fiscal accountability or responsibility. I find this fascinating. They are talking about tightening the budget, tightening spending. Here they are going to take over $8 billion, with no accountability, and send it back to the States. Why do we not just have plain old revenue sharing? Why call this a crime bill? The bill uses a formula to simply hand out Federal funds to officials, with no strings attached and no accountability. That sounds great, does it not?

Well, the anticrime law requires that States and localities match Federal grants with their own money. And this match requirement is not born out of a lack of generosity on the part of the author of the bill, me or anybody else who voted for it. The offer of $8.8 billion in Federal funds to assist what is purely a State and local function can hardly be characterized as not being generous. No, the reason I wrote in a match was to require accountability, a match required born out of experience.

I started my career as a county councilman, and I know how local officials work. God bless them, they have a tough job. We would sit there in budget meetings when I was a county official, councilperson, and somebody would say, well we are going to buy a new park, or do this in the park, or we are going to add two more police, and I or somebody else would say, how much is that going to cost? I am not exaggerating when I say the answer would come back that it will not cost anything. Wait a minute, you just said we are going to hire two new cops. They said, that is Federal money. That is Federal money, and it is not going to cost anything. Well, it is my tax dollars.

So I found when a county or city has to put up some money for a program, they think twice about whether or not they really want it. Remember the allegations in the old LEAA Program, where police departments are out buying Dick Tracy wristwatches, purchasing riot control gear in small towns that never even thought about a riot? In the LEAA Program, we went a long way to begin to work toward using our money wisely. We built in three key concepts. We targeted law enforcement to aid specific programs; required a match of one State or local dollar for every three Federal dollars that we spend, and required extensive State plans to explain what they are going to use the Federal dollars for. We do not demand that they do anything, except tell us what they are going to use them for.

The resulting law was what we called the Byrne Grant Program, which is a predecessor to this crime bill, a fiscally responsible, well-run program that continues today. The same concept marks the essential elements of the anticrime law for 100,000 cops. In fact, we even improve the Byrne concept in one respect. We permit localities, not just Governors, to apply directly for the funds to ensure that the money gets where it is most needed.

I think my Republican colleagues should go back and look at the experience of LEAA before they pursue their proposal of block grants for police and any other purpose. Their proposal is an $8.5 billion giveaway of Federal dollars with no specific goals, with loopholes, and loose language that would permit every cent to be spent without any increase in police on the streets to show for our investment at the end of the 5 years.

In contrast, the anti-crime law enacted last year, which was bipartisanly constructed in the first instance, builds on the LEAA lessons. It sets specific goals, provides a simplified application, requires accountability for evaluation and matching requirements. In addition, the matching requirement is set up so the local share increases from year to year. In this way, we ensure that local dollars are to be used responsibly.

I see my time is coming to a close. Those who say, wait a minute now, BIDEN, under your bill that is now law, you required the States to kick in money. I say, yes, that is right. They say, well, in our bill we do not. Well, I ask a rhetorical question. This bill they are going to offer is a block grant for 5 years. Say they go out and hire cops for the local communities with block grant money and we pay for all of it for 5 years; what happens at the end of 5 years? The Federal Government is guaranteeing that we are going to take over local law enforcement costs for the rest of eternity? Is that what we are saying? No. In 5 years, the mayor has to go back to the taxpayers and say, hey, now we have 50 cops on the street, 10 are being paid for by Federal dollars. We no longer have those Federal dollars. Now I have to raise your taxes or cut the 10 cops.

Is it not wiser to make that decision at the front end, where you have to go to the voters or your community and ask, do we want more cops? The Federal Government will give us $70,000 to start off here, to keep this cop for 5 years, and we are going to have to kick in probably $50,000 over that 5-year period. At the end of the process, we have to pick it up. What do you want to do? I think it is time we asked citizens to be as responsible as legislators should be and are not. That is, if you want to have more cops, it costs money, flat out. It costs money.

The local officials should have the guts to go to their constituency and stop talking about how tough they are.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho [Mr. CRAIG] is recognized.

## FEDERAL LANDS ACT FOREST HEALTH AMENDMENTS OF 1995

Mr. CRAIG. Mr. President, along with Senators HEFLIN, MURKOWSKI, GORTON, DOMENICI, BURNS, PACKWOOD, KEMPTHORNE, and a statement of support from the minority leader, Senator DASCHLE, I will, in the near future, introduce the Federal Lands Act Forest Health Amendments of 1995.

Mr. President, for some time I have attempted, along with others, to bring to the attention of this Senate the serious deterioration of this country's forest lands from a variety of ills, including drought, insect and disease attacks, and natural wildfires. We have come to understand that these problems, in combination, affect millions of acres of Federal, State, and private forest lands, and they have advanced to a point that they simply demand the attention of this Congress.

It should be no surprise to any of us. Numerous recent reports from the scientific community, one of them called ''Assessing Forest Ecosystem Health in the Inland West'' and the ''Report of the National Commission on Wildfires,'' predicted intense wildfire events as a consequence of the forest health problems that this legislation will speak to. Many believe these costly fires will continue, unless there is an aggressive action by man to work with Mother Nature in attempting to deal with this situation. Scientists and forest managers met in Sun Valley in my State in 1993, and warned us with a very terse message, that we had ''A brief window of opportunity, perhaps 15–30 years in length''—and in the life of a forest, that is but the blink of an eye—to reverse this very unnatural cycle of fire that we were moving into.

And, of course, last summer, it was so vividly dramatized in the inland West, as 4 million acres of unhealthy timber burst into fire, killing people, destroying homes, destroying ecosystems and wildlife and damaging riparian areas, and at a cost of $1 billion to the Federal Government in its attempt to suppress these fires, when,

in many instances, they simply had to back away and watch the violence of the fires and the destruction that occurred.

Do not be misled by those who proclaim that wildfire is beneficial to the environment because of a natural mosaic of vegetation that would be created. The 1994 fires were way outside the normal and the historic range. Damage to every component of the environment was so extensive that it will really cost us hundreds of years to begin to repair that kind of damage. A draft environmental impact statement just released by the Boise National Forest in my State documents long-term, severe damages to watersheds, soils, fisheries, and wildlife from last summer's fires that will be, as I mentioned, decades and decades and decades in repair.

The only way we can deal with this serious problem is to develop and implement equally serious management strategies and allow our national forests our foresters in the scientific community to break the cycle of the forests that are in decline with this kind of mortality as a result of the disease, the insects, and the drought.

My bill, titled the ''Federal Lands Act Forest Health Amendments of 1995,'' is an attempt to do just that. It is now gaining bipartisan support. We will want to move it very rapidly through the two committees of jurisdiction and bring it to the floor of this Senate for debate, while a similar bill will move in the House.

This bill will set the management procedures in place to identify the highest priority forest health problem areas on the national forests, the public lands managed by the Bureau of Land Management and the public domain wildlife refuges. Once the areas are identified, this bill requires the agencies to take aggressive action to restore forest health. Most notably, the legislation would relieve some of the procedural impediments which have tied the agencies' hands. Our aim will be to alter unhealthy forest vegetation through thinnings and other cultural practices so the forest more nearly conforms to the historic patterns which once prevailed. Once there, the forest ecosystem can be maintained through scientific management.

I see this forest health legislation as a long-term solution to the problem at hand. Years of concentrated effort will be needed to treat millions of acres now in trouble and restore them to conditions which are within the expected natural patterns and cycles. Though our western forests are in particular crisis now, forest health problems have surfaced in southern forests as well as in the northeastern and Lakes States, and this legislation would be very useful in those circumstances.

As with most difficult situations, there is an opportunity here. As forest health activities are implemented, benefits will be gained for fish and wildlife habitat, water quality, scenic values and for all components of the ecosystem. That is the end result we want. At the same time, the activities needed to accomplish that end will generate forest products, jobs, and economic returns to the local economies which have been badly hurt by the shrunken timber supply.

We do not need to be risking lives and property fighting these unnatural wildfires. We don't need to be spending a billion dollars on fire suppression when we could be taking effective preventive action to reduce risk. We do not need to watch our natural resources go up in smoke when there is a critical need for wood fiber to sustain our industry and communities. Forest health crises are preventable, and I am committed to bringing solutions before the Congress. That is why I will introduce this legislation.

Our time, our window of opportunity, as I mentioned, is very narrow. I hope that my colleagues will join with me in a serious effort at working with the Forest Service to resolve the crisis that our forests are now in.

Yes, for the time being, we are receiving abnormally high moisture levels in the inland West. But still, over the long period of drought, the accumulated moisture continues to decline, and along with that is the direct decline of the forests' health. Clearly next year, we would set ourselves up for another summer of fire and destruction and, tragically, the possibility of life lost, the kind that we saw in Colorado, in my State of Idaho, in Oregon, in Montana, and certainly in Washington and California this past year.

Something has to be done. I believe my legislation will start us in that direction. And it would be foolish for this Senate, this Congress, this administration to simply set idly by and say, ''Oh, but it is Mother Nature at her finest.'' It is Mother Nature at her worst, because part of the problem that we are dealing with is the result of our inability to manage fires over the years and our failure to recognize that there was a national ebb and flow of the ecosystem that we have severely damaged and it will take our work, our efforts, and our cooperation with Mother Nature to begin to right this process.

So I hope my colleagues will join with me in this effort and become cosponsors of the legislation that we will be introducing.

Mr. GORTON. Mr. President, legislation will be introduced soon that takes our Nation an important step closer to avoiding devastating wildfires in our national forests. I am proud to be an original cosponsor of the legislation to be introduced by the senior Senator from Idaho—the Forest Health Amendments of 1995.

Last year, wildfires raged across the Western United States. The fire season started in early summer and by the time the smoke had cleared nearly 3 million acres of land in the Western United States had burned—double the amount of 1993. In the States of Washington and Oregon alone, nearly 1.4 billion board feet of Federal timber burned.

Last summer, after listening closely to the concerns of Washington State residents, I offered an amendment during the House-Senate Interior Appropriations conference to provide the Forest Service with the authority to expedite these salvage sales. Unfortunately, I could not convince the members of the conference committee to include my amendment in the report. And, unfortunately, the burned timber is still sitting on the ground.

Today, most, if not all, of the 1.4 billion board feet remains on the ground in Oregon and Washington. Obviously not all of the 1.4 billion board feet of timber that burned last summer would be eligible for harvest. According to the Forest Service calculations, usually 50 percent of the total volume burned in a wildfire can be salvaged. Consequently, roughly 700 million board feet is eligible for some type of salvaging activity. But, once again, the Forest Service has made only token efforts to prepare the sales necessary to get in and get up this valuable timber. The urgency is based upon the fact that burnt, dead, or dying timber loses its value rapidly.

The ramifications of inaction by the Forest Service in preparing these sales is twofold: These sales will provide small sawmills and logging companies in the Northwest—literally on verge of going out of business—some much needed wood supply. Beyond this, it is critical to remember that if the timber is left to rot on the forest floor it will be setting the stage for yet another devastating fire season this coming summer. Mr. President, inaction on the part of the Forest Service not only hurts working people, but it also hurts the environment.

Regrettably, inaction is exactly what we are getting from the Forest Service. In response to the wildfires from last summer the Forest Service began to study the forest health issue. Last December the Service issued a report on its study entitled the ''Western Forest Health Initiative.'' The report highlighted 330 forest health-related projects in the Western United States. The majority of these projects, however, were not developed in response to the wildfires of the summer. For instance, in Washington and Oregon, only 40 projects were identified in response to the summer fires. Of the 40 projects, only a few were actual salvaging operations.

Mr. President, the people in my State are asking themselves ''why?'' Why isn't the Forest Service going into the burned out areas and getting up the timber? Why isn't the Forest Service restoring the health of our forests, and putting people back to work? The answer is, of course, in large part driven by the fact that the Forest Service will most likely go to court if it begins

even a modest effort to conduct salvage operations.

Mr. President, the people in my State are frustrated. They are frustrated with a Federal Government that is so petrified by the potential filing of law suits that it will not undertake even the most limited of management activities in our Nation's forests.

The legislation to be introduced by the Senator from Idaho would ease some of this frustration. The Forest Health Amendments of 1995 would require the Secretaries of Interior and Agriculture to conduct a yearly review on the status of the health of our Nation's forests. The bill would continue to grant the right to appeal a project, but would limit the timeframe for such an appeal. The bill grants the authority to allow for an environmental assessment on an individual project versus the more costly and time consuming environmental impact statement. The bill would also allow for the Forest Service to prioritize forest health needs as an emergency or high-risk area.

The legislation to be introduced will not be enacted soon enough to conduct salvage operations in response to last year's wildfires. This Senator has already begun to work with his colleagues in the Northwest congressional delegation to put together an amendment that will address the salvage sitting on the ground from last year's fires, and other short-term timber supply issues for the region.

Mr. President, this legislation will provide the Forest Service with some much needed direction. We cannot, and should not, stop managing our forests because of the obstructionists tactics of a few groups and individuals. If we do, we will be confronted with devastating wildfires—like last year—on an annual basis. I encourage my colleagues to work with this Senator and the Senator from Idaho to enact this legislation, and bring some common sense back to the management of our Nation's forests.

Mr. DOMENICI. Mr. President, my colleagues should be well aware of my sentiments toward a runaway train, known as the Federal bureaucracy, and its effect on individuals and small businesses in this country through the regulatory process. I have spoken of this situation, here on the floor of the Senate, in the past. My colleagues should also be well aware of my commitment to the principle of multiple-use regarding Federal lands. This principle was established in the Federal Lands Policy and Management Act of 1976, known as FLPMA.

Today, I am here to support an effort to streamline a part of the regulatory and decisionmaking process regarding the management of federally controlled forest lands. In the course of this section, I am also hopeful that we will aid individuals and small businesses whose livelihoods depend on the sustainable development of our forest resources.

Mr. President, I am here today as a cosponsor of the Federal Lands Act Forest Health Amendments of 1995, to be introduced by Senator CRAIG. These amendments are, indeed, needed, as we all witnessed the tragic losses of life and property to fires that devastated many areas in the Western United States this last year, including parts of New Mexico.

In regard to the issue of forest health addressed by these amendments, I have read report after report, each describing how the state of affairs in the forests administered by the U.S. Forest Service and the Bureau of Land Management are in decline. At the same time, I have heard over and over how every step that he professional land managers we have entrusted with the care of these treasured lands is challenged through either administrative appeals or in the courts. These endless challenges, no matter how well intentioned, have tied the hands of the land management agencies to the point that almost every activity related to scientifically supported treatment of even the most devastated areas is effectively halted.

Mr. President, this must stop. I believe that this legislation will be a significant benefit to our forests, and the people who live and work in and around them. It will establish criteria that will allow the responsible agencies to place areas most in need of corrective management in a high priority designation of either emergency or high-risk forest health areas. Further, when we say emergency, we mean emergency. One of the criteria for designation as an emergency area is that 50 percent of the trees are either dead or will likely die within 2 years. Let me repeat that standard for emergency designation: half of the trees are either dead or will soon die.

Included in the decision to designate an area as a forest health emergency or high-risk area will be a listing of the authorized corrective activities that will be undertaken to improve conditions in the affected areas. None of these management activities will be beyond the scope of actions already approved in the appropriate land management plan.

This is an innovative approach to expedite the bureaucratic process, and one that will create a finite time from proposal to actual on-the-ground activities. This should, by no means, indicate that we here in Congress are trying to keep the public from participating in the process. We provide for a public comment period following the publication of the proposal in the Federal Register. We are also not attempting to cut off the opportunity for appeals. A period during which appeals can be filed is also required. We are quite simply providing a process by which constructive and corrective actions can be applied in the most dire of circumstances, where the continued inaction that occurs under the current system can only result in further degradation of our treasured forest resources.

Finally, Mr. President, this legislation will require the Secretaries of Agriculture and the Interior to report annually to the Congress on activities carried out under this provision. In this report, the Secretaries will also inform the Congress of the current status of forest health on Federal lands, describe problems that have been encountered over the previous year, and indicate initiatives expected for the next year.

In closing, I want to commend Senator CRAIG for his commitment to resolving the problems faced by the Federal land management agencies, and for his leadership in bringing the issue of forest health to the forefront here in the Senate.

Mr. KEMPTHORNE. Mr. President, first, I would like to commend my colleague, Senator CRAIG, for bringing this issue to the floor of the Senate for debate.

As some of you will remember, last summer catastrophic forest fires swept across the west. Governors were forced to declare states of emergency. We saw devastating loss of life—and I ask you to recall for a moment the 14 firefighters who lost their lives in Colorado, there were other as well—of property, of habitat, and of economic resources that rural communities in States like Idaho depend on.

Some of these fires burned so wild and so hot that we could only wait for winter snows to put them out. But when the final fires were controlled, and the tallies taken, the numbers showed that my State of Idaho suffered the most timber lost of any State—over 1.5 billion board feet—enough timber to build over 137,000 homes, and to provide jobs for up to 35,000 people.

Idaho was not alone. Our neighboring States suffered as well. The Forest Service alone spent $757 million fighting fires across the west. That does not include the expenses by BLM, the States, and other agencies.

I would like to be able to tell you that this past summer was a fluke and that it hadn't happened before, and won't happen again. But that is not the case. These forest fires will come again. High fuel loads, long-term drought that made our forests susceptible to disease and insect infestations are all still threatening our forests. Huge stands of dead and dying timber are ready and waiting to go up like a tinderbox again next summer or the summer after that.

We cannot bring the rain to end the drought—that talent is in higher hands than ours. But we can take action with the tools that were given to us. We can manage those forests so that they provide the timber, the habitat, and the recreation opportunities that we depend on. This bill will give the Forest Service the flexibility to manage forests in a timely manner to get salvage sales out within the window of opportunity.

Keep in mind that not all of that 1.5 billion board feet of timber damaged in the fires had been approved for timber harvest. Far from it. The local forest supervisors have taken into consideration habitat and other environmental requirements, and have set aside possibly as much as 90 percent of the timber that was burned to meet other needs besides economic ones. But the remaining timber is harvestable, and if we do not expedite the handling of that timber, and harvest it within the limited 2-year window of opportunity, then the value of that wood is lost.

Rural communities of Idaho and other western States depend on the income from these Federal sales, for direct revenue and income for schools and county roads. This letter from the Cambridge School District explains the need of Idaho schools for a dependable, steady timber supply. I ask unanimous consent that the letter be made part of the RECORD.

It is Congress' responsibility to ensure that Federal agencies are serving the public efficiently and effectively. The timeclock is ticking. Let's serve the public we were sent here to work for, and pass this bill.

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

CAMBRIDGE SCHOOL DISTRICT #432–J,
*November 15, 1994.*

DIRK KEMPTHORNE,
*Senate Office Building,*
*Washington, DC.*

DEAR MR. KEMPTHORNE: The summer of 1994 saw catastrophic fires in many of our forests and a great deal of salvageable timber remains in areas burnt over. That salvage timber deteriorates rapidly if not recovered and it is in the best interests of our society to avoid waste of natural resources. Many of Idaho School Districts receive significant revenues from the sale of timber resources from the federal forests in Idaho to fund educational programs.

The Cambridge School Board would like to join and support a position calling for the salvage of recoverable timber in a manner consistent with sound environmental practice and to encourage the Forest Service and the Idaho Department of Lands to expedite that salvage to maximize local government revenues and to provide citizens of Idaho with expanded job opportunities.

Education funding in Idaho is greatly influenced by the use of natural resources in our state.

Sincerely,

CYNTHIA K. JONES,
*Chairman.*
SHARON M. STIPPICH,
*Vice Chairman.*
KATHRYN WERT,
*Trustee.*
DOUGLAS HANSEN,
*Trustee.*
ELLIS E. PEARSON,
*Trustee.*

Mrs. MURRAY. Mr. President, I rise today to speak about a very important issue in the Pacific Northwest: inland forest health. Earlier today, my colleague form Idaho, Senator CRAIG, spoke about legislation to address a serious forest health problem plaguing forests throughout the inland west. He very accurately described the problems of disease, insect infestations, and drought that are prevalent in many such forests, and which can lead to serious forest fires.

I commend Senator CRAIG for his work on this issue. He is correct that serious forest health problems exist in many areas, and he is correct that we should try to do something about it. The reasons are very simple. Healthy forests are essential to ensuring long-term economic sustainability in rural communities; they are essential to our standard of living; and they are essential to maintaining a healthy environment.

Growing trees provide many benefits. They shade spawning streams, they stabilize soil and prevent erosion, they provide wildlife habitat, they consume carbon dioxide and produce oxygen. They also provide wood for our home, paper for our schools, shelter for our communities, and recreation for the people. In short, they are many things to many people. If we strengthen our forests, we strengthen our communities. Of course, the reverse is also true. If we weaken our forests, we weaken our society in many ways.

So it is important that we do what we can to keep our forests as healthy as possible.

I would like to support a forest health bill. Given the passions inflamed when Congress starts legislating forest policy, I believe it is incumbent on us to proceed cautiously if we hope to achieve any results. Above all, we must not go too far. We need a forest health bill that addresses legitimate problems and reflects the public's view regarding management of our public lands.

I have already talked about some of these problems. What about the public view? We know the public enjoys its parks and wilderness areas. We know the public appreciates aesthetic, wildlife, roadless, and old growth values. But we also know the public has a voracious appetite for wood products. So, as is so often the case, our challenge and our responsibility as legislators is to strike the right balance.

I have a few concerns I hope can be addressed as we enter the forest health debate. I have touched on a few already: We need to make sure we are taking steps to address legitimate, serious problems. We need to avoid costly, catastrophic fires. The fires we saw last summer ravaged thousands of acres, cost a billion dollars to fight, and did no one any good. We need to avoid diseases and inspect problems as well.

We also need to keep in mind what's going on downstream. People in the Pacific Northwest have spent the last few years trying to refine the concept of watershed-based management. In Tacoma last year, Representative NORM DICKS any myself convened a conference of nearly a thousand people to discuss watershed issue. Agency managers, fishers, private land owners, wildlife specialists, water users, conservationists, and citizens of all types came together to recognize the importance of watersheds as a resource management unit.

We are finding more often than not many land-use questions are becoming aquatic questions. In other words, what happens downstream is quite often affected by what happens upstream. Our entire resource-based economy is connected one way or another by the streams and rivers that criss-cross the region.

I believe there is ample room for proactive management of forest health problems and consideration of aquatic issues. The connection between these two issue sets is a concept I would like to introduce in the debate over Senator CRAIG's upcoming legislation.

We also need to make sure management actions are science-based. The good news is that very few people in the scientific community disagree over management prescriptions that can help improve forest health. Just the same, I think it is important to make it clear that the goal of achieving good forest health, and the steps taken to reach it, are based in sound science.

Finally, I want to say a few words about the broader issue of ecosystem management. This is a concept that has been very popular in recent years. It suggests that active resource management and usage can be reconciled with strong conservation goals. It suggests we can make decisions on a broad basis so we can avoid stumbling into problems on a case-by-case basis. These are goals that I strongly support.

But the problem remains that ecosystem management is still just loosely defined. And of course, the devil is always in the detail. Last year, Senator HATFIELD introduced legislation that I cosponsored to define the concept of ecosystem management more clearly. The goal is to arrive at a set of principles or standards that can guide long-term resource management decisions.

I believe this is still the proper course of action. Until we have a clear goal in sight, it is not necessarily wise to proceed quickly with rifle-shot solutions to short- or intermediate-term problems that may not repeat themselves. So I encourage my colleagues, and people from the region, to consider some of the threshold questions that remain unanswered.

Mr. President, there are other issues that I have not touched on but which I hope can be discussed in the context of forest health. Again, I commend the Senator from Idaho for his work. I hope to work with him and other Senators from the region in a bipartisan way to come up with solutions that work for the people.

### FEDERAL LANDS ACT FOREST HEALTH AMENDMENTS OF 1995

Mr. DASCHLE. Mr. President, Americans rely on the national forests for a wide variety of activities, ranging from timber harvesting to recreation and

the conservation of wildlife. It is incumbent upon us to maintain those forests in the healthiest condition possible.

Unfortunately, throughout the country, and particularly in the intermountain west, forests are in poor shape. Persistent drought, disease, and insect infestation have created stands of dead and dying trees that pose a serious risk of fire. The forest fires that last summer burned thousands of acres of forest throughout the West and claimed the lives of men and women of the Forest Service provide bleak evidence of the problem. If we are to manage national forest ecosystems in ways that provide the services that Americans have come to expect, supply them in a sustainable manner and support the diversity of habitat needed to maintain fish and wildlife, then we must confront the forest health issue squarely.

Senator CRAIG will soon introduce the Federal Lands Act Health Amendments of 1995, which is intended to establish a more deliberate and timely process for dealing with forest health problems. I commend Senator CRAIG for focusing attention on forest health and look forward to continuing our collaborative effort on this issue and on the broader issue of ecosystem management. As a result of the Craig bill and the forthcoming discussions that it will generate, I expect Congress to develop a reasonable and effective response to this problem.

Over the last 2 years, as chairman and ranking member of the Senate Subcommittee on Agricultural Research, Conservation, Forestry, and General Legislation, Senator CRAIG and I held hearings on the management of the Federal lands. The subcommittee held two hearings on ecosystem management, a third on the new appeal process, and a fourth on the issue of forest health.

From those hearings, and through my experiences in working with wildlife managers, members of the timber industry and environmentalists, it has become clear that federally managed forests in some areas of the country suffer from problems related to drought, past mismanagement, and insect infestation and disease. The high incidence of tree mortality and fires in some national forests suggest that we still have much to learn about the causes of these problems and how to manage these complex systems.

The Forest Service and Bureau of Land Management should place a higher priority on dealing with forest health problems before they become worse. To do so effectively, several important steps should be undertaken.

First, forest health problems need to be better defined. We must develop a shared vocabulary so that all those interested in maintaining healthy forests can work together in common cause.

Second, scientific research should be conducted to identify problems and evaluate options. Only by relying on sound scientific data can we hope to proceed in an effective and defensible manner.

Third, and perhaps most importantly, we must set priorities. We must focus our attention on areas of greatest need, while ensuring that other issues are managed to prevent future problems.

And fourth, solutions must be developed and implemented in a timely manner.

Again, I appreciate Senator CRAIG's foresight and diligence in bringing to the attention of Congress the issue of forest health. This is a complicated issue that involves important objectives such as maintaining species habitat, ensuring that insect infestations and diseases are within a natural and healthy range, preventing soil erosion, and safeguarding the overall long-term sustainability of forest ecosystems.

The bill to be introduced by Senator CRAIG provides a valuable framework for addressing these critical issues. It will force Federal agencies to identify lands at risk and take concrete steps to improve forest health on those lands. In the long-run, the public should benefit by management activities taken as a result of this bill.

Senator CRAIG has expressed a desire to move this legislation through the necessary committees as expeditiously as possible. I support this goal, and look forward to participating in Agriculture Committee hearings on the bill. Concern has been raised that the legislation as currently written may provide overly broad discretion to the Federal agencies and that it may in some cases overburden those agencies with new responsibilities at a time when budget cuts hinder their ability to accomplish existing responsibilities. These issues merit further attention. Also, it is my hope that the Senate will examine the question of whether the bill assures sufficient opportunity for deliberation and analysis by the agencies and input by the public.

I look forward to working with Senator CRAIG to examine these questions and to move this bill through the appropriate committees and to the floor this year, so that we can begin to address forest health in a systematic, deliberate, thorough, and effective manner.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

## REID AMENDMENT TO THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. CONRAD. Mr. President, I rise today in strong support of the amendment to the balanced budget amendment to the Constitution that has been offered by the senior Senator from Nevada, Senator REID, and others of us. The purpose of the amendment is to protect the Social Security trust fund from being looted as part of an effort to balance the budget.

Mr. President, I think it is important for people to ask when we are considering a balanced budget amendment to the Constitution: What budget is being balanced? That is what this first chart asks. What budget is being balanced?

In order to answer that question, I think it is helpful to go to the actual language of the balanced budget amendment that is before us. And if you look at the language, it says very clearly:

> 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.

So, Mr. President, it is very clear that what we are dealing with with respect to the balanced budget amendment to the Constitution is that all of the moneys coming into Federal coffers are being jackpotted. They are all being put in the same pot. Whether they are trust funds or not trust funds, it is all being put in the same pot. And then we are going to look at those total receipts and compare it to total outlays.

I prepared this chart. This is kind of the teapot of the Federal Government budget. It shows the revenue that goes into the pot, and the revenues are the individual income taxes that are raised. That provides about 45 percent of the revenue of the Federal Government. All social insurance taxes go into this pot, including the revenue that is taken out of people's paychecks every month that is supposed to be for Social Security. All of that money is going into the pot. Social insurance taxes are about 37 percent of the revenue of the Federal Government. Corporate income taxes go into the pot. That is about 10 percent of the revenue of our Government. All other taxes are 8 percent.

And then we look on the other end of the ledger. We look at what comes out of the spending spout of the Federal Government. And here is the spending breakdown. About 22 percent of the outlays of the Federal Government go for Social Security, 16 percent is interest on the debt, 16 percent for defense, 14 percent for Medicare, 7 percent for Medicaid, and other, 25 percent.

So one can see in the balanced budget amendment that is before us what goes into the pot is all of the revenue and what goes out the spending spout are all of the outlays.

The problem with this balanced budget amendment is that in using all of the Social Security income in counting whether or not you are balancing the budget, Social Security is not contributing to the deficit. Social Security is in surplus. And Social Security is in surplus for a reason. The reason is to prepare for the time when the baby boom generation retires. Because then these Social Security surpluses are going to turn to massive deficits. And

so the reason for accumulating surpluses is to prepare for the time when the baby boomers retire.

The problem is, the money is not being saved. The problem is, under the balanced budget amendment that is before us, we are going to put into the Constitution of the United States that those Social Security surpluses, instead of being saved, will be looted in order to give us a balanced budget or contribute to balancing the budget.

Mr. President, this chart shows, just over the 7 years that the balanced budget amendment is to lead us to a balanced budget, how much of the Social Security surplus will be taken each and every year.

This is the amount of Social Security trust fund money that will be looted in order to balance the budget.

In 1996, $73 billion of Social Security surplus will be taken. We can see each and every year those surpluses are mounting. They are increasing. Under the terms of the balanced budget amendment that is before this body today, unless it is altered by the Reid amendment, every one of these dollars is going to be taken. Every one of these dollars will be looted in order to contribute to balancing the budget. That is profoundly wrong, Mr. President.

We can see, as I said, $73 billion of surplus from Social Security in 1996, $78 billion in 1997, $84 billion in 1998, $90 billion in 1999, $96 billion surplus in the year 2000, $104 billion of Social Security surplus in the year 2001, and $111 billion of surplus in the year 2002.

Every nickel of that surplus taken, not to have a fund that is available when the baby boomers retire; but no, every penny taken in order to contribute to balancing the budget.

Mr. President, let me just say that if any chief executive in this country stood up before his board of directors and announced that in order to balance the operating budget of the company, he was intending to loot the retirement funds that were held in trust for his employees, he would be headed for a Federal facility, and it would not be the Congress of the United States.

I said the other day that this amendment, as drafted, the balanced budget amendment before Members, as drafted, would make the Rev. Jim Bakker proud. Remember Rev. Jim Bakker? He went to a Federal facility, the Federal prison. He went to Federal prison for fraud. The fraud he was conducting was to raise money for one purpose and to use it for another. That is precisely what is being contemplated in the balanced budget amendment to the Constitution that is before Members today. That is fraud. It is fraudulent to tell people you are raising money for one reason, namely, to build a trust fund surplus that is available for them when they retire, but on the other hand not to create the surplus at all but to loot the fund and to use it for other spending.

We would be putting in the Constitution of the United States that that is what would be done. Mr. President, that is so profoundly wrong I cannot even fathom how those who have written this amendment think it ought to be included.

There is not any financial institution in this country that would accept for one moment the notion that we should take trust fund moneys and use them to balance an operating budget.

Mr. President, I showed the surpluses, $636 billion, that are contemplated under the balanced budget amendment that is before Members today to be used to help balance the budget over the next 7 years. That is a small part of the story. That is just the next 7 years. The real larceny, the real theft, the real fraud, is far in excess of $636 billion. That is just what will be taken in the next 7 years.

We know Social Security is going to be running surpluses for much longer than the next 7 years. In fact, it will be running surpluses out past the year 2020. When we look at the projected size of the Social Security trust funds out until the time the baby boomers have retired and start to draw down those surpluses, what one sees is simply staggering.

These bars on this chart show the Social Security surplus as it accumulates. It shows by the year 2000, there will be almost $1 trillion of surplus. By the year 2010, $2.1 trillion—not million, not billion—trillion. This is real money, 2.1 trillion of surplus; $2.8 trillion by 2015; $3 trillion of surplus by the year 2020.

Mr. President, when the baby boomers go to the cupboard to get their surplus, their retirement, they will find the money is all gone. It has all been used. It has all been looted to help balance the rest of the budget of the United States.

This will create a financial catastrophe for the future. That financial catastrophe will be when the baby boomers retire. Having been made a promise, they will find no one can keep the promise, because in order to pay back this money, the tax increases would have to be so draconian, or the cuts in benefits so draconian, that the people of the United States would simply revolt.

Mr. President, this chart shows what has happened in terms of the growth of payroll taxes both for Social Security and Medicare from 1940 out until the present. What one can see is that these regressive taxes have been increased very dramatically over this period of time in order to make these funds supposedly add up.

The problem again, of course, is that these increases, these increased taxes that have been levied on the American people, have been used. And they have been used to balance other parts of the Federal budget. Or at least to reduce the deficit of other parts of the Federal budget.

One reason that this is profoundly unfair is because, in essence, what has happened is people are being taxed on their payroll, on the amount of their wage earnings, and they are having an increasing amount taken out. They are being told, ''We are taking this increasing amount because we have to run a surplus; we have to get ready for the time when those of you who are in the baby boom generation retire.'' That makes sense.

Unfortunately, what we say and what we do are two completely different things. We are not running surpluses in order to prepare for the time when the baby boomers retire. Instead, we are taking that money, we are taking those surpluses, and we are using it to offset other spending. So, in effect, what we are doing is levying a regressive payroll tax and using part of it, the part that makes up the surplus, to fund the other operations of Government.

In fact, 73 percent of all taxpayers today are paying more in payroll taxes than they are paying in income taxes. I think this may come as a shock to many people. It is true: 73 percent of all taxpayers are paying more Social Security payroll taxes than they are paying in income taxes. They are doing it because we have told them the money is needed to create surpluses to prepare for the time when the baby boomers retire. The fact is that that is not what we are doing. We are taking the Social Security surpluses, we are looting them, in order to reduce the deficit.

Now we have a proposal before Members in the balanced budget amendment to the Constitution of the United States, the organic law of this country, that would take this practice and enshrine it in the Constitution of our country. I cannot think of anything more inappropriate than to put into the Constitution of the United States that we are going to take trust fund surpluses and use them to help balance the operating budget of this country.

Mr. President, I come from a financial background. If anyone, as I was being schooled and taught how to properly manage finances, had told me, ''You take trust fund money and you use that to balance other parts of a budget,'' that person would have been run out of the financial institution because everyone understands that that is absolutely inappropriate.

For Members to put into the Constitution of the United States that we will take trust fund surpluses and use them to balance the other parts of the budget is profoundly wrong. That is the reason the Reid amendment is so important, because it gives Members the chance to protect Social Security trust funds from being looted for other purposes.

Mr. President, I do not know of anything more basic than this concept. I do not know of anything that is more important when we are considering a balanced budget amendment to the Constitution than to make certain the trust fund moneys, Social Security trust fund surpluses, are not looted in

order to balance other parts of the budget.

So, Mr. President, let me just conclude by thanking my colleague, Senator REID from Nevada, for offering this amendment. There are others of us who have joined with him in offering this amendment, and I urge my colleagues to support it. I thank the Chair and yield the floor.

Mr. CRAIG. Mr. President, I yield the remainder of my time to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I thank the Senator from Idaho for yielding this time. What is the order of business?

The PRESIDING OFFICER. Morning business under the current order is until 10:45.

## FOREST HEALTH PROTECTION AND RESTORATION ACT

Mr. BURNS. Mr. President, I rise today in support of the Forest Health Protection and Restoration Act, to be introduced by Senator CRAIG, myself, and others. This is a bill that is very important to my State of Montana and whose time has come. Forest health and management is paramount to the economic stability and future of Montana and, of course, our neighbors who depend on these renewable resources which support our smaller communities in Idaho and Montana.

For too long, the various land managing agencies in the Federal Government have been telling us that there is not a problem with the health and vitality of our national forests and Federal lands. On January 20, I had a report placed in the CONGRESSIONAL RECORD regarding this very topic. It appears that the Forest Service had requested a report on the state of the health of western forests, and after review decided that the report did not meet the standards that they had desired, changing the report before its publication could reach Congress and the public. It is the intent of this legislation to make the Forest Service, the Bureau of Land Management, and all organizations more responsive to the oversight of Congress. I do not think that was the intent of the legislation. I am sure it was not.

This act, the Forest Health Protection and Restoration Act, recognizes the removal of the problems that crept into our forests as essential to the future of our Federal lands. This act acknowledges the plain and simple truth that overgrowth in our forests is a problem that must be faced in our lifetime. The removal of old and heavy undergrowth is essential to sustaining and developing a healthy forest for the future. The purpose of this legislation is to provide for the future through proper management and the authority to adapt a flexible decisionmaking process to our Federal lands for forest health.

We looked at our forests in the northern part of Idaho and the northwestern corner of Montana and advised the Forest Service and land managers years ago that if we did not do something with the biomass that was created by some dead and dying trees—we had a moth up there that killed a lot of trees—if those diseased trees could not be removed from our Federal lands, all we need is a dry year and a high lighting year, and we are going to experience the biggest fire season that we have ever had.

I am here to tell the American people, last summer we had that fire season. There were millions and millions of dollars in fire suppression spent, lives were lost and there was an estimate that there was enough timber lost to build thousands and thousands of homes in this great country, of which we still have a housing shortage.

I joined in sponsorship of this measure so that the citizens of Montana can have an opportunity to address their future. This bill when enacted will provide this chance. No longer will Montanans be at the mercy of the actions and whims of people many miles away, with no vested interest in the forests, lands that they tie up with numerous nuisance lawsuits. Under the powers granted within this measure, we will provide safety to those people under emergency designations that will allow forest management the ability to open, for health reasons, forests to treatments. This legislation will expedite the manner in which resource managers will be allowed to assist in therapy for the forests, which for years, have been left to their own devices, namely fire and disease, for treatment.

Last summer I saw in Montana the results laying in waste and ash, of the disregard that many have for proper forest health. Earlier in the year, during an Appropriations Committee hearing, I warned the leadership of the National Forest Service of the pending disaster waiting to occur in the forests of northwestern Montana. A disaster, which highlighted the occurrences if proper forest health issues were not addressed immediately. During one of the most costly fire seasons in history millions of dollars of taxpayer money was expended, and millions of feet of timber, to were lost to the fires that ravaged our national forests last summer. Lives were lost, private property destroyed or damaged; all because we did not address the need to maintain the health of our national forests.

We cannot return the forests to what they once were, hundreds of years ago before man set foot among the trees. The time has come when we can no longer allow fires to cure the needs of the forests of this country. There are many ills that can attack and destroy the trees and the beauty and health of our publicly owned lands. Nature can and will work to care and clean up the messes that we create, either through our own ignorance or neglect. The implementation of this legislation will provide us the working tools to begin to look after the future health and welfare of our public lands. The work we are seeking to develop here is not to promote the wholesale depletion of the land, but to allow the country to use and develop a healthy forest using the renewable resources that are at hand.

This piece of legislation is very important to Montana, to the West and the Nation. For under this act we can, and will provide for the future of our national forests and Federal lands. By opening our eyes to the problems that lay among our forests we will see a cleaner, more vibrant and stable forest than we have for years. I ask my fellow Senators to act quickly on this measure and let us repair and rehabilitate the great forests of our country.

I congratulate my friend from Idaho for his work in drafting this piece of legislation because the time has come when we have to look at the way Mother Nature takes care of our forest and the way the forest has to be managed so that those resources can be enjoyed by all of America. We cannot afford another 1988, nor can we afford another 1994 when it comes to saving that great renewable resource that it takes to supply the vast majority of shelter in this country.

So I congratulate my friend from Idaho who has introduced this legislation. I hope that it will be considered in the committee very quickly and brought to this floor and passed out of the Senate for House consideration.

I would like to see this legislation become law this year because we still have diseased forests that are in danger to, yes, yet another year of drought and maybe disease that should be worked on right now. This is a renewable resource. It is a resource that is America's, and we cannot let it just to be wasted away.

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

Mr. BURNS. I thank the Chair. I yield the floor.

## WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let's do that little pop quiz again: How many million dollars are in $1 trillion? When you arrive at an answer, bear in mind that it was Congress that ran up a debt now exceeding $4.8 trillion.

To be exact, as of the close of business yesterday, Wednesday, February 8, the total Federal debt—down to the penny—stood at $4,805,605,149,692.51—meaning that every man, woman, and child in America now owes $18,242.16 computed on a per capita basis.

Mr. President, again to answer the pop quiz question, How many million in a trillion? there are a million million in a trillion; and you can thank the U.S. Congress for the existing Federal debt exceeding $4.8 trillion.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

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

The legislative clerk read as follows:

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

The Senate resumed consideration of the joint resolution.

Pending:

Reid amendment No. 236, to protect the Social Security system by excluding the receipts and outlays of Social Security from balanced budget calculations.

AMENDMENT NO. 236

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, what is the status of the Senate? Are we on the Reid amendment at this point?

The PRESIDING OFFICER. The Chair did not hear the Senator.

Mr. DORGAN. Is the Senate now considering the Reid amendment?

The PRESIDING OFFICER. Yes, we are under consideration of the amendment. There is no time controlled.

Mr. DORGAN. Mr. President, I come to the floor today to offer words of support for the Reid amendment. I intend to vote for it, and I hope the Senate will vote for it in sufficient numbers to add this to the constitutional amendment to balance the budget.

(Mr. KYL assumed the chair.)

Mr. DORGAN. Let me this morning begin by talking about a woman who many of you know; the story, of course, is legend. On December 1, 1955, in an Alabama city, a woman had just finished her work for the day. She was a seamstress. She was about 40 years old. She was tired, her feet hurt; she had worked a long day, and she was on the way home.

She went back and forth to her job by bus. And on this day, at the end of the workday, with tired feet, this woman boarded a bus and took the first available seat. And as the bus traveled down the avenue, the bus began to fill up. And on this day, December 1, 1955, as the last seat was taken on the bus, a white male passenger boarded the bus and looked at this woman, Rosa Parks, and said, ''You must leave your seat and move to the back.''

She refused to do so. At that point in the life of this country, she was required to ride in the back of the bus. Her dignity that day, as well as the fact that she had worked a long day and was tired, but her dignity especially, persuaded her to say, ''I'm not moving,'' and she remained in her seat. Others around her began to curse her, as the story is told. The bus driver stopped and refused to move the bus because this woman would not move to the back of the bus and give her seat to a white passenger.

The police were called, and Rosa Parks was arrested and thrown in jail. Her indiscretion? She refused to give up her seat and refused to move to the back of the bus.

Well, it is some 40 years later now, and I guess all of us would say we are proud to understand that the quiet dignity and strength of Rosa Parks lit a fuse that caused an explosion of understanding and, yes, tension—but most especially understanding—that has changed things in this country for the better. The avenue where that bus traveled on that December day in 1955, and where that arrest was made, is now named Rosa Parks Avenue.

Sometimes one can force change by simply refusing to move. Some say, ''Well, don't just sit there.'' Rosa Parks just sat there because she felt she was entitled to do that, and that single act by that courageous woman, who will live in our history, has caused substantial change in our country.

So when they say, ''Don't just sit there,'' I think sometimes on some issues some of us say, ''Well, wait a second; where we sit is important.''

On this issue today of Social Security, some of us believe that where we are in this country, with a program that is, I think, the most significant and the most remarkable program of its kind anywhere in the world, it is one that ought not be trifled with. It ought not be threatened. It ought not, in our judgment, be in any way changed so that the American people will not have confidence that Social Security will be there when they need it.

That is why many of us feel at this point in this debate on the constitutional amendment to balance the budget we ought not move forward on this issue without the Reid amendment. We should add the Reid amendment to the constitutional balanced budget amendment so that we do not jeopardize the Social Security trust fund.

Why is it important to us? Too many Americans do not even understand the consequences of the Social Security system or what makes it unique. We just take it for granted.

I told my colleagues before about an experience I had one day that I shall never forget. Some years ago, I ran out of gas in a helicopter. I quickly learned one of the immutable laws of flying: If you are in the air and you run out of fuel, you will land very quickly.

I, with a colleague of mine, landed in a helicopter in the jungle terrain between Nicaragua and Honduras. Congressman GEJDENSON, from Connecticut, and I were actually down in a Contra camp, and touring refugee camps in Central America.

We were traveling by helicopter one day. It was in August, and there were big thunderstorms. We were over mountains and jungles, and we were going down mountain passes, and then a big thunderstorm cell would loom up in front of us and we would backtrack and go down another valley, and we would backtrack again. We had been flying a long while, and the pilot had some lights go on and some bells go off and we were running out of fuel. They had to put the helicopter down, right now. There we were, out of radio contact, somewhere in the mountains and jungles of Honduras, right by the Nicaraguan border.

We were unhurt, but for a number of hours we did not know where we were. Nor did anyone else. Other Army helicopters eventually searched for us and found us. We were pulled out of there by other helicopters.

The point of the story is this. As we sat there on the ground, some of the campesino families and others began walking toward us. A group gathered to try to figure out who on Earth had come down here in this rural stretch, in the mountains of Honduras. We had an interpreter with us who spoke fluent Spanish. And as we were there—because no one knew where we were, we were going to be there for awhile, and we did not know exactly what was going to happen—we began, through the interpreter, to talk with these people who came around to figure out who had come down there. People I talked to—and this is something I discussed with the interpreter during this conversation—told me something I had never even thought about before.

I was visiting with a young woman, I guess probably 23 or 24 years old, who had come walking through the underbrush there with some children with her. We were just talking through an interpreter. There was kind of a little crowd, maybe six or eight people.

I said, ''How many children do you have?''

And this very young woman said, I believe, ''Only three. Only three.''

I said to the interpreter, ''Gee, she sounds disappointed. Lord, she cannot be over 22 or 23 years old, and she sounds disappointed she has only three children.''

The interpreter said, ''You do not understand. You come from a country that has all these things—Social Security. Down here, there is none of that. Down here there is no Social Security program. If you grow old in some of these countries, you want to have had as many children as you could have, so maybe enough of them will live so when you become old, if you are lucky enough to grow old, you will have some children surviving you who can help you in your old age. That is Social Security.''

It was the first time I had ever thought about it. I never thought about that before because I grew up in a country where Social Security was just there. It was a part of our lives. We understood: When you work, you pay in. The person who employs you pays in. And when you retire, it is

there. It is just taken for granted. We do not even think much about the connection. Who made it, who created it, who caused it, how it works—we do not think much about that. It is just part of American life.

I mention the story today simply because there are other parts of the world where this is a totally foreign notion. That you would have some basic device at the end of your working life that allows you to have a decent retirement is a novel idea in some places. That is what Social Security is. The Social Security system is the fabric of that guarantee.

How did we get it? How did we create it? Through a massive public debate, during which many people said: This is socialism, this is pure socialism. This is the worst instincts of the Democratic Party, this Social Security nonsense.

Of course, it was not. And it has always been there. It was a useful, necessary, important program for America's elderly that has, I think, grown in the right way. It is now a compact between those who work and those who retire, and it has made life in this country better for tens of millions of Americans, year in and year out. We ought to be proud of this program. This program works. This program worked in the past, and it will work in the future for this country. We always ought to understand that.

We come to this point in America's history after a couple of hundred years of self-government—and incidentally, a couple of hundred of the most successful years of any similar attempt at government known to humankind. There is no other reasonably similar approach to government that has been tried as successfully as this anywhere in human history.

In a couple of hundred years, we have had fights about public policy back and forth, and during this time we created some things, one of which was Social Security. During the last 15 or 20 years or so, this country's fiscal policy, that is the spending and taxing decisions and the system by which we decide how much to spend and how much to tax, has gotten off track and out of balance. And this country has begun to run up very large budget deficits. The budget deficits are not accidental. They are a function of the Congress and the President proposing to spend what the people largely want spent, and the Congress and the President being reluctant to tax what the people largely don't want taxed. So what has been the result?

The result has been that the Congress and the Presidents in about the first 200 years or so, up until 1980, had spent $900 billion more, over all of the years in this country's existence, $900 billion more than it had taken in. In other words, it charged to a charge account $900 billion, because it spent money that it did not have, starting with the beginning of the United States of America to the year 1980.

From the year 1980 to the year 1995, in the month of February, this country added to that charge account. It is not any longer $900 billion. It is now nearly $4.8 trillion. So in nearly 200 years, the country spent $900 billion it did not have and charged it to future generations. And then, in 15 years, it added somewhere around $3.9 trillion and said: By the way, charge this, too. Put it on the same account.

What do we face in the future? If you look at what the Government does—Medicare, Medicaid, and a whole series of spending decisions and revenues—and take a look at what the Congressional Budget Office says will be the consequence of the current system and the current spending levels, you will find that we will add, if nothing is done, about $4.4 trillion to the same charge account in the next 10 years. Except it will be more than $4.4 trillion, because we have some in this Chamber who say let us do two additional things. Let us increase defense spending and build star wars—which is one of the goofiest ideas I have ever heard in my entire life; that is now resurrected—let us resurrect the strategic defense initiative or star wars at a time when there is no Soviet Union. But leaving that aside, increase spending or cut revenue.

So it will not be $4.4 trillion added to this charge account, added to the already $4.8 or $4.9 trillion, so you are talking close to $10 trillion. It will be more than that. Does anybody think that represents the right future for this country? I do not. Most of the constituents I know do not believe it does.

So the question is, What will intervene to change it? Will it be six people of good will finding a vacant room back here with a clean sheet of paper and making plans, scurrying around making little plans on how to balance the budget? I do not think so. It has not happened in the past.

It will be people representing what their constituents are saying: Make sure you keep these programs, now. We do not want to lose programs. But we do not want to pay taxes, either. We do not want you to increase them. In fact, we would like you to cut taxes.

So we have the Republican Contract With America saying let us cut taxes. In fact, let us do it a little better; let us cut taxes mostly for the well-to-do. Then we have some Democrats saying, let us also have a middle-income tax cut, slightly less and differently targeted, but the same approach, basically. It is the same approach basically.

In the midst of all of this comes the notion that we should amend the U.S. Constitution to require a balanced budget. I did not come here thinking that was the necessary thing to do. I think it is pretty hard for us to improve on the work of Washington, Mason, Franklin, Jefferson, and others. So I did not think we should amend the Constitution for the first few years I came to Washington. But I have changed my mind about that. I do not think for a moment that it will cause one penny's difference in our future budgets by itself. It is a bunch of words that someone is going to write into the Constitution. Everybody here who will vote for this understands it will not cause one penny's difference in the budget deficit. It may ratchet up slightly more pressure for decision making in both the House and the Senate that will lead we hope toward a balanced budget. That may be what happens. If that happens, then I am for anything that turns up the heat, anything that ratchets up the pressure, because frankly, we cannot continue going down this road.

There must be a reconciliation in this country between what we spend and who we spend it for, and what this country is willing to pay for. You just cannot keep having Government that we are not willing to finance.

I know polls show the American people think half of the money spent by the Federal Government is wasted. It is not. This is not money someone buries in their backyard or puts in a sock under a mattress. Most of this money goes out in the form of entitlement programs one way or the other or goes to pay for defense. If you take Medicaid, Medicare, interest on the national debt, defense, and Social Security, you have three-fourths of every dollar the Federal Government spends. So we have to force a reconciliation of what we spend and what kind of resources we have so that we get back some notion of fiscal policy balance to assure this country's economic future.

Why is it important to put an amendment in this that says let us not raid the Social Security trust funds as we do that? For this simple reason: Not one penny of the Federal deficit has been caused by the Social Security system; not one. This year the Federal budget is going to have a significant deficit but the Social Security system is going to collect nearly $70 billion more than it spends. Why?

I was a part of the group that in 1983 wrote the plan that required this surplus. I helped write the Social Security reform plan. We wanted to enforce national savings so that when the baby boomers retire after the turn of the century we would have savings accumulated to deal with that. After the folks came home in the Second World War, not surprisingly, I guess, we had the biggest baby crop in the history of this country called the war babies. When that generation begins to retire, we will have maximum strain on the Social Security system.

The point of the 1983 reform bill was to force some national savings to be available for the baby boomers' retirement. If we do not put the Reid amendment in this constitutional amendment, the potential will exist that those who want to balance the budget by using the Social Security trust fund will simply raid the fund to balance the budget.

The problem about that is it breaks the fundamental promise, that we take the money from paychecks of the people who work, we put it in a trust fund dedicated for only one purpose. The tax is dedicated. The trust fund is dedicated, and that is to pay for the Social Security system. If we have to at some point adjust the Social Security system, it ought to be adjusted based on the internal mechanics of the system. Is it well financed or not? If not, let us deal with it based on the actuarial notion of the system. But let us not decide to raid this enormously successful program, which needs all these savings for the time when the baby boomers retire, and decide to use that money to balance the budget. That breaks the promise it seems to me that we have with the American people.

Let me mention one other thing because we talk about this always in such an antiseptic way. It is always policy and numbers. I mean, it sounds like it is all sterilized. This is about people. It is about how people live. Every single one of us have constituents who tell us stories that bring tears to our eyes as we leave a meeting or leave a discussion with someone.

I once spoke with a woman who is 82 years old, who has diabetes and heart trouble, and whose only revenue and only resource in life is the Social Security check she gets. The Social Security check is somewhere around $380, I think she told me. Then she has to buy a medicine to deal with her heart problem and her diabetes, pay rent, and buy groceries. She said to me, ''I cannot afford to buy the medicine for my diabetes and the heart trouble.'' So the doctor prescribed it. And she said, ''I have to take it. So I buy the medicine. Then I cut the pills in half and take half as much as he recommends so the medicine will last twice as long. It is the only way I can afford my medicine. Otherwise, I cannot eat.''

Your heart bleeds for someone who is 82 and finds herself in that circumstance. Think of how important that Social Security check is. It is her lifeline. It is the only thing she has. Before Social Security, people like her were just desperately poor, consigned to poorhouses or consigned to begging for food or shelter.

The Social Security system, as inadequate as it might be to deal with all the problems, is something that is enormously important in this country. And we must, all of us, make certain that system is protected and available with its resources for the future. I have heard dozens of times people say, ''The Social Security system will not be there when I retire.'' They have said that every decade since the 1930's. It has been there in every decade, and it will be there in every decade in the future. That is a plain fact.

I hope that, as we consider this amendment, we will have an up-or-down vote on the merits of this amendment. I am not asking for five reasons someone would want to vote against it. Just give me one good reason. There could only be one good reason that one would not want to support the Reid amendment, and that is because someone does not want to use those massive amounts of dollars we are accumulating to be available for the baby boomers. They want to use them for some other purpose. That is the reason this is a critically important amendment.

I know others want to speak. I have gone on at some length. I hope that we will have an up-or-down vote on this amendment, and I hope Members of the Senate will come to this Chamber and register yes or no. This is not rocket science. This question does not require a great deal of understanding to understand the implications.

Do you want to use the revenue that is in the Social Security trust funds to balance the budget? Do you want to break the promise? Do you want to raid the trust funds, or do you not? If you do not, then vote for the Reid amendment. If you do, then find devices to try to defeat this thing. But then understand what the purpose of trying to defeat it really is.

If you decide you want to keep a promise—and we should in this country—then let us pass the Reid amendment. Then let us pass this Constitutional amendment to balance the budget. I know it is not going to balance the budget. It will require more than that. But it if turns up the pressure some, I am for it. But let us do it the right way, and let us do it soon.

I hope when the vote is complete we will find in a bipartisan way Members who will answer this simple question with a simple answer. No. We do not intend to raid the Social Security trust funds to deal with this budget deficit because it will not be fair, and it will not be the right thing to do for this country's future.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I am moved by the eloquence of our colleague from North Dakota. He is talking about the way in which our elderly were treated prior to the establishment of programs such as Social Security and Medicare, programs that gave the elderly dignity and respect.

I was born in November 1936. My father was elected to the Florida State Senate in November 1936. The reason that he ran in that year was in large part because he had the occasion to visit some of the Florida State mental hospitals. The term mental hospital was a misnomer for those Florida institutions in the mid-1930's. They were really places where people put their aged, those who they could not afford to maintain, those who needed special help more than mental health concerns. They were warehoused in our State's mental institutions. The words ''snake pit'' were appropriately applied to those institutions.

One of his goals in running for the State Senate was to bring some greater degree of dignity to indigent older Floridians by providing them a somewhat adequate monthly stipend in their old age.

That limited effort was then subsumed in the national effort to create social security, which has, in a period of now almost three generations, given what had been the poorest group of Americans, older Americans, the ability to live the balance of their lives with some degree of dignity and respect.

We should be proud with what we have accomplished since 1935 in terms of making that kind of opportunity available for millions of Americans, and the prospect of it being available for millions of Americans in the future.

But before turning to the specific issues that I think are raised in this constitutional amendment as it relates to Social Security, I would like to make a few comments on the underlying amendment itself. I have in the past spoken and voted in favor of propositions which would provide for a constitutional requirement that there be a balanced Federal budget. I shall do so again with the same degree of disappointment that I have done in the past.

Passing a constitutional amendment to require us to balance the Federal budget is a blatant statement of failure. We are admitting our inability, without this type of discipline, without this constitutional shackle, to do what we should have done and what, frankly, most generations of Americans have done, and that is, to exercise fiscal responsibility.

Up until 1980, the U.S. Government had accumulated a national debt of slightly over $900 billion. We fought World War II, World War I, we lived through the Great Depression, just to mention three events of this century. We lived through all of these events and accumulated a national debt of $900 billion. Since 1980, we have added to the national debt approximately $4 trillion. We will soon be asked to vote on a national debt limit that would allow us to exceed the $5 trillion level in terms of national indebtedness. We have had a free-fall of excess in terms of our national fiscal policy. I wish I could say that I saw something on the horizon that indicated we were about to reverse that pattern, and that we would not need a constitutional amendment to require us to do what our forefathers had been able to do without a constitutional amendment. I am afraid, however, Mr. President, that I do not see any indication that we are about to reverse this policy of the last 15 years.

In fact, to the contrary, I see new evidences of irresponsibility. To mention one, the Contract With America contains provisions for a series of tax

reductions; each one of which is popular. Everyone would like to pay less toward the cost of Government. It has, however, been a pleasant period in the United States, in which Americans have experienced high levels of services, relatively moderate levels of taxation, and a series of tax cuts over the past 15 years, all while letting our grandchildren pay the bills. The Contract With America would continue that. It calls for over $700 billion of additional tax cuts in the next 10 years; $700 billion would be added to our already staggering estimated deficits for the next 10 years. To me, that is just one indication of the fact that we do not have any reason to believe that we are about to exercise voluntary discipline. Therefore, it will be necessary for us to impose upon ourselves and the future of America a constitutional requirement to do what we ought to be doing. It is a matter of our generation's responsibility.

I believe that there are several important objectives to be accomplished by this constitutional amendment. One of those is to reestablish the principle of generational responsibility. When I was born, we were not leaving to our future generations massive debts. Our parents and grandparents and great-grandparents had paid their own bills. They believed in the principle of generational responsibility. That will be reestablished with this constitutional amendment. We will also heighten our sense of accountability, that it is our responsibility to be accountable for how we handle the Nation's fiscal affairs.

How do these principles, these goals, relate to the issue of how Social Security should be treated in a balanced budget amendment? As previous speakers have so appropriately and eloquently stated, Social Security is a contract, a contract between the Government of the United States and the people of the United States. It is a very solemn trust that we hold. The lives of millions of Americans are affected very directly by their belief in our trusteeship and how, in fact, we carry out that trusteeship.

Giving Social Security special treatment within this constitutional amendment would be a statement to the American people of our understanding of that trusteeship.

Mr. President, there is also another factor—I apologize if what I am about to say is a little bit tedious and technical, but I think it bears repeating—and that is the special financial structure that we have created for Social Security and how that financial structure relates to the issue of the appropriateness of having Social Security excluded, treated separately, for the purposes of the balanced budget amendment.

Prior to 1983, Social Security was like most other trust funds in the United States. It was a pay-as-you-go system. As, for example, with the highway trust fund, dollars are collected each year based on the amount that is paid in gasoline tax. That money goes into a trust fund. Those trust funds are then appropriated to States or to specific transportation projects. There is an ingo and out-go that is balanced almost on an annual basis. That was the way Social Security was treated up until 1983.

In the years prior to 1983, there was a recognition that Social Security was facing some very serious financial problems. One of those problems was that the Social Security system was very much the captive of the change in the U.S. birthrate. I happen to have been born in 1936, a period of relatively low births in the United States. Not very many babies were born proportionately during the Depression. Therefore, as my generation enters the time when it will become eligible for Social Security benefits, we are not going to impose a very heavy burden on the Social Security system. Conversely, when my children, who were born in the 1960's, a time with a relatively high birthrate, enter Social Security, there will be a very heavy demand imposed on the system. And so the fundamental change made in 1983 was to move Social Security from a pay-as-you-go system to what is referred to as a surplus system, much like other forms of life insurance or annuities. That is, dollars were to be built up during the period of low demand on Social Security, so that when we reach the point that there would be heavy demand, there would be the resources available to pay those benefits.

This chart, Mr. President, illustrates how that Social Security surplus system is intended to work. Beginning with this year, 1995, we will have a surplus of something in the range of $70 to $80 billion. We have had a surplus built up since 1983 of approximately $400 billion. We are going to be adding substantially to that amount over the next 20 or so years, reaching a peak of having a surplus of approximately $3 trillion.

Then, in about the year 2019, we will start a rapid draw-down. In a period of a decade, we will deplete that $3 trillion of surplus and zero out the account to meet the demands of that large group of Americans who will reach retirement age in approximately 2019 forward.

Now what is the significance of this structure of Social Security financing, which represents approximately 25 percent of the expenditures of the Federal Government? What are the implications of this financing structure to the balanced budget amendment?

I describe the implication as being the mask and then the hammer. From now until the year 2019, because the way our deficit is reported, where annual surpluses constitute a subtraction from our stated deficit, the surpluses will mask the Federal deficit.

We talk about the deficit in the current budget as submitted by the President as being approximately $190 billion. That is not totally correct. Actually, the deficit for the Federal Government in 1995–96 will be $190 billion plus $80 billion, the Social Security surplus. Because the way we report under our accounting system, that $80 billion of surplus in the Social Security trust fund is subtracted from the overall deficit.

It would be somewhat like a family which had an income of, let us say $40,000, but had expenditures of $50,000. It would appear as if they were running every year $10,000 in the red. But they had a rich uncle who had died and left them a trust fund which each year gave them for the next 10 years $20,000 out of that trust. If they reported in their accounting that they made $40,000, spent $50,000, but had $20,000 in the trust fund, it would appear as if they actually had a $10,000 positive each year. Of course, the problem is, when the trust fund runs out in 10 years, they are going to be back to where they were initially, except probably worse off because they had become accustomed to having this $20,000 trust fund.

We are somewhat in that same situation. We are masking the real extent of our fiscal problem by every year pumping in the novocaine of a substantial Social Security surplus.

And what is the hammer? The hammer is what happens after the year 2019 when every year we are going to start our Federal accounts with a deficit of, in some years, in the range of $350 to $400 billion.

How would you like to be sitting here in the year 2023 with a constitutional amendment that says you have to balance your books every year and you begin the process with a deficit of $350 to $400 billion because of the enormous outflows from the Social Security trust fund?

I believe, Mr. President, that if we write into the Constitution that we must have a budget system that consolidates Social Security, representing 25 percent of our expenditures, into all the rest of the financial activities of the Federal Government, that under this structure, we are going to be leaving our future generations with an enormous, impossible task, particularly in these outyears.

And let me point out, this is not an aberration. This outline of surpluses and then deficits of Social Security is not a mistake. This is the way the system was planned to operate. It mirrors the demographics of the country—relatively low numbers of persons in retirement age at the beginning of the 21st century and large numbers of persons in retirement age in the second quarter of the 21st century. This is the way the system is supposed to work.

When you apply that against the mandate of a balanced budget, if Social Security is consolidated into every other account in the Federal Government, you will create a fiscal impossibility.

Next, if Social Security is on budget, it is going to create a temptation to

manipulate Social Security for the purpose of further masking the extent of our financial problems.

To use one example. It was only a couple of years ago that there was serious discussion in this Chamber of eliminating the cost-of-living adjustment for Social Security beneficiaries. I think, wisely, that proposal was rejected. But why was it being proposed? It was being proposed because, if you eliminated the cost-of-living adjustment, which amounts to approximately $20 to $30 billion a year in terms of Social Security expenditures, if you eliminated that cost-of-living adjustment, you would have artificially made the surplus appear that much larger.

If we did not pay a COLA out in 1995, we would not be talking about a surplus of $80 billion. We would be talking about a surplus of close to $100 billion. That would mean that our stated deficit would be $20 billion less.

So with that one action, we would have cut the reported Federal deficit, the deficit for purposes of meeting this constitutional requirement, by $20 billion.

That is the temptation that we are going to have because it is will be such an easy, disguised way, in which to meet the standard that we are setting for ourselves of a balanced Federal budget.

Next, I think that the consequence of what I just described—the temptation to use Social Security with this kind of a financing system to artificially reduce the stated Federal deficits—the consequence of that is to increasingly shift the cost of other areas of Federal responsibility to the Social Security financing system, which means shifting it to one of the most regressive sources of Federal revenue—the payroll tax.

The payroll tax is a straight tax on the payroll of most Americans, without regard to their ability to pay or other considerations. There are no deductions, there are no credits, there are no other recognition of special circumstances with the payroll tax. And as we give into the temptation to use Social Security as a means of meeting our other responsibilities, we continue to add to the extent by which Government is being financed by its most regressive form of revenue.

Next, I believe that one of the positive benefits of taking Social Security out of the general revenue budget of the United States—doing as Senator REID proposes—is that we will have the happy prospect of actually running a surplus in terms of our overall Federal condition once we are able to balance our general revenue books. Once we are able to get the rest of the Federal Government into a balance situation, with Social Security operating at a surplus, then we will be able to begin to reduce the amount of the national debt which is held by the general public.

We will begin to get some of those benefits that a positive surplus in our fiscal accounts will bring, such as lower interest rates, or stable interest rates, the benefits that will come in terms of stronger economic growth.

Finally, Mr. President, I believe it is important that we separate Social Security from the general revenue because we have a lot of work to do on Social Security. I have outlined briefly what the structure is.

There is an implicit assumption in that structure; that is, that the surplus funds that we are accumulating, what will eventually amount to $3 trillion of surplus, is being invested in an area that will be available for liquidation and used to pay these benefits that are going to be due after the year 2019, just as a private pension fund takes the money that it collects every year from employers and employees, however it is structured, and invests it in stocks, bonds, public instruments, or private funds so that when people retire there will be some real money there to pay their pension. The assumption is that something like that has happened with Social Security. Wrong. What is happening with the Social Security surplus is it is being used to finance the very deficits that we are trying to eliminate.

One of the benefits of having Social Security and the rest of the Federal Government's financial problems separated is it allows the Senate to focus attention on dealing with Social Security, making it the kind of solid, predictable, reliable, sustainable source of economic security for older Americans that we have represented it to be.

As long as the two are melded together, I think we will be constantly under the microscope of suspicion that we are doing it not to help Social Security but to raid Social Security.

We, as good physicians who need to make accurate diagnoses and prescriptions for Social Security, need to be in a surgery ward where we are not subject to the attack or criticism or suspicion that we are not doing this out of the desire to raid Social Security, that we clearly are doing it for only the purpose of making Social Security strong, healthy, vigorous, and able to carry out its contractual responsibilities.

Mr. President, I believe this is an extremely important issue that we are discussing and that it is imperative that we adopt the amendment as offered by the Senator from Nevada if we are to carry out our responsibilities not just for today, but particularly for the long future.

We have only amended the U.S. Constitution a few times in our 200-plus year history. It is interesting that only one of those amendments, once adopted, was repealed. That was the amendment on prohibition. Every other amendment, once adopted, has stayed in the Constitution and stayed in the original form. We are not doing this just for 1996 or 1997; we are doing this for the years 2096, 2097.

What is in the best interest of Americans over that long, indefinite future? I believe it is in the best interest of Americans to adopt the discipline of a balanced budget amendment, but to exclude the one-fourth of our Federal expenditures that represent Social Security, for the reasons that I have outlined, but particularly for the mask and the hammer we are about to leave for future generations if we require, constitutionally, that Social Security be consolidated with the rest of the Federal Government.

Let me conclude with a few recommendations. One, if we exclude Social Security from the consolidated budget, I think that we need to look at the question of whether the year 2002 is still an appropriate year for a mandated balanced budget. I believe that we should stretch that period out probably an additional 2 to 4 years, recognizing the fact that we are not going to have the Social Security surpluses as a means of offsetting deficits, and that we do not want to create an undue shock to our economic system and create the possibility of unintentionally putting the United States into a recessionary period.

If we do not adopt Senator Reid's amendment, I think we will need to think seriously about going back to the pay-as-you-go approach to Social Security that we had prior to 1983. I do not believe that the current system is sustainable within a consolidated Federal budget and a constitutional mandate that budget be balanced beginning in the year 2002.

Mr. President, I appreciate the opportunity to make these remarks. I commend the Senator from Nevada and also the Senator from California and others who have brought this matter so appropriately and so vigorously to our attention. It is an extremely important matter. It is not one that needs to be treated as if it can be dealt with by a cosmetic or other surface resolution.

This is a fundamental issue of our future ability to treat Americans who have relied upon the ''contract with America''—that is, Social Security—and to be able to give to our future generations a financial plan for which they will be able to achieve the objectives, including balancing the general revenue budget of the Federal Government, the benefits of having the surplus from the Social Security fund to be used to invigorate our economy rather than to mask our profligate spending, and to give Members an environment in which we can do those things which will be necessary to assure the long-term strength of Social Security.

Mr. President, I urge my colleagues to adopt the amendment.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, this constitutional balanced budget amendment is a very big issue. Its impacts are enormous. Its results, if passed and enacted, will be large and long remembered.

SUPPORT FOR A BALANCED BUDGET AMENDMENT

There are two reasons I want to vote for a balanced budget amendment. The first is my own life experience. I shared this once before and I will do it once again. The year I was born, 61 years ago, the entire Federal debt amounted to just $25 billion. When my daughter was born, the entire Federal debt amounted to $225 billion. And 2 years ago, when my granddaughter, Eileen, was born, the entire Federal debt was 150 times greater than when I was born. It was nearly $4 trillion at that time.

So my life experience shows me that with business as usual, the Congress is not going to be able to deal with the deficit unless it is forced to.

The second reason is my Senate experience. In 2 years in the Senate, through my observation of the budget's authorization and appropriation processes, I have become convinced that a balanced budget amendment is in order. In short, current operating procedures will not, in my view, produce a balanced budget. The amendment, therefore, is necessary to face reality and make the difficult decisions.

In a nutshell, those are the reasons I want to support a strong balanced budget amendment. But I want to support the right balanced budget amendment. And I have a hard time agreeing with those who have deemed it must have exactly only certain words in it; and only those words.

Last year, I supported the Reid balanced budget amendment on Social Security, as I am today.

Mr. REID. Mr. President, will the Senator from California yield for a brief question?

Mrs. FEINSTEIN. Yes, I will.

Mr. REID. Mr. President, I want to make sure that the RECORD is complete and my words are on the RECORD while the Senator from California is speaking.

The Senator has done a remarkably good job keeping this issue before the public. The Senator, as a member of the Judiciary Committee, singlehandedly brought this to the Senate a few weeks ago, where it was fully debated in the Judiciary Committee.

As a result of the work the Senator has done, my work here, and that of those other cosponsors, including the Senator from California, has been made a lot easier.

I wanted to publicly commend and applaud the Senator from California for her yeoman's work in regard to excluding Social Security from the balanced budget amendment.

Mrs. FEINSTEIN. I thank the Senator from Nevada for those very generous words. I appreciate them very much.

Mr. President, last year I supported both these amendments. In the ensuing year, I have come to think a lot about it. It is a long time before ratification, even if a balanced budget amendment is passed. And when people, beginning with 40 million and then 60 million, then 70 million, then 80 million Americans on Social Security understand what the impact of this amendment is, it is my very deep belief that it will not be ratified. I view the use of Social Security surplus revenues as a major flaw in the balanced budget amendment, but it is a flaw that can be corrected by this amendment.

In 1990, this very body, by a vote of 98–2, voted to take it off budget. They said:

> Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of
>
> (1) the budget of the United States,
>
> (2) the congressional budget, or,
>
> (3) the Balanced Budget and Emergency Deficit Control Act of 1985.

This body voted for it 98–2. And in the ensuing days, this body is going to reverse their opinion. One must ask why? Why are we doing this?

FICA TAXES

Let me talk for a moment about FICA taxes and what they are.

By the year 2017, $3 trillion of FICA tax reserves meant to pay for the retirements of American workers will be used instead to balance the budget. This is unconscionable.

If Congress is going to use FICA taxes that are meant for retirements for another purpose other than retirements, we should cut the FICA tax to eliminate the surplus so people do not see their FICA taxes misused.

FICA taxes were raised in 1977 and 1983 so the Social Security system would run surpluses. It was changed at that point from a pay-as-you-go system to a system that would bank surpluses for the future.

Why was that done? It was done because the actuarial tables showed there was going to be a major baby boomer generation retiring in the not to distant future and the revenues, as projected, would not be adequate to meet their retirements. Therefore, it was thought by this esteemed body that we should increase retirement taxes so that moneys could accrue and there would, therefore, be enough money to meet the retirement needs of the baby boomer generation.

What has changed is we found that even without this amendment, downstream, after the year 2018, the Social Security system will run into trouble. There still will not be enough money. But, if these dollars are used to balance the budget, the system is going to run into trouble much more rapidly. By 2002 nearly $1 trillion will be used and by 2017, nearly $3 trillion if we don't start saving these Social Security surpluses.

There are those who say, ''That's OK, we'll use the revenues. It will force us to make necessary changes in the system.'' I agree we have to make some changes in the system. If you raise FICA tax, if you means test it, whatever you do with it, some changes are going to happen.

But to use the reserves to fund health, to use FICA taxes to fund the Interior Department, the Agriculture Department, defense, and interest on the debt and other Government programs, is just plain wrong.

Over 58 percent of working Americans today pay more in FICA taxes if you put in the employer share than they do in Federal taxes. This is not a small amount. This tax is not adjusted by salary. Everyone pays a flat tax of 6.2 percent up to $61,200 of income and the employer matches it with 6.2 percent. For a worker who makes $25,000, his share is $1,550. Combined with the employer tax, it is $3,100. For a worker who makes $35,000, when you combine it with the employer's share, it is $4,340. Go up another $10,000 to $45,000 and combine it, it is $5,580. Go up another $10,000 to $55,000 and combine it and it begins to grow, it is $6,000 a year. And for every worker who makes more than $61,200, combined it is $7,588.

That is a lot of money at any income level. If it is being saved for retirement, then it is like an annuity: That's fine. You pay in funds and you get them out when you retire. But if it is being spent on Government, then it is just another expensive tax on working Americans, and then we ought to do the right thing and reduce the FICA tax if we are going to do this.

SOCIAL SECURITY AMENDMENT

The debate over this amendment to exclude Social Security from the constitutional balanced budget amendment is not complicated. It is very simple. The issue is: Does Congress want to take the funds generated by the FICA tax for Social Security, meant for a worker's future retirement, and use it to balance the budget? Or does Congress want to balance the budget honestly?

I hope that whatever else our disagreements are, we can all agree that Social Security revenues from the FICA tax should not be misused to balance the budget.

My problem with this constitutional amendment is that by including Social Security in the amendment, it does not only permit the use of the Social Security trust funds to balance the budget, but it mandates it by including those funds in the budget calculations. The amendment before us, in effect, enshrines the use of Social Security to balance the budget in the Constitution of the United States. Do we really want to do that? I think not.

So the debate really is not over who wants to protect Social Security and who does not. It is about who wants to be honest with the American people in our budgeting and our fiscal policy and who does not. Because to be honest, Social Security should remain off budget.

Ninety-eight Members of this very body voted to do that in 1990. Including it in the budget would be an enormous loophole. It is not the Federal Government's money, and it should not be used as if it were.

REBUTTALS

Let me respond to four arguments raised against this Social Security amendment.

CHARGE ONE

Excluding Social Security would make it harder to balance the budget.

That is true. Taking Social Security off budget does require more spending cuts, about $3 trillion of them by the year 2017, because all of this money will be used to balance the budget. But the alternative of leaving it on budget is basically stealing from Social Security to avoid spending cuts.

There is nothing magical, as the distinguished Senator from Florida pointed out, about the year 2002. Somebody just sat down and decided we have to do this by the year 2002. The Sun is not going to refuse to come up in the year 2003 or 2004 or 2005 or 2006 or 2007. If people are really concerned that we need to use Social Security revenues or you cannot balance the budget, then it is simple: Extend the time line out to 2005 or 2007 rather than loot Social Security.

If a man runs short on money one month, the law does not allow him to steal from his neighbor to make ends meet. But this amendment allows the Federal Government to steal from Social Security to meet its obligations. How is that right?

CHARGE TWO

It is unprecedented to put a statute in the Constitution of the United States.

I have heard that mentioned time and time again on this very floor.

Now, of course, it is true, it is unprecedented. It is also true that it is unprecedented to put the Nation's fiscal policy into the Constitution. And if we decide that this Nation needs the strong medicine of a balanced budget amendment, then we better be sure that the amendment is drawn deeply enough and widely enough to represent some of these concerns.

The legislation before you is narrowly drawn, and it specifies that only those funds used to provide old age and survivors and disabilities benefits are involved. So it is not a loophole.

The distinguished chairman of the Judiciary Committee, whom I deeply respect, has said, well, a game will be played if we put the words Social Security in the Constitution. Education moneys will be called Social Security moneys. The amendment is drafted to be specific, to prevent this from happening, and it does.

Now, Chairman HATCH has also said that no one wants to use Social Security revenues to balance the budget, and we could protect them in implementation legislation or by some other resolution.

I initially thought, well, maybe that is a great idea. If we can do it that way, why not do it. And so we asked the Congressional Research Service, if that could be done.

I wish to read the reply I received. This is what it says:

If the proposed amendment was ratified, then Congress would appear to be without the authority to exclude the Social Security trust funds from the calculations of total receipts and outlays under section 1 of the balanced budget amendment.

Mr. President, I ask unanimous consent that the communication from the American Law Division of the Congressional Research Service be printed in full in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
*Washington, DC, February 6, 1995.*

To: Senator Dianne Feinstein (Attention: Mark Kadesh).
From: American Law Division.
Subject: Whether the Social Security trust funds can be excluded from the calculations required by the proposed balanced budget amendment.

This is to respond to your request to evaluate whether Congress could by statute or resolution provide that certain outlays or receipts would not be included within the term ''total outlays and receipts'' as used in the proposed Balance Budget Amendment. Specifically, you requested an analysis as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund could be exempted from the calculation necessary to determine compliance with the constitutional amendment proposed in H.J. Res. 1, which provides that total expenditures will not exceed total outlays.[1]

Section 1 of H.J. Res. 1, as placed on the Senate Calendar, provides that total outlays for any fiscal year will not exceed total receipts for that fiscal year, unless authorized by three-fifths of the whole number of each House of Congress. The resolution also states that total receipts shall include all receipts of the United States Government except those derived from borrowing, and that total outlays shall include all outlays of the United States Government except for those used for repayment of debt principal. These requirements can be waived during periods of war or serious threats to national security.

Under the proposed language, it would appear that the receipts received by the United States which go to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund would be included in the calculations of total receipts, and that payments from those funds would similarly be considered in the calculation of total outlays. This is confirmed by the House Report issued with H.J. Res. 1.[2] Thus, if the proposed amendment was ratified, then Congress would appear to be without the authority to exclude the Social Security Trust Funds from the calculations of total receipts and outlays under section 1 of the amendment.[3]

KENNETH R. THOMAS,
*Legislative Attorney, American Law Division.*

FOOTNOTES

[1] H.J. Res. 1, 104th Congress, 1st Sess. (January 27, 1995) provides the following proposed constitutional amendment—

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

[2] House Rept. 104–3, 104th Congress, 1st Session states the following:

The Committee concluded that exempting Social Security from computations of receipts and outlays would not be helpful to Social Security beneficiaries. Although Social Security accounts are running a surplus at this time, the situation is expected to change in the future with a Social Security related deficit developing. If we exclude Social Security from balanced budget computations, Congress will not have to make adjustments elsewhere in the budget to compensate for this projected deficit * * *. Id. at 11.

It should also be noted that an amendment by Representative Frank to exempt the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund from total receipts and total outlays was defeated in committee by a 16–19 rollcall vote. Id. at 14. A similar amendment by Representative Conyers was defeated in the House, 141 Cong. Rec. H741 (daily ed. January 23, 1995), as was an amendment by Representative Wise. Id. at H731.

[3] Although the Congress is given the authority to implement this article by appropriate legislation, there is no indication that the Congress would have the authority to pass legislation which conflicts with the provisions of the amendment.

Mrs. FEINSTEIN. This means then that Congress does not have the option of later excluding Social Security in implementation language. We simply do not have it. Therefore, unless Congress enacts this amendment, Social Security funds will be used to balance the budget.

No other way around it. No talk is going to change it. No pounding the breast is going to change it. No vows taken with blood or wine or anything else is going to change it. It will be enshrined in the Constitution of the United States and $3 trillion of money paid in FICA taxes by young people in this country, working men and women, will be used to pay for agriculture, to pay for HUD, to pay for education, to pay for this highway project or that highway project.

I believe that is violative of a public trust, and I believe that what this amendment is all about should not be to gut Social Security, and that is exactly what we would be doing, if we don't exclude Social Security.

So we have taken care of that argument. Congress does not have the option of later excluding Social Security in implementation language.

It is very clear. A vote for a balanced budget amendment that does not have this amendment in it is clearly a vote that puts Social Security on budget and takes its surplus. Let there be no doubt about it.

CHARGE THREE

Exempting Social Security could create a Social Security deficit.

Actually, the exact opposite is true. Excluding Social Security from the balanced budget amendment protects it while including it in the balanced budget amendment guts it. If you put Social Security in the budget, it is not to protect it. It is to use its revenues and thus increase its insolvency.

In 60 years of Social Security history, the trust funds have never run a deficit. They cannot. If trust funds run out of money, benefits cannot be paid. It is that simple and straightforward.

CHARGE FOUR

Excluding Social Security would allow the Government to gamble with Social Security funds.

According to the Republican policy committee report, and I quote,

> Congress might stop using Social Security surpluses to buy Government securities and let the Social Security trustees try their hand in the private market. They could start gambling with trust fund reserves by acquiring industries, buying up real estate, taking a chance on cattle futures or speculating on foreign currencies.

Mr. President, to that I say nonsense. To that I say baloney. That is pure flimflam. Social Security is off budget today, and the trust funds are not allowed to be invested anywhere except U.S. Treasury bonds. And they are the safest investment in the world. If they go, our Government goes.

Social Security has never been allowed, nor will it ever be allowed under this amendment, to use trust fund reserves to buy up real estate or cattle futures or to speculate on foreign currencies. This charge is pure obfuscation. It is pure fantasy.

Under this amendment, Social Security would still be required to invest in U.S. Treasury bonds, and there is nearly $5 trillion today of Federal governmental debt. The U.S. Treasury will continue to issue bonds and Social Security will continue to purchase those bonds.

The biggest difference between the practice today and the practice if the balanced budget amendment excluding Social Security is adopted is that when the constitutional amendment takes effect, the U.S. deficit will actually shrink—shrink—for nearly the next two decades, not grow.

And to my mind that is fiscally prudent. As the debt shrinks, interest rates drop. This means businesses can expand and hire new workers, Americans can afford new homes and pay for college for their children. Shrinking the debt is the right objective, and that will happen under this amendment for the next two decades.

Mr. President, in conclusion. I have listened to all the arguments about what is wrong with our amendment to exclude Social Security, but they all boil down to one thing: Members of Congress simply want to use the money to balance the budget.

That is not a real argument. That is a failure to deal truthfully with the American people. To loot Social Security is morally wrong and I cannot support it.

I want to support, as I said before, a balanced budget amendment and I am prepared to do so if Social Security is excluded. Rather than argue about this amendment, my colleagues who support a constitutional balanced budget amendment as I do, why not do the right thing and accept this amendment to exclude Social Security? Then we can move forward in a bipartisan way and get this country back on the right track again.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, as I have heard my friend from Florida and the Senator from California make their arguments on this balanced budget amendment, if there is ever an argument that they have made that has been powerful it is this one, but it is an argument why we should have a balanced budget amendment so these trust funds can stay viable, so we can live up to our obligations. It was a wonderful argument for them. And I do not think we should lose the spirit of just exactly why we have to have it.

If we go far back in our history to the ratifying of our Constitution and read the argument that was made then, when we formed this country, there was a very deep concern from the Framers of this Constitution about our ability to create national debt. I think it was Thomas Jefferson himself who made the statement that still was one of his concerns when the Constitution was ratified. I know it was a concern of the first President of this United States, George Washington.

If we read our history, those concerns have lasted as long as our Constitution has lasted. So the argument they make is a very persuasive one for, and a good reason why we need, a balanced budget amendment at this time.

I yield the floor.

Mr. HATCH. Mr. President, opponents of House Joint Resolution 1, the balanced budget amendment, are expected to support an amendment unsuccessfully offered in the Judiciary Committee by Senator DIANNE FEINSTEIN to specifically exclude Social Security from the calculations used to determine if the Federal Government's budget is in balance. A slightly modified version of this amendment has been introduced on the floor by Senator HARRY REID.

The consequence of its passage would be cataclysmic for millions of middle-class Americans who are counting on Social Security to supplement their retirement income in the future. At best, the Reid amendment is a jobs program for constitutional lawyers who would keep the matter tied up in the courts for years, if not decades.

The Reid amendment is just the sort of protection today's senior and tomorrow's retirees don't need. By requiring the Government to ignore Social Security receipts and expenditures in balancing its books, the Reid amendment would threaten the future of a program on which tens of millions of Americans rely.

HOW SOCIAL SECURITY WORKS

Consider how the Government collects payroll or Federal Insurance Contribution Act [FICA] taxes and pays Social Security benefits. Social Security payroll taxes—like Federal income, corporate, and excise taxes—are collected by the U.S. Treasury. Unlike other Treasury receipts, however, FICA revenues are used to back monthly Social Security checks. The House Ways and Means Committee's Overview of Entitlement Programs [the ''Green Book''] describes the transaction this way:

> The trust funds are given IOUs when [FICA] taxes are received by the Treasury, and those IOUs are taken back when the Treasury makes expenditures on the program's behalf. This handling of [Social Security] finances goes back to the inception of the program and has not been altered by the inclusion or exclusion of the [Social Security] trust funds in or from the federal budget. [1994 Overview of Entitlement Programs, p. 91]

Throughout most of the program's history, the Treasury has collected more in FICA taxes than it has needed to pay Social Security benefits. The trust funds are thus stockpiling IOU's from the Treasury and are expected to do so for nearly two more decades. This year, for example, the Congressional Budget Office [CBO] estimates that Social Security receipts will exceed outlays by $69 billion. Over the 5-year period from 1996–2000, CBO projects that Social Security will take in $421 billion more than it will spend.

The Reid amendment would require Congress, when it hammers out annual Government budgets, to pretend that these billions of dollars simply do not exist. The Treasury would continue to collect hefty payroll taxes from working Americans, but these revenues could not be counted when determining whether the Federal budget was in balance.

WHAT THE REID AMENDMENT WOULD DO

The Reid amendment, as it was offered in—and tabled by—the Judiciary Committee, would add a new sentence at the end of section 7 of House Joint Resolution 1, the balanced budget amendment. The Nevada Senator's amendment reads:

> The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disability benefits shall not be counted as receipts or outlays for purposes of this article.

In order to bring revenues into line with expenditures under the bizarre accounting system necessitated by this amendment, Congress would have to

choose from at least four major options, each of which would hurt the economy and imperil the Social Security system.

REID OPTION 1: RUN GOVERNMENT SURPLUSES

The first option would be for the Federal Government to run annual surpluses—collecting more in taxes than it spends—equal to the value of Government securities purchased by the trust funds.

This year, for example, the Social Security trust funds will buy $69 billion in Government securities from the Treasury. If a balanced budget amendment with the Reid provision were in effect, the Treasury would have to make believe that it never received this $69 billion. Thus, Congress would have to raise taxes or cut spending by $69 billion just to keep the deficit at its current level—$176 billion, according to CBO's most recent estimate. In order to balance the fiscal year 1995 budget under the Reid amendment, the Government would have to eliminate the $176 billion deficit and then come up with an additional $69 billion.

The Reid amendment thus would make it harder to achieve a balanced Federal budget, unless Congress resorted to one of the other options described in this paper. Ironically, many advocates of the Reid amendment oppose the balanced budget amendment because they believe that it would require tough decisions on cutting Federal spending. The balanced budget amendment with the Reid provision could actually make these decisions tougher than would an amendment without that provision.

REID OPTION 2: EXPAND THE DEFINITION OF ''SOCIAL SECURITY''

While Congress is unaccustomed to passing balanced budgets, much less running surpluses, the Reid amendment would present lawmakers with another option, one with which it is more familiar—spending taxpayers' money.

The Reid amendment would effectively create two Federal budgets: One bound by rules of sound fiscal discipline and another in which Congress could spend as it pleased. The former budget would include all non-Social Security programs; the latter, all programs defined as ''Social Security.''

It wouldn't take long before Congress started to redefine its favorite programs as ''Social Security.'' For example, the Supplemental Security Income Program [SSI], a welfare program for indigent aged, blind, and disabled people, is administered by the Social Security Administration, though it is financed by general revenues rather than through the payroll tax.

Spending on SSI has grown rapidly in recent years, and the program has been plagued by scandal. There has been a sizable increase in the number of alcoholics and drug addicts who qualify for benefits on the basis of their addiction. Critics also say that the steep rise in the number of children on the SSI rolls is due in large part to the mischaracterization of behavioral problems as disabilities. And many legal aliens have begun to collect monthly SSI checks when their sponsors—usually family members—withdraw financial support.

A balanced budget amendment would force Congress to take a hard look at the SSI Program and institute reforms to control costs. But if the Reid provision were added to the amendment, Congress could take the easy way out by using the FICA tax to pay SSI benefits. Other welfare programs—like Medicaid, food stamps, and scores of others—also could escape reform by being reclassified as ''Social Security.'' This would drain resources intended for seniors and impair Government's ability to pay retiree benefits.

REID OPTION 3: CREATE A SOCIAL SECURITY DEFICIT

The Reid amendment would require only part of the budget to be in balance—non-Social Security spending would have to equal non-Social Security revenues. But the Reid amendment would permit part of the budget to be wildly out of balance—the part that seniors rely on for their monthly Social Security checks.

Because Congress would be prohibited from counting revenues from FICA taxes as Government receipts in determining whether the budget is balanced, lawmakers could drastically reduce these taxes without increasing the deficit. Increases in income taxes, however, would reduce the deficit. Thus, even if revenues from Federal income taxes were increased by the same amount that revenues from FICA taxes were decreased, the deficit actually would be reduced under the Reid amendment's twilight zone accounting.

The Reid amendment thus would create a perverse incentive for Congress to create huge Social Security deficits in order to balance the Federal budget. Replacing FICA revenues with other Federal tax revenues would be an easy means of helping to balance the non-Social Security portion of the budget, which is all the amendment would require.

Of course, the FICA taxes would no longer fully fund Social Security benefits, threatening the program with bankruptcy. The Social Security trustees could borrow money from the public in order to cover monthly checks to retirees, a step unprecedented in the program's history. But these Social Security deficits wouldn't matter under the Reid amendment. In the twisted logic of the amendment, the Federal budget would be considered balanced as a matter of constitutional law, even as the Federal Government plunged deeper into debt, a debt that would fall on future generations.

REID OPTION 4: GAMBLE WITH SOCIAL SECURITY FUNDS

Congress could avoid these problems by changing the way that proceeds from the FICA tax are spent. Current law permits these funds to be used only to pay benefits and to purchase government securities. It also accounts for these intergovernmental transactions in a commonsense way: The Treasury is credited with the revenues not needed to pay benefits, and the trust funds receive an equal amount in Government securities. Since the Government is borrowing money from itself, this transaction has no net effect on the deficit.

The Reid amendment would change the way these transactions are accounted for. While the trust funds would continue to count their Government securities as assets, the Treasury would have to pretend that it received nothing of value in return. Thus, in the bizarre world created by the Reid amendment, every time the Treasury issued a Government security to the trust fund, the deficit would increase, just as the Government's debt increases when it sells bonds to the general public.

Since the Reid amendment would treat these intergovernmental transactions as it would public bond issues, Congress might stop using Social Security surpluses to buy Government securities, and let the Social Security trustees try their hand in the private market. They could start gambling with trust fund reserves by acquiring industries, buying up real estate, taking a chance on cattle futures, or speculating on foreign currencies.

HOW TO SAVE SOCIAL SECURITY

Far from saving Social Security, the Reid amendment would threaten the program, driving Congress to pursue policies that would bleed the system and damage the economy in the process.

It also would tie the hands of lawmakers who want to restore the Federal Government to fiscal soundness. Congressional Budget Office Director Robert Reischauer, during his January 26 appearance before the Senate Finance Committee, was asked by Senator DON NICKLES whether he thought a balanced budget amendment should include exceptions for Social Security or other Federal programs. Dr. Reischauer replied:

> I would say the most comprehensive treatment of the budget would be the most desirable. And what you want is a situation where all activities of the Federal Government are on the table to increase or decrease all of the time in the future. We do not know how this country is going to evolve. * * * In 1920, there was no such thing as Social Security. Now there is. Who knows what the world will look like in 2020?
>
> If you are going to lock something into the Constitution, you want to do what our founding fathers did, which was provide guidance, general guidance, not nitty gritty specificity, so that the amendment will have enduring value.

The best way to assure that the Social Security system will have enduring value is for Government to get its own financial house in order. Rising Federal debt, and the interest payments it entails, threaten Social Security and stunt economic growth. Robert Myers, Social Security's former

chief actuary and deputy commissioner, has stated:

If we continue to run federal deficits year after year, and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the trust funds to pay for our current profligacy, or we will print money, dishonestly inflating our way out of indebtedness. Both cases would devastate the real value of the Social Security trust funds.

A government crippled by debt can't keep its promises. The balanced budget amendment—without the Reid provision—will help Congress make good on its pledge to seniors and to millions of working Americans to preserve Social Security.

Mr. President, I referred yesterday to a thoughtful article on this subject by Mr. David Keating, published in the Washington Times. I would ask that this be included in the RECORD following my remarks.

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

[From the Washington Times, Feb. 8, 1995]

SOCIAL SECURITY AND THE BALANCED BUDGET

(By David Keating)

During the Vietnam war, an American officer was quoted saying we had to destroy the village in order to save it. Now the U.S. Senate may apply similar logic when it votes on a proposal to add a huge loophole to the Balanced Budget Amendment, supposedly to save Social Security.

Although the Social Security system currently collects more in taxes than it spends in benefits, this will change early in the next century. If Social Security is exempt, the balanced-budget rule would quickly become worthless. Consider this: In the year 2050, this exemption would legalize an annual total budget deficit of over $2 trillion. That $2 trillion annual deficit will occur under current Social Security policies as today's children retire. This loophole would give Congress yet another excuse to stall any action to address these huge Social Security deficits.

The balanced-budget amendment simply requires that Congress take a three-fifths vote in order to pass a bill to borrow more money. Excluding Social Security sounds nice. but it would actually create a huge flaw in the amendment. As Congress chafes under the balanced-budget rule, it would likely use the Social Security loophole to fund other programs, leading in turn to the destruction of Social Security as it works today.

Congress would probably first add other programs that aid the elderly into Social Security. Obviously candidates include veterans' benefits and pensions, which total more than $20 billion a year. Supplemental Security Income, which is used to aid the elderly poor and costs over $25 billion a year, is another likely candidate. Then there is the approximately $175 billion in Medicare and Medicaid spending that benefits the aged. A portion of funds spent on the retired poor by Food Stamps, low-income home energy assistance, housing subsidy and other social service programs might be transferred to newly exempt Social Security trust funds. Some or all of federal employee or military retirement programs may also become part of Social Security.

A future Congress that wished to bypass the balanced-budget amendment could also, by a simple majority vote, authorize deficits as large as current Social Security spending. How? By reducing Social Security trust-fund taxes and revenues and increasing ''operating'' fund taxes and revenues by an equal amount. This has the potential to be as much as a $330 billion loophole, the current cost of the Social Security program.

It also increases the danger of granting further ''exemptions'' to the provisions of a balanced budget amendment. If Social Security is declared exempt, advocates of other causes—from highway builders to teachers—would demand their own exemptions. Or, Congress could simply begin funding everyday programs under the guise of ''Social Security.'' Sound implausible? Who ever thought the Disability Insurance part of the Social Security System would pay benefits, as it does now, to young drug addicts and alcoholics who then use the money to sustain their habits?

There is nothing in the proposed exemption that would prohibit spending money from the Social Security trust funds for non-retirement programs. A future Congress and president that wished to circumvent the balanced-budget rule could do so simply by funding non-Social Security programs from trust fund accounts. A simple majority of Congress could thus effectively get around the balanced budget amendment and its limit on new debt.

In 1974, the federal debt was $483.9 billion. Today it's over $4.8 trillion, thanks to federal spending growth of twice the rate of inflation. Fifty-two cents of every personal federal income tax dollar now goes to pay interest on the national debt. Not only will interest begin to crowd out Social Security, but the continued buildup of debt will impair the ability of future taxpayers to refund moneys borrowed from the trust fund. Only an all-inclusive Balanced-Budget Amendment will force Congress to balance the budget and create a sound environment for the future of Social Security.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise today in support of the Reid-Feinstein amendment to exempt Social Security in any balanced budget amendment to the Constitution of the United States. I want to be absolutely clear. I will not vote for a balanced budget amendment to the Constitution that does not exempt Social Security. I will defend that principle in the Constitution. I will defend it on the Senate floor. And I will make sure to do all I can to exempt it in the balanced budget amendment.

Social Security is our primary contract with America. Social Security is a sacred and legal trust between the people and the U.S. Government. It is a social contract that was established more than 60 years ago and I believe promises made should be promises kept. We said to the American people if you practice self-help, if you contribute to a Social Security trust fund, we will make available to you a safety net and a floor on which you can build your retirement.

I believe this is a promise that needs to be kept. It was made in the New Deal. It was made in the Fair Deal. It was made in the New Frontier. It was made in the Great Society. It was reaffirmed by Ronald Reagan and George Bush and we should reaffirm it here. Social Security should be a sacred trust among the American people and should not be subjected to the vagaries of the U.S. Congress.

Republican colleagues say, ''Do not worry. We all like Social Security. It is probably the one thing the Democrats did that we really do like. We do not want to touch Social Security and we can balance the budget without it.''

That is like hearing somebody say, ''Do not worry, Honey, I will take care of you.'' But then we all know that does not happen.

If in fact my colleagues on the other side of the aisle believe that Social Security should not be touched, let us not wait, then, for some mysterious enabling legislation. Let us put it in writing now and then let us put it in the constitutional amendment.

We talk a lot about the Contract With America and there is much about it that I support: the Congressional Accountability Act, the unfunded mandate legislation, the fact that we need to reform welfare to make sure we reward work, support families, and move people to self-sufficiency.

I also want to go back to the original contract, which is the Social Security contract. We need to honor work. We need to honor sweat equity. We need to continue to give help to those who practice self-help, those people who put money into the Social Security trust fund, believing it would be there for them and not be subject to whatever the Congress wants to do on any given year with the budget.

My contract with the American people and the people of the State of Maryland is I will not vote to cut Social Security and I will not vote for a balanced budget amendment that does not exempt Social Security. I will not vote to balance the budget on the backs of the generation that saved Western civilization.

Right now we have wonderful, ordinary men and women who did extraordinary things during World War II who are now in their seventies and eighties, who absolutely rely on Social Security. Eleanor Roosevelt called that generation who mobilized for the war, for World War II, she called them to something, and said it was no ordinary time and no ordinary solutions would be sufficient to defeat those enemies of America and Western civilization.

Not only was it no ordinary time, they were no ordinary generation. Now we cannot make them pay for the red ink that has been run up in the Federal deficit.

Social Security is not the cause of the Federal deficit. It is an independent, self-financed and a dedicated fund. In the early 1980's we all took tough medicine in order to make the Social Security trust fund solvent. Today the Social Security has a reserve, it has a surplus because we anticipate the needs of an aging generation. Older Americans who survive on Social Security plus a small pension are not responsible for this Federal budget deficit and should not pay the price for the balanced budget amendment.

This is not just a senior citizen issue. This is a family issue. Right now there are many families in my age group who are called the sandwich generation. They are helping support their mother and father—or in many instances their family is self-sufficient because of Social Security combined with a private pension plan—but this sandwich generation is helping mom and dad and paying for the kids in college. They deserve the fact that their mother and father should get the Social Security check that they planned for and that they thought would be there for them.

I will not let those families down. I am on their side, standing up for the principles of family responsibility, self-help and believing when your U.S. Government makes a contract with you it will not change the rules of the game in the midst of debates on the budget.

Let us be clear. Social Security is not welfare. It is not a line item in the appropriations process. It is not something we decide on every year. It is an independent self-financed solvent trust—underline the word ''trust''—fund. It is the foundation of retirement security and family security.

If we do not exempt it from the balanced budget amendment I predict it will be cut. I predict it will be cut severely. This will mean that millions of families could see their incomes sink, and older Americans and disabled Americans will be placed at risk.

We hear a lot about angry taxpayers, but they are not angry at Social Security. Americans know that Social Security works, and 79 percent of the American people want to see Social Security exempted from the balanced budget amendment. I stand with those Americans. Count me as part of the 79 percent.

Count me as being 100 percent with that percentage of the American people who want Social Security exempted in the balanced budget amendment. Let us protect and preserve and defend that social contract with them and let us protect, preserve, and defend the Constitution of the United States of America.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

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

Mr. HATCH. Mr. President, I think this has been a reasonable debate. It has been civil. The debate has been so for both sides of this issue, and both sides have been well-represented. Naturally I feel our side is correct. I would not be here if I did not, working day in and day out. But the American people voted for change. They thought they were going to get it when they voted for President Clinton. And to a degree they have gotten change, but not the change they thought they were going to get. They thought he would lead the fight for a balanced budget. In a sense, with increasing taxes and doing some budgetary cuts in the last year, I guess you could give him some credit for that, except that under that budget that he passed with 100 percent Democrats and no Republicans, the Vice President having to break the tie, that budget has deficits shooting up in 1996 to as high as $400 billion-plus shortly after the turn of the century.

This year the President has brought his budget forward, and I really believe he has just thrown in the sponge because this year's budget has $200 billion deficits ad infinitum just on and on well into the next century, certainly for the next 12 years. And those are based on his rosiest assumptions. He just plain did not do anything about persistent yearly deficits. That is not change. That is business as usual. And $200 billion deficits are very, very high.

The American people voted for change, and the balanced budget is part of that change. I think we have to overcome this deficit problem.

This chart here shows the President's projections. Calculating the deficit under President Clinton, we started with a $4.8 trillion national debt, and between 1994 and the year 2000, 5 years, he will spend $1.39 trillion more than we are currently spending.

The deficits will be $103.2 billion for 1994; $129.5 billion in 1995. Then they go up from there. But they average well over $190 billion a year. This chart only shows projections to the year 2000. They have projected up to the year 2007. Every one of those years has $190 billion-plus deficits. That is assuming that the optimistic economic assumptions of the President will be valid, even though we may have some downturns and upturns and everything else during that time. I do not think that these optimistic assumptions will hold, especially if you do not have a balanced budget amendment to get the Government to live within its means.

The American people want change. They are not going to be satisfied with business as usual. What I hear from the opponents, sincere as they may be, is that we are going to have business as usual. They know full well the American people support a balanced budget amendment—and the other body passed this amendment overwhelmingly. It was kind of a miracle really because we have been fighting for the balanced budget amendment ever since I came here. We passed the balanced budget amendment in 1982 by the requisite 67 votes plus 2. We had 69 votes. It went to the House, and we got 60 percent of the House to vote for it but it was not the two-thirds. Tip O'Neill beat us over there. Then we were beaten again over there. But this year, in a vote of 300 to 132, I believe, they overwhelmingly passed the balanced budget amendment.

So for the first time in history, the Senate, which has a history of previously having passed the balanced budget amendment, has a chance to pass it on to the States and make this a very pivotal year in U.S. history by putting the discipline in the Constitution that will help us to get spending under control.

I think the people out there know full well that since the other body passed this amendment overwhelmingly with strong bipartisan support despite the President's opposition—I have to say that I do not think the President is opposing this very strongly. Sure, he does not want it to pass. His budget makes that clear. But I think deep down he probably wishes it would pass because then it would provide the fiscal discipline that his party and our party need in order to get spending under control.

I would like to take a few minutes to define some of the reasons the American people need a balanced budget amendment. The Tax Foundation, in its April 1994 special report, calculated that an American worker worked 125 days last year just to pay taxes. That means from January 1 to May 5, working Americans earned absolutely nothing for themselves. Every dime they earned—working Americans between January 1 and May 5—went to taxes for the Federal Government. Put another way, in an 8-hour day, a working American spends the first 2 hours and 45 minutes working for the Government. That is wrong. The hard-working Americans who grant us the privilege of serving them deserve better than this. The American people have earned this amendment. It would be a shame for us, after the House bit the bullet and passed this amendment and after they have taken the lead, to deprive our citizens any longer.

By the way, it was a bipartisan vote in the House, as it has to be in either body. It was not a Republican victory. This is not a Republican amendment. This is a bipartisan, consensus amendment. I know. I have worked on it and have helped write it now for all of these last 19 years, and certainly since 1982. And we have worked with our Democratic counterparts year in and year out, and 72 terrific, courageous Democrats voted for this over in the House of Representatives. It would not have passed without them. We all know that. So there is no reason for either side to claim victory here, if this passes, as I think it will. There is every reason for us to continue to work together.

Hard-working Americans who grant us the privilege of serving them deserve a better break than they are getting. The American people have earned this amendment. It would be a shame for us to deprive them of this.

Those of my colleagues who believe Americans are getting their money's worth for their tax dollars should oppose the balanced budget amendment. But if any of them believe that, I would be surprised. Those Senators who believe otherwise should support it.

Mr. President, the size of our bureaucracy is out of control, and wasteful spending continues. We are actually paying Federal bureaucrats to frustrate private initiative. Let me get into that in a minute. But before I do, let me go back to our balanced budget

debt tracker and the growth of the national debate as we debate.

Mr. President, when we started the debate on day one, the national debt was $4.8 trillion, and is represented by this red line. We are now in the 11th day. We are now up to $9,123,840,000 in increased debt just in the 11 days since we started this debate.

It is going up every day that we debate. We are standing here seeing the sinking of the *Titanic*, and just whittling—I guess fiddling would be a better word—while Washington is sinking American taxpayers deeper day in and day out. Just look at how the debt grows. That is going to go up every day this debate continues. It is time for us to do something about it. The bureaucracy is out of control. Wasteful spending continues. We are actually paying Federal bureaucrats to frustrate private initiative.

Let me mention some of the details of our current plight.

I am grateful for the National Taxpayers Union for compiling some of these points. No. 1, the fiscal year Federal budget deficit was $203.4 billion. No. 2, the Federal Government has run deficits in 33 of the last 34 years and has run a deficit every single year for the past 25 years. No. 4, last year, gross interest payments alone on the national debt were just under $300 billion. These gross interest payments were the second largest item in the Federal budget, and they were more than the total revenues of the Federal Government in 1975. In other words, what we are paying for interest, which just goes down the drain, totaled nearly $300 billion, and that figure is more than the total Federal budget was in 1975, just 20 years ago.

It took our Nation 205 years, from 1776 to 1981, to reach $1 trillion in national debt. It took only 11 years to reach $4 trillion. On the last day of 1994, the total Federal debt had reached $4.8 trillion. That means that I was a little wrong here when I started my chart behind me as having a $4.8 trillion national debt the day we began the debate. That was the debt January 1. So we were actually higher than that when we began the debate. But, having used that as a rounded baseline figure, we are now another $9 billion, going on $10 billion, in debt just in the 11 days this debate has been going on.

The country is suffering. I have to say that despite claims of drastic deficit reduction with the 1993 passage of one of the largest tax increases in American history, the Congressional Budget Office predicted deficits will exceed $300 billion in less than 10 years from now.

Mr. President, I understand the distinguished Senator from Wisconsin wants to speak. If I could take maybe a couple of more minutes, I will be glad to yield.

Even the President's budget, as I mentioned, just sent to Congress, as optimistic as it is, predicts about $200 billion in deficits every year through the year 2002 when our amendment will go into effect. This is another $1.4 trillion in debt over those 7 years. That is almost certainly a vast understatement. Think of the increase in yearly interest payments that will add to the Federal budget every year just from that.

The Washington Post headline on Saturday said a great deal about the President's budget proposal: ''New Budget to Continue U.S. Deficits; Clinton Proposal Due Monday Produced Amid Staff Doubts.'' The article reports that the President's budget ''left some administration officials doubting the President's commitment to his campaign vow to halve the deficit by 1996.'' The headline over the continuation of the Post story on page 4 aptly reads: ''Clinton's Proposed Budget Continues Deficits He Pledged to Cut.''

Some who are cynical believe he has done that so that the Republican Congress will have to make the cuts, and then they can criticize the Republican Congress for having done so. I hope that is not the case. Nevertheless, it is apparent that he has not been doing what he promised to try to do. Is there any doubt that we cannot keep spending this way and racking up these huge deficits? Is there any doubt that the politics as usual, represented by the President and his budget proposals, do not serve the best interest of our hard-working taxpayers? Federal spending and debt crowds out free enterprise. When the Federal Government spends and borrows, it soaks up resources that private business might otherwise use to build or expand factories, showrooms, and stores, and the ability to employ many Americans at better wages.

Deficit financing is hurting the chances that our children and grandchildren will have financial security. Each one of them owes $18,500 in national debt as of right now—in fact, each American citizen, man, woman and child. Each year we are going to add, under the President's budget, $200 billion to the national debt, from here on in, ad infinitum. Each year we do that, we cost the average child just over $5,000 in extra taxes over his or her working lifetime, just to pay interest costs.

The President is proposing to do just that, year after year. I know it is tough to be President and I know it is tough to make these decisions. But future generations are going to face higher interest rates, less affordable homes, fewer consumer conveniences, fewer jobs, lower wages, and a loss of economic sovereignty, unless our fiscal house is brought into order. So it is time we face these facts, Mr. President. It is time to make the commitment to balance the Federal budget, and we need this constitutional mandate.

So I urge my colleagues in the Senate to please consider this and please support us in fighting for and voting for the balanced budget amendment.

I have more to say, but I will say it at another time, because the distinguished Senator from Wisconsin desires to speak.

I yield the floor.

Mr. FEINGOLD. Mr. President, we are doing something very unusual here. We are working on a constitutional amendment. We know that has not happened many times in our history, and so when you deal with a constitutional amendment, you have to take an even tougher attitude about what you are doing. I think you have to consider that two different things can happen, obviously. One is that the amendment may be defeated which, in this case, I happen to prefer. As we go through the amendments, we also have to be responsible about the amendments we put on, because whether I like it or not, this may become the law of the land, part of the Constitution.

So the amendments that are offered become particularly important. What we are doing here is to decide whether or not this balanced budget amendment should become the law of the land and possibly a straitjacket and a problem for a Federal Government from which it will be very difficult to extricate ourselves. So it is in that spirit that I address the amendment of the Senator from Nevada.

I want to take this opportunity to commend the Senator from Nevada for his eloquent leadership on this issue of the Social Security aspect of the balanced budget amendment—his leadership last session and his leadership now. I also commend the senior Senator from California, who took the lead in the Judiciary Committee on which I serve in trying to provide at least this exemption for Social Security from the balanced budget amendment.

The Senator from California did such a good job, and I was happy to be able to help her. We had a very close vote; we were only one vote off in the Judiciary Committee from defeating a motion to table the amendment.

I see this amendment both in the committee and here on the floor as not only serious, but as a sincere and constructive amendment, even though I have reservations about the balanced budget amendment itself. I especially speak at this time because even though I think there is a chance the balanced budget amendment will not pass this body, and even though I think there is a possibility that even if it goes through the Congress it will not be approved by the States, the fact is that it may well do that.

We may well be faced with the possibility that the U.S. Constitution will have a balanced budget amendment that provides no protection for the Social Security program. Listening to the debate in committee and in listening to the debate yesterday on the floor, I realized again that when you look at the Social Security amendment, it really depends on how you look at the Social Security fund itself. How one

comes down on this amendment depends on how you look at the contributions people make to the Social Security system.

One group of people see the Social Security fund as a distinct and separate fund, based on a contract. They think they paid in the money, that a deal was made, that they are entitled to their Social Security benefits, and that it is not subject to congressional whim.

There is another group that sees this as just another program, albeit a worthy program. I know of no Member of the Senate or any Member of the other body who does not think Social Security is a worthy program. But this other group just sees it as a program, something that may make sense, something that is expensive, something that we may have to move around and take some money from, but something that is worthy nonetheless. Those are really the two different ways to look at Social Security. It is because of this distinction—the differences between the way people look at Social Security—that people come down on different sides on what the chairman of the Judiciary Committee called in the committee the loophole.

The chairman, the Senator from Utah, said that putting this amendment into the balanced budget amendment and into the Constitution would create a loophole; that the Members of Congress could take basically anything they wanted and label it Social Security and use it as a way to get out from under the amendment. That was the chairman's view of how this would create a loophole.

But I think I look at the Social Security fund a little differently than the chairman—and I acknowledge that a lot of people support him in his view. But I look at the Social Security system as a contract. And so for me, the loophole is not the amendment that the Senator from Nevada is proposing; the loophole is the past and inappropriate use of the Social Security fund to mask the deficit and the debt. That has been the loophole that has been used in the Congress.

We should not suggest even for a minute—and apparently it went a lot longer than that—that somehow the Social Security fund is part of that money that comes into the Federal Government and that we can use it in our budget calculations, as, in fact, it has been used in the past to mask just how big the deficit really is. I know that the Congress in recent years has recognized that this is inappropriate, but it was done—that is the dangerous loophole; that the Social Security fund can be regarded as a cookie jar, a slush fund, whatever you want to call it, to solve our problems that we have failed to solve. In my mind, that is the loophole, not the risk that the Constitution would say do not touch Social Security.

I think the amendment of the Senator from Nevada and the amendment in committee of the Senator from California are critical because they permanently close the loophole as we move in the balanced budget era.

In fact, I would say, based on a few years of listening to folks all over my State, that the use of the Social Security fund to mask the deficit and the debt is one of the really strong reasons people mistrust the Federal Government. They are troubled by their belief that we are willing to engage in gridlock and avoid solving our Nation's problems. But, they are also angry that we can be so arrogant as to consider Social Security system funds not to be part of a contract with the people who have paid into the system, but money that we can use to solve problems that we have not been willing to solve in the past.

The amendment of the Senator from Nevada is responsible as to the future, as well. It is highly responsible, because what it does is address the future solvency of the Social Security fund.

Just as the Social Security fund is not the reason we have a deficit today—we know that the fund is solvent—it is still the case that the Social Security fund faces an extremely likely, if not certain, strain in the future. It must remain intact as a separate system with a separate, credible, long-term financing plan so that Social Security will be there for those of us who come along in the future. Without the amendment of the Senator from Nevada, the balanced budget amendment becomes not a friend to the future, but a continuing threat to the integrity of the Social Security system.

Now, that is not to say—and I think this is important—that there cannot be changes on the table for Social Security. I think there should be. Everything needs to be improved over time and, especially when you are facing future insolvency, we have to consider some changes.

In fact, maybe we should look at some of the changes proposed by the so-called Entitlements Commission, the Kerrey-Danforth Commission. They put some ideas on the table that had to do with Social Security, such as whether or not we should raise the retirement age, whether or not there should be some different assumptions made in terms of how the Consumer Price Index is calculated as it relates to the cost-of-living increases.

I am willing to consider those changes, but only if those changes are used to make sure that the money goes into the Social Security fund to make sure it is solvent for the future. Without the amendment of the Senator from Nevada, these tough changes, which are going to be controversial no matter what, will be changes that the American people may see as ways not to make the fund solvent for the future, but to take care of pork projects somewhere else out of their State so that Members of Congress do not have to balance the budget directly. I think that is a valid fear, not only for seniors, but for all the people who come after them and who hope that they have not paid into the Social Security system in vain.

Mr. President, in this context, I am troubled not only by the notion that somehow we are creating a loophole in the Constitution, but I am especially troubled by the notion that I have heard expressed in committee and on the floor—I do not know whether it is a notion or a reassurance or a wish—which is this: The statement that somehow Social Security will compete well. It is going to do really well, we are told. It has a lot of support. There is nothing to worry about. Nobody is going to hurt Social Security.

That is what the proponents of the balanced budget amendment tell us. That is what people say when they say we do not need the amendment of the Senator from Nevada.

But I think that is troubling. I am afraid that the Social Security system may not fare so well in the brave new world of the balanced budget amendment or in this new marketplace of budgetary suitors. I think that the language of the marketplace in saying that Social Security will compete well is a direct breach of the whole concept of Social Security and the promise that was made to all those hardworking Americans who paid into the system over the years, understanding and believing in their Government that nobody would monkey around with their retirement money.

Mr. President, we are not talking here about just another kind of tax revenue. Nobody likes taxes. Nobody likes April 15. But the understanding is, when you send in that money on April 15, or you have to send in a little extra amount because your withholding was not quite right, that it goes into a big pot out here and these Members of Congress get to decide, along with the President, what is done with it. People do not like it, but they understand that is our system.

But that is not their understanding when it comes to Social Security. For 50 years, that is not what the American people have been told Social Security is all about.

To put it another way, I do not think the American people think they should be part of, in effect, a large block grant that the Federal Government has where they have to compete against other programs, and that they hope they do well in this new block grant after the balanced budget amendment, and they hope there will be enough money there so they can get their Social Security benefits. That is not the understanding.

Mr. President, words of ''competition'' and ''free market'' are almost always appropriate. That is what our system is based on. The words of ''free market'' and ''faring well'' and ''competing'' with other worthy programs are not appropriate when it comes to Social Security.

The final point I would like to make, because I think this is often overlooked in attempts to minimize the importance of this amendment, is that there is an implication that this is just about senior citizens. Somehow, this is pandering to older Americans who want their Social Security benefits, as if there was something wrong with that. There are constant references to the power of the senior lobby, how we are pandering to older people. This is what we hear all the time.

But I will say that I agree with the sentiments of the proponents of the balanced budget amendment who say that nobody is going to mess around with the seniors today. That is politically explosive. That is not going to happen. We are not going to take away from the benefits of senior citizens today. They are not, if you will, the at-risk population when it comes to the balanced budget amendment.

I would like to identify three generations that are far more at risk because of this constitutional amendment than the seniors of today.

The first generation is my generation, the baby boomers.

Do not accuse me of pandering to seniors. Accuse me, if you will, of worrying about my own Social Security benefits. I am concerned. I am concerned that, if this institution has the right to mess around with Social Security funds, when my wife and I get up to be that age, there is not going to be anything there. And there are a lot of us in our generation. You bet, we have a lot of votes. But we also have a right to the benefits that we paid for and we were told we were going to get by participating in this system. Clearly, my generation is concerned.

There is another generation that I know is concerned and they have become very vocal. They are called generation X, kids in their late twenties or early thirties. They actually have articulated a philosophy for which I do not pretend to be the spokesman. Obviously, I am too old. I have read the articles and heard the statements and seen them on TV. What they are saying is, we are not sure that the older folks—and now I am in that group—who are running the show in Washington care at all if Social Security is solvent when we get there.

They know there are seniors today. There is a huge group of baby boomers that will eat up all kinds of benefits when they get there. They, I think, kind of smell a rat. When they get there, they are very concerned that this system that they are now paying into in their younger years, when they would probably like to get a house, buy another car, they are worried we are spending.

There is a third generation, the age of my kids. People who are 14, 11, 9. People that do not understand this. Yet some are figuring out that we have an awful big Federal deficit here, and they will realize shortly as they graduate from high school and go into the work force, if we do not protect Social Security, they will be the ultimate victims of our fiscal irresponsibility of recent years.

I conclude, Mr. President, noting that the people that we are always talking about with regard to the deficit and the balanced budget amendment are the children and the grandchildren. Would it not be ironic if, in the name of helping the children and the grandchildren, we take away forever the possibility that those same people would have the opportunity to have Social Security? That is ultimately what is going on here. We are taking away potentially, without this protection, the same rights and privileges that so many of us hope to enjoy, because there just will not be any money left in the fund.

Mr. President, this is a sincere amendment. Whether the balanced budget amendment passes or not, it is absolutely essential that we keep it separate, that we keep our promise not only to those who have worked and paid in, but that we keep our promise to those who come after.

I urge my colleagues to regard this as an important amendment. I strongly urge support for the motion of the Senator from Nevada. I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Kentucky.

Mr. FORD. Mr. President, I take the floor to join my colleague from Wisconsin and my other colleagues in support of their attempt to ease our seniors' fears and to help set some parameters for the debate on the balanced budget amendment.

The fact is, the Social Security system is not causing the deficit. Its revenues and surpluses should not be used to mask the deficit nor should its outlays be counted as part of expenditures. Because of these very compelling facts, it is clear to me that Social Security should be exempted from the balanced budget amendment.

Unfortunately, as has been pointed out by various Senators, there is a great deal of confusion in the country over what the balanced budget amendment will mean. The Members on the other side of the aisle have recently voted down the right-to-know amendment that would have gone a long way to answer these difficult and important questions that are confusing the American people. I think this is unfortunate. Throughout the debate in the House and here in the Senate, Members from the other side of the aisle have continued to say ''everything is on the table.'' Asked if that included Social Security, most have tried to be reassuring. Well, when someone tells me that everything is under consideration and then adds that we'll protect Social Security only after being prompted, forgive me for not being too heartened by their words.

I say as my father used to say, put it in writing. Put your money where your mouth is and continue to keep the Social Security system in its protected position as a trust fund, separate and distinct from the rest of the Federal budget.

The many proposals to balance the budget being circulated are scaring people living on Social Security and scaring those who expect the U.S. Congress, to abide by our contract, our promise, that the funds will be there when they need them. The conflicting statements in the press and the speculation on the political talk shows is feeding the confusion about what will happen to Social Security. So, Mr. President, I believe it is high time that Senators go on record stating flatly where we stand with respect to Social Security.

Oh, no, do not come up with this ''We will take care of it in the implementing language.'' That does not buy it. Trust, but verify. We heard that. I trust, but I want to verify it in writing.

I am not afraid to say where I stand. I think those who are supporting the balanced budget amendment are scared to death over this one. We have not had to have a caucus on what to do about the vote on Social Security. We have not had to have a caucus saying we want to develop a second-degree amendment or a substitute that puts Members in a position that when we get to the implementing language we cannot touch Social Security.

I have an answer for that one, I think. Many years ago our Nation made a pact with its people that their payroll contributions—and we make them pay—would be available when needed, whether in old age or because of disability.

When I say ''protect'' I mean protect, without a doubt. Some have advocated dealing with Social Security issues, as I say, in the implementing language of the balanced budget amendment. I say to my colleagues and the Nation that that will not cut it. Legislation can be changed at the whim of this Congress or the next Congress.

Our amendment is different. By actually writing the protection into the Constitution it truly protects the Social Security contract. We have heard a lot about contracts in the last 35 to 40 days. We had heard a lot of it last year. Now we have a contract we want to break.

''Oh, we are not going to break it. We are going to take care of it in implementing language.'' Well, how are we going to take care of it? We can change it any week we want to, any month we want to, any year we want to, any Congress we want to. So we do not take care of it. We can change it.

In fact, this amendment reinforces our position, makes it stronger, makes Social Security safer and more secure. Neither receipts nor outlays will be counted as part of the budget under this provision.

The facts in this case bear repeating, I think. The Social Security system is not causing the deficit. Our proposal

protects the sanctity of this most vital program.

I hope and trust that most of our colleagues will join in protecting Social Security. We need to go on record—not some vague time in the future—to put our seniors' fears to rest.

If we say we want to safeguard Social Security, remember that actions speak louder than words. Support the Reid-Feinstein amendment to the balanced budget amendment. Support this measure. Support for this measure is the only way to truly guard the trust fund. I hope my colleagues will support it.

Opponents argue on this issue that statutes never have been incorporated in the Constitution and this would be an unprecedented constitutionalizing of a statute.

The response to that is, this is the first time that we have ever tried to do an amendment to the Constitution fixing fiscal policy. So if this is the first time we have done that, we can do something else for the first time.

So if we are talking about fiscal policy, should we not be concerned about one of the largest fiscal elements of our society; namely, Social Security?

I know there are a lot of people here just as sincere about supporting the constitutional amendment as they can be. I support it. I voted for a constitutional amendment to balance the budget. You are going to need my vote, but you know, they say, whichever way it goes, Democrats lose on this. If you pass a balanced budget amendment, the Republicans win. If they lose, they beat the heck out of us for the next 2 years politically, and there will be fewer Democrats here 2 years from now than there are now. I see the President smiling. He would like that. That is all right. I am going to do what I think is best whether I get to come back or not, and I will defend my position with anyone on the other side any time you want to have that debate.

But there are some people around this Chamber I respect. I respect them personally and for their judgment and experience and knowledge. One of those is the distinguished Senator from Alabama, Senator HEFLIN. I do not think anybody in this Chamber disputes his legal and constitutional knowledge.

So let us just look at this for just a moment, where he is coming from. Opponents of this amendment argue that we will use implementing legislation to exempt Social Security from the Balanced Budget Act calculations. That is what we hear. We hear it every day from my learned friend from Utah—I heard it, he just keeps repeating it, and I almost believe it he has repeated it so much. But let us listen to the distinguished Senator from Alabama. This refutes the ability to do something about Social Security in the implementing language that we hear about.

Here is what Senator HEFLIN says:

> Attempts to protect Social Security through implementing language would be futile.

Futile, and I underscore that.

> Once the Constitution is amended to require that total outlays for any fiscal year shall not exceed total receipts for that fiscal year, Social Security is in danger.

That is what Senator HEFLIN says. And he goes further to say:

> This means that there will be a constitutional requirement that Social Security funds be considered on budget, because the language says all receipts, all revenues.

All receipts, all revenues. So when that balanced budget amendment is passed, that includes Social Security, and this is by a man I believe has as good a knowledge of the Constitution as anyone in this Chamber.

He goes on further to say:

> If the balanced budget amendment is adopted as presently worded, it would prohibit—

Let me repeat that.

> it would prohibit Congress from legislatively taking Social Security funds off budget

Because you have included them—

> and would nullify the provisions of the 1990 Budget Enforcement Act which requires Social Security funds to be considered off budget.

That balanced budget amendment says it is all receipts, all revenues, and here is a fellow I think you have to respect, a Senator, I better be careful. Senator BYRD will be up here in a minute if I call him ''fellow.'' He is a Senator. So I want to be sure I say it right.

Here is a Senator we all respect. He thought about this for weeks, and he would not have made that statement publicly if he did not believe he was legally and constitutionally correct. When he makes that statement, after thoughtful consideration, I have to believe it.

We have others from the American Law Division who agree with Senator HEFLIN. They put out their statements. Once you put ''all receipts'' in that amendment to the Constitution, you eliminate the ability under the legislative implementation of that budget of trying to exclude Social Security.

If you are willing to take that chance, and if you are willing to take that chance, go ahead and vote against it. But I will tell the Senate and the American people, here is one Senator who is not going to vote to include Social Security. I have too many in my State, and you have too many in your State and there are too many across this country who have a contract with us.

''Oh, it's all right, old FORD is down there flapping his lips. It's not going to make any difference, they already have the votes.'' They at least start out with 53—maybe 52. You did lose one. One on that side is all right, up until now.

But when it comes to the point of whether you want to believe the constitutional scholars that once you pass this balanced budget amendment Social Security is excluded from the implementation of that budget by this body, then you have said one thing and you are unable to do it.

I do not want the courts to start telling me to cut the budget, to raise the taxes, you cannot do this and you cannot do that. And we are getting very close to saying to the courts, ''You are going to run this country.'' I am not ready for the courts to tell me how to vote in the legislature, in the Congress, and I do not think you want to vote to give that much power to the courts.

We are on the verge of saying that the courts will be all powerful over our fiscal policy. Line-item veto—we are going to give that to the Executive. We can just get us a plastic card and vote from home, and a lot of people would probably like for us to do that. But we are slowly but surely saying to our forefathers that you made the best judgment of any country in the world when you put together the Constitution, but we are saying now we are going to give a piece of the legislative prerogative to the courts, we are going to give another piece of legislative prerogative to the President.

I believe Senator HEFLIN when he says that if you say ''all receipts'' and the constitutional amendment passes, you will not be able to get Social Security and those people out there now drawing Social Security will be in deep trouble. A $702 billion surplus in 2002 in Social Security. A $780 billion surplus in Social Security in 2002 and you want to take that and reduce the deficit.

Now, if I did not have to pay it, it might be a different deal, but I have to pay it. I look forward to it because it is a contract. How many people get out of paying Social Security? I do not know. Unless you do not make anything, you pay Social Security. It is planned to go up and have a surplus. That is the plan. We do not even have a means test. I have not even heard it suggested.

I see a lot of people taking notes while I am talking. Maybe they want to think about this constitutional question a little bit.

But I just say to my colleagues and to those who may be watching—once they started listening to me talk, they probably turned on the local news or something—but you better be careful about allowing the Social Security amendment to fail because if that balanced budget amendment passes—and I suspect it will and the States will ratify it—then Social Security is part of the deficit reduction, regardless of our implementing language.

Oh, I will hear good legal words. I am not a lawyer. Therefore, I am not a word merchant, and I cannot take my words and make it sound good. You have both sides. You have both sides. And it is good to argue that way.

But the only thing I know is I listen to people I trust, people I think are intelligent, people I think thought this part of the amendment through thoroughly and have now made their judgment. That judgment has been supported by the American Law Division of the Congressional Research Service. They all concur with Senator HEFLIN's statement. If that is true, all of us in

this Chamber better take a step back and look at where this has taken us, particularly as it relates to Social Security.

Mr. President, I say to my colleagues I hope that the 17,000 calls per minute being made around this country as it relates to Social Security begin to burn between now and the time that they have this vote, and that we can at least save Social Security in our haste to have a drag race and accomplish things and put it on the 30-second sound bite.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I agree with three-fourths of what Senator FEINGOLD said before and what Senator FORD has said. I believe we do have a contract with people who have signed up for Social Security. As a matter of fact, I do not remember when it was, but about 10 years ago, when I introduced a balanced budget amendment, I had an exemption for Social Security.

I finally withdrew that for two reasons. First, I believed that we better protect Social Security by not having it in, and I will explain that in a few moments. Second, we have a contract with a lot of other people, too. And if you put in this exemption for those on Social Security, what about Federal employees? What about veterans? What about railroad employees? What about other trust funds we have set up where we have a contract—for aviation, for highways, for other things?

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

Mr. SIMON. I will be pleased to yield.

Mr. FORD. I understand what the Senator is saying about these other contracts. But in the military, we appropriate funds every year for the retirement of the military. The airport improvement trust fund, if you fly an airplane, you pay the tax. If you do not fly, you do not. Then you are going to see that we can reduce those taxes. Therefore, you will not have a trust fund. Under the highway trust fund, you have gasoline taxes. If you reduce those taxes, you do not have a trust fund. Here it is mandatory that you pay under Social Security, and that is a trust fund with a contract. Will the Senator agree with that?

Mr. SIMON. I agree they are different. But what about railroad employees, if I may ask?

Mr. FORD. Railroad employees are under Social Security. They have been transferred to the Social Security. The railroad retirement system has been merged with Social Security, and Social Security is the railroad retirement fund.

Mr. SIMON. I differ with my colleague on that.

Mr. FORD. My father-in-law is a railroad retiree, and he gets his check from Social Security. Now, Mr. President, I do not know what it is, what kind of fund he has, but they did not have enough funds to take care of it and they turned it over to Social Security, and Social Security is now taking care of those retired railroad people.

Mr. SIMON. The Senator is partially correct in that.

Mr. FORD. At least that is better than being all wrong.

Mr. SIMON. Mr. President, let me just add, we have a contract not only with people who are on Social Security today. We have a contract with those three groups that Senator FEINGOLD mentioned in the future. And how is the Social Security trust fund protected? It is protected by U.S. bonds.

If you take a look at the history of nations, when nations get around 9, 10, or 11 percent of deficit versus national income, with the exception when you are in a war, then nations start printing money. What the economists say is they monetize the debt. The latest CBO projection is we are going to end up, in the year 2030, with 18 percent. That suggests that the only way we can protect Social Security is to make sure that debt does not rise, and that we do not monetize the debt, because if the dollar is only worth 25 cents, those bonds are only worth 25 cents on the dollar.

Senator FORD is correct. Social Security is not causing the deficit. I have voted for statutory provisions, and I will again as we move ahead. But we also have to recognize that if we separate Social Security and say this is not our direct responsibility, starting in the year 2012 or 2013, Social Security starts to go into a deficit situation.

What we ought to be doing, if this passes, is sitting down with senior groups right now and saying how do we plan for this? Do we have to have a half-percent increase in Social Security in the FICA tax to pay for it? Should we, over a period of 12 years, each month increase the retirement that you need to have?

I do not know what the answers are, but I know that if we just put this off and say this is not our direct responsibility, we are asking for trouble.

Here let me just add, we ought to be listening to Bob Myers, for 21 years the chief actuary of the Social Security System. He says it is absolutely essential for the future of our system that we pass the balanced budget amendment. I hope we do that.

Let me just add one other point. There are those who philosophically just are opposed to a balanced budget amendment, period. My friend, Senator BYRD, is one of those. Senator FEINGOLD is one of those. But let no one use the defeat—and I think this amendment will be defeated—let no one use that as political cover and say, well, I cannot do this because I want to protect Social Security recipients. The only sure way to protect Social Security recipients is, as Bob Myers has pointed out, to pass the balanced budget amendment. And that is what I hope we will do and do in a responsible way.

The Reid amendment, in my opinion, should be defeated. Then we should do the right thing by those who are on Social Security now and will be on Social Security in decades to come by adopting the balanced budget amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Senator from Illinois has referred to Mr. Bob Myers on two or three occasions. On another day I will take the time to read into the RECORD what Mr. Robert Ball had to say about Mr. Myers' statement and had to say about Social Security and had to say about the balanced budget amendment, so that the record will be balanced.

I thank the Senator.

Mr. President, when former President John F. Kennedy wrote ''Profiles in Courage,'' I believe he wrote about Edmund G. Ross, of Kansas, during the debate in 1868 on the impeachment of Andrew Johnson. At the conclusion of the trial when the vote was taken, the first vote was on article 11. That was a test vote. The House managers felt that was kind of a catch-all provision on which the guilty verdict would most likely be rendered—would have its best chance. But on that vote, 7 Republicans voted with 12 Democrats to acquit President Andrew Johnson. Thirty-six votes were needed for a guilty verdict, for a conviction; 36 votes. The vote was 35 to 19. And so those who sought to convict President Johnson failed by one vote, and President Kennedy mentions the name, I believe, of Edmund G. Ross, of Kansas, who was one of the Republicans who cast a vote for acquittal and thus, apparently, sealed his political doom in so doing.

But there was another Senator who cast such a vote and that was Peter G. Van Winkel, of West Virginia. Peter G. Van Winkel was from Parkersburg, and he voted to acquit President Johnson. In so doing, Peter G. Van Winkel closed the escape door and sealed his doom politically. The West Virginia Senate, in that year of 1868, passed a resolution condemning—I believe the vote was 18 to 3—condemning Johnson. So the pressure was on because most of the West Virginians were Unionists. The pressure was on Peter G. Van Winkel to vote guilty. Waitman T. Willey, the other West Virginia Senator, voted guilty. But Peter G. Van Winkel voted not guilty.

Edmund G. Ross went on to switch from the Republican Party to the Democratic Party in later years. He, I believe, was Democratic candidate for Governor of his State later. He had a continuing political career as a Democrat.

But not so with Van Winkel. He was finished. He looked down into the open political grave and knew that was where he was going to his final rest.

So there were two profiles in courage.

I was visiting with Senator PELL recently and I saw on his office wall a

framed article, I believe it is from the New York Tribune. The headline was as follows.

Pell Will Vote Against Bonus; Means His End.

New York Representative Says Act Will Be Political Suicide But He Can See No 0ther Course.

And reading from that May 1 story of 1919 or 1920, I forget which it was, dateline Washington, May 1.

Representative Herbert C. Pell, Jr., Democrat, who was elected to the House from the Fifth Avenue District, (17th of New York), announced today in a speech on the floor that he would vote against the soldier's bonus bill despite his belief that to follow such a course would be political suicide.

Explaining his conviction later, Mr. Pell said that although most of his constituents might mildly approve his stand he believed several hundred returned soldiers of Democratic sympathies would cross the party line and assure his defeat in a district which was normally Republican.

''I intend to vote against the bonus,'' Mr. Pell said in his speech. ''I am doing this in the full realization that it means the end of my political career, and I can tell you frankly that it is a painful thing to commit suicide, but I do not think that honor will permit me to follow any other course.''

I will not read the rest of the article. But here was a profile in courage, Herbert C. Pell, Jr., father of our own illustrious colleague, CLAIBORNE PELL, who knew that he was closing the door forever to any future in politics but who stood upon principle. He put principle above party; principle ahead of expediency, and cast that vote. So I asked Senator PELL to give me a copy of that newspaper story.

I ask unanimous consent it be printed in the RECORD at this point.

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

[From the New York Tribune]

PELL WILL VOTE AGAINST BONUS; MEANS HIS END

NEW YORK REPRESENTATIVE SAYS ACT WILL BE POLITICAL SUICIDE, BUT HE CAN SEE NO OTHER COURSE

TAX METHODS ASSAILED

WOULD PARALYZE INDUSTRIES AND CREATE THE WORST PANIC IN HISTORY; IS BELIEF

(From The Tribune's Washington Bureau)

WASHINGTON, May 1.—Representative Herbert C. Pell Jr., Democrat, who was elected to the House from the ''Fifth Avenue District'' (17th, of New York), announced to-day in a speech on the floor that he would vote against the soldiers' bonus bill despite his belief that to follow such a course would be political suicide.

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THINKS INDUSTRIES WOULD BE PARALYZED

''Of course I shall vote for the most generous treatment possible for men that have been injured in the service of the United States, and also for proper care of the dependents of those men who have been killed, but I cannot bring myself, merely for consideration of political advantage, to vote for a bill which would impose a tax of $20 a head on every man, woman and child in the country. There is no conceivable way, or at least no way has been suggested, by which such an amount of money could be raised which would not paralyze the industries of the United States and precipitate such a crisis as we have never seen in our history.

''Hard times unquestionably are coming, whatever we may do, but while we cannot avert difficulties we can tremendously aggravate them. So far there have been three plans suggested for raising the money.

''First, by the issue of $2,000,000,000 of bonds which, obviously could not possibly be marketed at a rate very much under 8 per cent, which would promptly knock twenty points off the price of Liberty bonds and make any private borrowing by business men practically impossible.

TAX METHODS ARE ASSAILED

''Second, a retroactive tax on incomes for at least three or four years. Ordinary common sense will show any man that this money has not been kept by the individuals who acquired it, in the form of cash in their stockings, but has been spent or invested, and to raise the tax money every business man in the country would be obliged to go into the money market and borrow on his own credit. This also would run the price of money up to such an extent that the permanent investment rate in the United States would remain somewhere around 8 per cent for a great many years. Of course, I mean non-speculative investments—the class of thing that before the war paid from 3½ to 4½ per cent.

''The third plan is a general sales tax of one-half of 1 per cent on all sales made in the country. The argument for this is that it would take the money from the people in such small installments that they would not notice it, but it would be impossible to take such an enormous sum from the community without very seriously affecting all business throughout the country, and, of course, it would wreck the financial district of New York, and with it the hope of commercial preëminence of the world.

MONEY WOULD DRIFT TO LONDON

''An American stock exchange would probably be opened in London, on which all stocks listed on New York would be dealt in. This would mean that London would become the great market of the world for call money, and would end any hope that we may have held in the past of New York becoming the financial capital of the world.

''Considering the low purchasing power of money to-day and also the general tendency of all classes toward extravagance, $500 means about as much to a man to-day as $75 or $100 used to mean to us, and we may rest assured that nine-tenths of the men receiving this money will spend it on a good time and not work until it is all gone. After that they will try to get back the jobs they held and find that they no longer exist, so that their last state will be worse than the first.''

Representative Johnson, of South Dakota, insisting that the bonus bill ''must pass,'' proposed in the House to-day the elimination of the tax on sales, which was criticized severely by Republican members in conference last night, and the substitution of a tax on war profits.

Chairman Fordney of the House Ways and Means Committee, announced that sessions of the committee would be held late next week, at which the elimination of the sales tax provision would be considered.

Mr. BYRD. Mr. President, earlier we witnessed here in the Senate one of those vital moments of historic drama for which the U.S. Senate was created, that moment during which our friend and colleague, Senator MARK HATFIELD from Oregon rose and announced his opposition to the proposed balanced budget amendment to the Constitution. When he did that he wrote on this very day his own profile in courage.

Senator HATFIELD and I are both standing in this debate on principles that transcend both party allegiances and personal quirks. Our position is against vilifying the sacred document on which this Republic is based with parochial conceits and economic policies that will surely be viewed in the future as an anachronism—if this amendment is ever adopted in the country.

Our position on this matter reflects a conservative stance on the Constitution, based on the ''strict constructionism.''

Where are all these conservatives we hear about? Like Disraeli, I am a conservative: To retain all that is good in the Constitution. And the radicals remove all that is bad. This position of strict construction is rooted in American history and in constitutional traditions.

But one thing highlights Senator HATFIELD's position and differentiates that position from my own position. Senator HATFIELD is swimming against the inclinations of the majority of his caucus. It may very well turn out to be almost a unanimous caucus except for his vote. Senator HATFIELD is swimming against the inclinations of the majority of his caucus and against the directives of the so-called Contract With America, of which the House Members of Senator HATFIELD's own party are so enamored.

Senator HATFIELD's stand on the issue of the balanced budget amendment is a stand which should make every Senator proud, even those who differ with Senator HATFIELD and with me on this issue. Senator HATFIELD's position on this matter suggests those instances —and I have referred to a few earlier—those instances of character and distinction cited in ''Profiles in Courage,'' one of those defining moments for which the Founding Fathers created the Senate as ''the place to send legislation so that it might cool down.''

Mr. President, I again commend my friend and colleague Senator HATFIELD for his courage and his demonstrated leadership on this issue, and in this body. He has stood on the unfailing foundation of principle.

He has lived up to his oath to support and to defend the Constitution of the United States against all enemies, foreign and domestic. He has put his vote behind reserving that grand document —and here it is, the Constitution of the

United States—for future generations. He has stood against the political winds of expediency, and the people of Oregon should be proud of him, and the American people should be proud of him. Regardless of their viewpoint on this particular issue, they should be proud of him.

Mr. President, it seems that we live in an age of little reverence and less patience. It is an era of fast food and slick advertising slogans, of instant analysis and rapid information. In politics, it is a time of sound bites and media men.

The practical application of democracy as it has evolved, with its condensed messages and its blow-dried candidates, stands in stark contrast to the carefully crafted, intricate, thoughtful system envisioned by the Framers and given form by the written document known as the Constitution of the United States of America.

Representative democracy is a slow, complex, and cumbersome way of governing. Its strong point is not speed, and not efficiency but stability. In a world enamored of instant gratification, 30-second political ads, 30-minute press conferences, rapid transit, fax machines, satellite communications, and a whole host of lifestyle subtleties that peddle speed and simplicity as invaluable commodities, I sometimes wonder if, as a people, we have somewhere lost the patience for representative democracy.

It is as if the perseverance to examine issues with meticulous care, considering and publicly debating all aspects until a solid consensus emerges, has gone out of style. Perhaps our ability to concentrate—the American attention span, if you will—has been shortened, rather like a child who has watched too much bad television. And there is all too much of that to watch.

Given our national fascination with time-saving devices that simplify our lives, it becomes easy to understand why intractable problems, without quick or obvious solutions, are especially frustrating to the American people. In many American families, both parents have to work just to make ends meet, and then struggle to parcel out any leftover time, if there is any left over, to raise their children. The American people, frankly, are distracted by their own overly busy, fractured lifestyles, and the simple, quick solution is currently at a premium value. The simple, quick solution is at a premium value.

Some in the political sphere have seized upon that distraction and have made hay out of offering one-liner solutions to the Nation's most complex problems. Some have discovered that the simple, the catchy, the obvious, the easy will sell like hot cakes to an American public frustrated by the demands of making a living and disappointed by a political system that no longer seems to matter in their own daily lives.

Is the American public weary of budget deficits? You bet they are. Well, then, pass a constitutional amendment to balance the budget; it is just that simple.

Our forefathers did not intend that the Constitution never be amended for all time. They provided an article, Article V, which provides for the amending of that document if two-thirds of both Houses and three-fourths of the States give their approval to amending the Constitution. It can be done; it has been done. We have 27 amendments, 17 since the original 10 that we refer to as the Bill of Rights. I, myself, voted for five of those amendments here in this body.

But here, we are talking about an amendment that would burst at their seams the very pillars on which this constitutional system rests: The separation of powers and checks and balances. That is what it amounts to. I will go into that with greater particularity on another day. But the Framers in writing the Constitution intended that it endure for ages to come, and that, consequently, it be adapted to the ''various crises of human affairs.'' Those of the words of John Marshall. So in the midst of all of this hustle and bustle, and the search for expediencies, easy answers, why do we not just throw out the Constitution and start all over? Or perhaps we should do it by stealth—do it by stealth—under the cloak of a balanced budget amendment to the Constitution.

Mr. President, that is why the American people have a right to know what this amendment will do. Let us take a close look at House Joint Resolution 1.

I want to appeal to that jury out there, that jury which during this debate is viewing the electronic eye. And among that jury, I am appealing to Senators, Senators perhaps in particular at this moment. I want to make my case before that jury, and I hope that with a little patience, because talk becomes tedious at times, especially on this occasion when I will be explaining the flaws in this amendment—it may become a little tedious. May I say to the men and women of the jury, please be patient, because I am going to prove beyond a reasonable doubt that this constitutional amendment to balance the budget is filled with flaws, that it will not work, that it cannot work and that the committee in its committee report admitted essentially that there were problems with it and sought to provide the escape doors through which we might run from that problem.

I am going to prove that beyond a reasonable doubt, for all those who will take the patience to listen. Bring on your ready response team. I saw on television one evening on the evening news that my friend, Mr. DOLE, had brought out, I believe, 9 or 10 Senators from the other side of the aisle—and maybe 1 from this side, I am not sure—and it was a ready response team. They were going to ''wear him out,'' talking about ROBERT BYRD. They were going to wear him out. Well, bring on your ready response team now, while I am speaking. Bring them on. I will yield for questions. I will yield for statements by unanimous consent. But do it now. You remember the little ad on TV, ''Do it here, do it now.'' Well, do it here, do it now. All right. To the ready response team I say, ''come on, do it here, do it now, while I am on the floor. Bring out your 9 or 10.

I want to focus on this measure, because just as Toto pulled back the curtain to expose the not-so-mighty Wizard of Oz, the curtain must be pulled back on this resolution so that the American people, too, can see that it is political sorcery, political witchcraft, political black magic.

Section 1 of the proposed constitutional amendment on this chart to my left, so that the jurors can read it for themselves, reads:

> 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.

I will speak at a later time about this clause which deals with the supermajorities that are built into this amendment. There are 9 supermajorities in the Constitution of the United States and the amendments thereto. Six supermajorities are provided for in the original Constitution, one supermajority is provided for in the 12th amendment, one in the 14th amendment, one in the 25th amendment, making a total of 9 supermajorities built into the Constitution and amendments thereto. I will talk about that.

I will repeat this first quote from Section 1: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *.'' That means that total Government spending for any fiscal year shall not exceed total receipts—''* * * shall not exceed * * *'' the money taken in by the Government.

That language probably sounds fairly straightforward. It should be easily understood: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *.'' But if we accept that requirement, if we rivet that quack nostrum into the Constitution of the United States, then the obvious question is, can we ensure that, in fact, outlays do not exceed receipts? That is what the mandate says here. How are we supposed to comply with that constitutional mandate? Simply stating that outlays shall not exceed receipts is nothing more than an empty incantation; just to say it is more than an empty incantation. Stating it will not automatically make it happen, any more than if we said there will be no more poverty, no more crime, or no more pollution. There would still need to be some sort of mechanism to carry out the goal. That, of course, is also true of balancing the budget.

Everyone should realize that there has to be a plan in order to actually get the budget into balance. That is what many of us have been trying to get the proponents of the amendment to tell us. Show us the plan. Let the American people see your plan for balancing the budget. The people have a right to know.

But, Mr. President, proponents of the amendment tell us not to worry. They say that a constitutional amendment is not the place to put the particulars, or details, or how we achieve a balanced budget. They say that section 6 of the proposed amendment requires Congress to develop its own enforcement mechanism by passing implementation legislation—by passing implementing legislation. Congress will enforce it, says section 6 of this constitutional amendment. If that is the case, then the American people have a right to know what that section says.

Section 6—here it is on the chart to my left—reads as follows: ''The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.''

For the public to understand what kind of wonder drug they are being asked to swallow, they need to fully understand that specific section of the resolution. And once they do understand it, Mr. President, I believe they will know that this amendment is nothing more than political witchcraft.

Section 6 of the resolution, of the balanced budget amendment, states that ''The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.''

Again, Mr. President, such language would appear rather uncomplicated. But if we take a closer look, especially at the latter half of that sentence, we will see that the entire premise of this amendment is as shaky as a house of cards. Indeed, in one single word—the word ''estimates''—we find the Achilles heel of the whole balanced budget amendment concept, be it House Joint Resolution 1 or some other version. The Achilles heel is the word ''estimates.''

Following that, let us zero in on the word ''estimates.'' If we follow the directive of section 6, then the central tenet of our enforcement mechanism, we would see, is to be based on ''estimates of outlays and receipts.'' Now get that. ''The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

What the public needs to know, but what they are not being told, is that, unlike most individuals who will receive a set salary or wage for the year and whose expenses are relatively stable, total outlays and total receipts of the Federal Government are never, never, never known—and in fact they cannot be known—at the beginning of any given fiscal year. It is impossible for the total receipts and the total revenues to be known at the beginning of any given fiscal year. All the President and Congress have to work with, when they begin to put the budget together, are estimates provided to them by the Office of Management and Budget and the Congressional Budget Office—estimates, nothing more.

If we have learned nothing else over the past 15 years, it is that actual outlays and actual receipts in any given year can, and generally do, vary from those estimates by billions of dollars—not millions, but billions of dollars. In fact, in most years, actual outlays and actual receipts do not even come close—do not even come close—to what the experts projected at the beginning of the fiscal year.

Estimates are not accurate. They never are. And if they ever will be, it will be pure happenstance and it will not happen often.

As these charts to my left will show, outlays, receipts, and deficits have consistently been misestimated in every one of the 15 years from fiscal year 1980 through fiscal year 1994, inclusive. No exception. In every one of those 15 years—from fiscal year 1980 through fiscal year 1994—the outlays, receipts and deficits have been misestimated.

Mr. President, before turning to the specifics of these charts, let me emphasize that the data presented here come from the independent and nonpartisan Congressional Budget Office. That office, created by the 1974 Congressional Budget Act, is charged with the job of assisting Congress in the preparation and analysis of the budget by providing us with the economic and budget data we need throughout the year. As part of those duties, they are responsible for closely monitoring the Government's deficits. But, as we shall see, despite all the expertise of the individuals who work in that office, they remain powerless—absolutely powerless—to provide the accuracy that would be required under this amendment. They are the best in the business, but they will never, never be able to produce what this amendment calls for.

Let us look at the first chart. This first chart shows the difference between revenues, as estimated in the first budget resolution for each of fiscal years 1980 through 1994, versus what those revenues actually turned out to be.

The estimate of the revenues versus what the revenues actually turned out to be.

Starting on the left, the viewer's left, on your left out there looking through that electronic eye, starting on your left with fiscal year 1980, we can see that actual revenues collected by the Federal Government were $11.1 billion more than what had been forecast in the budget resolution for that year. Eleven billion dollars, Mr. President. Then in fiscal year 1981, revenues fell short of the estimate by $11.3 billion. In fiscal year 1982, revenues fell short of the estimate by $40 billion. For fiscal year 1983, revenues fell short of the estimate—in other words, the income of the Government, the actual income of the Government for that fiscal year fell short of the estimate—by $65.3 billion.

Now I will not take each year, but the viewers can see that in only 1 year were the estimates really close. In that year, they missed the estimate by $1.7 billion. But look at the other wide ranges—$55 billion in 1991, $77.5 billion in 1992. The actual revenues missed estimated revenues by $77 billion in that year.

The point I am making here is that in no year, in no year, were the estimates accurate—not one year—and range as far off, as I say, as $65 billion in fiscal year 1983 and, in 1992, $77.5 million, the errors between the actual revenues and the estimates.

Now we are talking about the word ''estimates'' in this constitutional amendment, in this balanced budget constitutional amendment. I want to keep our attention on the word ''estimates'' and I am showing that the historical record here clearly, clearly, is convincing that estimates are always wrong. They have always been wrong.

So all in all, those who have done the estimating have not produced a very good record.

Now this next chart shows for the same 15 fiscal years the difference between estimated outlays—that is the money the Government spends out—the difference between the estimated outlays, as contained in the first budget resolution, and what those outlays actually were. In other words, the difference in what the Government actually spent, as against the estimates of what the Government would spend.

So what was estimated on the one hand and what the outlays were on the other hand was a vast difference.

So, starting again on the viewer's left, with fiscal year 1980, we can see that outlays were actually $47.6 billion more than what the budget resolution had estimated. If we were to pass a budget resolution, we should pass it by May of each year for the following fiscal year. This year, 1995, we should expect to pass a budget resolution by May for the next fiscal year, which begins on October 1 this year and goes through September 30 next year.

In fiscal year 1981, outlays were $47 billion greater; in fiscal year 1982, the outlays were $33 billion greater; And so on and so on.

The point I am making here, and the viewers can see for themselves from the chart the errors between the actual outlays, the actual spend-out by the Government as against the estimated outlays, the estimated Government spending, and the viewers will see, again, that in no year was there an accurate estimate.

The green line here, represented by ''0,'' represents a situation in which the estimates and the actual outlays would be right on, so that the ''zero miss,'' a ''zero miss'' estimate—because the estimate would be accurate—hit

the nail right on the head. That is the green line.

Therefore, the bars represent in each year how much the estimates were off, one way or the other. In some years, the actual outlays were more than the estimated outlays represented by the red line. In a few years, the actual outlays were less than the estimates; in one instance, $91.9 billion less than the estimates. That was in 1993, when we adopted the budget reduction package for which not a Member on that side, not one, not a Republican Senator, not a Republican House Member, voted for that budget deficit reduction measure.

The point again, as I say, looking at the zero line, meaning absolute accuracy, one can see how much in each year the estimate missed the point.

What I am showing here is, if we keep our eye on that word ''Estimates,'' we will see that the estimates are always off, one way or the other.

Now, chart 3 gives the differences between the actual budget totals and the first budget resolution estimates for fiscal years 1980–94, the same period that was addressed by the preceding two charts. The error between the actual and the estimated deficits in billions of dollars—again, the source of the information is the Congressional Budget Office, the office we depend upon here as we formulate our budget. Since the difference between the revenues and the outlays—one chart I have already shown dealt with revenues, the money taken in; the other chart I have used dealt with outlays, the money that the Government spent.

This chart, then, combines the two, in essence, and gives us the difference between the actual budget totals and the first budget estimated deficit for fiscal years 1980–1994—the actual deficits. Since the difference between the revenues and the outlays, the difference between what the Government takes in on one hand and what the Government has to spend on the other is what makes up the deficit, this third chart shows the difference between what the deficit was estimated to be and what it actually turned out to be for those fiscal years 1980–1994. Again, the green line represents ''zero miss,'' meaning the estimate was right on target, the actual was right on target with the estimate. It was not missed.

For fiscal year 1980, the deficit was $36.5 billion—$36.5 billion. Now, I see the response team gathering. I am glad. For fiscal year 1980, the deficit was $36.5 billion, greater than had been estimated. For the next year, 1981, the deficit was $58.3 billion larger than had been estimated. For fiscal year 1982, $73 billion larger. For fiscal year 1983, the deficit was $91.4 billion greater than had been estimated.

Keep your eye on the word ''Estimates.'' Skip over here to 1990; the budget deficit was $119.1 billion greater than had been estimated, and so on. Those who are viewing the chart to my left can see for themselves.

In 2 years, the deficit was less than the estimate. But the point is that in no year was there accuracy. Almost accuracy, very close, in 1984—missed by $3.7 billion. In 1987, it was missed by $6.2 billion. But look at the range: From $36 billion to $91 billion to $119 billion to $71 billion—off. That is not an inconsequential error. That is not an inconsequential figure.

So the point is that in all of these years covered by the chart, the estimates were off. The point of these charts is to show that all efforts to estimate outlays and receipts accurately have repeatedly failed—repeatedly failed. Every single year for the past 15 years, the estimators have failed to accurately estimate what the deficit would be.

In addition, I would also make the point that we do not know if the CBO's estimate is off, or if it is, by how much. Get this: We do not know if the CBO's estimate is off, or if it is, by how much until after the fiscal year has been completed. There is no way in God's Heaven, with all of His troops of angels that one—I should not say that about God. I suspect He can foresee these things. But there is no way on Earth that we can know what the revenues will be, that we can know what the outlays will be, until the fiscal year is over and gone, until after September 30. We will not know how much the outlays are off, how much the receipts are off about this particular fiscal year we are in, until after next September 30 is gone, gone with the wind, and we will not even know it then because the Treasury probably will not have its final receipts and outlays until October 15, or some such.

We simply cannot know with any exactitude what the deficit will be during that fiscal year. By the time we do know, though, it will be too late to correct the problem, at least under the balanced budget amendment. It will be too late to correct the problem, because what was the instruction in Section 1?

The instruction was, in section 1—the mandate:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.

We will not know what the total outlays are. We will not know what the total receipts are for this fiscal year until it is gone, until the fiscal year is gone, marked off the calendar. In other words, using estimates of revenues and outlays—the money that comes in and the money that goes out—it is virtually impossible to determine whether or not the budget will be in balance until after the fiscal year is over, after the horse is out of the barn; the doors are open and out go the horses. Too late. In 11 of the past 15 years, revenues have been lower than expected, and in 10 of the 15 years, outlays have been greater than expected.

Let me say that again. In 11 of the past 15 years, revenues have been lower than the estimates, and in 10 of the 15 years, outlays have been higher than the estimates. And there is nothing in this resolution—nothing in this resolution—or in any other resolution or in any other version of the balanced budget amendment that can correct that problem. Nothing. There is not one among the 100 Senators who can come up with a version that will correct it. Not one. Not 100 working together can correct, can find a way to accurately estimate what the revenues will be, what the outlays will be, what the deficit will be in any fiscal year. You cannot do it until the chapter is closed, the receipts and the outlays are in and, by then, the door on the fiscal year is gone, closed.

How then are we going to come forth with this mandate: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.* * *''?

Yet, Mr. President, despite knowing that the estimates we must work with will inevitably be in error—inevitably—they are exactly what this balanced budget amendment would have us rely on, the word ''estimates.'' Remember, it says, right there in section 6, that we ''may rely on estimates of outlays and receipts.''

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates.

That is weak, it has no foundation.

may rely on estimates of outlays and receipts.

If you cannot rely on the estimates, then how can you help but violate this mandate? If estimates cannot be relied upon, then how can we avoid violating this section 1:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.* * *

It does not say ''may not.'' It says ''shall not.''

So it says there in section 6 that Congress ''may rely on estimates of outlays and receipts.'' That is it.

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

Now, what does that mean? What are we talking about? As I say, section 1 states:

Total outlays for any fiscal year shall not—

Shall not, shall not, shall not—

exceed total receipts for that fiscal year.

No ifs, ands, buts or maybes—''shall not.''

Total outlays shall not exceed total receipts for that fiscal year.* * *

Then how will it be done? How will it be done? The magic incantation in section 6 is that the ''Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts'' even though we know, by the record, that the estimates we must work with will inevitably be in error. They are exactly what this balanced budget amendment would have us rely on. It says so. That is what it says. I did not say it. It says so. It says we may rely

on estimates of outlays and receipts in balancing that budget. We already have a process for estimating revenues, outlays, and deficits prior to each fiscal year, and as we have seen by the evidence that I have shown, it is far from perfect.

So what is Congress to do? It is ludicrous to think that just because we adopt this balanced budget amendment we will somehow come up with a new system that will accurately predict balanced budgets in advance of each fiscal year. As I say, it cannot be done. Einstein could not do it. Worse than that, Mr. President, is that we will never know if our estimates are off or how much they are off until it is too late to correct that problem. We will not know it, at least not in time to fix the imbalance. These revenue and outlay numbers cannot be calculated until after a fiscal year is over. Therefore, we have no way of knowing during the fiscal year whether or not outlays are going to exceed receipts until it is too late.

Yet, the clear language of the amendment states in no unmistakable terms, in simple, down-to-Earth English: Outlays ''shall not'' exceed receipts. That is what the amendment says. I did not write it. I did not write that amendment, but that is what it says: Outlays ''shall not.'' No ifs, ands, buts, maybes—outlays ''shall not'' exceed receipts.

Of course, it would be easy to say that all we needed to do to correct the dilemma is to find more competent budget analysts. Let us throw the rascals out and hire a whole new batch of analysts. Unfortunately, it is not that simple. The plain truth is that the men and the women who helped put these figures together each year are not at fault. They are not at fault. They are as good as one could find anywhere in the four winds.

If not the analysts, then who is this culprit? In simple terms, the miscalculations that we have seen displayed on these charts can be put into three categories: Policy miscalculations, economic miscalculations, and technical miscalculations. Those are the terms used by the Congressional Budget Office to explain the differences between the budget estimates and what actually occurred each year: Policy, economic, and technical.

The first of these terms, policy, refers to any portions of these differences that can be attributed to the Congress' passing legislation that was not accounted for in the estimates.

However, over the 15 fiscal years represented on these charts, policy differences accounted for the smallest amount of estimation error. In fact, enactment of legislation by the Congress since 1990 has been but a very small portion of the deficit error. The reason for that, Mr. President, is the pay-as-you-go requirement and the spending caps that were instituted with the 1990 Budget Enforcement Act—which I insisted on in talking to Mr. Darman right down in my office—the pay-as-you-go requirement, the spending caps that were instituted with the 1990 Budget Enforcement Act and extended in the summer of 1993 through the Omnibus Budget Reconciliation Act. Those caps are tough new requirements that have worked to restrain spending, because the only way around them is with the designation of an emergency.

The second reason for the difference between actual versus estimated revenues, outlays and deficits, is attributed to the failure of budget analysts to anticipate the actual performance of the economy.

I know that some Americans may not be aware of the fact that when the budget is put together, it is based on certain economic assumptions. Factors such as the gross national product, the unemployment rate, the inflation rate, and interest rates must be assumed for the upcoming year. They have to be assumed because they cannot be known.

Therefore, if more Americans are unemployed than had been anticipated, the Government will have larger outlays for unemployment insurance benefits, food stamps, and so on, than originally thought. This larger payout for these benefits would then be categorized as an economic error. Likewise, if interest rates unexpectedly go up, then the amount of interest we have to pay on the national debt would be higher. This, too, would be considered as an economic error. Nobody can help it, and no one could foresee it. It just happens.

Mr. President, to illustrate the point, we can look to the recent recession. Because that recession was deeper than expected, and the recovery weaker, revenues unexpectedly fell in fiscal year 1992. As a consequence, lower-than-projected revenues, due to the economy's failure to perform as expected, caused the fiscal year 1992 budget deficit to exceed the budget resolution's deficit estimate by $11.4 billion.

Finally, the third reason why estimates are inaccurate is due to what CBO calls technical differences. This category contains a number of items. Most notable among these are the miscalculations due to rising health care costs associated with the Medicare and Medicaid programs.

Mr. President, I know all of these explanations and numbers must be mind-numbing to the American people, but they should not be mind-numbing to Senators. The fact that this material may be dry does not make it any less true or important. What is most critical, though, is that the public understands that errors attributable to economic factors—things like higher-than-expected interest rates, or higher-than-expected unemployment—accounted for 64.2 percent of the $28 billion average error in the deficit projection. What that means, simply, is that of all of the factors that account for deficit estimates being out-of-sync with reality, nearly two-thirds of the average error over the past 15 years was due to factors that we will never be able to correct, unless, of course, someone has a crystal ball that can accurately tell us at the beginning of each year what the unemployment rate, the interest rate, the inflation rate, and the gross domestic product will be throughout that year. It cannot be done.

Mr. President, this is why I refer to the word ''estimates'' as being the Achilles' heel of the balanced budget amendment. On the one hand, under this resolution we would be constitutionally bound—bound—to balance the Federal budget every year.

That is what it says. I did not write it. That is what the amendment says. ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.''

But while we struggle with that difficult task, the economic information we have at our disposal will inevitably be in error, and two-thirds of that error will be due to factors beyond anyone's control.

Here comes the response team.

Is this the response team?

Here they are. All right, I am ready to yield any time any one of them wants to ask me a question or make a correction if I am wrong.

What a balanced budget amendment amounts to, then, is like telling someone that they must drive their car 100 miles, but only giving them 80 miles worth of gas. No matter how hard they try, or how well-intentioned they may be, there is just no way on God's green Earth that they can make up that last 20 miles.

If we know, then, that we must balance the budget—and that is what the balanced budget amendment says, we must balance it, no ifs, buts, whereases or why, no excuses. If we know that we must balance the budget, and we also know that it is impossible to know what it would take to do that at the beginning of the year, it should be obvious to everyone that Congress will be forced to pull out its old bag of tricks and bring back the same old smoke and mirrors and rosy scenarios and hidden asterisks to make this amendment appear to work. In other words, we will cook the numbers—cook the numbers—and massage the estimates in order to be able to try to live up to the new constitutional mandate. That will not make the new amendment work, but it may, for a little while, make it appear to work. Rather than rely on my own imagination, I would now like to read to the Senate and to the American people a few suggestions for getting around this amendment that come from the Senate Judiciary Committee's own report that accompanies Senate Joint Resolution 1, the balanced budget amendment.

So I have already shown beyond a reasonable doubt to those who have patiently listened that this constitutional amendment mandating a balanced budget every year cannot work, and it will not work because it is based

on an uncorrectable flaw, that flaw being the word ''estimates.'' And Congress is to enforce this amendment by relying on that Achilles' heel, that uncorrectable flaw, the word ''estimates.''

So beyond any reasonable doubt, to any reasonable man, it is obvious, it is plain as the nose on your face that it is flawed, that it cannot work, because it is based on the word ''estimates.''

So then what are we going to do? I said I would also prove beyond a reasonable doubt that the committee report recognizes this is not going to work. The committee report recognizes that. How many of you have read that report? Here it is. This is the committee report by the Committee on the Judiciary when it reported out Senate Joint Resolution 1. This is the committee report that accompanied the resolution, when the resolution was reported.

So the committee report itself comes up with some suggestions as to how we might get around it. Why would the committee do that? Why would the committee itself come up with some suggestions as to how we might avoid the strict mandate, if the committee itself did not recognize that there is an uncorrectable flaw? Why would the committee itself recommend certain suggestions by which we may have escape hatches—the committee itself?

So, rather than rely on my imagination, I would now like to read to the Senate and to the American people a few suggestions for getting around this amendment that come from the Senate Judiciary Committee's own report that accompanies Senate Joint Resolution 1—the balanced budget amendment.

Before proceeding, Mr. President, I want to explain that I am reading from the Senate Judiciary Committee's report on the balanced budget amendment. On page 19—I will even give you the page number, page 19. Hear me now. The response team—sit up in your seats. Listen. I am going to expect you to tackle me while I am on the floor, now. Look on page 19 of the committee report.

On page 19 of the Senate's report—get it and read it—Senate report 104–5, it is stated that this provision gives Congress—''this provision'' meaning section 6.

What does section 6 mean? ''This provision''—meaning section 6—''gives Congress an appropriate degree of flexibility in fashioning necessary implementing legislation.'' What is meant by ''flexibility?''

The report continues:

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

Read that again. For example, Congress could use estimates.''

There is that Achilles heel.

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

Does this mean that, if we pass a budget that is balanced at the beginning of the year, at least on paper, we need not worry if the budget becomes unbalanced during the course of the year? Is that the ideal we are supposed to include in our implementing legislation? Is that what the sponsors of this amendment have in mind? I think that is a very different approach than what the American people are expecting from a balanced budget amendment.

We have already seen that estimates of revenues and outlays are invariably wrong, and that is understandable, as we have explained. But the committee report says:

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

Who knows what reasonable is? Who will be the judge? As Alexander Pope said, ''Who shall decide when doctors disagree?'' So, who shall decide what ''reasonable'' is? What may appear to be reasonable in my thinking may not appear to be reasonable in the next person's thinking. Who decides what is reasonable? Who will make that decision?

It goes on to say: ''* * * so long as the estimates were reasonable and made in good faith.''

Who knows what ''good faith'' is? How do we know whether the estimates were made in good faith? How do we know? Who is to say? Who is to know whether they were made in good faith? Who is the judge? This is plainly an escape hatch and it is in the committee report by the Judiciary Committee. Did the Judiciary Committee not know about the inconsistencies in the estimates between outlays and receipts? Was there not anyone on that committee who knew that estimates are invariably wrong when produced by the CBO, estimates of the revenues and receipts and deficit? Did anyone ever think of it?

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

Congress could decide that. Mr. President, what that sentence says to me, is that, at the same time that the proponents of this amendment are telling the American people that a constitutional amendment will bring about balanced budgets, they are telling the Congress that they do not expect us to practice what we preach. That is just incredible. If we followed this advice and the Congress codified a broad definition of the words ''temporary'' and ''self-correcting,'' then we will have found another escape hatch—aha, there it is, this is another escape door that we all know will be needed under this amendment. But will that be what the American people expect from this amendment?

The proponents have trumpeted from the Atlantic to the Pacific, from the Canadian border to the Gulf of Mexico: This is the wonder cure. This is the wonder drug, a prescription for budget deficits. A politician appearing before an audience, can ask the question—I have been out there on those hustings a few times—''How many of you believe that we ought to have a balanced budget amendment to the Constitution?'' All hands will go up. ''Well, I want to tell you, ladies and gentlemen, you elect me, and I will vote for a constitutional amendment to balance the budget.''

Get your applause meters going. That is a sure way to ring the bell. This wonder drug is the way to get votes. It is not a sure cure—it may be a cure that kills—but it is a sure way to get votes.

Reading again from the committee report—that the Judiciary Committee wrote for our edification when it reported the constitutional amendment to balance the budget to the Senate floor—the next sentence states: ''Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1 .''

Now get that. Let us read that again. ''Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1''—which says total outlays, total Government spendout, shall not exceed total Government income in any fiscal year.

How small is small? How small is a negligible deviation? Is the term deficit now a variable which Congress can manipulate by saying that a deficit is not a deficit is not a deficit?

It reminds me of Abraham when he intervened on behalf of the city of Sodom. He asked God, if perchance there were 50 good men in Sodom, would God destroy Sodom. God said no. Well, perchance there were five less than 50, perchance there were 45, would God destroy Sodom. God said no. Well, perchance there were 40 good men, would God destroy Sodom. God said no. Perchance if there were 30? God said no. Well, even if there were just 20? God said no, he will not do it. Well, even if there were just 10? God said no, if there were just 10, he would not destroy Sodom. So God answered that if there were 10 righteous men in Sodom, he would spare the city.

This is the same thing in a reverse sort of way.

If Congress could state that very small, or negligible, deviations from a balanced budget would not represent a violation of section 1, how small is small? Is it $5 billion? Will you spare us if it is just $5 billion? Well, they will spare it. Well, what if it is $10 billion? Will you spare us? May we consider that we balanced the budget if we only

miss it by $10 billion? Well, we may. How about $20 billion? How about $30 billion? How about $50 billion? What is wrong if it is $11 billion? How about $12 billion? If $12 billion is only a ''negligible'' deviation, how about $20 billion, $30 billion, $50 billion? Is $75 billion a negligible deviation? How about $175 billion?

So here, Mr. President, one has to ask the question. Where do we stop? What is ''negligible?'' What is ''small?''

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes. I will be glad to.

Is the Senator from one of the renowned ''special response'' teams?

Mr. SANTORUM. I am not sure. I asked to come to the floor—

Mr. BYRD. Now is a good time to find out.

Mr. SANTORUM. To listen and to learn. I was just questioning—

Mr. BYRD. I wonder if the Senator would wait until I finish, if we could.

Mr. SANTORUM. You said ''interrupt me'' any time for questions. So I thought I was free to do so.

Mr. BYRD. This is really one of the ''ready response'' teams.

Mr. SANTORUM. I was just questioning. Are you suggesting that negligible amounts could mean rather extraordinary amounts? You are not suggesting that a Member of the Senate would violate his constitutional oath of office to uphold the Constitution which requires a balanced budget? You would not be suggesting that someone would deliberately violate their oath of office by allowing a large deficit to occur when the Constitution says that cannot occur?

Mr. BYRD. It depends on what the Senator means. When he said would a Senator ''deliberately violate his oath of office,'' I am looking at what the amendment says. I did not write it, Senator. I did not sign onto that Contract With America. I have not gone around the country saying that the answer to our deficit problem is a constitutional amendment to balance the budget. You perhaps did. I did not.

I am pointing out that that constitutional amendment to balance the budget, which you swore to vote for, probably has flaws. Unless you rewrite that language that is in that constitutional amendment, which I did not write, you are not going to correct that flaw, and it is going to be based on estimates which I have already said are invariably wrong. It is not whether a Senator would knowingly violate his oath. It is what the amendment says, that your party for the most part wrote. I did not write it. I am looking at the language. It is plain, unmistakable, clear English language.

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for an additional question?

Mr. BYRD. Yes.

Mr. SANTORUM. Mr. President, does the plain, unmistakable, clear language say the budget ''shall'' not? I mean, is not that very clear from the language, that it ''shall'' not be?

Mr. BYRD. Read it, in case the Senator has not read it.

Mr. SANTORUM. I have read it on many occasions, just here today.

Mr. BYRD. The Senator has not read it all. It says ''shall not exceed total outlays for any fiscal year—''shall not.'' It does not say ''may not.''

Let me respond. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year. That leaves no wiggle room. You ought to read that. You and your colleagues who are proponents of this language ought to take a microscope and look at that language.

Mr. SANTORUM. If the Senator from West Virginia will yield.

Mr. BYRD. It is plain, it is simple.

Yes.

Mr. SANTORUM. That is exactly my point. It is very clear that it says it ''shall not exceed'' and the suggestion that you have made is that a $75 billion deficit would be permitted under the Constitution, it seems to me.

Mr. BYRD. No. No. I did not say it would be permitted. I did not say it would be permitted. I said under the Constitution no missed estimates would be permitted. It says what it says. The total outlays for any fiscal year shall not exceed total receipts for that fiscal year. I did not say we would permit $5 billion, permit $10 billion or $75 billion. The Senator was not listening to me. I was talking about Abraham, and how he approached God, and said, well, if there are 50 men, righteous men, in Sodom, would you spare them? God said yes. What about 45? Yes. What about 50? Yes. What about 35, 30, 20, 10?

So where do we stop here? That is what I am saying. If you are going to say in this section 6, the Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts, and if you are going to say in the committee report, the Congress could state that very small or negligible deviations from a balanced budget would not represent a violation, what is ''small?'' What is ''very small?'' I was saying is 75 very small? Is that negligible? Is 50 small? So you tell me. What is small in that context? What is small?

Mr. SANTORUM. Mr. President, if the Senator from West Virginia will yield for a question.

Mr. BYRD. Yes. I yield.

Mr. SANTORUM. My question to you, Senator, is the language from the constitutional amendment is very clear, that at the end of the fiscal year revenues will not exceed—excuse me. Expenditures will not exceed revenues. That is very clear.

Mr. BYRD. It does not say ''at the end.'' You might want to read what the constitutional amendment says. ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.'' How are you going to know until the fiscal year is behind you?

Mr. SANTORUM. That is exactly right. That was my point. You will not know whether you have met the charge of the constitutional amendment until the end of the year.

Mr. BYRD. Until the end of the year.

Mr. SANTORUM. That is correct. At that point we will have to have satisfied that condition. Correct?

Mr. BYRD. The year is gone.

Mr. SANTORUM. That is correct. I am sure the Senator knows that does not mean that all expenditures or outlays have been in fact expended. So we could rescind. We could, as has been done here, retroactively tax. There are all sorts of options available to satisfy that amendment after the fact.

Is not that the case?

Mr. BYRD. No. Let me finish, will you?

Mr. SANTORUM. You asked me. You permitted me to ask questions. So I was complying.

Mr. BYRD. I want to answer your question.

Mr. SANTORUM. Thank you.

Mr. BYRD. You stay around.

Mr. SANTORUM. I am not moving.

Mr. BYRD. Mr. President, we have the suggestion that the Congress could just stand up and declare that certain amounts of the deficit, as long as we determined them to be ''negligible,'' they are not in violation of the amendment.

A $25 billion deviation—Congress could say it is OK. It is small. It is small in comparison to what? When considered in the context of a budget that is $1.5 trillion, it is negligible. But if we were to constitutionalize the mandate that outlays must not exceed receipts—outlays must not exceed receipts, let me say that to my friend—if we were to constitutionalize the mandate that outlays must not exceed receipts, a congressional attempt to deviate from that requirement would bring the moral authority of the entire Constitution into question. I will say that again. If we were to constitutionalize a mandate that outlays shall not exceed receipts—that is what the amendment says. I did not write it. I do not subscribe to it.

Mr. CRAIG. Will the Senator from West Virginia yield?

Mr. BYRD. It does not say ''may not.'' The amendment mandates that outlays ''shall not exceed receipts.'' If we were to constitutionalize the mandate, any attempt to deviate from that requirement would bring the moral authority of the entire Constitution into question. If the Congress can violate this amendment with impunity, then what other provisions of the Constitution might be in peril?

Finally—and then I will be glad to yield; we now have two members of the response team here, and I see another one on the far side of the enemy territory—if Congress can violate this amendment with impunity, then what other provisions of the Constitution

might be in peril? Finally, the last sentence in this paragraph states, ''If an excess of outlays over receipts''—I think this gets to the question of the Senator from Pennsylvania [Mr. SANTORUM]—''were to occur, Congress can require that any shortfall must be made up during the following fiscal year.''

So there you have it. Now I will take the question of the Senator. But, you see, this is the final escape hatch that I will mention today:

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

Mr. SANTORUM. If the Senator will yield, in the last sentence, the operative underlined that I see is the word ''can'' require. They do not have to do so. But they can. They also have the option, if I understand, to rescind, retroactively tax, or ''by a three-fifths vote''—and you did not read the rest of that, but ''by a three-fifths vote impose a balanced budget.''

So there are options available, are there not, to the Congress and to the President under the balanced budget amendment?

Mr. BYRD. There we have it. A member of the response team is saying, ''There are options, are there not?'' Let us read this first paragraph of the balanced budget amendment:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . .

It does not give you any option. It does not give me any option. The American people out there can read and they can understand.

Senator, you can say all you want to, and you can weasel around the word ''can.''

If an excess of outlays over receipts were to occur, Congress can require . . .

Well, that is an escape hatch. It can require——

Mr. SANTORUM. Will the Senator yield for a question?

Mr. BYRD. Mr. President, I will yield to the Senator, but I do not want to be interrupted in the middle of a sentence. I will read it again:

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

That is an ''option,'' the Senator says. The American people out there who are reading do not see that option. In the plain, simple English words of the constitutional amendment to balance the budget:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . .

It does not say anything about an option.

I yield.

Mr. SANTORUM. There is a dependent clause after ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . .''

It then says '' . . . unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.''

So there is an option clearly stated in the constitutional amendment; is there not?

Mr. BYRD. The Senator was not here when I said earlier that at a later date, I will talk about the supermajorities. I read it when I first brought the chart out. The Senator was not here. I first brought this out, and I read the entire thing, laid it all out. Every time I raised it to the public view, they could all see the remaining clause. I said that I will only deal with this first clause.

Yes, it provides for an additional supermajority in the Constitution, which will raise to 10 the total number of supermajorities that are in the original Constitution and the amendments thereto. It will be raised to a new level when we get down to the raising of the statutory debt limit. So much for supermajorities today. The Senator may say what he wishes about the supermajority.

Mr. SANTORUM. Mr. President, will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. SANTORUM. I would like to refer to your charts talking about the deficit estimates and that they are unreliable. You say they are estimates at the beginning of the fiscal year. By the Congressional Budget Office?

Mr. BYRD. Yes.

Mr. SANTORUM. When you say at the beginning—my understanding is that the Congressional Budget Office issues two reports, one in August and one in January. Which one does that refer to?

Mr. BYRD. You are talking about the midsession review, the one in August. But, Senator——

Mr. SANTORUM. Is this the January report you are referring to?

Mr. BYRD. It has to be, which you will learn after a while. I welcome this exchange. I think that is what has been missing in so much of this. We all get on the floor and make our speeches, but we do not debate. So I welcome this exchange and I congratulate the Senator and commend him. But I happen to be on the Appropriations Committee, so I know a little about what I am saying. I helped to write the 1974 Budget Act.

The resolution on the budget should be enacted by May of each year. And it is only after that budget resolution is enacted that the chairmen of the Appropriations Committees of the two Houses allocate those funds to their subcommittees. And it is only after that that the appropriations bills start coming through.

But prior to the budget resolution in May, the Congressional Budget Office prepares its estimates of revenues and receipts and deficits for the forthcoming fiscal year and projects those 5 years down the road.

What I have been saying is that, in addition to the flaw, the word ''estimates,'' which by these charts—and which you are going to ask me about in a moment—have been shown to be invariably wrong. The Congress, the House, and the Senate have to depend on those CBO estimates in enacting the budget resolution, after which, as I say, the allocations of funds and then the appropriations of moneys come to pass. But all that is in advance of the fiscal year. It is in advance of the beginning of the next fiscal year. And we have shown by the charts that those estimates are invariably wrong.

Now the question.

Mr. SANTORUM. If I may, my question is—and I think you have answered it in part—that these estimates on your chart reflect an estimate that was done some 6 months prior to the fiscal year; is that correct?

Mr. BYRD. Yes.

Mr. SANTORUM. Are there not subsequent updates by the Congressional Budget Office, the Office of Management and Budget, and reports from the Treasury as to actual receipts and revenues that one could, if one were in Congress or the Senate, adjust to meet the updated projections so we would have a better idea where we were going to be by the time we reach the end of the year?

Mr. BYRD. There is the midsession review. But, I say to the Senator, that midsession review still is going to be based on estimates. It cannot actually foresee what the revenues will be for the remaining months, or what the outlays will be.

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

Mr. BYRD. Besides, the nearer we get to the end of that fiscal year, the greater is the pain if one tries to make a correction in the remaining 6 months, 5 months, 4 months, 3 months, 2 months, 1 month.

Mr. SANTORUM. Mr. President, will the Senator continue to yield for a question?

Mr. BYRD. Yes.

Mr. SANTORUM. Is it not possible, under implementing legislation, for us to require the Congressional Budget Office or the Office of Management and Budget to put forth a monthly calculation of what the deficit will be so we have our finger on the pulse of what the revenues and outlays will be so that, in fact, farther out from that final end of fiscal year, we might be able to adjust if we see from those estimates that we are going to run into trouble? In fact, is that not one of the problems now that we do not do that; we do not react based on what we know from continuing estimates?

Mr. BYRD. I have two or three things I would like to say in response to that question. Is the Senator suggesting monthly budget resolutions?

Mr. SANTORUM. No, I am not. I am suggesting that the Congressional Budget Office could do monthly estimates as to what the deficit will be for that fiscal year so we might have a better understanding of what we are going

to be faced with at the end of that fiscal year.

Mr. BYRD. It is going to be pretty difficult for the Congressional Budget Office to anticipate what interest rates may be a month from now, 2 months from now. We do not know what Mr. Greenspan is going to say. The Senator knows that.

Mr. SANTORUM. Mr. President, if the Senator from West Virginia would yield, they do that now as part of the estimate process.

All I am suggesting is they do it every month as opposed to twice a year so we have a better idea what we will be facing at the end of that year.

Mr. BYRD. Once the Senator has been here to see and hear the prolonged and sometimes bitter debate on the budget resolution—I hope he would not be suggesting that we are going to have subsequent budget resolutions every month or so. There can be a substitute one under law. But here he comes talking about implementing legislation. Who is going to pass the implementing legislation? Congress, right?

Now, how can the Senator say that 10 years out implementing legislation will do thus or so, or it will not do thus and so? He may be here. I doubt that I will be.

Mr. SANTORUM. I hope so.

Mr. BYRD. But nobody can promise what implementing legislation will do or what it will not do. Nobody can say ''Well, this is not the intention.'' ''This is not the intention.'' ''That is not the intention.''

Those are the words of a Senator at a given time here during this debate. That is not his intention, but nobody can say what the intention of Senators will be 10 years from now. We are talking about implementing legislation.

Here we are talking about a Constitution that does not change from month to month or year to year. It may be here for decades or centuries if it is not repealed.

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes, I yield.

Mr. SANTORUM. Is it not customary that constitutional amendments, after the passage of that amendment, there is usually some legislation enacted to implement that legislation? Is that normally the course?

Mr. BYRD. Some constitutional amendments state that.

Mr. SANTORUM. It is not unprecedented that we would have an implementing piece of legislation.

Mr. BYRD. It is not. Some amendments, especially those that were passed during the Civil War and the Reconstruction era, specifically provide for implementing legislation.

Mr. SANTORUM. In fact, would you not suggest that with this constitutional amendment it would be incumbent upon us to pass some sort of implementing legislation?

Mr. BYRD. Well, it says that Congress shall enforce the act in section 6, Congress shall enforce it by appropriate legislation.

Mr. SANTORUM. So would you suggest that requires us to pass an implementing piece of legislation?

Mr. BYRD. I am suggesting that that legislation may rely on estimates of outlays and receipts, and I am saying that the estimates are invariably wrong. Consequently, it is an uncorrectable flaw in the amendment. Consequently, the American people cannot depend upon this amendment to balance the budget.

And I am saying also that the Judiciary Committee must have known that when they wrote the committee report to give us several scapegoats.

Mr. SANTORUM. If I could reiterate my question, does section 6, in your opinion, require us to pass some sort of implementing legislation?

Mr. BYRD. I will read you what it says. ''Congress shall''—not maybe, but shall—''enforce and implement this article by appropriate legislation which may rely on estimates of outlays and receipts.''

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a further question?

Mr. BYRD. Yes.

Mr. SANTORUM. The next chart that you brought up after those was the committee report which talked about implementing legislation.

Mr. BYRD. Yes.

Mr. SANTORUM. And from what you read in the plain language of the constitutional amendment, we are under some obligation to implement this act by some form of implementing legislation.

Mr. BYRD. We are under an obligation to make that amendment work. And I am saying we cannot, do not have any intention of making it work, because the committee is giving us a way out when it says we can rely on estimates.

Mr. SANTORUM. Would we not have the opportunity to require the Congressional Budget Office, the Treasury Department, the Office of Management and Budget, whatever, to come up with more current monthly, maybe even more often, deficit projections to guide the hand of the Congress in trying to meet the stated purpose of the constitutional amendment, which is that expenditures do not exceed revenues? Could we not do that?

Mr. BYRD. Yes, I hope we would. I hope we would.

Mr. SANTORUM. Would that not at least ameliorate the problem of an estimate 6 months prior to the fiscal year, fully 18 months before the end of that fiscal year, which arguably is not going to be exactly accurate? But, as we all know, as we get closer to the fiscal year and in the fiscal year, we would have a much better idea of what the final outcome of that year would be. So we would be able to react.

Mr. BYRD. Senator, it will not work. Suppose you have a disaster in June, July, August, September, a disaster that costs $10 billion? You cannot foresee that. You cannot depend on estimates, if you want to be accurate. And the first section, section 1, does not give you any room to be inaccurate.

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes.

Mr. SANTORUM. I go back to this clause, ''unless three-fifths of the whole number.''

I was looking the other day at the emergency supplemental appropriations that we have passed in this Congress that violate the caps, and I noticed an amazing thing. That almost all of them passed by more than three-fifths of the whole number of the House and Senate. So we seem to be able to, when faced with some structure of the budget, to come to a consensus and pass it, in very large numbers, with very large pluralities, to respond to a national emergency.

(Mr. GRAMS assumed the chair.)

Mr. BYRD. Senator, we do. Sometimes we do not.

But you still add to the deficit, no matter whether you call it an emergency or not.

I am glad the Senator raised that point, because it does raise some questions in my mind as to whether that is actually going to be the case.

Let me read a letter to the President, dated February 7, signed by the leadership of the other body, NEWT GINGRICH, Speaker of the House; RICHARD ARMEY, majority leader of the House; JOHN KASICH, chairman of the Committee on the Budget; and BOB LIVINGSTON, chairman of the House Committee on Appropriations. Here is what it says:

DEAR MR. PRESIDENT: The fiscal year 1996 budget which you transmitted to Congress contains an additional $10.4 billion in supplemental budget requests for fiscal year 1995. Your budget submission further reflects only $2.4 billion in rescissions and savings for FY 1995. Most of these requests are for emergencies.

The House Appropriations Committee will proceed to review and act on these requests but highest priority will be given to replenishing the accounts in the Department of Defense badly depleted by contingencies in the Persian Gulf, Somalia, Rwanda, Haiti and other activities. The committee and the House, in turn, will act only after offsets for these activities have been identified. However, we will not act on the balance of the request until you [meaning the President] have identified offsets and deductions to make up the balance of the funding. Whether these activities are emergencies or not [this is the House leadership writing to the President] it will be our policy to pay for them rather than to add to our already immense deficit problem.

We therefore ask you to identify additional rescissions as soon as possible so we can move expeditiously on your supplemental request.

Now, there is no guarantee there. There is no guarantee as I read there from the letter written by the leadership of the other body, no guarantee that they will agree that such expenditures for disasters will be considered as

emergencies and, therefore, not charged against the budget caps.

Mr. REID. Mr. President, would the Senator from West Virginia yield for a question?

Mr. BYRD. Mr. President, I yield.

Mr. REID. Mr. President, I have been listening to the conversation between the Senator from West Virginia and the Senator from Pennsylvania, and I would be interested in whether or not the statement I am making is true. It is my understanding that interest rates have been raised the past year six or eight times. Does the Senator from West Virginia know that to be accurate?

Mr. BYRD. Mr. President, they have been raised several times.

Mr. REID. Would that have some bearing on making estimates?

Mr. BYRD. Mr. President, there is no question.

Mr. REID. Mr. President, in fact, as the Senator from Nevada, it is my understanding, if we were going to make estimates a year ago not knowing if the interest rates would be raised, they would be totally off base as to the estimates because they have been raised a significant number of times this past year, is that not right?

Mr. BYRD. Absolutely.

Mr. REID. Now, it is my understanding the interest on the debt yearly payment is over $300 billion a year; is that about right?

Mr. BYRD. About $235 billion.

Mr. REID. And going up as the Fed raises interest rates, so that would affect your estimates, would it not?

Mr. BYRD. That would.

Mr. SANTORUM. Mr. President, will the Senator yield?

Mr. BYRD. Mr. President, I ask unanimous consent that I, who hold the floor, may ask the Senator a question.

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

Mr. BYRD. Mr. President, can the Senator—he was talking about disasters and how normally there are the votes here in the House and Senate to respond to supplemental requests for disasters and thereby waive this deficit requirement as it would appear in the new constitutional amendment. Does he feel he can assure the Senate that the House leadership will back off in this statement that they made to the President in the letter which I read?

Mr. SANTORUM. Mr. President, as the Senator from West Virginia knows and as we discussed, the three-fifths override provision in the constitutional amendment is but an option available to this body to fund emergencies.

Another option that is available is the one that is detailed in that letter which is to rescind obligated moneys from the prior year.

So that is what they have suggested in that letter, which I think, given our deficit state at this point, is the most responsible way to do it. I wholeheartedly support that effort, and I think it is the responsible way to do it. It can clearly continue to be an option under the constitutional amendment.

Mr. BYRD. Does the Senator feel that with the House majority leadership taking a clear and strong position against supplemental appropriations for this purpose, is the Senator about to tell me that three-fifths of the House would vote to waive it, with the Republican majority over there against such a waiver?

Mr. SANTORUM. Mr. President, I suggest to the Senator from West Virginia that the majority of the Members of the House would vote for a rescission package to fund it, which would accomplish the same thing.

Mr. BYRD. The Senator is not talking about a majority. He earlier was talking about a supermajority.

Mr. SANTORUM. I was talking options available. One is a supermajority, one is a simple majority of rescissions.

Mr. BYRD. I go back to this plain and simple language, Senator. You can argue with me as long as you want to argue, until you are blue in the face, but your argument does not, in plain, simple English language—and that is your amendment; that is the amendment which you told the voters of Pennsylvania you would support.

Mr. SANTORUM. I suggest that that is exactly what they are doing.

Mr. BYRD. Wait, just wait, Senator. I was not born yesterday.

I am directing your attention to this language. This is the language. This is what we will vote on. Not what somebody is talking about in West Virginia or Pennsylvania or anywhere else.

This is the language. ''Total outlays for fiscal year shall not''—shall not—''exceed total receipts for that fiscal year.'' There is no option mentioned in that amendment. The option is mentioned in the committee report.

Mr. SANTORUM. Are we still under the unanimous consent which he has yielded to me so I can respond, or do I need to ask?

Mr. BYRD. You do not have to ask unanimous consent to ask me a question.

Mr. SANTORUM. So we are past the point in which you asked me a question.

Mr. BYRD. Oh, yes, you are on the response team. I am just going to try to answer your question.

Mr. SANTORUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Mr. President, I yield.

Mr. SANTORUM. You held up the letter from the House Republican leadership talking about an emergency supplemental appropriation. That would be an appropriation above what is normally budgeted for?

Mr. BYRD. That is right.

Mr. SANTORUM. What the House leadership responded was, they would be happy to comply with the request but we want to find other measures within that budget to offset those expenditures.

Mr. BYRD. As I read, they said they would be happy to comply with the request as it pertains to defense.

Mr. SANTORUM. But they also said—did they not ask the President to find rescissions to offset those expenditures?

Mr. BYRD. They did.

Mr. SANTORUM. Which would then comply with the balanced budget amendment, would it not?

Mr. BYRD. The balanced budget amendment does not say anything about that.

Mr. SANTORUM. Mr. President, would it not be in keeping with the balanced budget amendment that they would offset so that the deficit would show zero based on that particular transaction?

Mr. BYRD. The balanced budget amendment requires a balanced budget, no matter how you reach it. Got to hit it on the head. There is no wiggle room, Senator.

Mr. SANTORUM. I am not suggesting there is. I am suggesting what they are doing is the responsible thing.

Is it not your understanding that what they are saying is that they want to offset new expenditures with spending cuts from someplace else in the budget?

Mr. BYRD. That is what they are saying with respect to the disaster or to those parts of the supplemental requests that do not deal with defense.

I am not arguing whether they are reasonable or whether they are not.

Mr. SANTORUM. Are you arguing that is outside the purview of the balanced budget amendment—what they are doing is outside? That would be violative of the balanced budget amendment.

Mr. BYRD. No, I am not arguing that at all. This is my argument. I want the Senator to keep in view in his mental vision what the amendment says. ''Total outlays shall not exceed total receipts for any fiscal year.''

Mr. SANTORUM. If the Senator from West Virginia will yield for a question, Mr. President, does that letter that you read to me as an example violate the constitutional amendment?

Mr. BYRD. Mr. President, no, no.

Does the Senator think it does?

Mr. SANTORUM. I do not.

Mr. BYRD. I do not either, but that is beside the point, as to whether it violates the Constitution.

Does the Senator have any further questions?

Mr. SANTORUM. I am sure I will. Thank you.

Mr. BYRD. I thank the Senator for his question. I would much rather have an exchange out here than just standing and reading a speech. I really mean that. I would like to see more of an exchange rather than just written speeches. So I am not perturbed by it. I am encouraged by it. At least somebody is listening.

At least somebody is paying attention, and that somebody is giving me a chance to answer some questions. I

would be happy if the response team would continue to gather. Let us have more of an exchange. I apologize to other Senators who may want to speak.

So there you have it. What a prescription for a balanced budget. That is a massive loophole. Let me read it again. ''If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.''

Now, there is another scapegoat. That is a loophole that, if adopted by the Congress as part of its implementing legislation, would be big enough for Attila, the king of the Huns, and the scourge of God, to drive his 700 Scythian horsemen through.

What the sponsors of the amendment are telling us is that, if Congress cannot figure out what to do, if Congress runs into options too difficult to swallow, Congress can just require that the shortfall be made up the next year. Just put it off until the next year.

Now what kind of fiscal shenanigan is this? If you cannot balance one year, just roll it over to the next? That is not what that constitutional amendment mandates in the first section; that is not what the American people are being told. Just roll it over until the next year. Mr. President, what kind of fiscal witchcraft is this?

Let me emphasize again, these suggestions for dealing with the deficit under a balanced budget amendment come from the committee's report. Every Senator, every Senator's office should get that report. Read the escape hatches for yourselves, and then ask yourself, am I going to vote for that kind of a sham? Am I going to fool the American people when they can read, they can see, they can know that amendment has uncorrectable flaws in it. And the Judiciary Committee must have understood that when it came through with its committee report providing for some escape hatches.

As such, these suggestions in the committee report would not become part of the underlying resolution if it were to pass. They are not going to be incorporated into the constitutional amendment. They would not have any force of law. But, nevertheless, they give the American people some idea of the kinds of gimmicks and evasions the people can expect to see if this constitutional amendment is adopted by the Congress and ratified by three-fourths of the States.

The American people are being sold a bag of budget tricks. Is this what the American people want? Is that what you want, Mr. and Mrs. America? Are the American people being told about the realities of what it would take to balance the budget each and every year? The people have a right to know these things.

As I listen to those who speak in favor of a balanced budget amendment, I do not hear them telling the public that we really intend just to carry the deficit over into the following year.

Let us take a look at that chart again. What this committee report is telling us is that Congress may roll over this deficit from one year to the next.

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

That means taking the year 1980, for example, when there was a shortfall between the actual and estimated deficit of $36 billion. So what this committee report is saying is, ''Senators, just vote it over to the next year, don't worry about it.''

The next year, we see that it misses by $58 billion and the next year by $73 billion and the next year over $91 billion.

Mr. SANTORUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Will the Senator allow me to finish? I do not have much further to read, and I will be happy to yield.

So what they are saying is, ''Roll it over, roll it over to the next year, that is OK.'' That is not what the American people out there are expecting from those who are the proponents of this balanced budget amendment.

The proponents are saying, ''Let's have a constitutional amendment to balance the budget. Let's do it like you do, Mr. and Mrs. America, you and your families, you do it every year. We ought to have to do it.''

That is saying we ought to do it like the States have to do it. They have constitutional amendments to balance their budget. Well, I will talk more about those pretenses at some other point. But this is what you are being told; the American people are being told that if there is an excess in the deficit one year, it can be rolled over to the next.

Senators ought to read this constitutional amendment. They ought to read the committee report by the Judiciary Committee in the Senate which accompanied the resolution when it was reported to the floor. They ought to read it. It will not work. The Judiciary Committee knows it will not work. One only needs to read the report to understand that the Judiciary Committee saw there were going to be problems with it.

You will not hear the proponents telling the public that the Congress will just stand up and declare the deficit ''negligible,'' and so we are not going to deal with it.

I do not hear them telling the American people that, if this measure is passed and ratified, the implementing legislation will only require that the budget be balanced on paper at the beginning of the year. That is not what the American people are being told.

Tell them the truth. And Senators know they are not being told that. Senators know or ought to know what this amendment says, what the words plainly state.

Senators ought not be willing to hoodwink the American people into supporting something that the American people can read and can understand. And it is not going to work. The committee report just as plainly states that.

Mr. President, if this matter were not so serious, if it were not so dangerous to the delicate separation and balance of powers that were put in place more than 200 years ago, and if it would not have such cataclysmic effects on the economic well-being of the American people, what we have seen today, with respect just to section 6 would be laughable. It would be laughable. But it is really not laughable. And the sooner the American people begin to understand that, and the sooner the Members of this body understand that, the sooner we will realize the serious policy choices that must be made if we are to put our fiscal house in order.

Mr. President, how much confidence do even the authors of this amendment have, if right in the committee report, they start figuring out ways to get around this amendment? How much confidence do the proponents have—the sponsors of the amendment—if right in the committee report they start figuring out ways to get around the amendment? No, Mr. President, this amendment is not worthy of being enshrined in our Constitution. It is little more than political catnip offered to disguise the real difficulty of getting our budgets in balance. I do not think we should perpetrate this charade upon the American people. That is what it is.

I want to see our deficits reduced as much as any Senator here wants to see them reduced. I voted for a package to reduce them in 1990. I voted for a package to reduce the budget deficits in 1993. So I believe we ought to get control of them. But not a single Republican Senator, not one of those who are proponents of this constitutional amendment to balance the budget voted for that budget deficit reduction measure in 1993. Not one Member of the House, not one Republican Member did that. And yet today they say we need a balanced budget amendment to the Constitution.

If it were simply a political sham, which it is, if it were just a political dodge, which it is, it would be regrettable and unwise to adopt. But it is much, much worse than those things.

This proposal is dangerous. Within its murky appeal and unsound formula for budget balance lie the seeds for the further diminishment of the trust of the people in their Government. They do not trust the Government much now. They do not trust politicians much now. They do not trust Members of Congress much now. The legislative branch can ill-afford any more cynicism and loss of trust. And this Senator worries as much about the trust deficit as he does about the budget deficit.

Often Members believe that doing what seems to be the safe thing—in other words, the popular thing—will prove also to be the right thing. Political correctness is supposed to be the order of the day, I guess. I believe that endorsing this balanced budget amendment has taken on the aura of a politically correct act. It has become a litmus test of sorts—the right choice to make the political proprietary meter register 100 percent in one's favor.

But whether or not we amend the Constitution in this damaging way is far too important for us to take the temporarily easy way out. The American people must be made to understand that once they take a closer look at this amendment—and I believe that Senators, once they take a closer look at the amendment and once Senators read the committee report—they will find that this amendment is far from what it seems.

I hope each Senator will carefully study this amendment before voting on it. I believe close and open-minded scrutiny of this proposal shreds it—cuts it to pieces; it will not work; it is quack medicine—reveals its many shortcomings and unmasks its benign countenance to reveal the sinister seeds of a constitutional crisis in the making.

Surely we will not travel this road if we are fully aware of where it may lead. In the days ahead, let us be very sure of just what it is we propose to do to our country and to our Constitution before we act.

Now, I understand the Senator from North Carolina, my friend from the State in which I was born, wants to make a speech as soon as I finish. But before he does, the distinguished Senator from Pennsylvania [Mr. SANTORUM] had asked me to yield. I asked that he wait until I finish my speech, and I thank him for that. I am glad to yield to him.

Mr. SANTORUM. I thank the Senator from West Virginia.

I wish to go back to that chart and again try to find out specifically what data the Senator is referring to there. I just had someone look up the 1974 Budget Act and the 1985 Gramm-Rudman-Hollings Budget Enforcement Act to find out what the timeframe was for estimates to be given. And my understanding is that—I am sure the Senator knows the 1974 Budget Act; he was one of the principal writers of it—the Office of Management and Budget submits a beginning-of-the-year budgetary assessment on February 1, which just occurred the other day. They make a midseason review in July or August. That is under the Budget Act of 1974. The Congressional Budget Office makes a beginning-of-the-year—which is the end of January—assessment after OMB makes its assessment and then an end-of-July reassessment.

My question is, the Senator referred to this data being May, roughly May, springtime, after all the budget resolutions were passed. I do not see any requirement for a report here, and I am wondering if in fact this data is not February data as opposed to May or June data.

Mr. BYRD. Yes, it is.

Mr. SANTORUM. It is February.

Mr. BYRD. It is not May. What I said about May was that under the 1974 act, Congress is supposed to pass a budget resolution which lays out the anticipated outlays, the anticipated receipts and the anticipated deficits, and then, only after then can the Appropriations Committee of the Senate—the House committees can go before that, but only after that budget resolution is passed and sent to conference and agreed upon can the Senate appropriations committees begin their work. Sometimes, I guess, we complete the budget resolution perhaps before May, sometimes we may not, but that was what I alluded to in the case of May.

Mr. SANTORUM. Mr. President, if the Senator from West Virginia will continue to yield for a question, so the numbers that the Senator is saying are in error, the inaccurate estimates, are estimates that were made 21 months prior to the end of the fiscal year, correct?

Mr. BYRD. Whatever, 21 or 20 or 18 or 19. The point I am saying is the estimates simply do not work out. They are always wrong. And in this constitutional amendment here, that is the Achilles' heel. The word ''estimates'' is the Achilles' heel. They are always wrong. Consequently, we can never base our actions on those estimates and expect to balance that budget.

Mr. SIMON. Would my colleague from West Virginia yield for a question?

Mr. BYRD. Yes, I will be glad to.

Mr. SIMON. First of all, as he knows, I have great respect for him. He is an extremely valuable Member of this body.

I will tell you what I think is the error of the Senator's assumption here. First, we can build in, as has been recommended by former Assistant Secretary of the Treasury Fred Bergsten, among others, about a 2-percent surplus. That on a $1.6 trillion budget would be about $32 billion.

Second, because we do have to rely on estimates somewhat, we have talked about having a 3-percent leeway so that you could go 3 percent below and then that would automatically transfer to the next fiscal year. That would be $48 billion. Right now, the combination of those two things would be $80 billion. That would take care of all but two fiscal years the Senator has on the board there. In those two fiscal years——

Mr. BYRD. What does the Senator mean by saying it would take care of all of them, all but two? What does the Senator mean?

Mr. SIMON. Every one of those except two is less than $80 billion.

Mr. BYRD. What is the Senator saying?

Mr. SIMON. Let me go over this again. The recommendation of several people, including Alan Greenspan and former Assistant Secretary of the Treasury Fred Bergsten, a recommendation that I concur in, is that we build in about a 2-percent surplus when we put together a budget. In terms of our $1.6 trillion budget, that would be about a $32 billion surplus. Then because no one, as the Senator points out, can know for sure down to the dollar or even the $1 billion where we are going to come out, we have made clear in committee that there can be up to a 3-percent deficit that would be transferred to the next fiscal year. That would be $48 billion. The $32 billion and the $48 billion combine to $80 billion. That, every one of those, is less than an $80 billion differential except for 2 years.

In those 2 years, the procedure would be for Congress to say we can either, with 60 votes, create a small deficit—but it would be small indeed, compared to the deficits today—or we could authorize putting it in the next fiscal year.

It is something that we would have to face. But it is a practical way of facing this problem.

Mr. BYRD. The Senator said ''something we would have to face?'' The Senator will not be around here after next year to face it. And I will not be around here many more years to face it. How do we know what future Congresses will say? We say we will say that. We say it is not the intention to do thus and so. How do we know what the intention of a future Congress will be?

Also, may I say this?

Mr. SIMON. You have the floor.

Mr. BYRD. Please take a look at the amendment which you are supporting. It does not say anything about building up a surplus in 1 year. It does not say anything about 3 percent or 2 percent or 10 percent or 20 percent. It says, ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *''

Napoleon said that on his council there were men who were far more eloquent than he, but he always stopped them by saying 2 and 2 equals 4.

So I am going to say to you, Senator—and I say this with great respect, and the Senator from Pennsylvania, and any other Senators on the response team—2 and 2 makes 4.

Read it. Read what your amendment is saying. ''Total outlays for any fiscal year shall not * * *.'' It does not say may not. ''* * * shall not exceed total receipts for that fiscal year.''

Now, 2 and 2 makes 4. Do not come at me with all implementing legislation, ''We might build up a surplus.''

We will not be around here. How do we know what a future Congress will do?

''We will do this and we will do that in implementing legislation. We will build up a surplus. We can roll that over if we hit a year in which there is

a deficit. We can just roll it over next year.''

Suppose there is a deficit next year? ''Well, we can roll it over.''

Suppose there is a deficit next year? ''Well, we can roll it over.''

That is not what those people over there are being told. And you know it. And you know it, Senator. We all know it. Read it for yourselves. I did not write it. I am not going to support it.

Mr. SIMON. Will my colleague yield?

Mr. BYRD. I support getting to a balanced budget. But not this. Not this way.

Yes, I yield.

Mr. SIMON. Mr. President, I thank him for yielding.

You have to put that together with the language about estimates, together.

Mr. BYRD. That is just what I did just earlier. I put them together and came out wrong every time.

Mr. SIMON. All right. And the reality is we do not know—when we come to September 30, we do not know what the deficit is, or what it is precisely.

Mr. BYRD. We will not know it.

Mr. SIMON. We do not know that until sometime later. That is why we make this adjustment. And that is when we will make the adjustment.

I think—and I respect——

Mr. BYRD. This does not say anything about an adjustment.

Mr. SIMON. Pardon?

Mr. BYRD. This amendment? What are we talking about here? I thought we were debating a constitutional amendment to balance the budget. It does not say anything about an adjustment.

Mr. SIMON. We are. Well, what I am simply saying is we have built into this the flexibility to take care of the kind of unknown kind of situations that you are talking about.

Mr. BYRD. Senator, you say ''we have built into this.'' Where does it say that in the amendment? Where does it say it?

Mr. SANTORUM. Mr. President, if the Senator from West Virginia will yield for a question?

Mr. BYRD. I am yielding right now to the Senator. Then I will be glad to yield.

Mr. SANTORUM. I was going to answer his question.

Mr. SIMON. Just a response to this question, and then I will yield to my friend from Pennsylvania.

Mr. BYRD. I know what the Senator from Pennsylvania is going to say. He will say look at that supermajority we provide in there. That is what he was going to say? Was that not what you were going to say?

Mr. SANTORUM. I would suggest to the Senator from West Virginia he read section 2 of the article, which requires a three-fifths vote to increase the debt limit.

Mr. BYRD. Yes, another supermajority. That is the 11th one.

Mr. SANTORUM. That is the safeguard against deficits. We cannot just incur a deficit because we have to raise the debt limit. We cannot raise the debt limit without a three-fifths majority. Thereby we are bound to do something about the deficit. So we will be forced, as the Senator from Illinois was saying—here is the enforcement. Here is the teeth right within the constitutional amendment. Section 2 requires us to have a vote on debt limit increase, and when we get to zero we will have the debt limit and we should not have to change it ever.

That is the enforcement mechanism. That makes us come here and do something about it to comply with section 1 of the constitutional amendment.

Mr. BYRD. The Senator is now talking about providing for a minority veto, a minority veto. The Framers provided for a majoritarian, democratic rule. The Senator is now talking about reverting to nondemocratic supermajority rule.

I was going to wait until another day to talk about these supermajorities.

Mr. SIMON. Will my colleague yield?

Mr. BYRD. And I will. But what he is saying here is that any Senator can, as a ticket for his vote—as a ticket for his vote to raise the debt limit, as a ticket for his vote to waive the deficit requirements—may say to the majority, ''I want mine. I want my special project. I want my special program. That is my ticket, Mr. Majority. I will give you my vote and help you get that two-thirds, but I want mine.'' As a consequence, we will end up adding to the deficits rather than reining them in.

Is it a little hard to understand? Maybe.

Mr. SIMON. Will my colleague yield on that question, on that point?

Mr. BYRD. Oh yes, yes.

Mr. SIMON addressed the Chair.

Mr. BYRD. Let me say just another word about these supermajorities.

Mr. SIMON. Is it not true that there are eight provisions in the Constitution right now requiring a supermajority?

Mr. BYRD. No, that is not true.

Mr. SIMON. I beg to differ with my colleague.

Mr. BYRD. I will show you the Constitution.

Mr. SIMON. On most things, he is correct.

Mr. BYRD. In this, I am correct. In the original Constitution, there are six. In the 12th amendment, there is one dealing with the election of the Vice President by the Senate. In the 14th, there is one dealing with the waiving—in the case of individuals who have taken oaths of office and who participate in a rebellion against the country, two-thirds of the Congress may waive that and allow the person—two-thirds may waive that disability. And in the 25th amendment, where it talks about the disability of the President, there is a supermajority.

So, Senator, when you start talking about the Constitution, let us both sit down and read it together. There are not eight, or whatever the Senator said. There are six in the original, one in the 12th, one in the 14th, and one in the 25th amendments to the Constitution, making a total of nine.

That is a minor matter.

Mr. SIMON. I will take your word it is nine rather than eight. But the point is, this is not something startlingly new. Those provisions are in to prevent Government abuse. And I think we have had Government abuse.

The second point I ask——

Mr. BYRD. Wait just a minute. The Senator is not going to get off with that. I am going to yield to him. I am not going to shut him off. He is not going to get away with that.

Most supermajorities are in the Constitution to protect the structure of that Constitution. Let us talk about expulsion, the expulsion of a Senator, or the conviction of a President in an impeachment trial. They are there to protect individual rights. Those two supermajorities are there to protect individual rights.

In the case of a veto, the exercise of a Presidential veto, that supermajority is to protect one branch against another.

As a matter of fact, it was stated at the Constitutional Convention by one of the Framers that one of the reasons the President ought to have a veto was to protect himself against the legislative branch. There are various others that are claiming to protect individual rights. They are not supermajorities to nail down some fiscal policy. The Constitution does not embrace somebody's fiscal policy. So there were good reasons. Those are not the reasons these two new supermajorities that we are about to inscribe in the Constitution are for.

Mr. SIMON. But one of the things those who founded our Government talked about is taxation without representation. And one of the reasons that Thomas Jefferson favored a balanced budget amendment to the Constitution is he said one generation should no more be obligated to pick up the debt of a previous generation than to pick up the debt of another country.

Mr. BYRD. Thomas Jefferson was not at the Constitutional Convention, as the Senator knows. He was the President of the United States from 1801 to 1809, and when he was President, why did not he ask the Congress to adopt a constitutional amendment to do that? Why did not he? He did not do it. No constitutional amendment was ever sent. Why did not Jefferson do that?

Mr. SIMON. I would be pleased to respond, because George Washington operated this country very frugally. Then, in his Farewell Address, George Washington warned do not get the country into debt. We followed that advice, really followed it up until not too many years ago. Then we lost that sense of responsibility. But it is very interesting in Thomas Jefferson's first term he reduced the small Federal debt we had in this country by 50 percent.

Mr. BYRD. It was also interesting that Jefferson took advantage of the opportunity—I am glad he did—to buy the Louisiana Territory, 1,827,000 square miles for $15 million; less than 2½ cents per acre, extending from the Gulf of Mexico to the Canadian border, from the Mississippi to the Rockies. I am glad he did. He went into debt for it. Where did he get the money? He borrowed it from the banks. That debt, $15 million in that day, was 1.9 times the total budget for that year. If that were to happen in this year, when we have a budget of $1.6 trillion, and if we bought the Louisiana Territory and it cost us 1.9 times the amount of the Federal budget, you could figure that for yourselves. That has to be something like, about $3.1 trillion. I am glad he did. I am glad he went into debt. When going into debt, he benefited all of the ensuing generations from then until kingdom come.

Mr. SIMON. My colleague is absolutely correct. In fact, he illustrates the point that this constitutional amendment has that flexibility.

Mr. BYRD. Wait a minute. It also illustrates that Jefferson was embarrassed by what he had said, and later he said he was embarrassed by it. But he said because of the laws of necessity the means sometimes are worthy of the end.

Mr. SIMON. Let me add that the treaty was signed in Paris in May. In those days you did not find out what had happened for a while. When word got to Washington, DC, in July—and I apologize to my colleague from North Carolina—when word got to Jefferson in July in Washington, DC, he was as startled as anyone else by the Louisiana Purchase.

Our Secretary of the Treasury at that point was a man named Albert Gallatin, many States have Gallatin counties named for him. Most people do not know for whom Gallatin is named. Albert Gallatin objected to the Louisiana Purchase, or part of it, because part of the agreement was that the bonds were 5 percent. They could not pay back any of it for the first 15 years. He wanted to pay it off very, very quickly. But the really important point here is that there were two votes in the U.S. Senate on the Louisiana Purchase. There was one vote in the House of Representatives on the Louisiana Purchase. I do know the precise totals. It was something like 26 to 3, or something like that, in the Senate, and all of them were far more than the 60 percent required by this constitutional amendment.

So this amendment would not have blocked the Louisiana Purchase, I want to assure my colleague from West Virginia.

Mr. BYRD. I did not say the amendment would have blocked the Louisiana Purchase. I am saying, like Napoleon did, that two plus two equals four. Read it.

Mr. SIMON. I do not disagree.

Mr. BYRD. ''Total outlays for any fiscal year shall not exceed total receipts for any fiscal year.'' You cannot get away from it. It has you by the neck.

Mr. SIMON. The Senator and I differ. But I thank him for yielding to me.

Mr. BYRD. I thank the Senator.

Mr. FAIRCLOTH addressed the Chair.

Mr. BYRD. Mr. President, I apologize to my friend from North Carolina. I thank the Senator from North Carolina. Let me thank the Senator from Pennsylvania. He made a good try.

I have not yielded yet. I have not yielded the floor yet.

Mr. FAIRCLOTH. I thank the Senator.

Mr. BYRD. I will in just a moment.

I want to commend and compliment the Senator from Pennsylvania. He did the right thing. He raised his questions. I learn when people ask me questions. And I hope that the listening audience learns. That is the purpose of this, that others who may have a chance to listen, hopefully will listen, may learn something from the questions and from the answers. I do not know all the answers. I do not claim to know that. But I fervently believe the position I am taking, and I think that a clear reading of the amendment supports me.

I thank my Senator from North Carolina for yielding. I beg his pardon for delaying him.

I yield the floor, Mr. President.

Mr. FAIRCLOTH. I thank the Senator from West Virginia. I thought he had yielded the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I ask for 20 minutes to discuss the Reid amendment.

Mr. REID. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from North Carolina yield for a parliamentary inquiry?

Mr. FAIRCLOTH. I yield the floor for 1 minute to the Senator from Nevada.

Mr. REID. I did not hear. Is the Senator from North Carolina speaking on the matter before the Senate?

The PRESIDING OFFICER. The Senator has been recognized to speak.

The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I will address the Reid amendment. But there are other things I am going to say first with reference to it.

Mr. President, I rise today in strong support of the balanced budget amendment to the Constitution. Mr. President, quite simply, no other legislative issue the Senate will consider is more important than this one. I know this is a broad statement. But the economic future of the United States rests entirely with this amendment. The future of the United States, the well-being of our children, grandchildren and children yet unborn rests entirely of whether we pass this amendment or not.

Mr. President, if we fail to enact this amendment, this country is headed irrevocably toward an economic calamity. Our national debt will soon consume us. We are taking the same path as Mexico, but unlike Mexico, there will be no one that can bail us out.

Mr. President, I have heard a lot of talk on the Senate floor about how we have to find a lot of cuts in order to balance the budget. Senator DASCHLE had a right-to-know amendment that we defeated yesterday. He wanted to know where the spending cuts will be made over the next 7 years.

But the most important thing that we can do is declare that we will balance the budget, show the fortitude to balance the budget, and then once we are bound by the Constitution, we will find a way to keep the budget in balance.

This brings me to the point I want to make and the point of the speech. It will only take 50 votes plus 1 in this Senate to raise taxes. Any Senator that cannot bring it upon himself to vote for cuts can stand up and vote for a tax increase. Any Senator that wants to go back to his constituents and tell them that he is raising their taxes by another 15 percent or more, taking another 15 percent or more out of the gross profits of the small businesses that are struggling already to keep buckle and tongue together, any Senator that wants this extra money to pay for more foreign aid, more welfare, a bigger Department of HUD, and more farm subsidies, he can do that. All he has to do is vote for a tax increase. He can go back to his constituents and tell them that he voted for a tax increase because he thinks these things are more important than the taxpayers keeping more of their own money.

Senators are saying that we cannot deny money to the helpless in our society. I say that the most helpless in our society are our grandchildren, our children, and the progeny not yet born, upon whom we are placing an enormous debt. If our generation wants greater Government, more giveaways, then it is the duty of this Congress to step up to the plate and pay for it now, to face the voters and say: I increased your taxes because I am for more giveaway programs and more spending.

I am tired of those that say they may not vote for the constitutional amendment because they do not know where the cuts will come from. If they have the courage, they simply can vote a tax increase and there will not have to be any cuts. For me personally, I will not be telling anyone in North Carolina that I need 15 percent more of their income to pay for more Government. I do not think we need more foreign aid, more welfare, more money for HUD, or more money for farm subsidies. In fact, what I can tell them is if we simply stop spending more money each year,

we would have a balanced budget, with no cuts.

When I ran for the Senate, I said I would not vote for a tax increase. I have not, nor will I ever. The Federal Government needs to change its spending habits, not impose a burden of higher taxes upon the working people and taxpayers of this country. If we froze Federal spending to the levels that are in the fiscal year 1994 budget, we would not only have a balanced budget in 1997, but we would have a surplus of $10 billion. Instead, we just pour more money into more giveaway programs, with no end in sight.

Mr. President, the message the American people sent to us on November 8 was that they want less Government, not more; less regulations, not more; and more freedom to earn a living and generate a profit and spend their own money. I ran on that message in 1992, and I have not changed to this day.

Mr. President, finally, let me talk about the national debt that is consuming us. It took this country nearly 200 years—from its founding until 1983—to accumulate a national debt of $1 trillion. But since then, in just the last 12 years, we have added $2 trillion more to our debt. Today, our national debt stands at $3.6 trillion.

Under the 1996 budget that the President just released, our national debt will grow to $4.8 trillion by the year 2000. In other words, in just 4 years, our national debt will grow by another trillion dollars.

Every person who has ever gone into debt knows that interest is a piranha and it will eat you alive. The same thing is happening to the U.S. Government today. Interest is starting to destroy the Federal budget.

Mr. President, all of this is taking its toll on our economy and the ability of the U.S. Government to function. In the 1996 budget, 16 cents of every tax dollar will be spent just to pay the interest on the debt. But to put it in real and, I think, more impressive terms, when taxpayers file their income tax returns this year, they should know that 41 percent—41 percent—of all the income taxes that they send to Washington will be used for the sole purpose of paying interest on the money we have already borrowed. In other words, 41 percent of all the individual income taxes collected this year will go to pay interest on the debt.

By the year 2000, our national debt will be equal to 52 percent of the gross national product. In 1980, the figure was exactly half that. In 1996, for the first time, we will spend more on interest on our debt than we will on our military. And we are supposed to be the preeminent military power in the world, and should remain so.

Not only is our debt burden hurting us at home, but it is hurting us abroad. The dollar has fallen against every major currency of the industrialized nations of the world.

Mr. President, some might ask, how did we get ourselves into this mess? We got into this condition not because the working people are taxed too little, but because the Congress spends too much. In 1996, Americans will send $1.4 trillion to the Federal Government. Regrettably, this is not enough for Congress. There is never enough.

If we could just control Federal spending, we might not have to consider this amendment. But for 35 years, this Congress has been unable to muster the fortitude to control Federal spending. It is amazing to think that just since 1982, the Federal budget has doubled. Are we, as a country, better off today than we were in 1982 because we have doubled Federal spending? The answer is simple: We are deeper in debt and have little to show for it, but the interest will be with us to infinity.

Mr. President, we know what the problem is. The question is, what are we going to do about it? The answer is that we must pass the balanced budget amendment. We need to leave our children a clean balance sheet, not a lifetime of debt, excessive taxes and a contingent liability of $7 trillion.

Mr. President, in speaking of the national debt, and its impact upon us, I ask your indulgence to tell a very quick story from my early business career.

As a 21-year-old man, I was trying to buy some new trucks and equipment, and the banker would not consider the loan unless my mother endorsed the paper. Well, she was a very, very stingy Scottish lady and looked things over well before she signed them. This had gone on for a couple of weeks, and I went in the house for lunch one day and I asked her to talk about it. She had the liability and the debt service written on a handkerchief, and the proposed income that I said I was going to make on the same handkerchief on the other side, just a ledger sheet of income and debt service. And she asked me if her figures were right, and I told her they were. She picked it up, handed it to me and said, ''Go and wash it.'' When I stuck it under the spigot and the water hit it, I saw what she had done. She had placed my debt, and had written that in indelible ink. She had written my income in fruit dye. Her words were—and I will never forget them, and the country needs to remember them, too—''When you make a debt, it will be with you always until you pay it, plus interest. Your income can go in a flash.''

Mr. President, I yield the floor and the rest of my time.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I made my comments this morning on the Reid amendment. I very strongly support it and I pointed out my rationale for so doing.

Since then, we have been reading the committee report, Mr. President, and something has come to my attention. In the spirit of debate and discussion which was so prevalent on the floor between the Senator from Pennsylvania and the distinguished ranking member of the Appropriations Committee, I would like to continue that spirit, and if the bill manager, the Senator from Pennsylvania, would be prepared to answer a question on the majority report, I would appreciate it very much.

In this report, on page 19, it is pointed out that some programs are exempted from this resolution and some are not. Now, this is news to me, because, as a member of the Judiciary Committee that considered this, that was not the case.

I would like to read the exact language. It reads:

> Among the Federal programs that would not be covered by S.J. Res. 1 is the electric power program of the Tennessee Valley Authority. Since 1959, the financing of that program has been the sole responsibility of its own electric ratepayers—not the U.S. Treasury and the Nation's taxpayers. Consequently, the receipts and outlays of that program are not part of the problem S.J. Res. 1 is directed at solving.

Now, this is very strange to me. Social Security is put on budget and its receipts and outlays are subject to Senate Joint Resolution 1, but we suddenly find that the Tennessee Valley Authority is not. And not only is it not, but the words prefacing the statement say ''Among the Federal programs that would not be covered by Senate Joint Resolution 1 * * *''

My question to the distinguished Senator from Pennsylvania is: A, are you aware of this, that the TVA is being exempted; and, B, what other programs are being exempted from Senate Joint Resolution 1?

Mr. SANTORUM. I am trying to find the page which the Senator is citing.

Mrs. FEINSTEIN. Page 19 of the committee report, about two-thirds of the way down the page. It says ''Total outlays,'' and then the second paragraph there, which begins ''Among the Federal programs that would not be covered by Senate Joint Resolution 1 * * *''

Mr. CRAIG. Will the Senator from California yield?

Mrs. FEINSTEIN. I certainly will.

Mr. CRAIG. Mr. President, I am glad the Senator found and brought that issue up, because it is critical only in the context of understanding how it fits. I say that as an individual who helped craft this amendment and believes in the logic and in the appropriateness of the words ''Everything that is in the general fund budget is on the table,'' and everything that the general fund budget and the Senate or the Congress of the United States have authority over in decisionmaking for the purposes of appropriations, allocation of resources, or the establishment of funding levels is on the table.

The Tennessee Valley Authority, like other PMA's, or power management Authorities, are not on the Federal budget. They have a Federal obligation

and that is to return revenue to the Government for the money that was used to finance them.

But the Federal Government does not establish their budgets, nor does the Congress of the United States. And that is what is directed in this program.

So it is not a loophole. Everything that is in the budget is on the table. This is a revenue source. It is the board of this particular PMA, or power management authority, that establishes their own budgets and they look at their obligation to the Federal Government as a debt payment obligation. They are not a part of general fund budgeting, nor can they either be called off budget, because they are a quasi-independent Federal agency nontied to the general fund budget.

Mrs. FEINSTEIN. Senator, this is exactly my point, because in 1990, this body took Social Security off budget by a vote of 98 to 2. Social Security draws its revenues from its own specific FICA tax, not from the income tax or any other tax of Government.

Mr. CRAIG. Will the Senator yield?

Mrs. FEINSTEIN. I certainly will.

Mr. CRAIG. I agree the Congress did that. But you and I both know that the Congress of the United States every year includes in the final budget of this country and the budget that you and I will decide in the coming months Social Security expenditures. We are allowed by the law and the Social Security law to make decisions on Social Security. The term ''off budget'' for Social Security is an accounting terminology that separates it from the general fund budget or, if you will, the all-inclusive Federal budget that we have been operating on since the Johnson years.

The power authority is not something on whose budget we decide. That is decided by a separate board. It is only the amount of obligation of payment that power authority is tied to.

So if I may politely say, you cannot compare an apple to an orange. And in this example, that is exactly what I believe you are attempting to do. They are uniquely different entities under the law and under the budget process of our Government.

Mr. SIMON. Will my colleague yield?

Mrs. FEINSTEIN. I certainly will.

Mr. SIMON. I thank the Senator.

If I may make another comparison. It is like Fannie Mae or Sallie Mae. They are entities created by the Federal Government. Their boards are appointed by the President of the United States. But if Fannie Mae gets into some difficulty, they have to raise their own revenue. We are not going to come along and help them.

I do not want Social Security to be in that situation. I want us to feel an obligation to make sure that we fund Social Security.

So I think we are not just talking about something that is off budget where we have an obligation. In this case, we are talking about something that is a Federal Government-created entity, but they have to take care of their own revenue. And if they run into some financial difficulties, they have to raise power rates or, in the case of Fannie Mae, may have to raise interest rates or something else. But we are not going to come along and bail them out.

Mr. REID. Will the Senator from California allow the Senator to ask a question?

Mrs. FEINSTEIN. I certainly will.

Mr. REID. I would be interested if the Senator from California could answer a question based on what the Senator from Illinois said.

Why, then, was not Sallie Mae and Fannie Mae excluded? Why is it only the Tennessee Valley Authority?

Mrs. FEINSTEIN. Mr. President, this has piqued my curiosity as to what is excluded because, if we just follow the logic of the distinguished Senator from Illinois, I stretched my memory back to see if there was a time when the Federal Government ever bailed out Social Security. I do not believe there was. There were times when the Federal Government, the Congress, has raised the FICA tax, but the FICA tax is a compulsory dedicated tax that goes for retirements.

I find it somewhat interesting that some programs—and it does refer to quasigovernmental programs in this as well—some programs are exempted under this bill and others are not.

Of course, the program which is most important to the American people is Social Security. It is not exempted. It is not exempted because there will be 3 trillion dollars' worth of surplus revenues that are going to be taken from Social Security and used to balance the budget.

That is what Senator REID and I do not think is right. I would just like very much to obtain a full list from the committee and from the authors of this as to precisely which programs are being exempted from the balanced budget amendment.

Mr. CRAIG. Will the Senator yield?

Mrs. FEINSTEIN. I will yield.

Mr. CRAIG. Mr. President, no program of the Federal Government is being exempted. These are not Federal programs. These are independent entities that are known as quasi-governmental because it took a Federal act to create them. They are not on budget. They have never been on budget. This is the same report language that was filed a year ago and 3 years ago as we worked this very issue.

So I appreciate your concern because I, too, strongly believe exactly the way the Senator from California believes—that the trust fund of the Social Security system should never be used to balance the budget.

I have one of these entities in my area known as the Bonneville Power Administration. We do not establish their budget here. You have never voted on it. Neither have I. They are a Federal power-marketing agency. They establish their budget just exactly the way the Senator from Illinois said—by rates, and by rate increases if they need to increase their budgets. They have but one obligation to the Senate and to the Government of our country, and that is to return a revenue, based on their debt obligation.

That becomes part of this revenue flow that becomes part of the budget. That is not even like Social Security. Social Security does not return a revenue to the Government following an expenditure. It is a tax flowing in to service the obligations of Social Security and Social Security recipients.

The Tennessee Valley Authority does not flow money to the Government for purposes of obligation other than debt structure, and they are not a part of the unified Federal budget. Simply are not and never have been.

Mrs. FEINSTEIN. Mr. President, let me make this point, if I may, because the Senator from Idaho has just said these are not Federal programs.

The majority report says these are Federal programs. The majority report says: ''Among the Federal programs that would not be covered by S.J. Res. 1 is the Electric Power Program of the TVA.'' Now you are saying it is not only TVA, it is Bonneville as well.

Now, maybe to some the argument can be made that there is no Federal responsibility for these. But if something happened with these programs, I think we would bail them out very rapidly. I do not accept the argument that they are not Federal programs, and the majority report does not accept that argument.

I yield to the Senator from Nevada.

Mr. REID. Mr. President, I appreciate the Senator yielding for a question.

Mr. President, if the Senator from California would look at page 19, the paragraph that begins ''Total outlays,'' right above where the Senator has been reading, it stands on its head what my friend from Idaho said.

Listen: ''Total outlays is intended to include all disbursements from the Treasury of the United States''—listen to this—''either directly or indirectly through Federal or''—listen to this—''quasi-Federal agencies created under the authority of the acts of Congress and either on budget or off budget.''

So that, I say respectfully to my friend from Idaho through my friend from California, that is directly opposite what he said. Is that not what the English language says?

Mrs. FEINSTEIN. That is exactly right, Mr. President. Something is wrong. Something is fishy, I think. And I think we ought to find out what it is, because what is sauce for the goose is sauce for the gander.

I am happy to yield to the Senator from Illinois.

Mr. SIMON. Mr. President, let me just say if we were to rephrase this, I would say the first paragraph we are talking about ''among the federally created programs'' would have language that is more clear.

If my colleague from California wants to vote against the report for that reason, that is fine but just vote for the constitutional amendment.

Let me respond to my friend from Nevada, because the paragraph that he quotes is correct.

The REA serves people in Nevada, California, Idaho, and Illinois. We do permit Government-backed bonds.

Now, when we put out those REA bonds we put a little bit into the Treasury. Whatever CBO determines is a risk factor, that is put there.

Now, when my colleague from California says, well, if Bonneville went down the tube, we probably would rescue then, I think that is correct. I would just remind the Senator that we also rescued Lockheed. We also rescued Chrysler. We will not put any more in here from Michigan for Chrysler or Ford or General Motors, but we do put whatever risk factor we have to when there are federally backed bonds.

Mrs. FEINSTEIN. I am happy to yield to the Senator.

Mr. CRAIG. Mr. President, thank you.

We can play semantics with the report language if you wish and we can ask a variety of questions of the report language. I do not dispute the legitimacy of asking the questions.

The report language is not the amendment. What is in the amendment and which is key, and I think the Senator in searching for the Government programs that would meet the definition, needs to look at section 1 of the amendment.

It says ''Total outlays for any fiscal year.'' That is the operative word, Senator. Now, the Senator used the example if my power authority, Bonneville, got in trouble, would we bail them out. I do not know. We would have to decide that at the time. That would become an outlay at that moment in time.

We would have to fit that into the context of a balanced budget because we would decide collectively that maybe it was necessary to do it—it was going to damage the region. Your State of California buys a lot of power out of the Bonneville power grid. If the Bonneville power grid was going down, we might become allies. We would want to save it so that my State would not go dark and your State would not go dark.

But the point is, does it become an outlay? That is all you and I for the purpose of a balanced budget amendment have a responsibility for. It is at this time not an outlay. TVA does not come to the Federal budget. It is not an outlay of the Federal budget. If it got in trouble—and I think your analogy is fair, as the Senator from Illinois mentioned the analogy of Chrysler and the New York City bailout. New York City is not an outlay today and should never appear on the budget, should not be considered.

But if New York came, like they did years ago and said, ''We are near bankruptcy. Help us,'' they become an outlay. They become a part of the unified budgets of the Federal Government, and it is at that time that we would have to make a decision.

So, whether the report language is right or wrong, the ultimate test and a legitimate question to ask, I sincerely believe, is what segments of the Federal Government manifest an outlay to the unified budget of the Federal Government? While we took Social Security off budget and away from the unified budget, which is merely an accounting word for total expenditure, total receipts, in the end we bring it back. We bring it back and we put it in to the total budget of the Federal Government, and you and I vote annually on the expenditures of Social Security.

We do not on TVA, we do not on Bonneville Power, we do not in this operative section—not operative, but descriptive section. Report language is never operative. It is only descriptive. It expresses general intent. It is only at that point that I think your concern deserves an answer, and I would like to try to put a list together for you.

But if you are basing it on your reason to vote because it is off, the test is: Does it manifest by its presence an outlay to the unified budget of the Federal Government? And the very simple answer to that is no, it does not.

I thank the Senator from California for yielding.

Mrs. FEINSTEIN. Mr. President, I appreciate that and I thank the Senator. It is just that I think I find a conflict in this because, after all, Social Security, although there is an outlay every year, is running well in surplus. By the year 2002 when this is operative, there will be $705 billion plus another $300 billion, it is my understanding, becoming available for retirements. But because they are not needed, this amendment would automatically use those revenues to balance the budget. That is my problem with this.

The fact that—let us say it is Federal or quasi-Federal—this is still an entity that is the product of the Federal Government whose full faith and credit at one point built it, et cetera, and whose full faith and credit would sustain it if it fell into tough years.

I look at Social Security as important as TVA, it is as important as Bonneville if you are a senior who is depending on it or a working person who is paying the FICA taxes with the expectation that the Government is going to make those revenues available. This amendment does not make those revenues available for retirements.

So all we are saying is, just as you have excepted Bonneville, TVA, and some other things yet unknown to some of us, we say exempt Social Security, and then we can all march forward together.

Mr. CRAIG. If the Senator will yield.

Mrs. FEINSTEIN. I yield the floor, and I thank the Senator very much.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, only briefly to respond to the Senator from California. She and I are clearly on the same wave length. We do not want to see the trust funds and the revenues that build up to support future generations Social Security checks used to balance the budget. The tragedy is today they are. Today the surpluses are spent through the general fund and notes are deposited in the trust funds, interest bearing notes. This is a requirement of the law, the law that created Social Security. That is what goes on today.

So the Social Security stability, while there are revenues coming in in the form of taxes, has always been based on the willingness of the Congress of the United States, the Senator from California and the Senator from Idaho for assuring its stability because we, by voting every year to pass a unified Federal budget, vote on the expenditure of moneys from the trust fund to things other than Social Security because the money is borrowed from the trust fund and expended out through the general fund. That is part of the financing of our Government, whether you and I disagree with that or not.

It is not a separate pool of money setting to the side bearing interest. It is working money and, of course, it comes in the form of Treasury notes and interest bearing at the time. That is how it works. I think that is a reasonably good description of how it works and certainly one that will not change.

I think the argument that all of us have had is, if you are going to balance the budget, you look at all of the Federal budget, all of it that is currently inside the unified Federal budget and in the calculations that we make on an annual basis from a budgetary point of view.

While the Senator from California has expressed her concerns here, let me close this thought by simply saying, what is now not currently on budget or a requirement that the Senator from California or the Senator from Idaho deal with it at all, unless it got in trouble, as she makes out, that would be then the point that we would be responsible for it, and it would fit under the definition and the clear examination of article I which says, ''total outlays.'' There is the key, total outlays for any fiscal year. Right now TVA is not an outlay nor are those other entities.

Mr. President, one other item that I thought was interesting this afternoon in the debate and the discussion as it relates to the Senator from West Virginia when he was breaking out different portions of the budget and he was dealing with sections that talked about revenues and how we would handle them, it was interesting to me that he was only willing to deal with pieces and not the whole.

It is most unfair, in my opinion, to examine the amendment in pieces and

say, and, therefore, that piece is operative exclusively under a certain manner. Let me give an example of what I think I am concerned about when he said, ''The limit on debt of the United States held by the public shall not be increased, unless three-fifths'' vote. He talked about revenues and the ability to evaluate those and, again, it was an operative factor of three-fifths vote.

We understand that the art of projecting revenue in a gross domestic product as large as the United States is not a perfect art, and while our very best minds at the Office of Management and Budget, or the Congressional Budget Office, or Treasury might come up with a fixed revenue for the year over which we budget, it would not be unreasonable, based on cyclical patterns, for that revenue to be off by $10, $12, $14, or $20 billion.

The Senator from West Virginia is absolutely right. We are never accurate to within the cent or the dollar or even the hundreds of millions of dollars.

But what it then says is that, by a three-fifths vote, other things are allowed to happen and that remains the key operative. What the process does is that it causes us for the first time to try to live within the revenue projection. And certainly the Senator from West Virginia, who for years has been chairman of the Appropriations Committee, knows that this Congress and probably few that he has ever been involved in ever consciously created a budget to live within the revenue projections. It was always take that revenue and borrow a heck of a lot more.

Now what we are saying is that as we work over the next 7 years to bring this budget into balance, from that point forward we will live within the best guesstimates possible by the professionals, and we will project spending levels on an annualized basis on those projections, on those averages, on those summaries. And if we miss them, then through the implementing language and a new budget process that would be created growing out of this, we would deal with them.

Would it be to lift the debt ceiling by three-fifths vote and move them into debt? Yes, that could be done. That would then clear out the budget for the year.

Would it be to raise revenue to offset it? Yes, that could be done.

Would it be possible to spin it into the next fiscal year as a debt to be paid immediately because of a projected surplus in the next year? Yes, that, too, could be done.

This amendment does not restrict those kinds of actions. What it does say and what is important to say is you look at the total of the argument, read the whole amendment, do not examine the pieces. Put it all together, make it a whole body, make it a whole document because that is how we will all have to look at it and that is how we will have to operate as a Congress under the 28th amendment to the Constitution, the one that we are now debating. We will not operate exclusively by the pieces or the parts. It will be a whole document that will cause us to react that will create the implementing language which will be probably a new Budget Act and a new process.

What it does disallow, and that is, of course, where this Congress has found itself in real trouble over the years, it disallows the ability to micromanage in a way that has created the kind of debt structure that we have. It simply puts us within parameters, very strict parameters, and it gives, I think, the American people for the first time a sense of confidence that we actually are trying to stay within our limits and balance the Federal budget.

I would like to try to do that. I think most Americans want us to do that. I am privileged to be serving my 15th year in the U.S. Congress, and never in those 15 years has this Congress consciously tried to live within its revenue or live within a balanced budget. It always figures we will take what we can get and we will borrow the rest to meet our political desires and not our fiscal responsibility.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. REID. I would ask my friend to yield, if I could talk to either Senator SANTORUM or Senator CRAIG, whoever is managing the bill now?

Mr. SANTORUM. Is the Senator asking me to yield?

Mr. REID. Yes.

Mr. SANTORUM. I ask unanimous consent that I may yield to the Senator from Nevada.

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

Mr. REID. It is late in the day, and I am wondering if at least for the next hour or so we could get some idea if we have some speakers. I have someone who is tentatively scheduled to come at 5 o'clock, the Senator from Alabama. It is just so people are not necessarily waiting around. I see the Senator from Michigan is here.

Mr. SANTORUM. I do not think we have anyone lined up at this point to speak. I was going to speak for about 5 minutes and then I am going to sit.

Mr. REID. I thank the Senator.

Mr. SANTORUM. Mr. President, I wanted to finish up what little colloquy and discussion we had just a short while ago with the distinguished Senator from West Virginia. I wanted to continue that debate, but in deference to my colleague from North Carolina, I allowed him to make his presentation. But there was a couple of things I just wanted to bring closure to before we move on to the next round.

The point the Senator from West Virginia was alluding to was section 1 of the bill:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *

It is unenforceable, unworkable; these estimates will throw you all off; the estimates do not work; they are not reliable. And as a result this is an unenforceable constitutional amendment that is going to cause all sorts of unconstitutional activities in this Chamber.

I mentioned to him that we must look down to the next section, section 2, which states:

> The limit on 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 an increase, for such an increase by rollcall vote.

There is the enforcement; that once we get to the balanced budget, or once we get to where the debt limit is, that we cannot increase that debt limit without a three-fifths vote. That means we cannot incur a debt or a deficit from any year because if we incur a debt and do not raise the debt limit, then we cannot issue obligations to pay for that deficit, which means that would be in a sense a default of certain obligations.

Now, that is the enforcement. That is the mechanism that drives section 1, that makes us get better estimates.

I believe, as I am sure the Senator from West Virginia believes, that we will get better estimates and they will be more ongoing, they will not be every 6 months but will be on a more frequent basis so we can calculate what the correct number will be at the end of the fiscal year so we can hit pretty close to zero and hopefully hit a surplus.

That is the enforcement. That is what makes all of this discussion about estimates, frankly, irrelevant to the enforcement of this act because the enforcement is the debt limit provision. That is what forces us to come in with a balanced budget, irrespective of what the estimates say.

The response then was, well, you are creating a minority veto; that the minority is going to have all this power because it is going to be a supermajority that is going to be required to raise the debt limit.

I would just suggest I have the distinct feeling that we are here because we have a minority veto, that we have been talking about this bill for 2 weeks because of a minority veto; that we will be filing a cloture motion soon and we will find out whether there is a minority veto.

This place runs on minority veto. The minority veto is the hallmark—as the Senator from West Virginia said during his discussion, things come over here to cool down a little bit, to cool down.

I saw a movie the other day, ''Encino Man,'' not exactly the greatest movie that was ever made, but Encino Man was about a Cro-Magnon man and his spouse who were hit by an avalanche. Now, that is cool down. And they were encased in ice. And the Encino Man as a result of an earthquake was uncovered, and the ice block that he was encapsulated in thawed, and he came to life.

My concern is that in this body we are getting avalanched to the point where we are going to be encapsulated in ice and not be able to act and do anything on this balanced budget amendment, and when we wake up it will not be as happy a world as what the Encino Man faced. When we wake up, we may have desperation, despair, and economic collapse in this country because we simply chose to cool things off.

We cannot afford to cool things off any more. The more we cool things off here, the hotter it gets out there. We have an obligation to act.

Do not talk about minority vetoes. We have seen plenty of that around here on this issue. And I suspect the Senator from West Virginia likes that fact, of having that minority veto. As the Senator from Kansas, Mrs. KASSEBAUM, said, maybe it is a bad idea whose time has come, but it is a necessary evil that we have to put on to this country to get our financial act in order for the next generation of Americans.

I do not want to be the first generation of American leaders to leave the next generation worse off than we are and worse off than my grandparents were, and that is what we are standing on the precipice of if we do not act today.

I am hopeful we will. I am confident we will. I do trust the better angels of our nature in this place. I know there is a lot of activity going on that is trying to cloud this issue, but I fundamentally believe that people in this Chamber will do the right thing when called upon and they will stand up for the future of this country.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business for no more than 10 minutes.

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

## DEVALUATION OF THE MEXICAN PESO

Mr. BENNETT. Mr. President, I thank my colleagues for indulging me in this matter and I will attempt to be as brief as I can.

Yesterday, at this time, the chairman of the Banking Committee, my friend, AL D'AMATO from New York, took the floor and made a strong statement with respect to the peso situation in Mexico and the proposed solution to that situation from our Government. I wish to take the floor and respond and expand upon the statements made by my distinguished chairman.

I agree basically with the position that he took. I do not share some of the outrage that he expressed with respect to the administration's action. I took the floor after the administration had announced their action and generally praised it because I do believe that if we had not taken some kind of action the Mexican economy in an atmosphere of panic would, indeed, have spun out of control and the Mexican Government would have been in default on their bonds within some 48 hours of the time the administration acted.

However, I do not want to leave the impression that with my support of the administration's actions I support the notion that the Mexican Government acted wisely when they devalued the peso in the first place. And the outrage suggested by the chairman of the Banking Committee was appropriately placed when it goes to the question of those who planned this devaluation, those who approved of the devaluation, and those who took the position that the devaluation was inevitable and that it was proper.

In the Wall Street Journal yesterday, Robert Bartley, the editor of the Journal, wrote a somewhat lengthy but in my view very perceptive summary of this situation called ''Mexico: Suffering the Conventional Wisdom.'' I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BENNETT. The reason I praised the administration action when it was announced was that unlike the original proposal, the administration action called for entry into the circumstance of the Federal Reserve Board. I have enormous respect for Alan Greenspan, the Chairman of the Federal Reserve Board, who has an understanding of the evils of devaluation that I think goes beyond that held by some policymakers at the International Monetary Fund and the World Bank.

Devaluations are not inevitable. Devaluations are not good policy. Devaluations are usually an attempt on the part of one government to, in the phrase that's become known, beggar thy neighbor—punish another government on their borders, either physically or by trade.

We went through the circumstance of passing NAFTA in this body and in the other body. I was a strong supporter of NAFTA for a variety of reasons that I will not review here.

One of the fundamental pillars of NAFTA was that we would establish free trade between these nations, and the assumption was very specific that this free trade would continue on a dependable exchange rate between countries. For Mexico, once the free trade zone was established, to violate that assumption and say, ''Well, now we have free trade in our countries but we are going to try to make our goods more attractive in your country by devaluing the peso and thereby making our exports cheaper,'' was a violation of that agreement, certainly of its spirit if not its letter.

The fact that the markets reacted so violently to the devaluation, catching the experts at the IMF by surprise with that violence, demonstrates the fact that moving away from the 3.5 relationship between the dollar and the peso was, indeed, a violation of the whole spirit of the NAFTA debate and represented a betrayal of those who had supported NAFTA.

Conventional wisdom, as Mr. Bartley points out, says ''No, no, you can devaluate a little bit and everything will be fine.'' The reaction in this circumstance said you cannot devalue a little bit when the devaluation is a betrayal. You have destroyed the whole relationship that existed between the two countries. That, in my view, was what was wrong.

Now, in the package put together by the administration, there is the opportunity for Alan Greenspan and his opposite number in Mexico, Miguel Mancera, to get together and say we will use these funds that are now available to us by virtue of the decision of the President of the United States, not to bail out investors in Mexico but to start to extinguish pesos. We can acquire pesos by virtue of the money that we have and then extinguish them—tear them up, if you will—and reverse the monetary policy that flooded the Mexican economy with too many pesos, which is what led to the devaluation in the first place.

We can use this money, these two gentlemen can, because they have the expertise, they have the ability, and if the Treasury Department will back them, they will have the support they need to say we can use this money over time to reverse the betrayal of the devaluation. And if that is the approach, I am convinced we will see the Mexican crisis resolve itself happily.

Unfortunately, if that is not the approach, if the money is used in the conventional wisdom fashion of trying to see to it that all of the investors in Mexico are made whole, then I think the dire predictions that we have heard on this floor will indeed come true.

So, I salute the chairman of the Banking Committee. I am a member of that committee, and I look forward to the hearings that he has told us he will schedule. I think it is very appropriate for him to take on this watchdog role that he outlined for us in his floor statements yesterday.

But I hope the administration will recognize that those of us who supported what they proposed are looking to them to try to move to undo that which triggered the crisis in the first place, which was the act of betrayal, the devaluation.

It was not the trade deficit. This country had a trade deficit, the United States, until 1914. The part of the country from which I come, the West, was built by trade deficits. The railroad that linked the West to the East and created all of the economic opportunities that came in its wake was built with British money, not American.

Trade deficits are normal and healthy in developing countries. No,

this devaluation was caused by overprinting of pesos, and it can be solved by using the breathing time purchased for it by the administration to extinguish those pesos and move back to the time where two trading partners who have joined hands in good faith under the umbrella of NAFTA can once again say: We can trust each other. There will be no future betrayal. We will stand as we have stood in the past.

It cannot be done overnight. But it can be done if it is announced as a goal, if it is announced as an open target, and the two central bankers, Mr. Greenspan and Mr. Mancera, then set about to find a program to have it come to pass in a legitimate, orderly and proper fashion.

This is the way to get the Mexicans back on their feet and this is the way to protect the American taxpayer. I salute Chairman D'AMATO in his vigilance to hold hearings to see to it that this is carried out in that fashion.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, Feb. 8, 1991]

MEXICO: SUFFERING THE CONVENTIONAL WISDOM

(By Robert L. Bartley)

Confusion number one is that the best exchange rate is one that produces the ''right'' trade balance. With the collapse of the Marxism now behind us, this has become the most pernicious idea loose on the earth today.—''Dollar Turmoil,'' Review & Outlook, The Wall Street Journal, May 23, 1989.

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So some 93 million Mexicans are learning to their sorrow. But perhaps there is something to be redeemed from their misery. Just possibly the debacle will spell the end of devaluation as a policy instrument, not only in Mexico but around the world.

The initial conventional wisdom is quite the opposite, of course. With the peso devaluation providing an utter calamity, financial sophisticates have decided the mistake was not doing it sooner. To the untutored, this logic may not be intuitively obvious. Indeed, taxpayers who've poined up some $50 billion in guarantees may be relieved to discover there is another view: that the Dec. 20–22 devaluation was a dreadful mistake, though one in which the Mexicans merely followed prevailing conventional wisdom.

That wisdom holds, for example, that Mexico was ''forced'' to devalue, which is myth number one. A collapsing currency is usually the sign of a economy with an inflationary spiral and an uncontrolled fiscal deficit. But the Mexican budget was nearly in balance, and the ratio of its debt to GDP was below the OECD average. Inflation has subsided to single digits. Exports were surging, up 35% to the U.S., scarcely the sign of an ''overvalued'' currency. Growth, while not as vigorous as some developing nations, was picking up in the wake of the North American Free Trade Agreement. The real sector of the economy was not sick but healthy.

FOREIGN EXCHANGE LEGACY

In the financial sector, the incoming Zedillo administration did inherit a problem: Foreign exchange reserves were declining. As recorded in the graphs Bank of Mexico Governor Miguel Mancera published on this page Jan 31, adapted alongside today, they'd fallen from a peak of nearly $30 billion before the March assassination of Presidential nominee Donaldo Colosio to about $12 billion at the Zedilo inauguration Dec. 1.

In dealing with this problem, however, the incoming administration had a choice. The road not taken was simply to tighten monetary policy. In the conventional view, this means raising interest rates to attract dollar inflows and thus stabilize reserves. In the more modern and more helpful monetary approach to the balance of payments, the same actions would be viewed as reducing the supply of pesos. A lower supply of pesos relative to the supply of dollars would increase the value of the peso, and a higher exchange rate would reduce the incentive to cash peso for dollars. Reducing the supply of pesos would also be likely to boost short-term interest rates, though this is a side-effect, and long-term rates might actually benefit.

Instead the Mexicans chose to devalue, widening the bands on the exchange rate on Dec. 20 and going to a freely floating rate on Dec.22. The latter decision really was forced because the earlier one collapsed investor confidence in the peso. Widening the bands clearly presaged devaluation and led to a massive flight from the peso, and the loss of half of the remaining reserves in one day. Judging by their public economic plans, the Mexican authorities had in mind an exchange rate of 4.5 pesos to the dollar, a 22 percent devaluation from the earlier 3.5 floor. But with confidence imploding, the peso dropped immediately to 5.5 then as low as 6.33, a 45% devaluation. With more than $50 billion in guarantees from the U.S. Exchange Stabilization Fund, international financial institutions and commercial banks now announced, the peso recovered to 5.335 yesterday, devalued 35%.

Meanwhile, interest rates surged. In the wake of devaluation, the rate on 28-day cetes, peso-denominated Treasury bills, reached 39%, up from 13.75% in the Dec. 14 action. Even with the support package, the 28-day cetes rate was 32.75% at the most recent auction Feb. 1. Foreign exchange reserves were almost exhausted before the bailout package, and the Mexican economy is visibly collapsing into recession. The argument that Mexico was ''forced'' to devalue rests on the notion that otherwise it would have vanished foreign exchange reserves, a recession and soaring interest rates. With devaluation more than doubling interest rates, it' absurd to suggest that the same rates would not have been enough to defend a 3.5 peso exchange rate when the former level of confidence still prevailed.

What's more, in all likelihood the damage has only begun. Mexican living standards already are plunging. The devaluation will surely result in a major surge of inflation, which will offset any imagined trade advantages to a lower exchange rate. The combination of inflation and recession will throw the government budget into chaos. The economic turmoil, especially the devastation of the nascent middle class, will in turn produce political turmoil. Much of the hard-won progress of the last 12 years will be reversed.

The Mexican outcome provides a particularly clear empirical test of a set of conventional wisdoms about economic policy, trade and exchange rates. For this was not some backwater decision. The key decision-makers in Los Pinos (the White House) and Hacendia (the Treasury) boasted Ph.D.s in economics from Yale and Stanford. Devaluation has long been urged by important business sectors in Mexico, and advocated/predicted by various commentators on Mexico, in particular journalist Christopher Whalen and MIT economist Rudiger Dornbush. When the action was taken, U.S. Treasury Secretary Lloyd Bentsen immediately said it ''will support the healthy development of the Mexican economy.''

The arguments of this illustrious group are familiar: Exchange rate pressures are caused and cured by trade deficits. Thus the Mexican authorities thought their fundamental problem was not purely monetary, but rather a high current account deficit. And further that the deficit could be cured by devaluation; a lower exchange rate would make Mexican goods cheaper north of the Rio Grande and U.S. goods more expensive south of the border. So Mexicans would sell more and buy less, and the trade account would come into balance, or at least to a ''sustainable'' level. Many economists and such institutions as the International Monetary Fund have long given the same advice to every troubled economy in the world. It was the conventional wisdom preached even to the U.S. in the 1980s, the occasion of the ''Dollar Turmoil'' editorial quoted above.

Yet in fact trade deficits are perfectly normal, if not indeed a sign of health. The international balances are an accounting identity, and trade deficits and investment inflows are two sides of the same coin. So any developing nation that succeeds in attracting capital must by definition run a trade deficit. Or to put it another way, a rapidly growing economy will attract more than its share of the world's investment and require more than its share of the world's goods.

The key, then, is not to balance the current account with the rest of the world, but to balance trade deficits with voluntary investment inflows. Mexico ran current account deficits of $25 billion in 1992 and $23 billion in 1993, and during this time not only maintained the peso at around 3.1, but accumulated large foreign reserves. In 1994, the current account deficit was only slightly higher—$27 billion after 11 months. The problem came with the inflows, as political turmoil shook investor confidence.

The biggest shock was the Colosio assassination. The Salinas administration responded by devaluing the peso to 3.4 from 3.1, within the previously announced bands. It also used some of its foreign exchange hoard to buy pesos and engineered a sharp boost in interest rates, taking 28-day cetes to around 18% from 9.6%. This mix succeeded in stabilizing foreign reserves from April to November, with a blip over the threatened but ultimately aborted resignation of Jorge Carpizo McGregor, widely seen as the Mexican government's badge of integrity. In November, reserves resumed their fall with the angry resignation of Deputy Attorney General Mario Ruiz Massieu, who had been investigating the assassination of his brother, Jose Francisco Ruiz Massieu, secretary general of the ruling Institutional Revolutionary Party (PRI) who had tried to fight party corruption. The resigning official repeated his suspicions that drug dealers were working with elements of the PRI, and charged that high party officials had obstructed his probe.

Clearly these political events were shocks to monetary policy and the exchange rate, as Governor Mancera argued in his article here. He added, however, that in line with standard central bank practice around the world, the resulting foreign exchange transactions had been ''sterilized,'' or offset with domestic transactions. The idea is to insulate domestic monetary policy from the impact of international markets (though in fact both turn on the same money supply). So the central bank would sell its dollar reserves, thus withdrawing pesos from circulation, but then would buy domestic notes and bonds, putting the same pesos back in circulation.

So internal measures of ''the money supply,'' the monetary base for example, displayed their usual growth path with their usual seasonal variations. But the point was that the political shocks changed the demand for money; the supply was not allowed

to adjust. In effect, the central bank created the pesos used to buy away its dollar reserves. With a large stock of reserves and a store of credibility earned with the Salinas reforms, the sterilized interventions did buy time for a monetary correction, but instead the new administration decided to devalue. The $50 billion support package has restored some stability, but without policy changes Mexico could sterilize its way through $50 billion as it just sterilized its way through $30 billion.

A CONTRARY PRINCIPLE

It would be quite another matter if some of the $50 billion were used for unsterilized intervention, buying pesos and extinguishing them. And while sterilization is indeed standard policy under the international conventional wisdom, it is not the only possible one. Indeed, the currency board policies adopted in Hong Kong, Argentina and Estonia operate on a contrary principle. Local currency is issued only when new foreign exchange reserves are earned, and is extinguished when reserves fall. Interestingly, Argentina reacted to the Mexican crisis by eliminating its remaining bands, not widening them. Finance Minister Domingo Cavallo clearly has not adopted the conventional wisdom; indeed, he consummated his currency board by inviting IMF advisers out of his nation.

The currency board arrangement is reminiscent of the classical gold standard before World War I, when the domestic monetary base automatically rose or fell with the gain or loss of gold reserves. The currency boards use foreign currency instead of gold, of course. This means that while all nations could use the gold standard, with currency boards one central bank, presumably the Federal Reserve, would have to use some other outside signal in setting the pace of money creation.

The new Republican Congress is gearing up for hearings about what went wrong in Mexico, which promise to become a reexamination of the prevailing conventional wisdom. Clearly the Republicans recognize the devaluation as a mistake, as Senate Majority Leader Bob Dole has plainly stated. What advice, Republican committees want to know, did the Mexicans get from the IMF and U.S. Treasury? And what advice will they give the future Mexicos?

When the GOP won in November, who would have guessed that one of the first effects would be a far-reaching examination of international monetary policy? Even for us who thought its arcane mysteries were as dangerous as they've now proved in Mexico, it seemed too much to hope.

## BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

AMENDMENT NO. 236

Mr. HEFLIN. Mr. President, I rise in support of the amendment to the resolution offered by Senator REID which would protect the Social Security system. I am a cosponsor of the amendment to balance the budget and a strong believer in it. But I feel the Social Security program is such that it ought to be off budget and that we ought to have truth in regard to budgeting.

I am a cosponsor of the Reid amendment, which is designed to ensure that the budget is not balanced on the backs of hard-working Americans who have contributed toward their retirement with a portion of each paycheck. This is not only a protection for retirees but also a protection for all Americans who pay into the program.

The amendment is simple. It protects the Social Security system by excluding the receipts and the outlays of the Social Security program from the budget. The present system of collecting FICA payments from employees' paychecks, as well as a matching contribution from employers, is used to fund a Social Security trust fund. Currently, the payments to the Social Security recipients out of this trust fund are less than the amount taken in through the FICA payments. This surplus in contributions to the fund was created by Congress in the early 1980's to account for the increase in the payout which will occur in the future as the baby boomers begin to retire and draw upon Social Security, and was also done for the purpose of making the Social Security system at that particular time stable, and to try to make it actuarially sound for a great number of years.

We can liken the Social Security trust fund to the traditional savings account most Americans have in the bank. By putting a little money into a savings account each month, and forgetting it is there, it will eventually build up and become substantial by the time it is needed. We do not include the savings account in our monthly operating budget in our checking account, which is used to pay monthly bills and expenses. As I read it, under the language in the balanced budget resolution now pending here in the Senate, this Social Security savings account would no longer be completely safe to build up the surplus which will be needed to pay retiring baby boomers in the 21st century.

Next, I will turn to what are potential problems, which may arise under the current language of the balanced budget resolution.

If at some time the payments to Social Security beneficiaries should be greater than the receipts from the FICA tax revenues, a deficit would occur. According to figures supplied by the Social Security Administration this should occur starting in the year 2013. At this point it is not clear what effect this deficit would have on Social Security payments. As part of a unified budget, would the deficit which would begin to occur with respect to Social Security tax funds require a drastic cut in other non-Social Security programs to make up the trust fund deficit? Or would Congress change the formula for benefits and thus reduce those benefits?

A scenario, which could occur under the balanced budget amendment as currently drafted, concerns the ability of the Government to repay to Social Security trust fund the interest owed from its Government investments. It seems that the intent of section 7 of the amendment is to exempt from total outlays the repayment of debt principal. Those words seem to be carefully chosen of ''debt principal.'' The unintended consequence—I hope it is unintended; it may not be unintended—to Social Security may be that should outlays exceed receipts from the general Treasury funds then, according to section 7, no interest payments would be made to the Social Security trust fund.

What happens is that under the Social Security trust fund, we invest in Government securities. Those Government securities are not transferable. Those Government securities are particularly Social Security trust fund investments. They draw interest. That is part of the effort that was made to make the Social Security fund actuarially sound. But pursuant to the definitions under section 7 of outlays and of receipts, the definition of receipts, includes all receipts except those obtained from borrowing.

The Social Security funds are in effect invested in Government securities and, therefore, they are borrowed money.

Then we find that in the outlays, the definition is that it includes all outlays that the Government is obligated to pay with the exception of the payments to the debt principal. Therefore, it does not include the payments which we classify as interest. Since interest payments will be on budget, that causes a problem relative to whether or not interest payments will be paid back.

The result of this nonpayment of interest due on principal debt could substantially affect the stability of the bonds, which secure the debt and the trust fund. If this should happen the bonds would probably go into default and thus have little value. This would cause a destabilization in the funds invested with Social Security trust fund dollars, and a loss of faith by the American people.

To show what could happen, we look ahead and see what is the amount of money we are referring to and what could possibly be involved with this amendment. According to the Social Security Administration, they anticipate that by the year 2003 there will be $1,151,300,000,000 in assets of the Social Security fund. And, under the law, those assets, a surplus, will be invested in Government securities. If the interest could not be paid on those because of the operation of on-budget activity, then you would have $1 trillion that is in some bonds in which the Government has invested with no interest paid, and therefore causing serious problems, and certainly this would deprive the Social Security funds of the interest that has been accrued in the event that the on-budget does not pay them back.

This could be averted through challenges in courts, but that raises questions of interpretation under the principles of constitutional construction.

Generally, constitutional provisions have received a broader and more liberal construction than statutes. The Supreme Court in *Kansas* v. *Colorado*, 206 U.S. 46, 88 (1906), upheld this general rule stating ''the Constitution is not to be construed technically and narrowly, like an indictment, * * *, but as [a document that creates] a system of government whose provisions are designed to make effective and operative all the governmental powers granted.'' The balanced budget amendment presently contains exceptions which raise issues as to how broadly it should be interpreted.

Section 7 of the balanced budget resolution contains language which creates exceptions to what shall be counted as receipts and outlays of the U.S. Government. The provision which pertains to outlays, specifically excepts from the calculation of outlays the repayment of debt principal. How broadly this exception may be interpreted raises great concern. The Supreme Court has addressed the issue of statutory exceptions and has held that ''in construing provisions * * *, in which a general statement of policy is qualified by an exception, we usually read the exception narrowly in order to preserve the primary operation of the provision.'' *Commissioner* v. *Clark*, 489 U.S. 726, 739 (1989); ''where Congress explicitly enumerates certain exceptions to a general prohibition, additional exceptions are not implied.'' The Supreme Court in a 1991 case of United States versus Smith, and then in the case of Citicorp Industrial Credit, Inc. versus Brock, a 1987 case—held similarly to the previous courts, although this case dealt particularly with the Fair Labor Standards Act, it follows the statutory interpretation principle for a narrow interpretation of statutory exemptions. This textual principle of construction regarding the narrow construction of exceptions is included in the Canons of Construction, which are now followed by the U.S. Supreme Court, which we generally refer to as the Rehnquist court.

We need to make sure that the scenarios that I have described do not happen. To do so will require an amendment to the present balanced budget resolution being offered. We should keep in mind that Social Security is a program self-financed from contributions by employees and employers, which does not contribute 1 penny to the deficit. In fact, Congress, realizing this fact, included in the 1990 Budget Enforcement Act, a provision that declared that the funds were off budget. Unfortunately, the current resolution would clearly put Social Security on budget and thus overturn our recent decision to affirm the off-budget status of Social Security.

I have supported a balanced budget amendment since my first days in the Senate. There have been several times in the past where the passage of an amendment was close but failed for one reason or another. But now that the amendment has passed the House, there is renewed momentum which I believe will carry the amendment successfully through the Senate. But as we debate and develop the balanced budget amendment, we need to be sure that we also protect the integrity of the Social Security System and maintain truth in budgeting. The protection of the self-funded system can be maintained by keeping it off budget and out of the balanced budget process.

Mr. President, there has been raised the issue of whether or not the Reid amendment is proper in that it contains language which, in effect, refers to existing statutes. Some say this should not be included in the Constitution. However, it has been done before, in the 21st amendment. It was the 21st amendment that repealed the 18th amendment. The 18th amendment, as you remember, dealt with intoxicating liquors, and the 21st amendment repealed it. But in section 2 of the 21st amendment, it has this language:

> The transportation or importation into any State, territory, or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof is hereby prohibited.

What we were stating in that amendment was a reference to laws of States—not just the United States, but the laws of the States in its reference, and that, in my judgment, is a precedent for including the language that is included in the Reid amendment.

Another source for precedent is in the 14th amendment—the 14th amendment, of course, is one of the amendments that was adopted following the War Between the States. In section 4 of that amendment, it makes reference to existing statutes. In that section it states:

> The validity of the public debt of the United States authorized by law, including debts incurred for the payment of pensions and bounties for services in suppressing insurrection or rebellion shall not be questioned.

Again, it is referring to existing debts that were created under laws of the United States for the payment of pensions and bounties for services in suppressing insurrection or rebellion. And then it goes forward in that section,

> * * * but neither the United States or any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void.

So we have seen reference to statutory language in the Constitution on at least two occasions.

I think others are seeking the floor. I am glad to yield if the Senator from South Carolina wishes to speak.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. HOLLINGS] is recognized.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague. It should be noted that the law in the Constitution is being cited not only by the distinguished Senator, but by a former Chief Justice of the Supreme Court of the State of Alabama, Senator HEFLIN. He has studied the law and legal precedence—particularly constitutional provisions. I compliment him for speaking out on this particular occasion.

It is not my intent to belabor the point, but I certainly want to emphasize that there is no alternative other than including the REID amendment. Why do I say that? Section 13301 of the Budget Enforcement Act, says, thou shalt not use Social Security funds with respect to receipts, outlays, or concerning the deficit.

That law passed this particular body on a vote of 98–2, in 1990, and was signed into law by President George Walker Herbert Bush on November 5, 1990. It is the law, and it has been reiterated again and again. On Monday of this week, Mr. President, it was cited by the distinguished majority whip—the distinguished Senator from Mississippi. When asked about specific cuts, he said:

> Nobody—Republican, Democrat, conservative, liberal, moderate—is even thinking about using Social Security to balance the budget, to pass the joint resolution for the balanced budget amendment to the Constitution.

They are not thinking about it, they are doing it. You actually repeal section 13301 of the Budget Enforcement Act that says: Thou shalt not use Social Security trust funds for deficit purposes.

Why is that, Mr. President? It clearly states in section 7 of the resolution:

> Total receipts shall include all receipts of the United States Government, except those derived from borrowing.

The Social Security receipts in the Social Security trust fund is included in deficit calculations under this definition. Some on the other side have said, ''Do not worry, we will legislate later.''

But I recall that none other than President George Washington, in his Farewell Address, said:

> If in the opinion of the people the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this is one instance of good, it is the customary weapon by which free governments are destroyed.

The Father of this Country knew that you could not change the Constitution by statute.

I have been in favor of balancing the budget. I helped the distinguished Senator from Utah [Mr. HATCH] in 1982 when the balanced budget amendment received the two-thirds required, the 67 votes.

We tried again with my distinguished senior colleague, Senator THURMOND, in 1986 but we did not get two-thirds required.

We tried last year under the distinguished leadership of the Senator from Illinois [Senator SIMON] but again failed.

We have been in the vineyards working on this particular problem, but part and parcel of the problem is another contract with America—the contract we made with the senior citizens of America back in 1935.

We felt so keenly about honoring that contract, that we raised taxes in 1983, under the Greenspan commission, to keep the program fiscally sound and to maintain that solemn trust. To maintain that contract with our senior citizens—not for defense, not for welfare, not for foreign aid, not for other Government programs—but for the Social Security trust fund.

If you had said at that time that we were raising taxes for welfare, foreign aid, defense or other spending, I would have voted no and other Senators would have voted no. But instead, we said, ''This is a trust fund and we must continue to keep that trust.''

Like the Senator from Mississippi has said, no one is thinking about violating that trust, but yet we are constitutionally dissolving it by including revenues from the Social Security trust in the definition of total receipts. Legislative fixes will not work. As George Washington said, you cannot amend the Constitution except as the Constitution itself designates.

I am a reasonable man—as Rex Harrison said in ''My Fair Lady,'' an ordinary man—just trying to get along on the floor of the Senate, certainly supporting a balanced budget, but feeling compelled to take issue here having established a record in protecting Social Security.

In the Budget Committee in 1990, I proposed the Social Security Preservation Act. It stipulated that Social Security trust funds should not be used in calculating the deficit. It was reported out 20 to 1, and on the Senate floor passed by a vote of 98 to 2. And still, I see administrations, Republican and Democrat; I see Congresses, Republican and Democrat, violating the law.

Unfortunately, it does not surprise me. Former Senator Harry Byrd shepherded his own statute through the Congress which said, in essence, ''Thou budget shall be balanced.'' It was the law, and yet we never adhered to it. I do not know how we get away with this thievery. But I know that something is amiss when honest public servants say that no one is considering using Social Security to balance the budget when, on the face of the legislation, it would require it. At that point, I have to speak out.

As a result, I have written a letter to all the Senators to put to rest ideas about changing it by legislation later on. You cannot amend the Constitution by legislation. You have to get a joint resolution, have three readings in the Senate, and have an affirmation of 37, or two-thirds, of the sovereign States of America. So even if I wanted to protect Social Security by statute, I could not do what they say can be done.

I will read the letter. This is to every one of my colleagues in the Senate.

In 1983, the Congress made the Social Security fund fiscally sound by programmed tax increases. Naturally, the Congress would never have supported these tax increases if the monies were to be used for foreign aid, defense, welfare or the deficit costs of government. But violating the truth-in-budgeting principle, the Administrations and Congresses continued to use the Social Security trust fund to obscure the size of the deficit. Annoyed with this violation, the Budget Committee voted nearly unanimously in 1990 and the United States Senate with a vote of 98–2 joined the House in the now formal statutory law of the United States in section 13301 of the Budget Enforcement Act, forbidding by law the use of the Social Security fund for the deficit. The violation continues. Now comes the balanced budget amendment to the Constitution requiring that, ''Total receipts shall include all receipts of the United States Government except those derived from borrowing.'' Left alone, this provision would repeal Section 13301 and constitutionally endorse the violation. The REID amendment presently under consideration corrects this unintended repeal by stating that the Social Security trust fund, ''* * * should not be counted as receipts or outlays for the purpose of this article.''

John Mitchell, the former Attorney General was known for the axiom, ''Watch what we do, not what we say.'' It should be made crystal clear that we mean what we say. If you want to continue to use the trust fund and breach the trust, vote against the Reid amendment. There it is clear and simple, so everyone understands.

If you want to maintain the trust—the Contract with America made back in 1935—then please support the Reid amendment.

If this Reid amendment is allowed, there is no misunderstanding that we will maintain the trust.

If the Reid amendment is defeated, we will be taking $636 billion away from the trust fund in order to obscure the size of the deficit.

Mr. BIDEN. Will the Senator yield?

Mr. President, is it not true—and I am not being solicitous. No one knows more about the budget process on this floor than the distinguished Senator from South Carolina, and no one has more credentials for making the tough decisions about what we should do to cut the budget than the Senator from South Carolina. He has always put his vote where his mouth is on this issue which, I might say, very few Members of either party have done in the past.

The Senator just pointed out that we are talking about the difference between, for this next year, $600-some billion—not this year—$600-some billion, between now and the time it comes time to balance the budget, additional, we have to find, if the Reid amendment passes.

Is it not true that in addition to that, what is likely to happen is that our friends, who are going to find increasing pressure to balance the budget and who have never been great friends of the trust fund to begin with, are going to, in the next year or 2 or 3, as we move toward the year 2003, since most young people the age of your children and mine believe they are not going to get Social Security, anyway, is it not likely that we will see a movement that we will cut Social Security benefits; that we will either raise the retirement age or cut benefits, further increasing the surplus that Social Security will generate between now and the year 2014, and further making the deficit look smaller, so that it is easier to meet the balanced budget requirement by the year 2003?

Does the Senator think that is as likely a scenario as any other we are likely to see?

Mr. HOLLINGS. Mr. President, the distinguished Senator from Delaware and former chairman of the Judiciary Committee knows it well. He is a constitutional expert, and is right on target as to the practical result.

We see several Senators trying to avoid the problem and not engage in truth in budgeting. We have truth in packaging and truth in lending, but we do not have truth in budgeting. It was not in the Contract With America and it is not in the current version of this balanced budget amendment.

Mr. BIDEN. If the Senator will yield for an additional question, as I understand it, the distinguished majority leader is going to come to the floor at some point and offer a legislative fix for this constitutional dilemma, to try to convince all the American people that the Republicans or those who are for the balanced budget do not want to cut Social Security and are not going to be using Social Security trust fund moneys to reduce the deficit.

Now, we both know that we cannot alter—the Senator said it more eloquently than anyone thus far—we cannot alter the Constitution other than by the rules the Constitution sets out.

We will assume for just a moment the distinguished Senator from Kansas, if that is what he decides to do, comes along and says we will pass a resolution promising we will not do that. Is it the understanding of my friend from South Carolina that means, for calculation purposes of what constitutes the deficit, that between now and the year 2000, we will not count the $60 billion surplus this year and the $100 billion surplus in the year 2000, toward reducing the deficit?

Is that what he is going to do?

Mr. HOLLINGS. There can be no legislative fix. Constitutionally you are mandating Social Security receipts as part of total receipts. If the distinguished majority leader wants to put in a separate constitutional amendment, that may be different. I am not trying to tear down House Joint Resolution 1, the balanced budget amendment to the Constitution. I voted for it three times. I would like to vote for it a fourth time, but I cannot in good conscience repeal my own statute.

Mr. BIDEN. Will the Senator yield for another question?

Mr. HOLLINGS. Yes.

Mr. BIDEN. When we debated this in the Judiciary Committee, and this legislation came out of the committee, I, along with Senator FEINSTEIN and others, argued for this amendment in the committee. One of our senior Republican colleagues was very blunt about this issue. He said, along with former Senator Tsongas of the Concord Coalition, who came in to testify, the following:

That if you take Social Security out of the mix here and set it aside so it is not covered by a constitutional amendment, we are not likely to do anything to fix it.

What they mean by ''fix it'' is change Social Security; that is, either raise the retirement age, cut the benefits or increase the taxes, because everybody knows that by the time—I am 52—by the time it comes time for me to collect Social Security, there are not going to be enough of your children and my children to pay for my Social Security benefits. So something is going to have to be done.

Unrelated to the balanced budget amendment and the impact of the Reid amendment on the balanced budget amendment or the impact of the balanced budget amendment on Social Security, unrelated to the balanced budget amendment, just Social Security all by itself, does the Senator from South Carolina see any way in which Social Security can be protected from significant change if, in fact, it is included as part of the balanced budget amendment?

Mr. HOLLINGS. No, taking it off-budget is the only way to protect it. That is the only way that we can be sure that Social Security funds are not being used to mask the size of the deficit.

Mr. BIDEN. Right.

Mr. HOLLINGS. You can still go in and change the age if you wanted to or raise the FICA tax. I do not want to.

Mr. BIDEN. Absolutely.

Mr. HOLLINGS. But I think the Reid amendment is very clear. It states that the receipts, ''including attributable interests and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age survivors and disability benefits shall not be counted as receipts or outlays for the purpose of this article.''

It does not say that you have to have a trust fund. They can go in and repeal the 1935 Roosevelt Social Security if they wanted to.

Mr. BIDEN. Will the Senator yield for 30 seconds more?

Mr. HOLLINGS. Yes.

Mr. BIDEN. I want to thank the Senator for allowing me to interrupt him with all these questions. It seems pretty clear to me this is about two things: One, they need the Social Security dollars to make the deficit look like it is less than it is, and then the next step is they are going to need to try to deal with changing it to increase the amount of money they get in the trust funds to make the deficit look even less, which means that Social Security is going to get hit.

But I will withhold my statement on this until tomorrow. I thank my colleague for letting me interrupt.

Mr. HOLLINGS. I thank the distinguished Senator from Delaware. I yield the floor.

Mr. HATCH. Mr. President, I cannot emphasize enough, that the surest way to harm Social Security, the surest way to deplete the trust fund, the surest way to open a loophole which will swallow the balanced budget amendment is to pass this exemption.

If we open up this loophole it will be big enough to drive a truck through, and it will not be long before the convoy starts rolling.

If we keep the balanced budget amendment whole, however, we will protect Social Security. Several of my colleagues appear to misunderstand how the trust fund works. The extra money in the trust fund is borrowed by the Treasury, not stolen but borrowed. And just like any other loan in the country, it must be repaid. The trust fund loses nothing. In fact, it gains the interest which the Treasury has to pay on the loan. That will not change under the balanced budget amendment.

The integrity of the trust fund is furthered by the balanced budget amendment. Any money the Treasury may borrow, must be repaid. Just because a balanced budget rule is adopted, there is no reason to think the status of the trust fund will change. It is a complete non sequitur, Mr. President. There is absolutely nothing in the balanced budget amendment which says the funds designated for the Social Security trust fund will not remain so dedicated. They will. So let me say it again, as clearly and concisely as I possibly can—the trust fund is not harmed in any way, shape, or form by the balanced budget amendment.

Unfortunately, the trust fund will not fare so well under the Reid exemption. If the loophole goes into effect, all kinds of unrelated spending programs will suddenly be redesignated as Social Security and will soak up the Social Security surplus. That means the Treasury will not have to borrow money from Social Security because the new programs will be Social Security. What an insidious turn of events. Under the proposed exemption, the trust fund will actually be depleted years before it would without the exemption.

I want to respond briefly to the notion that we cannot protect Social Security through the implementing legislation. The balanced budget amendment requires that the whole budget be balanced. Surpluses are certainly permitted, and nothing in the balanced budget amendment discourages us saving for a rainy day, as the Social Security system now does. None of the statutory protections that are now enacted will be brushed aside, and nothing keeps us from keeping the accounts segregated and accounting in a way that shows what is dedicated to Social Security. Nothing will change in the way we segregate Social Security if the balanced budget amendment is adopted.

It is true that the budget must be balanced. But this will help protect Social Security recipients who rely on those moneys after 2029, when the trust funds are projected to be insolvent. At that point, the balanced budget amendment will require that there be sufficient money to pay those benefits. And a balanced budget rule will help those who rely on Social Security after 2019, when the trust fund will begin to redeem its loan to the Federal Government. To the extent that the Federal Government is in a better position to repay this debt, the Social Security recipients are more strongly protected. And to the extent that the Government continues its profligate ways, it will be less, not more, able to repay the debt to the trust fund.

So the best way to protect Social Security recipients in the long run is to adopt a balanced budget amendment so that the Government will be able to pay its debt to retirees.

Mr. DOLE. Mr. President, I thank my colleagues.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I will take a moment and then be happy to yield the floor.

MOTION TO REFER

Mr. President, I send a motion to refer to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] moves to refer H.J. Res. 1 to the Budget Committee with instructions to report back forthwith H.J. Res. 1 in status quo, and at the earliest date possible report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal.

Mr. DOLE. I ask for the yeas and nays on the motion to refer.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 237

Mr. DOLE. Mr. President, I send an amendment to the desk to the motion to refer.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 237 to the instructions of the motion to refer H.J. Res. 1 to the Budget Committee.

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

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

The amendment is as follows:

In lieu of the instructions, and after the words ''Budget Committee'' on page 1, lines 1 and 2 insert: ''that for the purpose of any constitutional amendment requiring a balanced budget, the Budget Committee shall report back forthwith H.J. Res. 1 in status quo, and at the earliest date practicable they shall report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal.''

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 238 TO AMENDMENT NO. 237

Mr. DOLE. Mr. President, I send an amendment to the desk in the second degree to my amendment and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

THe Senator from Kansas [Mr. DOLE] proposes an amendment numbered 238 to amendment No. 237.

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

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

The amendment is as follows:

Strike all after the first word and insert the following: '', for the purpose of any constitutional amendment requiring a balanced budget, the Budget Committee of the Senate shall report forthwith H.J. Res. 1 in status quo and at the earliest date practicable after February 8, 1995, they shall report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal.''

Mr. DOLE. I thank my colleague from South Caroline and other colleagues for yielding to me.

## MORNING BUSINESS

## REPORT OF PROPOSED LEGISLATION ENTITLED ''MAJOR LEAGUE BASEBALL RESTORATION ACT''—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS OF THE SENATE—PM 14

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate on February 8, 1995, received a message from the President of the United States; which was referred to the Committee on Labor and Human Resources.

*To the Congress of the United States:*

I am pleased to transmit for your immediate consideration and enactment the ''Major League Baseball Restoration Act.'' This legislation would provide for a fair and prompt settlement of the ongoing labor-management dispute affecting Major League Baseball.

Major League Baseball has historically occupied a unique place in American life. The parties to the current contentious dispute have been unable to resolve their differences, despite many months of negotiations and the assistance of one of this country's most skilled mediators. If the dispute is permitted to continue, there is likely to be substantial economic damage to the cities and communities in which major league franchises are located and to the communities that host spring training. The ongoing dispute also threatens further serious harm to an important national institution.

The bill I am transmitting today is a simple one. It would authorize the President to appoint a 3-member National Baseball Dispute Resolution Panel. This Panel of impartial and skilled arbitrators would be empowered to gather information from all sides and impose a binding agreement on the parties. The Panel would be urged to act as quickly as possible. Its decision would not be subject to judicial review.

In arriving at a fair settlement, the Panel would consider a number of factors affecting the parties, but it could also take into account the effect on the public and the best interests of the game.

The Panel would be given sufficient tools to do its job, without the need for further appropriations. Primary support for its activities would come from the Federal Mediation and Conciliation Service, but other agencies would also be authorized to provide needed support.

The dispute now affecting Major League Baseball has been a protracted one, and I believe that the time has come to take action. I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

## REPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR CALENDAR YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 15

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

*To the Congress of the United States:*

I am pleased to present to you the Twenty-ninth Annual Report of the National Endowment for the Humanities (NEH), the Federal agency charged with fostering scholarship and imparting knowledge in the humanities. Its work supports an impressive range of humanities projects.

These projects can reach an audience as general as the 28 million who watched the documentary Baseball, or as specialized as the 50 scholars who this past fall examined current research on Dante. Small local historical societies have received NEH support, as have some of the Nation's largest cultural institutions. Students from kindergarten through graduate school, professors and teachers, and the general public in all parts of the Nation have been touched by the Endowment's activities.

As we approach the 21st century, the world is growing smaller and its problems seemingly bigger. Societies are becoming more complex and fractious. The knowledge and wisdom, the insight and perspective, imparted by history, philosophy, literature, and other humanities disciplines enable us to meet the challenges of contemporary life.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 9, 1995.*

## REPORT OF PROPOSED LEGISLATION ENTITLED ''THE OMNIBUS COUNTERTERRORISM ACT OF 1995''—MESSAGE FROM THE PRESIDENT—PM 16

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

*To the Congress of the United States:*

I am pleased to transmit today for your immediate consideration and enactment the ''Omnibus Counterterrorism Act of 1995.'' Also transmitted is a section-by-section analysis. This legislative proposal is part of my Administration's comprehensive effort to strengthen the ability of the United States to deter terrorist acts and punish those who aid or abet any international terrorist activity in the United States. It corrects deficiencies and gaps in current law.

Some of the most significant provisions of the bill will:

—Provide clear Federal criminal jurisdiction for any international terrorist attack that might occur in the United States;

—Provide Federal criminal jurisdiction over terrorists who use the United States as the place from which to plan terrorist attacks overseas;

—Provide a workable mechanism, utilizing U.S. District Court Judges appointed by the Chief Justice, to deport expeditiously alien terrorists without risking the disclosure of national security information or techniques;

—Provide a new mechanism for preventing fund-raising in the United States that supports international terrorist activities overseas; and

—Implement an international treaty requiring the insertion of a chemical agent into plastic explosives when manufactured to make them detectable.

The fund-raising provision includes a licensing mechanism under which

funds can only be transferred based on a strict showing that the money will be used exclusively for religious, charitable, literary, or educational purposes and will not be diverted for terrorist activity. The bill also includes numerous relatively technical, but highly important, provisions that will facilitate investigations and prosecutions of terrorist crimes.

It is the Administration's intent that section 101 of the bill confer Federal jurisdiction only over international terrorism offenses. The Administration will work with Members of Congress to ensure that the language in the bill is consistent with that intent.

I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 9, 1995.*

## MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 666. An act to control crime by exclusionary rule reform.

## MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 666. An Act to control crime by exclusionary rule reform; to the Committee on the Judiciary.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–409. A communication from the Secretary of the Army, transmitting, pursuant to law, the report on the Washington Aqueduct; to the Committee on Environment and Public Works.

EC–410. A communication from the Secretary of Labor, transmitting, pursuant to law, notice of the award of a sole-source contract for the Cleveland Job Corps Center; to the Committee on Governmental Affairs.

EC–411. A communication from the Secretary of Veterans' Affairs and the Secretary of Defense, transmitting, pursuant to law, the report on the implementation of the health resources sharing portion; to the Committee on Veterans' Affairs.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 377. A bill to amend a provision of part A of title IX of the Elementary and Secondary Education Act of 1965, relating to Indian education, to provide a technical amendment, and for other purposes; to the Committee on Indian Affairs.

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 378. A bill to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. EXON:

S. 379. A bill for the relief of Richard W. Schaffert; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. SIMON):

S. 380. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HELMS (for himself, Mr. DOLE, Mr. MACK, Mr. COVERDELL, Mr. GRAHAM, Mr. D'AMATO, Mr. HATCH, Mr. GRAMM, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GREGG, Mr. INHOFE, Mr. HOLLINGS, and Ms. SNOWE):

S. 381. A bill to strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba, and for other purposes; ordered held at the desk.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, Mr. SIMON, Mr. PELL, and Mr. DORGAN):

S. 382. A bill to establish a Wounded Knee National Tribal Park, and for other purposes; to the Committee on Indian Affairs.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself and Mr. INOUYE:)

S. 377. A bill to amend a provision of part A of title IX of the Elementary and Secondary Education Act of 1965, relating to Indian education, to provide a technical amendment, and for other purposes; to the Committee on Indian Affairs.

### THE INDIAN EDUCATION TITLE TECHNICAL CORRECTION ACT OF 1995

● Mr. MCCAIN. Mr. President, I introduce a bill to make a technical correction to the Indian title in the Improving America's Schools Act. I am pleased that Senator DANIEL INOUYE, vice chairman of the Committee on Indian Affairs, has joined me as a cosponsor of this measure.

The technical corrections bill would correct a minor oversight in language which could have major ramifications in the education of American Indian and Alaska Native children. The law currently states that in order for a school to be eligible for an Indian Education Act formula grant, it must have 10 eligible students and have 25 percent of its student population eligible for the program. This language unnecessarily restricts a schools eligibility for grant funding by requiring schools to meet both criteria. I have been informed that the intent of the conferees was to include the word ''or'' rather than ''and'' thereby creating the potential for American Indians and Alaska Natives to have a greater opportunity to benefit from the Improving America's Schools Act. This amendment is intended to correct this oversight and fulfill the true intent of the act, to improve schools for all Americans, including Indians and Alaska Natives.

Mr. President, time is of the essence with regard to this legislation. I understand that the Department of Education is currently drafting regulations to implement the new provisions of the Indian Education Act. Unless this technical oversight is not immediately fixed, the existing language will result in the disqualification of many schools serving American Indians and Alaska Natives through the promulgation of regulation which do not accurately reflect the intent of Congress. Therefore, I hope that the Senate will act quickly on this amendment in order to prevent unnecessary hardships for the many American Indian and Alaska Native students which stand to benefit from this 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. 377

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

**SECTION 1. TECHNICAL AMENDMENT.**

Section 9112(a)(1)(A) of the Elementary and Secondary Education Act of 1965 (as added by section 101 of the Improving America's Schools Act of 1994 (Public Law 103–382)) is amended by striking ''and'' and inserting ''or''.●

● Mr. INOUYE. Mr. President, even though technical correction bills are ordinarily not drafted until late each session of Congress, I cosponsor a bill, introduced by the chairman of the Committee on Indian Affairs, Senator JOHN MCCAIN of Arizona, to make a one word technical correction to the Indian title in the Improving America's Schools Act. I do so because the Department of Education is now drafting regulations to implement new provisions of the Indian Education Act, and unless corrected promptly, the program for Indian children will be limited in ways that the 103d Congress did not intend.

Let me provide a context for the technical correction to Public Law 103–382 that would be accomplished by enactment of this bill. Among other things, the Indian Education Act provides for formula grants to schools to enable them to operate small supplemental programs for Indian children. In its version of the reauthorization, the House of Representatives would have required that a school have 20 Indian children or that the Indian children make up 25 percent of the student body of the school. The Senate, on the other hand, would have required a minimum of 10 children or that they make up 25 percent of the student body of the

school. Conferees agreed upon the Senate version: 10 students or 25 percent of the school's enrollment.

Mr. President, the issue before the conferees was only whether a minimum of 10 or 20 Indian children would be required for eligibility. The conjunction ''or'' was not ever an issue, and that it was not is testified to by the side-by-sides prepared for the Senate and House conferees. But, the final document prepared by the Senate Legislative Counsel substituted the word ''and'' for ''or.'' And that final document was enacted into law.

What this bill would do is correct the technical error. I have consulted conferees and their notes verify that the word ''or'' was in both House and Senate versions of the bill. The effect of the bill I am introducing would be to restore language intended by both the House and Senate.

Mr. President, if this bill should not be enacted, hundreds of classrooms with Indian children would lose the supplemental programs, all because of a drafting error. In reauthorizing the Indian Education Act, this was emphatically not the result intended by the Congress, and I hope that I may count on my colleagues to support enactment of this technical corrections bill.●

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By Mr. GORTON (for himself and Mrs. MURRAY):

S. 378. A bill to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

THE BOISE CASCADE LAND EXCHANGE ACT OF 1995

● Mr. GORTON. Mr. President, today, together with Senator MURRAY, I introduce a bill to authorize a land exchange between the Bureau of Reclamation and the Boise Cascade Corp. Unfortunately for its proponents, this legislation has been introduced during both the 102d and 103d Congress. This year, Senator MURRAY and I will work to pass this legislation and finally get it signed into law.

Boise Cascade's plywood and sawmill operations in Kettle Falls, WA are adjacent to 26 acres of land owned by the Bureau of Reclamation. The Bureau land provides a buffer between scenic Lake Roosevelt and Boise Cascade's operations. The National Park Service, which manages the Bureau's land, historically has issued a special-use permit allowing Boise Cascade to operate along the edge of the land. However, the Park Service has indicated that it may not reissue the permit when it expires in 1995, and has stated conclusively that the permit will not be reissued upon expiration in 2000. Consequently, passage of this legislation this year is crucial.

Without a special use permit, Boise Cascade would not be able to continue its operations at Kettle Falls. Thus, 350 mill jobs would be lost and the community would be devastated. To prevent such a catastrophe, Boise Cascade has proposed exchanging 138 acres of land it owns for 6 of the 26 acres it needs to continue operating. The 138 acres is primarily wildlife habitat located along Lake Roosevelt and the Colville River, and would be conveyed to the Bureau of Reclamation upon passage of this legislation.

This land exchange is supported by the Bureau of Reclamation, the Park Service, and Boise Cascade. In addition, a local citizen's group concerned with Columbia River water quality issues has negotiated a series of mitigation measures with Boise Cascade, and has given its full support to the land exchange.

Mr. President, this exchange make good sense and will avoid a potentially severe problem. Last year the Energy Committee reported out of committee the exact legislation that I am introducing today. I urge the committee to promptly review this legislation, and I will work with them on this issue. I thank my colleagues for their consideration.●

Mrs. MURRAY. Mr. President, I want to say a few words about an important bill for Washington State. Today, I join my colleague, the senior Senator from Washington [Mr. GORTON] introducing legislation to authorize a land exchange between Boise Cascade Corp. and the Bureau of Reclamation.

Boise Cascade operates a sawmill adjacent to the Lake Roosevelt National Recreation Area near Kettle Falls, WA. The land located between the mill and the lake is owned by the Bureau of Reclamation. However, it is managed by the National Park Service under its authority over the Lake Roosevelt unit. Unfortunately, the proximity of the mill to the recreation area has led to concerns within the Park Service about potential effects of Boise operation on the public.

Mr. President, Boise Cascade has been a stellar corporate citizen in this area. The company has absolutely no desire to adversely affect the recreation area. In fact, given their druthers, they'd like to enhance the area. That's why this bill is so important.

If we enact this bill, we will ensure Boise's ability to continue its mill operation. In addition, we will add significant benefit to Lake Roosevelt. That's because this bill seeks to implement a land exchange that will add 132 acres to the national recreation area. Here's how it works: Boise Cascade owns 138 acres along the lake near the Colville River. This land provides excellent wildlife forage habitat. The Bureau owns 26 acres between the mill and the lake. In exchange for 6 of these acres, Boise will deed its 138 to the Government for incorporation into the recreation area.

Mr. President, this is a great deal for the taxpayers and the citizens of Kettle Falls: 138 acres for just 6. There are 350 jobs at the Boise mill. Needless to say, it's the major employer in that area. The terms of this exchange have been mutually agreed to by the agencies, the company, the local citizens, and conservation groups concerned with protecting the lake. It's good for the community, and it's good for the resource. I hope all my colleagues will recognize this, and support our efforts to move the bill toward passage.

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By Mr. FEINGOLD (for himself and Mr. SIMON):

S. 380. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE ANTI-REDLINING IN INSURANCE DISCLOSURE ACT OF 1995

Mr. FEINGOLD. Mr. President, today I am pleased to reintroduce legislation that I originally introduced in the Senate last year, the Anti-Redlining in Insurance Disclosure Act of 1995. Although the House of Representatives was able to pass a more limited disclosure bill during the 103d Congress, I was disappointed that the Senate was unable to address what I see as not only a critically important civil rights issue, but also an issue essential to any hopes of revitalizing the struggling economies of our inner cities.

In recent years, this Nation has made tremendous strides in fighting various forms of discrimination, particularly in terms of employment and educational opportunities. Unfortunately, the progress we have made in combating these forms of discrimination has not lessened the need to exercise the same level of persistence in extinguishing equally offensive, less subtle forms of racism and bigotry.

The term redlining actually evolved from the practice of particular individuals in the banking industry using maps with red lines drawn around certain neighborhoods. These individuals would then instruct their loan officers to avoid offering their financial services to residents of these redlined neighborhoods. These red lines typically encircled low-income and minority communities, resulting in the unavailability of the financial services necessary to purchase a home, a business, or an automobile. But even as Congress identified and moved to curb these discriminatory practices in the banking industry, a disturbing and growing level of discrimination was emerging from the insurance industry that would continue to deny certain individuals the opportunity to own their own home or start a small business.

Home ownership is an aspiration that transcends the artificial boundaries of race and income in America. As anyone who has secured their first home loan can attest, there is an extraordinary feeling of prestige and sense of self-worth that accompanies home ownership. But for those individuals that reside in the economically depressed inner-city neighborhoods of Milwaukee, Chicago, and other such cities, these feelings of pride and accomplishment are even further intensified. It is

tragic that redlining practices exist, and unless the Federal Government takes forceful action we will continue to send the wrong message to those who seek to stabilize and stimulate these inner-city economies. We must expose and eliminate these appalling redlining practices that prevent hard-working, fully qualified individuals from pursuing their dream, and their right, to obtain a home or business loan.

Though it may seem obvious to some, we must recognize that any serious effort to rebuild the economies of these inner-city communities must have minority home and small business ownership as their cornerstones. There are many well-motivated individuals in these communities that are committed to economic revitalization—whether it is purchasing a home for their family or starting a small business and creating jobs. It is heartening that there are both Democrats and Republicans, conservatives and liberals who recognize the need to revitalize our inner cities, and yet it seems fruitless to discuss ideas such as enterprise zones and community development block grants without addressing a glaring problem that prevents an otherwise qualified individual from owning their own home or business.

Several years ago Congress reacted to reports and studies that an element of the financial services industry was preventing residents of minority and low-income communities from obtaining home loans. In response, Congress passed the Home Mortgage Disclosure Act [HMDA] which required banks and thrifts to report their lending practices using a set level of criteria. This legislation, which contrary to dire predictions has had a nominal impact on the vitality and prosperity of the lending industry, has provided Federal and State regulators in the mortgage financing field with detailed information to identify mortgage redlining. This critical piece of legislation was passed for precisely the reason of enhancing the power of State and Federal authorities to determine if banks and other lending institutions were discriminating in their lending practices. But as effective as disclosure requirements have been in exposing these abuses in the banking industry, it is clearly not enough.

Property insurance, as we all know, is almost a prerequisite to obtaining a home loan. This was best illustrated by Judge Frank Easterbrook of the U.S. Seventh Circuit Court of Appeals in that court's ruling that redlining practices are illegal and a violation of the Fair Housing Act. Speaking for a unanimous court, Judge Easterbrook observed that ''lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable.'' Judge Easterbrook's remarks underscore the need to place people of all racial and ethnic backgrounds on a level playing field when it comes to the opportunity to purchase insurance. In short, denying an individual access to affordable and adequate property insurance is essentially denying that individual access to home ownership.

The key question, of course, is do redlining practices exist? Countless new reports and studies indicate that there is a prevalent and growing level of discriminatory underwriting in the insurance industry. Studies such as the 1979 report of the Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin Advisory Committees to the U.S. Commission on Civil Rights and the recent study on home insurance in 14 cities released by the community advocacy group ACORN have pointed out that insurance redlining practices are widespread in America. These reports highlight the fallacies in the contention that lack of adequate insurance in many of these communities is due to economics and statistically based risk assessment. In addition, there is substantial anecdotal evidence that suggests individuals residing in minority and low-income communities are systematically denied affordable or adequate homeowners insurance.

I was shocked and outraged when I first saw the extensive media reports of the statements made by a district sales manager of a large insurance company which serves the city of Milwaukee. The sales manager was recorded saying to his insurance agents:

> Very honestly, I think you write too many blacks * * *. You gotta sell good, solid, premium paying white people * * *. They own their homes, the white works * * *. Very honestly, black people will buy anything that looks good right now * * * but when it comes to pay for it next time * * * you're not going to get your money out of them * * *. The only way you're going to correct your persistency is get away from blacks.

This policy of denying affordable insurance to minorities was also illustrated when the manager showed one agent how to accomplish this goal by stating that

> * * * if a black wants insurance, you don't have to say, just tell them, because based on this kind of policy, the company will only allow me to accept an annual premium. Do it that way.

Mr. President, Milwaukee, WI is truly a wonderful city. It has midwestern charm, a strong work ethic and like many other of our Nation's urban communities, a large inner-city population that is struggling to become economically vibrant and prosperous. But what redlining practices do is deny those who are playing by the rules the opportunity to own their own home or business. Again, there are those who will assert that insurance is less available in these areas because of risk-assessment and other economic principles. But according to a study by the Missouri insurance department, data comparing low-income minority areas with low-income white areas in St. Louis and Kansas City showed that low-income minorities on average paid higher premiums for homeowners insurance than white homeowners of similar means for comparable coverage. On top of this, actual losses were lower in the minority areas. Clearly the problem of discrimination exists and is widespread. The question now is what can we do about it.

Redlining practices are illegal. This was established by Judge Easterbrook and the Seventh Circuit Court of Appeals in NAACP versus American Family Insurance, when the court ruled that the Fair Housing Act also applies to the underwriting of homeowners insurance. The problem is with the inability of some regulators and the unwillingness of others to enforce the law. In powerful testimony before several congressional committees, it has been stated over and over that to enforce the law greater disclosure of crucial information is needed from the insurance industry. Assistant Secretary Roberta Achtenberg, head of the Department of Housing and Urban Development's Division of Fair Housing and Equal Opportunity testified to this, as did Deval Patrick, assistant attorney general for civil rights. It was also expressed by numerous State insurance commissioners including those from Texas, California, and Missouri, as well as several civil rights and community groups.

As clear as the problem of insurance redlining has become, so has the solution. Public disclosure can serve multiple purposes in combating insurance discrimination by allowing for an accurate assessment of the extent and nature of the problem, as well as assisting Federal and State regulators who are charged with enforcing the anti-discrimination laws that currently exist. The Home Mortgage Disclosure Act has been effective, but passing disclosure laws that only apply to banks and thrifts is like throwing out a life preserver with rope that is several feet short. We must go further, and pursue disclosure regulations that will provide Federal and State insurance regulators the same tools that Federal and State banking regulators have, and allow them to detect and expose any incidence of discrimination in the availability of homeowners insurance.

The bill I am introducing today, the Anti-Redlining in Insurance Disclosure Act, would require insurance companies to disclose information regarding where they write property insurance and is closely patterned after the requirements in the Home Mortgage Disclosure Act. The bill would require the Secretary of Housing and Urban Development to establish requirements for insurers to compile and submit policy information annually. The information that the bill requires to be disclosed must be reported along census tract lines, and must include the number and types of policies written, the race of the applicants, whether the applicant was accepted or rejected and the loss data for the specified area. This information would be collected in the 50 largest metropolitan statistical areas

[MSA's] and an additional 100 MSA's based on geographic diversity and size of MSA populations. These disclosure requirements are almost identical to those recommended by the General Accounting Office in their investigation of this issue last year. Providing this extensive and detailed information will enable regulators to analyze and compare the availability, affordability, and quality of insurance coverage for property, casualty, and homeowners insurance.

Insurance redlining is a national phenomena that demands a Federal response. In the insurance industry, enforcement by State officials of existing antidiscrimination statutes has proven to be difficult for one principal reason; though many State insurance commissioners have been forceful and aggressive in exposing and sanctioning appropriate parties, other State insurance commissioner offices lack the necessary resources to collect and compile data information adequately. In many markets this data is simply unavailable. And critical to this effort is the need to collect claims and other loss data which is central to determining if the unavailability of adequate and affordable insurance is due to sound economic underwriting principles, or to reprehensible factors such as the race and ethnic background of the applicant.

Last year, the efforts of Representatives CARDISS COLLINS, and JOSEPH KENNEDY resulted in the House of Representatives passing a disclosure bill similar to the bill I have introduced today. My colleague from Wisconsin, Representative TOM BARRETT, has also been actively involved with the insurance redlining issue. Just last year, Representative BARRETT chaired a field hearing in Milwaukee where first-hand testimony was given about the extent of these discrimination abuses in Milwaukee and other cities plagued by similar problems.

In addition, it is my understanding that due to the leadership of Secretary Cisneros and Assistant Secretary Achtenberg, HUD is considering the promulgation of disclosure requirements similar to the reporting requirements in the bill I have introduced today. Although some have suggested that HUD lacks the necessary authority to pass such regulations, it is important to note that HUD has been identified by a Federal court in Ohio as legally authorized to enforce the Fair Housing Act as it relates to homeowners insurance. This was affirmed in Nationwide Mutual Insurance Company versus Cisneros, when the U.S. District Court upheld HUD's regulatory authority, noting that HUD's contention that it had been delegated authority under the Fair Housing Act was ''reasonable and entitled to substantial deference.'' I look forward to monitoring the development of HUD's actions, and will certainly lend my support and assistance to their efforts to curb redlining practices.

Mr. President, Voltaire once said that ''Prejudices are what fools use for reason.'' It is clearly one thing to underwrite insurance policies based on sound economic factors and principles—it is another thing to deny adequate or affordable insurance based on an individual's race or ethnic background. We should be very proud of the civil rights accomplishments our society has made in the last 30 years. But as many potential homeowners in my State and across the country have discovered, too many individuals in the insurance industry have used their prejudices to determine the economic and social future of communities that are on the brink of collapse. Passing this legislation would represent marked progress in the pathway to offering all of our citizens, regardless of racial or ethnic background, equal access to social justice and economic opportunity.

I would like to conclude, Mr. President, by asking unanimous consent that several items be printed in the RECORD. These items include the text of the bill, a letter I received from several organizations supporting the legislation, a letter that I, Senator SIMON, and several member of the House sent to Roberta Achtenberg, Assistant Secretary for Fair Housing and Equal Opportunity as well as a response I received from that Department, and finally, two editorials from the Houston Post and the Dallas Morning News on the issue of insurance redlining.

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

S. 380

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Anti-Redlining in Insurance Disclosure Act of 1995''.

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



**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) there are disparities in insurance coverage provided by some insurers between areas of different incomes and racial composition;

(2) such disparities in affordability and availability of insurance severely limit the ability of qualified consumers to obtain credit for home and business purchases; and

(3) the lack of affordable and adequate commercial insurance for small businesses severely curtails the establishment and growth of such businesses.

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

(1) to establish a nationwide database for determining the availability, affordability, and adequacy of insurance coverage for consumers and small businesses;

(2) to facilitate the enforcement of Federal and State laws that prohibit illegally discriminatory insurance practices; and

(3) to determine whether the extent and characteristics of insurance availability, affordability, and coverage require public officials to take any actions—

(A) to remedy redlining or other illegally or unfairly discriminatory insurance practices; or

(B) regarding areas underserved by insurers.

(c) CONSTRUCTION.—Nothing in this Act is intended to, nor shall it be construed to, encourage unsound underwriting practices.

**SEC. 3. ESTABLISHMENT OF GENERAL REQUIREMENTS TO SUBMIT INFORMATION.**

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to compile and submit information to the Secretary for each annual reporting period, in accordance with this Act.

(b) CONSULTATION.—In establishing the requirements for the submission of information under this Act, the Secretary shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents), representatives of property and casualty insurers, and community, consumer, and civil rights organizations, as appropriate.

**SEC. 4. REPORTING OF NONCOMMERCIAL INSURANCE INFORMATION.**

(a) IN GENERAL.—The requirements established pursuant to section 3 to carry out this section shall—

(1) be designed to ensure that information is submitted and compiled under this section as may be necessary to permit analysis and comparison of—

(A) the availability and affordability of insurance coverage and the quality or type of insurance coverage, by MSA and the applicable region, race, and gender of policyholders; and

(B) the location of the principal place of business of insurance agents and the race of such agents, and the location of the principal place of business of insurance agents terminated and the race of such agents, by MSA and applicable region; and

(2) specify the data elements required to be reported under this section and require uniformity in the definitions of the data elements.

(b) DESIGNATED INSURERS.—

(1) AGGREGATE INFORMATION.—The regulations issued under section 3 shall require that each designated insurer for a designated line of insurance under section 13(c)(1) compile and submit to the Secretary, for each annual reporting period—

(A) the total number of policies issued in such line, total exposures covered by such policies, and total amount of premiums for such policies, by designated line and by designated MSA and applicable region in which the insured risk is located;

(B) the total number of cancellations and nonrenewals (expressed in terms of policies or exposures, as determined by the Secretary), by designated line and by designated MSA and applicable region in which the insured risk is located;

(C) the total number and racial characteristics of—

(i) licensed agents of such insurer selling insurance in the designated line, by designated MSA and applicable region in which the agent's principal place of business is located; and

(ii) such agents who were terminated by the insurer, by designated MSA and applicable region in which the agent's principal place of business was located; and

(D) for such designated line of insurance, information that will enable the Secretary to assess the aggregate loss experience for the insurer, by designated MSA and applicable region in which the insured risk is located.

(2) SPECIFICATION OF INFORMATION FOR ITEMIZED DISCLOSURE.—

(A) IN GENERAL.—The regulations issued under section 3 regarding annual reporting requirements for designated insurers for a designated line of insurance under section 13(c)(1) shall, with respect to policies issued under the designated line or exposure units covered by such policies, as determined by the Secretary—

(i) specify the data elements that shall be submitted;

(ii) provide for the submission of information on an individual insurer basis;

(iii) provide for the submission of the information with the least burden on insurers, particularly small insurers, and insurance agents;

(iv) take into account existing statistical reporting systems in the insurance industry;

(v) require reporting by MSA and applicable region in which the insured risk is located;

(vi) provide for the submission of information that identifies the designated line and subline or coverage type;

(vii) provide for the submission of information that distinguishes policies written in a residual market from policies written in the voluntary market;

(viii) specify—

(I) whether information shall be submitted on the basis of policy or exposure unit; and

(II) whether information, when submitted, shall be aggregated by like policyholders with like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported;

(ix) provide for the submission of information regarding the number of cancellations and nonrenewals of policies under the designated line by MSA and applicable region in which the insured risk is located, by race and gender of the policyholder (if known to the insurer), and by whether the policy was issued in a voluntary or residual market; and

(x) provide for the submission of information on the racial characteristics and gender of policyholders at the level of detail comparable to that required by the Home Mortgage Disclosure Act of 1975 (and the regulations issued thereunder).

(B) RULES REGARDING OBTAINING RACIAL INFORMATION.—With respect to the information specified in subparagraph (A)(x), applicants for, and policyholders of, insurance may be asked their racial characteristics only in writing. Any such written question shall clearly indicate that a response to the question is voluntary on the part of the applicant or policyholder, but encouraged, and that the information is being requested by the Federal Government to monitor the availability and affordability of insurance. If an applicant for, or policyholder of, insurance declines to provide such information, the agent or insurer for such insurance may provide such information.

(3) RULE FOR REPORTING BY DESIGNATED INSURERS.—A designated insurer for a designated line shall submit—

(A) information required under subparagraphs (A), (B), and (D) of paragraph (1) and information required pursuant to paragraph (2), for risks insured under such line that are located within each designated MSA, any part of which is located in a State for which the insurer is designated; and

(B) information required under paragraph (1)(C) for agents within such designated MSA's.

(c) NONDESIGNATED INSURERS.—The regulations issued under section 3 shall require each insurer that issues an insurance policy in a designated line of insurance under section 13(c)(1) that covers an insured risk located in a designated MSA and which is not a designated insurer for the line in any State in which any part of such MSA is located, to compile and submit to the Secretary, for each annual reporting period—

(1) the total number of policies issued in such line;

(2) the total exposures covered by such policies; and

(3) the total amount of premiums for such policies;

by designated MSA and applicable region in which the insured risk is located.

**SEC. 5. STUDY OF COMMERCIAL INSURANCE FOR RESIDENTIAL PROPERTIES AND SMALL BUSINESSES.**

(a) IN GENERAL.—The Secretary shall conduct a study to determine the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

(b) SUBMISSION OF INFORMATION.—To acquire information for the study under this section, the Secretary shall, by regulation, establish requirements for insurers providing commercial insurance for residential properties and small businesses to compile and submit to the Secretary on an annual basis information regarding such insurance, as follows:

(1) MSA's.—The Secretary shall carry out the study only with respect to the 25 MSA's having the largest populations, as determined by the Secretary and specified in the regulations under this section.

(2) INSURERS.—For each of the MSA's specified pursuant to paragraph (1), the Secretary shall designate the insurers required to submit the information. The Secretary shall designate a sufficient number of insurers to provide a representative sample of the insurers providing such insurance in each such MSA.

(3) LINES OF INSURANCE.—The Secretary shall require the submission of information regarding such lines, sublines, or coverage types of commercial insurance as the Secretary determines are necessary or important with respect to establishing, operating, or maintaining residential properties and each type of small business selected under paragraph (4), and shall require submission of such information by such lines, sublines, or coverage types.

(4) SMALL BUSINESSES.—For purposes of paragraph (3), the Secretary shall determine the types of businesses that are typical of small businesses and shall select a representative sample of such types.

(5) DATA ELEMENTS.—The Secretary shall identify the data elements required to be submitted.

(6) SUBMISSION BY LOCATION.—The Secretary shall require the information to be submitted by designated MSA and applicable region in which the insured risk is located.

(7) SUBMISSION BY INSURER.—The Secretary shall require the submission of information on an individual insurer basis and shall specify whether information, when submitted, shall be aggregated by like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported.

(8) SUNSET.—The Secretary shall require the submission of information under this section only for each of the first 5 annual reporting periods beginning more than 3 years after the date of enactment of this Act.

(c) CONSIDERATIONS.—In establishing the requirements for submission of information under this section, the Secretary shall—

(1) take into consideration the administrative, paperwork, and other burdens on insurers and insurance agents involved in complying with the requirements of this section;

(2) minimize the burdens imposed by such requirements with respect to such insurers and agents; and

(3) take into consideration existing statistical reporting systems in the insurance industry.

(d) REPORT.—Not later than 6 months after the expiration of the fifth of the 5 annual reporting periods referred to in subsection (b)(8), the Secretary shall submit a report to the Congress describing the information submitted under the study conducted under this section and any findings of the Secretary from the study regarding disparities in the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

**SEC. 6. REPORTING OF RURAL INSURANCE INFORMATION.**

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to annually compile and submit to the Secretary information concerning the availability, affordability, and quality or type of insurance in designated rural areas in the lines designated under section 13(c)(1).

(b) CONTENT.—The regulations under this section shall provide that—

(1) the information to be compiled and submitted under this section by designated insurers and insurers that are not designated insurers shall be of such types, data elements, and specificity that is as identical as possible to the types, data elements, and specificity of information required under this Act of designated and nondesignated insurers, respectively, for designated MSA's and shall be subject to the provisions of section 4(b)(2)(B); and

(2) the information compiled and submitted under this section shall be compiled and submitted on the basis of each 5-digit zip code in which the insured risks are located, rather than on the basis of designated MSA and applicable region (as otherwise required in this Act).

(c) DESIGNATION OF RURAL AREAS.—For purposes of this section, the term ''designated rural area'' means the following:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this section

apply, any of the 50 rural areas designated by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance. The Secretary shall (to the extent possible) designate one rural area under this paragraph in each State of the United States.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, a rural area for which a designation made by the Secretary under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate 50 rural areas as designated rural areas for each such 5-year period and shall designate such rural areas based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of rural areas for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 18(b) relating to such period.

(D) The designations of rural areas for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of a rural area shall remain in effect until a succeeding designation of rural areas under paragraph (2) takes effect.

**SEC. 7. WAIVER OF REPORTING REQUIREMENTS.**

(a) WAIVER FOR STATES COLLECTING EQUIVALENT INFORMATION.—

(1) AUTHORITY.—Subject to the requirements under this section, the Secretary shall provide, by regulation, for the waiver of the applicability of the provisions of sections 4, 5, and 6 for each insurer transacting business within a State referred to in paragraph (2), but only with respect to information required to be submitted under such sections that relates to agents or insured risks located in the State.

(2) REQUIREMENTS.—The Secretary may make a waiver pursuant to paragraph (1) only with respect to a State that the Secretary determines has in effect a law or other requirement that—

(A) requires insurers to submit to the State information that is the same as or equivalent to the information that is required to be submitted to the Secretary pursuant to sections 4, 5, and 6;

(B) provides for adequate enforcement of such law or other requirements;

(C) provides for the same annual reporting period used by the Secretary under this Act and for submission of the information to the Secretary in a timely fashion, as determined by the Secretary; and

(D) provides that, to the extent statistical agents are permitted to submit information to the State on behalf of insurers, such agents are subject to the same or equivalent requirements as provided under section 9(b).

(3) DURATION.—A waiver pursuant to paragraph (1) may remain in effect only during the period for which the State law or other requirement under paragraph (2) remains in effect.

(b) MULTIPLE-STATE MSA'S.—In the case of any designated MSA that contains area within—

(1) any State for which a waiver has been made pursuant to subsection (a); and

(2) any State for which such a waiver has not been made;

the provisions of this Act requiring submission of information to the Secretary regarding such MSA shall be considered to apply only to the portion of such MSA that is located within the State for which such a waiver has not been made.

(c) AUTHORITY FOR SECRETARY TO OBTAIN INFORMATION DIRECTLY FROM INSURERS.—If the State for which a waiver has been made pursuant to subsection (a) does not submit to the Secretary the information required under subsection (a)(2)(A) or submits information that is not complete, the Secretary shall require the insurers transacting business within the State to submit such information directly to the Secretary.

**SEC. 8. REPORTING BY PRIVATE MORTGAGE INSURERS.**

(a) HMDA REPORTING.—On an annual basis, the Federal Financial Institutions Examination Council (hereafter in this section referred to as the ''Council'') shall determine the extent to which each insurer providing private mortgage insurance is making available to the public and submitting to the appropriate agency information regarding such insurance that is equivalent to the information regarding mortgages required to be reported under the Home Mortgage Disclosure Act of 1975.

(b) REPORTING UNDER THIS ACT.—

(1) CERTIFICATION OF NONCOMPLIANCE.—If, for any annual period referred to in subsection (a), the Council determines that any insurer providing private mortgage insurance is not making available to the public or submitting the information referred to in subsection (a) or that the information made available or submitted is not equivalent information as described in subsection (a), then the Council shall notify the insurer of such noncompliance. If, after the expiration of a reasonable period of time, the insurer has not remedied such noncompliance to the satisfaction of the Council, then the Council shall immediately certify such noncompliance to the Secretary.

(2) REQUIREMENT.—Upon the receipt of a certification under paragraph (1), the Secretary shall, by regulation, require such insurer to submit to the Secretary information regarding such insurance that complies with the provisions of section 4 that are applicable to such insurance. Such regulations shall be issued not later than 6 months after receipt of such certification and shall apply to the first succeeding annual reporting period beginning not less than 6 months after issuance of such regulations and to each annual reporting period thereafter.

**SEC. 9. USE OF DATA CONTRACTOR AND STATISTICAL AGENTS.**

(a) DATA COLLECTION CONTRACTOR.—The Secretary may contract with a data collection contractor to collect the information required to be maintained and submitted under sections 4, 5, 6, 7, and 8(b), if the contractor agrees to collect the information pursuant to the terms and conditions of such sections and this Act and the regulations issued thereunder. Information submitted to such contractor shall be available to the public to the same extent as if the information were submitted directly to the Secretary.

(b) USE OF STATISTICAL AGENTS.—

(1) IN GENERAL.—The Secretary shall provide, by regulation, that insurers may submit any information required under sections 4, 5, 6, and 8(b) through statistical agents acting on behalf of more than one insurer.

(2) PROTECTIONS.—The regulations issued under this subsection shall permit submission of information through a statistical agent only if the Secretary determines that—

(A) the statistical agent has adequate procedures to protect the integrity of the information submitted;

(B) the statistical agent has a statistical plan and format for submitting the information that meets the requirements of this Act;

(C) the statistical agent has procedures in place that ensure that information reported under the statistical plan in connection with reporting under this Act and submitted to the Secretary is not subject to any adjustment by the statistical agent or an insurer for reasons other than technical accuracy and conformance to the statistical plan;

(D) the information of an insurer is not subject to review by any other insurer before being made available to the public; and

(E) acceptance of the information through the statistical agent will not adversely affect the accuracy of the information reported.

(3) DISCONTINUANCE OF ACCEPTANCE OF INFORMATION.—The Secretary may discontinue accepting information reported through a statistical agent pursuant to this subsection if the Secretary determines that the requirements for such reporting are no longer met or that continued acceptance of such information is contrary to the goal of ensuring the accuracy of the information reported.

(4) GAO AUDITS.—The Comptroller General of the United States shall, at the request of the Secretary, audit information collection and submission performed under this subsection by data collection contractors or statistical agents to ensure that the integrity of the information collected and submitted is protected. In determining whether to request an audit of a statistical agent, the Secretary shall consider the sufficiency (for purposes of this Act) of audits of the statistical agent conducted in connection with State insurance regulation.

(5) LIABILITY.—Notwithstanding any use of a statistical agent as authorized under this subsection, an insurer using such an agent shall be responsible for compliance with the requirements under this Act.

**SEC. 10. SUBMISSION OF INFORMATION TO SECRETARY AND MAINTENANCE OF INFORMATION.**

(a) PERIOD OF MAINTENANCE.—Each insurer required by this Act to compile and submit information to the Secretary shall maintain such information for the 3-year period beginning upon the conclusion of the annual reporting period to which such information relates. The Secretary shall maintain any information submitted to the Secretary for such period as the Secretary considers appropriate and feasible to carry out the purposes of this Act and to allow for historical analysis and comparison of the information.

(b) SUBMISSION.—The Secretary shall issue regulations prescribing a standard schedule (taking into consideration the provisions of section 12(a)), format, and method for submitting information under this Act to the Secretary. The format and method of submitting the information shall facilitate and encourage the submission in a form readable by a computer. Any insurer submitting information to the Secretary may submit in writing to the Secretary any additional information or explanations that the insurer considers relevant to the decision by the insurer to sell insurance.

**SEC. 11. COMPILATION OF AGGREGATE INFORMATION.**

(a) INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile, for each designated MSA, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information submitted under sections 4, 5, 7, and 8(b) and loss ratios (if the submission of loss information is required), aggregated by applicable region for all insurers submitting such information; and

(B) such information and loss ratios (if the submission of loss information is required), aggregated by applicable region for each such insurer; and

(2) produce tables based on information submitted under sections 4, 5, 7, and 8(b) for each designated MSA, by insurer and for all insurers, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods; and

(B) loss ratios based on the information obtained pursuant to sections 4, 5, 7, and 8(b) (if the submission of loss information is required), aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods.

(b) AGENT INFORMATION.—For each annual reporting period and for each designated MSA, the Secretary shall compile, by designated line, the information submitted under section 4(b)(1)(C)—

(1) by designated insurer by applicable region;

(2) by designated insurer aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics; and

(3) for all designated insurers that have submitted such information for the designated MSA, aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics.

(c) RURAL INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile for each applicable 5-digit zip code, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information regarding insurance in rural areas submitted under sections 6 and 7 and loss ratios, for all insurers for which such information is submitted; and

(B) such information and loss ratios, for each such insurer; and

(2) produce tables for each 5-digit zip code based on information regarding insurance in rural areas submitted under sections 6 and 7, by insurer and for all such insurers for which information is submitted under such sections, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available); and

(B) loss ratios, based on the information obtained pursuant to sections 6 and 7, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available).

**SEC. 12. AVAILABILITY AND ACCESS SYSTEM.**

(a) AVAILABILITY TO PUBLIC.—

(1) IN GENERAL.—The Secretary shall maintain and make available to the public, in accordance with the requirements of this section, any information submitted to the Secretary under this Act and any information compiled by the Secretary under this Act.

(2) TIMING.—The Secretary shall make such information publicly available on a timetable determined by the Secretary, but not later than 9 months after the conclusion of the annual reporting period to which the information relates, except that such information shall not be made available to the public until it is available in its entirety unless not all the information required to be reported is available by such date.

(b) PUBLIC ACCESS SYSTEM.—

(1) IMPLEMENTATION.—The Secretary shall implement a system to facilitate access to any information required to be made available to the public under this Act.

(2) BASES OF AVAILABILITY.—The system shall provide access in the following manners:

(A) ACCESS TO ITEMIZED INFORMATION.—To information submitted under sections 4, 5, 6, 7, and 8(b) on the basis of the insurer submitting the information, on the basis of designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code), and on any other basis the Secretary considers feasible and appropriate.

(B) ACCESS TO AGGREGATE INFORMATION.—To aggregate information compiled under section 11, on the basis of—

(i) the insurer submitting the information;

(ii) designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code); and

(iii) any other basis the Secretary considers feasible and appropriate.

(3) METHOD.—The access system shall include a toll-free telephone number that can be used by the public to request such information and the address at which a written request for such information may be submitted.

(4) FORM.—The Secretary shall, by regulation, establish the forms in which such information may be furnished by the Secretary. Such forms shall include written statements, forms readable by widely used personal computers, and, if feasible, on-line access for personal computers. The Secretary shall provide the information available under this section in any such form requested by the person requesting the information, except that the Secretary may charge a fee for providing such information, which may not exceed the amount, determined by the Secretary, that is equal to the cost of reproducing the information.

(5) ANALYSIS SOFTWARE.—The Secretary shall make available to the public software that can be used on a personal computer to analyze the information provided under this section. The software shall be capable of analyzing the information by insurer, designated line, race, gender, MSA, and applicable region. It shall also contain data compiled by the Secretary for each MSA and applicable region on income levels, age of property, and racial characteristics that can be used to evaluate the information provided under this Act by insurers. The software and any accompanying data shall be made available to the public without charge, except for an amount, determined by the Secretary, which shall not exceed the actual cost of reproducing the software and the accompanying data.

(c) PROTECTIONS REGARDING LOSS INFORMATION.—

(1) PROHIBITION OF DISCLOSURE OF LOSS INFORMATION.—Notwithstanding any other provision of this Act, the Secretary may not make available to the public or otherwise disclose any information submitted under this Act regarding the amount or number of claims paid by any insurer, the amount of losses of any insurer, or the loss experience for any insurer, except—

(A) in the form of a loss ratio (expressing the relationship of claims paid to premiums) made available or disclosed in compliance with the provisions of paragraph (2); or

(B) as provided in paragraph (3).

(2) PROTECTION OF IDENTITY OF INSURER.—In making available to the public or otherwise disclosing a loss ratio for an insurer—

(A) the Secretary may not identify the insurer to which the loss ratio relates; and

(B) the Secretary may disclose the loss ratio only in a manner that does not allow any party to determine the identity of the specific insurer to which the loss ratio relates, except parties having access to information under paragraph (3).

(3) CONFIDENTIALITY OF INFORMATION DISCLOSED TO GOVERNMENTAL AGENCIES.—The Secretary may make information referred to in paragraph (1) and the identity of the specific insurer to which such information relates available to any Federal entity and any State agency responsible for regulating insurance in a State and may otherwise disclose such information to any such entity or agency, but only to the extent such entity or agency agrees not to make any such information available or disclose such information to any other person.

**SEC. 13. DESIGNATIONS.**

(a) DESIGNATION OF MSA'S.—For purposes of this Act, the term ''designated MSA'' means the following MSA's:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this Act apply (pursuant to section 24), any of the 150 MSA's selected as follows:

(A) The Secretary shall select the 50 MSA's having the largest populations, as determined by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance.

(B) The Secretary shall select 100 additional MSA's, on a basis that provides for—

(i) geographic diversity among the designated MSA's under this paragraph; and

(ii) diversity in size of the populations among such MSA's.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, an MSA for which a designation under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate not less than 150 MSA's as designated MSA's for each such 5-year period and shall designate such MSA's based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of MSA's for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 20(b) relating to such period.

(D) The designations of MSA's for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of an MSA shall remain in effect until a succeeding designation of MSA's under paragraph (2) takes effect.

(b) DESIGNATION OF INSURERS.—The Secretary shall designate, for each designated line and each State, insurers doing business in the lines as designated insurers in the State for purposes of this Act, subject to the following requirements:

(1) HIGHEST AGGREGATE PREMIUM VOLUME.—

(A) GENERAL RULE.—For each State, the Secretary shall designate, for each designated line, each of the insurers and insurer groups included in the class established under this paragraph for the State.

(B) DETERMINATION.—In each State, the Secretary shall rank the insurers and insurer groups in each designated line from the insurer or group having the largest aggregate premium volume in the State for such line to the insurer or group having the smallest such aggregate premium volume and shall include in the class for the State only—

(i) the insurer or group of the highest rank;

(ii) each insurer or group of successively lower rank if the inclusion of such insurer or group in the class does not result in the sum of such aggregate premium volumes for insurers and groups in the class exceeding 80 percent of the total aggregate premium volume in the State for the line; and

(iii) the first such successively lower ranked insurer or insurer group whose inclusion in the class results in such sum exceeding 80 percent of the total aggregate premium volume in the State for the line.

(2) MINIMUM AGGREGATE PREMIUM VOLUME.—For each State, the Secretary shall designate, for each designated line, each insurer and insurer group not designated pursuant to paragraph (1) whose premium volume in the State for the designated line exceeds 1 percent of the total aggregate premium volume in the State for the line.

(3) FAIR PLANS AND JOINT UNDERWRITING ASSOCIATIONS.—For each State, the Secretary shall designate, for each designated line—

(A) each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements; and

(B) each joint underwriting association;

that provides insurance under such line.

(4) DURATION.—The Secretary shall designate insurers under this subsection once every 5 years. Each insurer designated shall be a designated insurer for each of the first 5 successive annual reporting periods commencing after such designation.

(c) DESIGNATION OF LINES OF INSURANCE.—

(1) IN GENERAL.—The Secretary shall, by regulation, designate homeowners, dwelling fire, and allied lines of insurance as designated lines for purposes of this Act, and shall distinguish the coverage types in such lines by the perils covered and by market or replacement value. For purposes of this Act, homeowners insurance shall not include any renters coverage or coverage for the personal property of a condominium owner.

(2) REPORT.—At any time the Secretary determines that any line of insurance not described in paragraph (1) should be a designated line because disparities in coverage provided under such line exist among geographic areas having different income levels or racial composition, the Secretary shall submit a report recommending designating such line of insurance as a designated line for purposes of this Act to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate.

(3) DURATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall make the designations under this subsection once every 5 years, by regulation, and each line and subline or coverage type designated under such regulations shall be designated for each of the first 5 successive annual reporting periods occurring after issuance of the regulations.

(B) ALTERATION.—During any 5-year period referred to in subparagraph (A) in which designations are in effect, the Secretary may amend or revise the designated lines, sublines, and coverage types only by regulation and only in accordance with the requirements of this subsection. Such regulations amending or revising designations shall apply only to annual reporting periods beginning after the expiration of the 6-month period beginning on the date of issuance of the regulations.

(d) TIMING OF DESIGNATIONS.—The Secretary shall make the designations required by subsections (b)(4) and (c)(3)(A) and notify interested parties during the 6-month period ending 6 months before the commencement of the first annual reporting period to which such designations apply.

(e) OBTAINING INFORMATION.—The Secretary may require insurers to submit to the Secretary such information as the Secretary considers necessary to make designations specifically required under this Act. The Secretary may not require insurers to submit any information under this subsection that relates to any line of insurance not specifically authorized to be designated pursuant to this Act or that is to be used solely for the purpose of a report under subsection (c)(2).

**SEC. 14. IMPROVED METHODS AND REPORTING ON BASIS OF OTHER AREAS.**

(a) DEVELOPMENT OF IMPROVED METHODS.—The Secretary shall develop, or assist in the improvement of, methods of matching addresses and applicable regions to facilitate compliance by insurers, in as economical a manner as possible, with the requirements of this Act. The Secretary shall allow insurers, or statistical agents acting on behalf of insurers, to match addresses and applicable regions through the use of 9-digit zip codes if the Secretary determines that such use will substantially reduce the cost and burden to insurers of such matching without significant adverse impact on the reliability of the matching.

(b) ADDRESS CONVERSION SOFTWARE.—The Secretary shall make available, to any insurer required to provide information to the Secretary under this Act, computer software that can be used to convert addresses to applicable regions within designated MSA's. The software shall be made available in forms that provide such conversion for designated MSA's on a nationwide basis and on a State-by-State basis. The software shall be made available not later than 6 months before the first annual reporting period to which the reporting requirements under this Act apply (pursuant to section 26) and shall be updated annually. The software shall be made available without charge, except for an amount, determined by the Secretary, which shall not exceed the actual cost of reproducing the software.

(c) CONVERTIBILITY.—

(1) AUTHORITY.—The Secretary may, by regulation, provide for insurers to comply with the requirements under sections 4, 5, and 8(b) by reporting the information required under such sections on the basis of geographical location other than MSA and applicable region, but only if the Secretary determines that information reported on such other basis is convertible to the basis of MSA and applicable region and such conversion does not affect the accuracy of the information.

(2) LIMITATION.—With respect to any information submitted on the basis of geographical location other than designated MSA and applicable region pursuant to paragraph (1), the Secretary may disclose the information only on the basis of designated MSA and applicable region.

**SEC. 15. ANNUAL REPORTING PERIOD.**

(a) IN GENERAL.—For purposes of this Act, the annual reporting periods shall be the 12-month periods commencing in each calendar year on the same day, which shall be selected under subsection (b) by the Secretary.

(b) SELECTION.—Not later than the expiration of the 6-month period beginning on the date of enactment of this Act, the Secretary shall, by regulation, select a day of the year upon which all annual reporting periods shall commence. In determining such day, the Secretary shall consider the reporting periods used for purposes of State and other insurance statistical reporting systems, in order to minimize the burdens on insurers.

**SEC. 16. DISCLOSURES BY INSURERS TO APPLICANTS AND POLICYHOLDERS.**

(a) IN GENERAL.—The Secretary shall, by regulation, require the following disclosures:

(1) APPLICANTS.—Each insurer that, through the insurer, or an agent or broker, declines a written application or written request to issue an insurance policy under a designated line shall provide to the applicant at the time of such declination, through such insurer, agent, or broker, one of the following:

(A) A written explanation of the specific reasons for the declination.

(B) Written notice that—

(i) the applicant may submit to the insurer, agent, or broker, within 90 days of such notice, a written request for a written explanation of the reasons for the declination; and

(ii) pursuant to such a request, an explanation shall be provided to the applicant within 21 days after receipt of such request.

(2) PROVISION OF EXPLANATION.—If an insurer, agent, or broker making a declination receives a written request referred to in paragraph (1)(B) within such 90-day period, the insurer, agent, or broker shall provide a written explanation referred to in such subparagraph within such 21-day period.

(3) POLICYHOLDERS.—Each insurer that cancels or refuses to renew an insurance policy under a designated line shall provide to the policyholder, in writing and within an appropriate period of time as determined by the Secretary, the reasons for canceling or refusing to renew the policy.

(b) MODEL ACTS.—In issuing regulations under subsection (a), the Secretary shall consider relevant portions of model acts developed by the National Association of Insurance Commissioners.

(c) PREEMPTION.—Subsection (a) shall not be construed to annul, alter, or effect, or exempt any insurer, agent, or broker subject to the provisions of subsection (a) from complying with any laws or requirements of any State with respect to notifying insurance applicants or policyholders of the reasons for declination or cancellation of, or refusal to renew insurance, except to the extent that such laws or requirements are inconsistent with subsection (a) (or the regulations issued thereunder) and then only to the extent of such inconsistency. The Secretary is authorized to determine whether such inconsistencies exist and to resolve issues regarding such inconsistencies. The Secretary may not provide that any State law or requirement is inconsistent with subsection (a) if it imposes requirements equivalent to the requirements under such subsection or requirements that are more stringent or comprehensive, in the determination of the Secretary.

(d) IMMUNITY.—In issuing regulations under subsection (a), the Secretary shall specifically consider the necessity of providing insurers, agents, and brokers with immunity solely for the act of conveying or communicating the reasons for a declination or cancellation of, or refusal to renew insurance on behalf of a principal making such decision. The Secretary may provide for immunity under the regulations issued under subsection (a) if the Secretary determines that such a provision is necessary and in the public interest, except that the Secretary may not provide immunity for any conduct that is negligent, reckless, or willful.

(e) ENFORCEMENT.—The Secretary may authorize the States to enforce the requirements under regulations issued under subsection (a).

**SEC. 17. ENFORCEMENT.**

(a) CIVIL PENALTIES.—Any insurer who is determined by the Secretary, after providing opportunity for a hearing on the record, to have violated any requirement pursuant to this Act shall be subject to a civil penalty of not to exceed $5,000 for each day during which such violation continues.

(b) INJUNCTION.—The Secretary may bring an action in an appropriate United States district court for appropriate declaratory and injunctive relief against any insurer who violates the requirements referred to in subsection (a).

(c) INSURER LIABILITY.—An insurer shall be responsible under subsections (a) and (b) for any violation of a statistical agent acting on behalf of the insurer.

**SEC. 18. REPORTS.**

(a) ANNUAL REPORT.—The Secretary shall annually report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate on the implementation of this Act and shall make recommendations to such committees on such additional legislation as the Secretary deems appropriate to carry out this Act. The Secretary shall include in each annual report a description of any complaints or problems resulting from the implementation of this Act, of which the Secretary has knowledge, made by (or on behalf of) insurance policyholders that concern the disclosure of information regarding policyholders and any recommendations for addressing such problems. Each report shall specifically address whether granting property and casualty insurance powers to other financial intermediaries would significantly reduce redlining and other discriminatory insurance practices and the Secretary shall consult with the appropriate financial institution regulators regarding such issues in preparing the report.

(b) GAO REPORTS.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit a report under this subsection to the Secretary and the Congress for each 5-year period referred to in sections 6(c)(2) and 13(a)(2), which contains information to be used by the Secretary in implementing this Act during such period.

(2) TIMING.—The report under this subsection for each such 5-year period shall be submitted not later than 18 months before the commencement of the period to which the report relates.

(3) CONTENTS.—A report under this subsection shall include the following information:

(A) An analysis of the adequacy of the implementation of this Act and any recommendations of the Comptroller General for improving the implementation.

(B) The costs to the Federal Government, insurers, and consumers of implementing and complying with this Act.

(C) Any beneficial or harmful effects resulting from the requirements of this Act.

(D) An analysis of whether, considering the purposes of this Act, insurers are required by this Act (or by implementing regulations) to submit appropriate information.

(E) An analysis of whether sufficient evidence exists of patterns of disparities in the availability, affordability, and quality or type of insurance coverage to warrant continued applicability of the requirements of this Act.

(F) An analysis of whether the group of designated MSA's in effect at the time of the report are appropriate for purposes of this Act.

(G) Specific recommendations, for use by the Secretary in designating MSA's for the 5-year period for which the report is made, with regard to—

(i) the characteristics of MSA's that should be included in the group of designated MSA's;

(ii) the number of MSA's that should be included in the group;

(iii) the number of MSA's having each particular characteristic that should be included in the group; and

(iv) the characteristics of MSA's, and number of MSA's having each such characteristic, that should be removed from the group of designated MSA's in effect at the time of the report.

(H) With respect only to the first report required under this subsection, recommendations of whether the study conducted under section 5 should be continued beyond the date in section 5(b)(8) and, if so, whether the requirements regarding the submission of information under the study should be expanded or changed with respect to insurers, MSA's, lines, sublines or coverage types of insurance, and types of small businesses, or whether the study should be allowed to terminate under law.

(I) An analysis of whether the group of designated rural areas in effect at the time of the report are appropriate for purposes of this Act.

(J) Specific recommendations, for use by the Secretary in designating rural areas for purposes of section 6 for the 5-year period for which the report is made, with regard to—

(i) the characteristics of rural areas that should be included in the group of designated rural areas under such section;

(ii) the number of rural areas having each particular characteristic that should be included in the group; and

(iii) the characteristics of rural areas, and number of rural areas having each such characteristic, that should be removed from the group of designated rural areas in effect at the time of the report.

(K) Any other information or recommendations relating to the requirements or implementation of this Act that the Comptroller General considers appropriate.

(4) CONSULTATION.—In preparing each report under this subsection, the Comptroller General shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents) and property and casualty insurers, and community, consumer, and civil rights organizations.

**SEC. 19. TASK FORCE ON AGENCY APPOINTMENTS.**

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a task force on insurance agency appointments (hereafter in this section referred to as the ''Task Force''). The Task Force shall—

(1) consist of representatives of appropriate Federal agencies, property and casualty insurance agents, including specifically minority insurance agents, property and casualty insurers, State insurance regulators, and community, consumer, and civil rights organizations;

(2) have a significant representation from minority insurance agents; and

(3) be chaired by the Secretary or the Secretary's designee.

(b) FUNCTION.— The Task Force shall—

(1) review the problems inner-city and minority agents may have in receiving appointments to represent property and casualty insurers and consider the effects such problems have on the availability, affordability, and quality or type of insurance, especially in underserved areas;

(2) review the practices of insurers in terminating agents and consider the effects such practices have on the availability, affordability, and quality or type of insurance, especially in underserved areas; and

(3) recommend solutions to improve the ability of inner-city and minority insurance agents to market property and casualty insurance products, including steps property and casualty insurers should take to increase their appointments of such agents.

(c) REPORT AND TERMINATION.—The Task Force shall report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate its findings under paragraphs (1) and (2) of subsection (b) and its recommendations under paragraph (3) of subsection (b) not later than 2 years after the date of enactment of this Act. The Task Force shall terminate on the date on which the report is submitted to the committees.

**SEC. 20. STUDIES.**

(a) STUDY OF INSURANCE PRESCREENING.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility and utility of requiring insurers to report information with respect to the characteristics of applicants for insurance and reasons for rejection of applicants. The study shall examine the extent to which—

(A) oral applications or representations are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(B) written applications are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(C) written applications are submitted after the insurer or agent has already made a determination to provide insurance to a prospective insured or has determined that the prospective insured is eligible for insurance; and

(D) prospective insured persons are discouraged from submitting applications for insurance based, in whole or in part, on—

(i) the location of the risk to be insured;

(ii) the racial characteristics of the prospective insured;

(iii) the racial composition of the neighborhood in which the risk to be insured is located; and

(iv) in the case of residential property insurance, the age and value of the risk to be insured.

(2) REPORT.—The Secretary shall report the results of the study under paragraph (1) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 2 years after the date of enactment of this Act. The report shall include recommendations of the Secretary—

(A) with respect to requiring insurers to report on the disposition of oral and written applications for insurance; and

(B) for any legislation that the Secretary considers appropriate regarding the issues described in the report.

(b) STUDY OF INSURER ACTIONS TO MEET INSURANCE NEEDS OF CERTAIN NEIGHBORHOODS.—The Secretary shall conduct a study of various practices, actions, and methods undertaken by insurers to meet the property and casualty insurance needs of residents of low- and moderate-income neighborhoods, minority neighborhoods, and small businesses located in such neighborhoods. The Secretary shall report the results of the study, including any recommendations, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 2 years after the date of enactment of this Act.

(c) STUDY OF DISPARATE CLAIMS TREATMENT.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine whether, and the extent to which, insurers engage in disparate treatment in handling claims of policyholders under designated lines of insurance based on the race, gender, and income level of the policyholder, and on the racial characteristics and income levels of the area in which the insured risk is located. In conducting the study, the Secretary shall specifically consider whether residents of low-income neighborhoods or areas and minority neighborhoods or areas are more likely than residents of other areas to have their claims contested or their insurance coverage canceled.

(2) REPORT.—The Secretary shall submit a report on the results of the study to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 2 years after the date of enactment of this Act.

(d) STUDY OF RATING TERRITORIES.—The Secretary shall conduct a study to determine whether the practice in the insurance industry of basing insurance premium amounts on the territory in which the insured risk is located has a disparate impact on the availability, affordability, or quality of insurance by race, gender, or type of neighborhood. The Secretary shall submit a report on the results of the study to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 12 months after the date of enactment of this Act.

(e) STUDY OF INSURER REINVESTMENT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of requiring insurers to reinvest in communities and neighborhoods from which they collect premiums for insurance and whether, and the extent to which, community reinvestment requirements for insurers should be established that are comparable to the community reinvestment requirements applicable to depository institutions. The Secretary shall consult with representatives of insurers and consumer, community, and civil rights organizations regarding the results of the study and any recommendations to be made based on the results of the study.

(2) REPORT.—The Secretary shall report the results of the study, including any such recommendations, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 6 months after the conclusion of the first annual reporting period to which the reporting requirements under this Act apply (pursuant to section 26).

**SEC. 21. EXEMPTION AND RELATION TO STATE LAWS.**

(a) EXEMPTION FOR UNITED STATES PROGRAMS.—Reporting shall not be required under this Act with respect to insurance provided by any program underwritten or administered by the United States.

(b) RELATION TO STATE LAWS.—This Act does not annul, alter, or affect, or exempt the obligation of any insurer subject to this Act to comply with the laws of any State or subdivision thereof with respect to public disclosure, submission of information, and recordkeeping.

**SEC. 22. REGULATIONS.**

(a) IN GENERAL.—The Secretary shall issue any regulations required under this Act and any other regulations that may be necessary to carry out this Act. The regulations shall be issued through rulemaking in accordance with the procedures under section 553 of title 5, United States Code, for substantive rules. Except as otherwise provided in this Act, such final regulations shall be issued not later than the expiration of the 18-month period beginning on the date of enactment of this Act.

(b) BURDENS.—In prescribing such regulations, the Secretary shall take into consideration the administrative, paperwork, and other burdens on insurance agents, including independent insurance agents, involved in complying with the requirements of this Act and shall minimize the burdens imposed by such requirements with respect to such agents.

**SEC. 23. DEFINITIONS.**

For purposes of this Act, the following definitions shall apply:

(1) AGENT.—The term ''agent'' means, with respect to an insurer, an agent licensed by a State who sells property and casualty insurance. The term includes agents who are employees of the insurer, agents who are independent contractors working exclusively for the insurer, and agents who are independent contractors appointed to represent the insurer on a nonexclusive basis.

(2) APPLICABLE REGION.—The term ''applicable region'' means, with respect to a designated MSA—

(A) for any county located within the MSA that has a population of more than 30,000, the applicable census tract within the county; or

(B) for any county located within the MSA that has a population of 30,000 or less, the applicable county.

(3) COMMERCIAL INSURANCE.—The term ''commercial insurance'' means any line of property and casualty insurance, except homeowner's, dwelling fire, allied lines, and other personal lines of insurance.

(4) DESIGNATED INSURER.—The term ''designated insurer'' means, with respect to a designated line, an insurer designated for a State by the Secretary under section 13(b) as a designated insurer for such line or any insurer that is part of an insurer group selected under such section.

(5) DESIGNATED INVESTMENT.—The term ''designated investment'' means making or purchasing a loan for the purchase of commercial real estate, making or purchasing a mortgage loan for the purchase of a 1- to 4-family dwelling, making or purchasing a commercial or industrial loan.

(6) DESIGNATED LINE.—The term ''designated line'' means a line of insurance or bid, performance, and payment bonds designated by the Secretary under section 13(c).

(7) EXPOSURES.—The term ''exposures'' means, with respect to an insurance policy, an expression of an exposure unit covered under the policy compared to the duration of the policy (pursuant to standards established by the Secretary for uniform reporting of exposures).

(8) EXPOSURE UNITS.—The term ''exposure units'' means a dwelling covered under an insurance policy for homeowners, dwelling fire, or allied lines coverage.

(9) INSURANCE.—The term ''insurance'' means property and casualty insurance. Such term includes primary insurance, surplus lines insurance, and any other arrangement for the shifting and distributing of risks that is determined to be insurance under the law of any State in which the insurer or insurer group engages in an insurance business.

(10) INSURER.—Except with respect to section 8, the term ''insurer'' means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is authorized to transact the business of property or casualty insurance in any State or that is engaged in a property or casualty insurance business. The term includes any certified foreign direct insurer, but does not include an individual or entity which represents an insurer as agent solely for the purpose of selling or which represents a consumer as a broker solely for the purpose of buying insurance.

(11) ISSUED.—The term ''issued'' means, with respect to an insurance policy, newly issued or renewed.

(12) JOINT UNDERWRITING ASSOCIATION.—The term ''joint underwriting association'' means an unincorporated association of insurers established to provide a particular form of insurance to the public.

(13) MORTGAGE INSURANCE.—The term ''mortgage insurance'' means insurance against the nonpayment of, or default on, a mortgage or loan for residential or commercial property.

(14) MSA.—The term ''MSA'' means a Metropolitan Statistical Area or a Primary Metropolitan Statistical Area.

(15) PRIVATE MORTGAGE INSURANCE.—The term ''private mortgage insurance'' means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(16) PROPERTY AND CASUALTY INSURANCE.—The term ''property and casualty insurance'' means insurance against loss of or damage to property, insurance against loss of income or extra expense incurred because of loss of, or damage to, property, and insurance against third party liability claims caused by negligence or imposed by statute or contract. Such term does not include workers' compensation, professional liability, or title insurance.

(17) RESIDUAL MARKET.—The term ''residual market'' means an assigned risk plan, joint underwriting association, or any similar mechanism designed to make insurance available to those unable to obtain it in the voluntary market. The term includes each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements.

(18) RURAL AREA.—The term ''rural area'' means any area that—

(A) has a population of 10,000 or more;

(B) has a continuous boundary; and

(C) contains only areas that are rural areas, as such term is defined in section 520 of the Housing Act of 1949 (except that clause (3)(B) of such section 520 shall not apply for purposes of this Act).

(19) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(20) STATE.—The term ''State'' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

**SEC. 24. EFFECTIVE DATE.**

The requirements of this Act relating to reporting of information by insurers shall take effect with respect to the first annual reporting period that begins not less than 3 years after the date of enactment of this Act.

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CONGRESS OF THE UNITED STATES,
*Washington, DC, October 28, 1994.*

Assistant Secretary ROBERTA ACHTENBERG,
*Division of Fair Housing and Equal Opportunity, Department of Housing and Urban Development,*
*Washington, DC.*

DEAR SECRETARY ACHTENBERG: We understand you have recently received a letter from the ranking Republican member of the House Subcommittee on Commerce, Consumer Protection and Competitiveness, regarding the Department of Housing and Urban Development's (HUD) advance notice of proposed rulemaking (ANPR) on discrimination in property insurance. We are writing to inform you that we take a different view from this letter and we would like to encourage you to proceed as scheduled with the ANPR.

We are concerned with several of the letter's assertions, particularly the contentions that insurance underwriting is unrelated to the Fair Housing Act and that HUD is not the proper agency to oversee a federal data collection effort. We respectfully disagree with these notions, as do the federal courts.

Insurance redlining abuses are widespread and well documented. In addition to the countless studies and reports that have verified discriminatory underwriting practices, field hearings such as the recent Chicago hearing sponsored by HUD's Fair Housing and Equal Opportunity Division and the hearings in House and Senate committees have clearly demonstrated that property and other lines of insurance have become unaffordable or unavailable in many minority and low-income communities. Such discriminatory practices are not confined to one insurance company, one community or one state—redlining is a national phenomena that requires an appropriate federal response.

Redlining practices are illegal. This was established in NAACP v. American Family Insurance when the Seventh Circuit Court of Appeals ruled unanimously that the underwriting of homeowners insurance falls under the umbrella of the Fair Housing Act. Judge Frank Easterbrook, speaking for a unanimous Court, stated that ''lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable.'' As you know, HUD has also been identified by a federal court in Ohio as legally authorized to enforce the Fair Housing Act as it relates to homeowners insurance. This was affirmed in Nationwide Mutual Insurance Company v. Cisneros, when the U.S. District Court upheld HUD's regulatory authority, noting that HUD's contention that it had been delegated authority under the Fair Housing Act was ''reasonable and entitled to substantial deference''.

It is also clear that greater disclosure is a key element in combating redlining. The Home Mortgage Disclosure Act (HMDA) has provided federal and state regulators in the mortgage financing field with detailed information to identify mortgage redlining. As you know, this legislation has been effective and has had little, if any, adverse impact on the vitality and prosperity of the banking industry. This critical piece of legislation was passed for precisely the reason of enhancing the power of state and federal authorities to determine if banks and other lending institutions were discriminating in their lending practices. As needed and effective as that legislation is, we know that it is difficult, if not impossible as noted by the Seventh Circuit Court of Appeals, to obtain a home loan without the necessary insurance. Thus, seeking this sort of disclosure only from the lending industry is like throwing out a life preserver with a rope that is several feet short. We must go further.

In the insurance industry, enforcement by state officials of existing anti-discrimination statutes has proven to be difficult for one principal reason; though many state insurance commissioners have been forceful and aggressive in exposing and sanctioning appropriate parties, other state insurance commissioner offices lack the necessary resources to collect and compile data information adequately. In many markets this data is simply unavailable. And critical to this effort is the need to collect claims and other loss data which is central to determining if the unavailability of adequate insurance is due to sound economic underwriting principles, or to reprehensible factors such as the race and income status of the applicant.

In powerful testimony before several Congressional committees, it has been stated over and over that to enforce the law greater disclosure of crucial information is needed from the insurance industry. This was included in your testimony, Secretary Achtenberg, as well as the testimony of Deval Patrick, Assistant Attorney General for Civil Rights. It was also expressed by a number of state insurance commissioners from across the country.

The letter you received also expressed concerns about the possibility that HUD may promulgate data reporting requirements stronger than those contained in H.R. 1188, the Anti-Redlining in Insurance Disclosure Act. These reporting requirements, such as the collection of claims and loss data, including a large number of Metropolitan Statistical Areas (MSAs), and collecting this data by census tract as opposed to zip codes, have all been recommended by the General Accounting Office, numerous consumer and civil rights groups and various state insurance commissioners. We join these voices in urging you to adopt these strong reporting requirements.

Finally, we would like to commend you, Secretary Achtenberg, as well as Secretary Cisneros and other officials in the Clinton Administration for your forceful stand against discriminatory redlining practices. Although it is disappointing that Congress was unable to pass anti-redlining legislation this year, we are heartened by the Administration's willingness to initiate efforts to curtail and root out discrimination in the insurance marketplace. We look forward to following your progress and invite you to contact us if we can be of any future assistance.

Sincerely,

RUSSELL FEINGOLD,
PAUL SIMON,
*Senators.*
JOSEPH P. KENNEDY II,
THOMAS BARRETT,
CLEO FIELDS,
HENRY B. GONZALEZ,
LUCILLE ROYBAL-ALLARD,
ESTEBAN EDWARD TORRES,
*Representatives.*

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U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
*Washington, DC, December 20, 1994.*

Hon. RUSSELL D. FEINGOLD
*U.S. Senate, Washington, DC.*

DEAR SENATOR FEINGOLD: Thank you for your letter of October 28, 1994, expressing your concerns and constructive recommendations on the issues of insurance redlining and discrimination. Let me assure you that the Department of Housing and Urban Development (HUD or the Department) is proceeding as scheduled with the promulgation of a regulation applying the Fair Housing Act (the Act) to property insurance. A similar letter has been sent to Senator Paul Simon, Congressman Joseph P. Kennedy II, Congressman Henry B. Gonzalez, Congressman Thomas Barrett, Congressman Cleo Fields, Congresswoman Lucille Roybal-Allard and Congressman Esteban Edward Torres.

Clearly, the Department shares your view that HUD has authority, and indeed the responsibility, to enforce the Act (Title VIII of the Civil Rights Act of 1968, as amended) in the area of property insurance. Several Administrations, beginning with a HUD General Counsel opinion in 1978, have concluded that the Act prohibits discrimination in the provision of property or hazard insurance. All the court decisions that have addressed this issue, with one exception which was decided prior to the Fair Housing Amendments Act of 1988, have drawn this same conclusion. Because HUD is the primary Title VIII law enforcement agency, and the only agency with authority to promulgate regulations under that Act, the Department will fulfill its obligation to issue rules applying the Act to property insurance.

As you know, in 1989 HUD issued regulations implementing the Fair Housing Amendments Act of 1988. In these regulations, the Department determined that the Act prohibits ''refusing to provide . . . property or hazard insurance . . . or providing such . . . insurance differently because of race, color, religion, sex, handicap, familial status, or national origin'' (24 C.F.R. Section 100.70(a)(4). HUD intends to go beyond this general prohibition and provide more detailed guidance regarding the types of practices and circumstances under which violations of the Act occur.

The Department also shares your viewpoint on the value of greater disclosure of crucial information. The Department was also disappointed that Congress was unable to pass anti-redlining legislation this year. HUD looks forward to working with you to achieve this objective in the next session of Congress.

Your contributions to the public meetings that HUD held during the past few months were most helpful in shaping the Department's thoughts on how HUD should approach the regulation. The hearings you have held on insurance discrimination generated substantial information that will be tremendously beneficial to HUD's rulemaking process. Your specific recommendations on the rule and the public attention that you have stimulated have assisted HUD and many others in cities throughout the country who are attempting to resolve these serious problems.

Any further detailed recommendations or general observations you could share with the Department would be greatly appreciated.

Thank you for your interest in the Department's programs and for the guidance you have provided HUD and your concerted efforts to combat the national problems of insurance redlining and discrimination.

Sincerely,

WILLIAM J. GILMARTIN,
*Assistant Secretary.*

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*February 8, 1995.*

Hon. RUSS FEINGOLD,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR FEINGOLD: We write to offer our endorsement of the ''Anti-Redlining in Insurance Disclosure Act of 1995.'' This legislation represents a critical first step towards

addressing the serious problem of unfair discrimination and redlining in the provision of homeowners insurance in a simple yet effective way—through the power of sunshine.

Hearings in both the House of Representatives and the Senate last year as well as numerous studies and lawsuits have shown that residents of low-income, predominantly minority areas have a harder time obtaining insurance coverage for their homes. Most recently, the National Association of Insurance Commissioners (NAIC) released the results of its study of homeowners insurance in more than 40 urban areas in 20 states. In its report, the NAIC concluded that ''[t]here is considerable evidence that residents of urban communities, particularly residents of low-income and minority neighborhoods, face greater difficulty in obtaining high-quality homeowners insurance through the voluntary market than residents of other areas.''

Availability and affordability problems for these communities contributes to and furthers urban decay and disinvestment. The lack of affordable insurance is a material deterrent to homeownership and economic development in low income and minority communities. Without insurance, people simply cannot buy homes. And without high-quality insurance, homeowners in these areas are forced to cover much of their loss out of their own pockets—losses they had hoped insurance would cover.

The legislation provides the tools to better understand the extent of the problem and help develop solutions by simply requiring insurers to begin to make public information as to where and at what price they write insurance. It also would collect data on insurer losses which is extremely important data in assessing the underlying causes for these problems. The data collected by this legislation will go a long way to shedding light on the debate over insurance redlining and will be a valuable tool for enforcement of civil rights laws at the state and federal level.

Your legislation incorporates 4 key elements that are essential to advancing fair and equal access to insurance:

First, the bill calls for the collection of data on the cost and type of insurance policies written by the census tract (or zip + 4's) where the policy is issued. Only census tracts provide the kind of relevant demographic data needed to gauge the extent of disparities created by insurance redlining on minority and low-income neighborhoods. The Home Mortgage Disclosure Act requires banks to report loan information on a census tract basis, and this standard should apply to the insurance industry as well.

Second, the bill includes the collection of data on insurance losses and claims. While insurers claim disparities in prices between different neighborhoods are solely based on loss experience, evidence suggests the opposite. Data analyzed by the Missouri Department of Insurance, for example, indicated that residents of minority neighborhoods pay more in premiums, but incur fewer losses, than residents of comparable white neighborhoods. Only through the collection of loss data can we conclusively resolve the debate about whether these disparities are due to risk or prejudice.

Third, the bill would collect this data in 150 Metropolitan Statistical Areas (MSA's). The NAIC data suggest that availability and affordability problems are widespread across the nation. In order to obtain information on all of those areas that may be experiencing such problems, data needs to be collected from as many MSAs as possible. Furthermore, the data will be invaluable as a civil rights enforcement tool, and that tool should be available to the greatest number of communities and citizens.

Fourth, the bill provides for the reporting of the race and gender by policyholders on a voluntary basis. Such data has been collected under HMDA and other federal, state and private entities for years and is essential to assist efforts to enforce state and federal laws prohibiting discrimination in the provision of insurance.

We are eager to work with you to obtain passage of the ''Anti-Redlining in Insurance Disclosure Act of 1995,'' and commend you for your leadership on this important issue.

Sincerely,

Alliance to End Childhood Lead Poisoning.
American Civil Liberties Union (ACLU).
American Planning Association.
Association of Community Organizations for Reform Now (ACORN).
Center for Community Change.
Consumer Federation of America's Insurance Group.
Consumers Union.
Jesuit Conference, USA, Office of Social Ministries.
National Council of La Raza.
National Fair Housing Alliance.
National Neighborhood Coalition.
NETWORK: A National Catholic Social Justice Lobby.
United Methodist Church, General Board of Church and Society.
United States Public Interest Research Group (US PIRG).

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[From the Dallas Morning News, Jan. 9, 1995]

INSURANCE REFORM; THE IMPORTANT THING IS TO GET IT DONE

Call it redlining. Call it lack of availability. Call it what you want to call it. The fact remains that too many risk-worthy Texans are unable to obtain automobile and homeowners insurance at the best rates.

The problem is real, and it is serious. Not even the insurance industry denies that a problem exists, though it vehemently disputes accusations that it denies insurance to consumers because of where they live, their skin color or other factors unrelated to risk.

Nonetheless, compelling evidence compiled by the Texas Insurance Department indicates that a disproportionate number of the Texans unable to obtain affordable insurance are racial or ethnic minorities living in lower-income neighborhoods.

The insurance industry may resent the charges of unfair discrimination being hurled by consumer groups, state regulators and some state legislators. However, it is impossible to ignore that most victims of what may be charitably called flaws in the marketplace are neither white nor wealthy.

The issue has come to a head because Texas Insurance Commissioner Rebecca Lightsey, an appointee of Democratic Gov. Ann Richards, must decide whether to enact new anti-discrimination rules before her term expires Feb. 1. Republican Gov.-elect George W. Bush wants her to wait so that the issue may be addressed by his nominee to the post, Elton Bomer.

Mr. Bush's request is reasonable. It would be decent of Ms. Lightsey to comply.

But more important than protocol or deference to an incoming governor is attention to the issue. Denying insurance abets poverty. It is immoral. It is unfair. It makes no economic sense.

In such areas as Oak Cliff and South Dallas, there are many automobiles and homes worth insuring. No insurer should have to provide preferred or standard-rate insurance to a consumer who constitutes a bad risk. But neither should he deny it because of inappropriate or prejudicial notions of insurability.

There are two acceptable courses. Ms. Lightsey can enact the rules, in which case Mr. Bush could refine them later as he sees fit. Or she can let Mr. Bush handle it.

If Ms. Lightsey acts, she should do so because the problem should not fester a moment longer. There should be no implication that Mr. Bush would not act; his good record of support for civil and equal rights indicates quite the contrary.

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[From the Houston Post, Jan. 19, 1995]

OUTGOING TEXAS INSURANCE REGULATOR UNINTIMIDATED

Despite criticism, outgoing Texas Insurance Commissioner Rebecca Lightsey has courageously promulgated rules to stop neighborhood ''redlining'' and other discrimination against automobile and property insurance buyers.

The decision was ripe for making on her watch and she made it, undaunted by sniping from the insurance industry and new Republican Gov. George Bush's camp that she was inappropriately acting on her way out.

The insurance industry has been fighting to block antidiscrimination rules for two years or more. And Bush, who had campaign backing from insurance industry leaders, urged Lightsey to let Bush's new commissioner, former state Rep. Elton Bomer, decide whether such rules should be adopted. There appeared a strong likelihood that if Lightsey had acquiesced, we'd have no rules.

Lightsey, an interim appointee of Democratic Gov. Ann Richards, succeeded J. Robert Hunter, another Richards appointee. Hunter resigned after Bush defeated Richards. Lightsey's term ends Feb. 1.

An attorney, former Texas Consumer Association executive director and an aide to Gov. Richards, Lightsey has more insurance regulatory experience than Bomer.

As a Richards staff attorney, she worked on insurance matters, including development of a comprehensive insurance regulation reform law in 1991. She earlier dealt with insurance matters for the consumer association.

Before succeeding Hunter, Lightsey also was executive director of the Texas Insurance Purchasing Alliance. It was created by the Legislature to make health insurance more obtainable for small employers.

The non-discrimination rules she adopted—after holding a Jan. 4 public hearing that Bush wanted canceled—were not hastily written. They were developed by the Texas Department of Insurance after about 18 months of studies and earlier hearings under Hunter and the three-member State Board of Insurance that preceded him. The rules are modified replacements for similar 1993 rules the board adopted, which the insurance industry got a court to throw out.

Although the insurance industry claims the rules are not needed because discrimination is already against state and federal laws, studies by the insurance department and the Office of Public Insurance Counsel indicate discrimination is occurring. It is keeping poor people, particularly in minority neighborhoods, from obtaining house and car insurance or forcing them to pay higher rates. This should not be allowed.

The new rules will prohibit:

Consideration of insurance customers' race, color, religion or national origin. Discrimination based on geographic location, disability, sex or age also will be banned unless companies show they cause extra risk.

Use of underwriting guidelines (secret policies as to who will be insured) not directly related to the risk of extra losses and claims.

Charging of higher rates or denial of coverage to those wanting only the minimum amount of car insurance to satisfy state law.

Consumers can sue for triple damages if the rules are broken.

None of these rules is unreasonable. If the industry is not violating them, it should have no cause for alarm. If it is, such practices should be stopped.

There was no good reason to put off the rules' adoption so the Bush administration could go over the same ground and give the industry more time to fight them.

Lightsey has ordered the rules to go into effect June 1. This gives the Legislature—or Bomer and Bush, who have indicated they don't even know much about the rules—time to review and possibly cancel them.

If the rules are killed, however, those responsible had better be able to show good cause.

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By Mr. HELMS (for himself, Mr. DOLE, Mr. MACK, Mr. COVERDELL, Mr. GRAHAM, Mr. D'AMATO, Mr. HATCH, Mr. GRAMM, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GREGG, Mr. INHOFE, Mr. HOLLINGS, and Ms. SNOWE):

S. 381. A bill to strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba, and for other purposes; ordered held at the desk.

THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

Mr. HELMS. Mr. President, the day following the 1994 elections, I met with reporters in Raleigh to discuss in some detail the priorities I intended to pursue as chairman of the Senate Foreign Relations Committee. High on my list of priorities was to do everything possible as chairman to help bring freedom and democracy to Cuba.

Fidel Castro's brutal and cruel Communist dictatorship has persecuted the Cuban people for 36 years. He is the world's longest-reigning tyrant.

That is why I am introducing today a bill titled the ''Cuban Liberty and Democratic Solidarity (LIBERTAD) Act'' as my first piece of legislation as chairman of the Foreign Relations Committee.

Let me be clear: Whether Castro leaves Cuba in a vertical position or a horizontal position is up to him and the Cuban people. But he must—and will—leave Cuba.

There are some voices murmuring that the United States should lift the embargo and begin doing business with Castro. I categorically reject such suggestions, because for 36 years, both Republican and Democratic Presidents have maintained a consistent, bipartisan policy of isolating Castro's dictatorship.

There must be no retreat in that policy today. If anything, with the collapse of the U.S.S.R.—and the end of Soviet subsidies to Cuba—the embargo is finally having the effect on Castro that has been intended all along. Why should the United States let up the pressure now? It's time to tighten the screws—not loosen them. We have an obligation—to our principles and to the Cuban people—to elevate the pressure on Castro until the Cuban people are free.

The bi-partisan Cuba policy has led the American people to stand together in support of restoring freedom to Cuba. As for the legislation I am offering today, it incorporates and builds upon the significant work of the two distinguished Senators from Florida, CONNIE MACK and BOB GRAHAM, and of three distinguished Members of the House of Representatives: LINCOLN DIAZ-BALART, BOB MENENDEZ, and ILEANA ROS-LEHTINEN.

The Cuban Liberty and Democratic Solidarity Act:

Strengthens international sanctions against the Castro regime by prohibiting sugar imports from countries that purchase sugar from Cuba and then sell that sugar in the United States by instructing our representatives to the international financial institutions to vote against loans to Cuba and to require the United States to withhold our contribution to those same institutions if they ignore our objections and aid the Castro regime, by urging the President to seek an international embargo against Cuba at the United Nations, and by prohibiting loans or other financing by a United States person to a foreign person or entity who purchases an American property confiscated by the Cuban Government.

Reaffirms the 1992 Cuban Democracy Act;

Revitalizes our broadcasting programs to Cuba by mandating the conversion of television Marti to ultra-high frequency [UHF] broadcasting.

Cuts off foreign aid to any independent State of the Former Soviet Union that aids Castro, especially if that aid goes for the operation of military and intelligence facilities in Cuba which threaten the United States;

Encourages free and fair elections in Cuba after Castro is gone, and authorizes programs to promote free market and private enterprise development; and

Help U.S. citizens and U.S. companies whose property was confiscated by Castro. The bill denies entry into the United States of anyone who confiscates or benefits from confiscated American property; and it allows a U.S. citizen with a confiscated property claim to go into a U.S. court to seek compensation from a person or entity which is being unjustly enriched by the use of that confiscated property.

The Cuban people are industrious and innovative. Where they live and work in freedom, they have prospered. My hope is that this bill will hasten an end to the brutal Castro dictatorship and make Cuba free and prosperous. Libertad Para Cuba.

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

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

S. 381

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995''.

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



**SEC. 2. FINDINGS.**

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of approximately 60 percent in the last 5 years as a result of—

(A) the reduction in its subsidization by the former Soviet Union;

(B) 36 years of Communist tyranny and economic mismanagement by the Castro government;

(C) the precipitous decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba predominantly on commercial terms.

(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of Cuba's economic decline and the refusal of the Castro

regime to permit free and fair democratic elections in Cuba or to adopt any economic or political reforms that would lead to democracy, a market economy, or an economic recovery.

(3) The repression of the Cuban people, including a ban on free and fair democratic elections and the continuing violation of fundamental human rights, has isolated the Cuban regime as the only nondemocratic government in the Western Hemisphere.

(4) As long as no such economic or political reforms are adopted by the Cuban government, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

(5) Fidel Castro has defined democratic pluralism as ''pluralistic garbage'' and has made clear that he has no intention of permitting free and fair democratic elections in Cuba or otherwise tolerating the democratization of Cuban society.

(6) The Castro government, in an attempt to retain absolute political power, continues to utilize, as it has from its inception, torture in various forms (including psychiatric abuse), execution, exile, confiscation, political imprisonment, and other forms of terror and repression as most recently demonstrated by the massacre of more than 70 Cuban men, women, and children attempting to flee Cuba.

(7) The Castro government holds hostage in Cuba innocent Cubans whose relatives have escaped the country.

(8) The Castro government has threatened international peace and security by engaging in acts of armed subversion and terrorism, such as the training and arming of groups dedicated to international violence.

(9) The Government of Cuba engages in illegal international narcotics trade and harbors fugitives from justice in the United States.

(10) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts to escape from Cuba to freedom.

(11) Attempts to escape from Cuba and courageous acts of defiance of the Castro regime by Cuban pro-democracy and human rights groups have ensured the international community's continued awareness of, and concern for, the plight of Cuba.

(12) The Cuban people deserve to be assisted in a decisive manner in order to end the tyranny that has oppressed them for 36 years.

(13) Radio Marti and Television Marti have both been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the Cubans living under tyranny.

(14) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in isolating the totalitarian Castro regime.

**SEC. 3. PURPOSES.**

The purposes of this Act are—

(1) to strengthen international sanctions against the Castro government;

(2) to encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers;

(3) to provide a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba; and

(4) to protect the rights of United States persons who own claims to confiscated property abroad.

**SEC. 4. DEFINITIONS.**

As used in this Act—

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) CONFISCATED.—The term ''confiscated'' refers to the nationalization, expropriation, or other seizure of ownership or control of property by governmental authority—

(A) without adequate and effective compensation or in violation of the law of the place where the property was situated when the confiscation occurred; and

(B) without the claim to the property having been settled pursuant to an international claims settlement agreement.

(3) CUBAN GOVERNMENT.—The term ''Cuban government'' includes the government of any political subdivision, agency, or instrumentality of the Government of Cuba.

(4) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term ''democratically elected government in Cuba'' means a government described in section 206.

(5) ECONOMIC EMBARGO OF CUBA.—The term ''economic embargo of Cuba'' refers to the economic embargo imposed against Cuba pursuant to section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)), the International Emergency Economic Powers Act, and the Export Administration Act of 1979.

(6) PROPERTY.—The term ''property'' means—

(A) any property, right, or interest, including any leasehold interest,

(B) debts owed by a foreign government or by any enterprise which has been confiscated by a foreign government; and

(C) debts which are a charge on property confiscated by a foreign government.

(7) TRAFFICS.—The term ''traffics'' means selling, transfering, distributing, dispensing, or otherwise disposing of property, or purchasing, receiving, possessing, obtaining control of, managing, or using property.

(8) TRANSITION GOVERNMENT IN CUBA.—The term ''transition government in Cuba'' means a government described in section 205.

(9) UNITED STATES PERSON.—The term ''United States person'' means

(A) any United States citizen, including, in the context of claims to confiscated property, any person who becomes a United States citizen after the property was confiscated but before final resolution of the claim to that property; and

(B) any corporation, trust, partnership, or other juridical entity 50 percent or more beneficially owned by United States citizens.

## TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

**SEC. 101. STATEMENT OF POLICY.**

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek within the Security Council a mandatory international embargo against the totalitarian government of Cuba pursuant to chapter VII of the Charter of the United Nations, which is similar to consultations conducted by United States representatives with respect to Haiti; and

(3) any resumption of efforts by any independent state of the former Soviet Union to make operational the nuclear facility at Cienfuegos, Cuba, will have a detrimental impact on United States assistance to such state.

**SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.**

(a) POLICY.—(1) The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992, which states the President should encourage foreign countries to restrict trade and credit relations with Cuba.

(2) The Congress further urges the President to take immediate steps to apply the sanctions described in section 1704(b)(1) of such Act against countries assisting Cuba.

(b) DIPLOMATIC EFFORTS.—The Secretary of State should ensure that United States diplomatic personnel abroad understand and, in their contacts with foreign officials are—

(1) communicating the reasons for the United States economic embargo of Cuba; and

(2) urging foreign governments to cooperate more effectively with the embargo.

(c) EXISTING REGULATIONS.—The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

(d) VIOLATIONS OF RESTRICTIONS ON TRAVEL TO CUBA.—The penalties provided for in section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16) shall apply to all violations of the Cuban Assets Control Regulations (part 515 of title 31, Code of Federal Regulations) involving transactions incident to travel to and within Cuba, notwithstanding section 16(b)(2) (the first place it appears) and section 16(b)(3) and (4) of such Act.

**SEC. 103. PROHIBITION AGAINST INDIRECT FINANCING OF CUBA.**

(a) PROHIBITION.—Effective upon the date of enactment of this Act, it is unlawful for any United States person, including any officer, director, or agent thereof and including any officer or employee of a United States agency, knowingly to extend any loan, credit, or other financing to a foreign person that traffics in any property confiscated by the Cuban government the claim to which is owned by a United States person.

(b) TERMINATION OF PROHIBITION.—The prohibition of subsection (a) shall cease to apply on the date of termination of the economic embargo of Cuba.

(c) PENALTIES.—Violations of subsection (a) shall be punishable by the same penalties as are applicable to similar violations of the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

(d) DEFINITIONS.—As used in this section—

(1) the term ''foreign person'' means (A) an alien, and (B) any corporation, trust, partnership, or other juridical entity that is not 50 percent or more beneficially owned by United States citizens; and

(2) the term ''United States agency'' has the same meaning given to the term ''agency'' in section 551(1) of title 5, United States Code.

**SEC. 104. UNITED STATES OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.**

(a) CONTINUED OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—(1) Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against the admission of Cuba as a member of such institution until Cuba holds free and fair, democratic elections, conducted under the supervision of internationally recognized observers.

(2) During the period that a transition government in Cuba is in power, the President

shall take steps to support the processing of Cuba's application for membership in any international financial institution, subject to the membership taking effect after a democratically elected government in Cuba is in power.

(b) REDUCTION IN UNITED STATES PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS.—If any international financial institution approves a loan or other assistance to Cuba over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to such institution an amount equal to the amount of the loan or other assistance, with respect to each of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) DEFINITION.—For purposes of this section, the term ''international financial institution'' means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

**SEC. 105. UNITED STATES OPPOSITION TO READMISSION OF THE GOVERNMENT OF CUBA TO THE ORGANIZATION OF AMERICAN STATES.**

The President should instruct the United States Permanent Representative to the Organization of American States to vote against the readmission of the Government of Cuba to membership in the Organization until the President determines under section 203(c) that a democratically elected government in Cuba is in power.

**SEC. 106. ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION OF THE GOVERNMENT OF CUBA.**

(a) REPORTING REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing progress towards the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba.

(b) CRITERIA FOR ASSISTANCE.—Section 498A(a)(11) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(a)(1)) is amended by striking ''of military facilities'' and inserting ''military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos,''.

(c) INELIGIBILITY FOR ASSISTANCE.—(1) Section 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

(A) by striking ''or'' at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

''(5) for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within the 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Government of Cuba; or''.

(2) Subsection (k) of section 498B of that Act (22 U.S.C. 2295b(k)), is amended by adding at the end the following:

''(3) NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

''(A) exports to the Government of Cuba on terms that involve a grant, concessional price, guarantee, insurance, or subsidy;

''(B) imports from the Government of Cuba at preferential tariff rates; and

''(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs.''.

(d) FACILITIES AT LOURDES, CUBA.—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.

(2) Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

''(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF MILITARY AND INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance allocated for an independent state of the former Soviet Union under this chapter an amount equal to the sum of assistance and credits, if any, provided by such state in support of military and intelligence facilities in Cuba, such as the intelligence facility at Lourdes, Cuba.

''(2) Nothing in this subsection may be construed to apply to—

''(A) assistance provided under the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228) or the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160); or

''(B) assistance to meet urgent humanitarian needs under section 498(1), including disaster assistance described in subsection (c)(3) of this section.''.

**SEC. 107. TELEVISION BROADCASTING TO CUBA.**

(a) CONVERSION TO UHF.—The Director of the United States Information Agency shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) PERIODIC REPORTS.—Not later than 45 days after the date of enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

**SEC. 108. REPORTS ON COMMERCE WITH, AND ASSISTANCE TO, CUBA FROM OTHER FOREIGN COUNTRIES.**

(a) REPORTS REQUIRED.—Not later than 90 days after the date of enactment of this Act, and every year thereafter, the President shall submit a report to the appropriate congressional committees on commerce with, and assistance to, Cuba from other foreign countries during the preceding 12-month period.

(b) CONTENTS OF REPORTS.—Each report required by subsection (a) shall, for the period covered by the report, contain—

(1) a description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance;

(2) a description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade;

(3) a description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved;

(4) a determination as to whether or not any of the facilities described in paragraph (3) is the subject of a claim against Cuba by a United States person;

(5) a determination of the amount of Cuban debt owed to each foreign country, including the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in Cuba involving foreign nationals or businesses; and

(6) a description of the steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals or businesses do not enter the United States market, either directly or through third countries or parties.

**SEC. 109. IMPORTATION SANCTION AGAINST CERTAIN CUBAN TRADING PARTNERS.**

(a) SANCTION.—Notwithstanding any other provision of law, sugars, syrups, and molasses, that are the product of a country that the President determines has imported sugar, syrup, or molasses that is the product of Cuba, shall not be entered, or withdrawn from warehouse for consumption, into the customs territory of the United States, unless the condition set forth in subsection (b) is met.

(b) CONDITION FOR REMOVAL OF SANCTION.—The sanction set forth in subsection (a) shall cease to apply to a country if the country certifies to the President that the country will not import sugar, syrup, or molasses that is the product of Cuba until free and fair elections, conducted under the supervision of internationally recognized observers, are held in Cuba. Such certification shall cease to be effective if the President makes a subsequent determination under subsection (a) with respect to that country.

(c) REPORTS TO CONGRESS.—The President shall report to the appropriate congressional committees all determinations made under subsection (a) and all certifications made under subsection (b).

(d) REALLOCATION OF SUGAR QUOTAS.—During any period in which a sanction under subsection (a) is in effect with respect to a country, the President may reallocate to other countries the quota of sugars, syrups, and molasses allocated to that country, before the prohibition went into effect, under chapter 17 of the Harmonized Tariff Schedule of the United States.

## TITLE II—SUPPORT FOR A FREE AND INDEPENDENT CUBA

**SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.**

It is the policy of the United States—

(1) to support the self-determination of the Cuban people;

(2) to facilitate a peaceful transition to representative democracy and a free market economy in Cuba;

(3) to be impartial toward any individual or entity in the selection by the Cuban people of their future government;

(4) to enter into negotiations with a democratically elected government in Cuba regarding the status of the United States Naval Base at Guantanamo Bay;

(5) to restore diplomatic relations with Cuba, and support the reintegration of Cuba into entities of the Inter-American System, when the President determines that there exists a democratically elected government in Cuba;

(6) to remove the economic embargo of Cuba when the President determines that

there exists a democratically elected government in Cuba; and

(7) to pursue a mutually beneficial trading relationship with a democratic Cuba.

**SEC. 202. AUTHORIZATION OF ASSISTANCE FOR THE CUBAN PEOPLE.**

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President may provide assistance under this section for the Cuban people after a transition government, or a democratically elected government, is in power in Cuba, as determined under section 203 (a) and (c).

(2) EFFECT ON OTHER LAWS.—

(A) SUPERSEDING OTHER LAWS.—Subject to subparagraph (B), assistance may be provided under this section notwithstanding any other provision of law.

(B) DETERMINATION REQUIRED REGARDING PROPERTY TAKEN FROM UNITED STATES PERSONS.—Subparagraph (A) shall not apply to section 620(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)(2)).

(b) RESPONSE PLAN.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan detailing the manner in which the United States would provide and implement support for the Cuban people in response to the formation of—

(A) a transition government in Cuba; and

(B) a democratically elected government in Cuba.

(2) TYPES OF ASSISTANCE.—Support for the Cuban people under the plan described in paragraph (1) shall include the following types of assistance:

(A) TRANSITION GOVERNMENT.—Assistance under the plan to a transition government in Cuba shall be limited to such food, medicine, medical supplies and equipment, and other assistance as may be necessary to meet emergency humanitarian needs of the Cuban people.

(B) DEMOCRATICALLY ELECTED GOVERNMENT.—Assistance under the plan for a democratically elected government in Cuba shall consist of assistance to promote free market development, private enterprise, and a mutually beneficial trade relationship between the United States and Cuba. Such assistance should include—

(i) financing, guarantees, and other assistance provided by the Export-Import Bank of the United States;

(ii) insurance, guarantees, and other assistance provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(iii) assistance provided by the Trade and Development Agency;

(iv) international narcotics control assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961; and

(v) Peace Corps activities.

(c) CARIBBEAN BASIN INITIATIVE.—(1) The President shall determine, as part of the plan developed under subsection (b), whether or not to designate Cuba as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act.

(2) Any designation of Cuba as a beneficiary country under section 212 of such Act may only be made after a democratically elected government in Cuba is in power. Such designation may be made notwithstanding any other provision of law.

(3) The table contained in section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended by inserting ''Cuba'' between ''Costa Rica'' and ''Dominica''.

(d) TRADE AGREEMENTS.—Notwithstanding any other provision of law, the President, upon transmittal to Congress of a determination under section 203(c) that a democratically elected government in Cuba is in power, should—

(1) take the steps necessary to extend nondiscriminatory trade treatment (most-favored-nation status) to the products of Cuba; and

(2) take such other steps as will encourage renewed investment in Cuba.

(e) COMMUNICATION WITH THE CUBAN PEOPLE.—The President should take the necessary steps to communicate to the Cuban people the plan developed under this section.

(f) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

**SEC. 203. IMPLEMENTATION; REPORTS TO CONGRESS.**

(a) IMPLEMENTATION WITH RESPECT TO TRANSITION GOVERNMENT.—Upon making a determination that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and should, subject to the availability of appropriations, commence the provision of assistance to such transition government under the plan developed under section 202(b).

(b) REPORTS TO CONGRESS.—(1) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance described in section 202(b)(2)(A) to the transition government in Cuba under the plan of assistance developed under section 202(b), the types of such assistance, and the extent to which such assistance has been distributed in accordance with the plan.

(2) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall transmit the report in preliminary form not later than 15 days after making that determination.

(c) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The President shall, upon determining that a democratically elected government in Cuba is in power, transmit that determination to the appropriate congressional committees and should, subject to the availability of appropriations, commence the provision of assistance to such democratically elected government under the plan developed under section 202(b)(2)(B).

(d) ANNUAL REPORTS TO CONGRESS.—Not later than 60 days after the end of each fiscal year, the President shall transmit to the appropriate congressional committees a report on the assistance provided under the plan developed under section 202(b), including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

**SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.**

(a) TERMINATION.—Upon the effective date of this section—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking ''Republic of Cuba'';

(3) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations, shall cease to apply; and

(4) the President shall take such other steps as may be necessary to rescind any other regulations in effect under the economic embargo of Cuba.

(b) EFFECTIVE DATE.—This section shall take effect upon transmittal to Congress of a determination under section 203(c) that a democratically elected government in Cuba is in power.

**SEC. 205. REQUIREMENTS FOR A TRANSITION GOVERNMENT.**

For purposes of this Act, a transition government in Cuba is a government in Cuba that—

(1) is demonstrably in transition from communist totalitarian dictatorship to representative democracy;

(2) has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades;

(4) has publicly committed itself to, and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights, to which Cuba is a signatory nation;

(C) effectively guaranteeing the rights of free speech and freedom of the press;

(D) permitting the reinstatement of citizenship to Cuban-born nationals returning to Cuba;

(E) organizing free and fair elections for a new government—

(i) to be held within 1 year after the transition government assumes power;

(ii) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time for such access and the times of day such allotments are given; and

(iii) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other elections monitors;

(F) assuring the right to private property;

(G) taking appropriate steps to return to United States citizens and entities property taken by the Government of Cuba from such citizens and entities on or after January 1, 1959, or to provide equitable compensation to such citizens and entities for such property;

(H) having a currency that is fully convertible domestically and internationally;

(I) granting permits to privately owned telecommunications and media companies to operate in Cuba; and

(J) allowing the establishment of an independent labor movement and of independent social, economic, and political associations;

(5) does not include Fidel Castro or Raul Castro;

(6) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people; and

(7) permits the deployment throughout Cuba of independent and unfettered international human rights monitors.

**SEC. 206. REQUIREMENTS FOR A DEMOCRATICALLY ELECTED GOVERNMENT.**

For purposes of this Act, a democratically elected government in Cuba, in addition to continuing to comply with the requirements of section 205, is a government in Cuba which—

(1) results from free and fair elections—

(A) conducted under the supervision of internationally recognized observers;

(B) in which opposition parties were permitted ample time to organize and campaign for such elections, and in which all candidates in the elections were permitted full access to the media;

(2) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(3) has established an independent judiciary;

(4) is substantially moving toward a market-oriented economic system based on the right to own and enjoy property;

(5) is committed to making constitutional changes that would ensure regular free and fair elections that meet the requirements of paragraph (2); and

(6) has returned to United States citizens, and entities which are 50 percent or more beneficially owned by United States citizens, property taken by the Government of Cuba from such citizens and entities on or after January 1, 1959, or provided full compensation in accordance with international law standards and practice to such citizens and entities for such property.

## TITLE III—PROTECTION OF AMERICAN PROPERTY RIGHTS ABROAD

### SEC. 301. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY CLAIMED BY UNITED STATES PERSONS.

(a) ADDITIONAL GROUNDS FOR EXCLUSION.—Section 212(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended by adding at the end the following:

''(D) ALIENS WHO HAVE CONFISCATED AMERICAN PROPERTY ABROAD AND RELATED PERSONS.—(i) Any alien who—

''(I) has confiscated, or has directed or overseen the confiscation of, property the claim to which is owned by a United States person, or converts or has converted for personal gain confiscated property, the claim to which is owned by a United States person;

''(II) traffics in confiscated property, the claim to which is owned by a United States person;

''(III) is a corporate officer, principal, or shareholder of an entity which the Secretary of State determines or is informed by competent authority has been involved in the confiscation, trafficking in, or subsequent unauthorized use or benefit from confiscated property, the claim to which is owned by a United States person, or

''(IV) is a spouse or dependent of a person described in subclause (I),

is excludable.

''(ii) The validity of claims under this subparagraph shall be established in accordance with section 303 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.

''(iii) For purposes of this subparagraph, the terms 'confiscated', 'traffics', and 'United States person' have the same meanings given to such terms under section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals seeking to enter the United States on or after the date of enactment of this Act.

### SEC. 302. LIABILITY FOR TRAFFICKING IN CONFISCATED PROPERTY CLAIMED BY UNITED STATES PERSONS.

(a) CIVIL REMEDY.—(1) Except as provided in paragraphs (2) and (3), any person or government that traffics in property confiscated by a foreign government shall be liable to the United States person who owns the claim to the confiscated property for money damages in an amount which is the greater of—

(A) the amount certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949, plus interest at the commercially recognized normal rate;

(B) the amount determined under section 303(a)(2); or

(C) the fair market value of that property, calculated as being the then current value of the property, or the value of the property when confiscated plus interest at the commercially recognized normal rate, whichever is greater.

(2) Except as provided in paragraph (3), any person or government that traffics in confiscated property after having received (A) notice of a claim to ownership of the property by the United States person who owns the claim to the confiscated property, and (B) a copy of this section, shall be liable to such United States person for money damages in an amount which is treble the amount specified in paragraph (1).

(3)(A) Actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of enactment of this Act.

(B) In the case of property confiscated before the date of enactment of this Act, no United States person may bring an action under this section unless such person acquired ownership of the claim to the confiscated property before such date.

(C) In the case of property confiscated on or after the date of enactment of this Act, in order to maintain the action, the United States person who is the plaintiff must demonstrate to the court that the plaintiff has taken reasonable steps to exhaust all available local remedies.

(b) JURISDICTION.—Chapter 85 of title 28, United States Code, is amended by inserting after section 1331 the following new section:

**''§ 1331a. Civil actions involving confiscated property**

''The district courts shall have exclusive jurisdiction, without regard to the amount in controversy, of any action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.''.

(c) WAIVER OF SOVEREIGN IMMUNITY.—Section 1605 of title 28, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; or''; and

(3) by adding at the end the following:

''(7) in which the action is brought with respect to confiscated property under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.''.

### SEC. 303. DETERMINATION OF CLAIMS TO CONFISCATED PROPERTY.

(a) EVIDENCE OF OWNERSHIP.—For purposes of this Act, conclusive evidence of ownership by the United States person of a claim to confiscated property is established—

(1) when the Foreign Claims Settlement Commission certifies the claim under title V of the International Claims Settlement Act of 1949, as amended by subsection (b); or

(2) when the claim has been determined to be valid by a court or administrative agency of the country in which the property was confiscated.

(b) AMENDMENT OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949.—Title V of the International Claims Settlement Act of 1949 is amended by adding at the end the following new section:

''ADDITIONAL CLAIMS

''SEC. 514. Notwithstanding any other provision of this title, a United States national may bring a claim to the Commission for determination and certification under this title of the amount and validity of a claim resulting from actions taken by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a United States national at the time of the Cuban government action, except that, in the case of property confiscated after the date of enactment of this section, the claimant must be a United States national at the time of the confiscation.''.

(c) CONFORMING REPEAL.—Section 510 of the International Claims Settlement Act of 1949 (22 U.S.C. 1643i) is repealed.

SECTION-BY-SECTION ANALYSIS

*Section 1. Short Title and Table of Contents*

*Section 2. Findings*

Details findings regarding Cuba, including the decline of the Cuban economy, the substantial deterioration of the health and welfare of the Cuban people, Castro's refusal to adopt any economic or political reforms, and the continuing repression of the Cuban people.

*Section 3. Purposes*

States general purposes of the Act, including strengthening international sanctions against the Castro government, encouraging the holding of free and fair elections, providing a policy framework for U.S. support to a transition government and a democratically-elected government in Cuba, and protecting the rights of U.S. persons who own claims to confiscated property abroad.

*Section 4. Definitions*

Defines terms used in this Act.

TITLE I: STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

*Section 101. Statement of Policy*

Expresses the sense of Congress that (1) the acts of the Castro government, including human rights violations, are a threat to international peace, (2) the President should instruct the U.S. Permanent Representative to the United Nations to seek, in the Security Council, an international embargo against the Castro dictatorship (similar to consultations conducted with respect to Haiti), and (3) there will be a detrimental impact on United States assistance to any independent state of the former Soviet Union which resumes efforts to make operational the nuclear facility at Cienfuegos, Cuba.

*Section 102. Enforcement of the Economic Embargo of Cuba*

(a) Reaffirms the Cuban Democracy Act of 1992 [section 1704(a)], which states that the President should encourage foreign countries to restrict trade and credit relations with Cuba, and urges the President to take immediate steps to apply sanctions described in section 1704(b)(1) of such Act against countries assisting Cuba.

(b) Calls on the Secretary of State to direct U.S. diplomatic personnel to communicate to foreign officials the reasons for the U.S. economic embargo on Cuba and to urge foreign governments to cooperate more effectively with the embargo.

(c) Requires the President to instruct the Secretary of the Treasury and Attorney General to fully enforce the Cuban Assets Control Regulations.

(d) Subjects to criminal penalties under the Trading with the Enemy Act persons violating travel restrictions imposed by the Cuban Assets Control Regulations (part 515 of title 31, Code of Federal Regulations). Penalties include fines and/or imprisonment of a person or official of a corporation.

*Section 103. Prohibition Against Indirect Financing of Cuba*

(a) Prohibits any loans, credits, or other financing from a U.S. person or agency to a foreign person who knowingly purchases a U.S. property confiscated by the Cuban government.

(b) Terminates this prohibition on the date of termination of the economic embargo of Cuba.

(c) Makes violations of this provision punishable by the same penalties that are applicable to similar violations of the Cuban Assets Control Regulations.

*Section 104. United States Opposition to Cuban Membership in International Financial Institutions*

(a) Requires the Secretary of the Treasury to instruct the U.S. executive director of

each international financial institution to vote against the admission of Cuba as a member until Cuba has held free and fair internationally supervised elections.

(b) Directs the President to take steps during the period that a transition government is in power in Cuba to support the processing of Cuba's application for membership in any international financial institution, to take effect after a democratically-elected government is in power in Cuba.

(c) Requires the United States to withhold payment to any international financial institution that approves a loan or other assistance to Cuba in an amount equal to the amount of the loan or assistance provided to Cuba.

*Section 105. United States Opposition to Readmission of Cuba to the Organization of American States (OAS)*

States that the President should instruct the U.S. Permanent Representative to the OAS to vote against the readmission of Cuba to membership in the OAS until a democratically-elected government exits in Cuba.

*Section 106. Assistance by the Independent States of the Former Soviet Union for the Government of Cuba*

(a) Requires the President to submit to Congress a report detailing progress towards the withdrawal of personnel of any independent state of the former Soviet Union [including advisers, technicians, and military personnel] from the Cienfuegos nuclear facility in Cuba.

(b) Amends the criteria for providing U.S. assistance to the independent states of the former Soviet Union to specify that the President shall take into account the extent to which a state is acting to close military and intelligence facilities in Cuba, including the military and intelligence facilities at Lourdes and Cienfuegos. [Section 498(a)(11) of the Foreign Assistance Act currently does not mention intelligence facilities or specify the facilities at Lourdes and Cienfuegos].

(c) Prohibits the President from providing assistance for the government of any independent state that the President has determined and certified to Congress is providing assistance for, or engaging in nonmarket based trade with, the Government of Cuba. Nonmarket based trade includes exports, imports, exchanges, or other arrangements that are provided for goods and services on terms more favorable than those generally available in applicable markets or for comparable commodities.

(d) Express strong disapproval by Congress for $200,000,000 in credits from Russia to Cuba in support of the intelligence facility at Lourdes, Cuba, and requires the President to withhold assistance to any state of the former Soviet Union in an amount equal to the sum of such state's assistance and credits for military and intelligence facilities in Cuba. Funding for Nunn-Lugar denuclearization programs and humanitarian assistance is exempt.

*Section 107. Television Broadcasting to Cuba.*

Instructs the Director of USIA to implement the conversion of Television Marti to Ultra-High Frequency (UHF) broadcasting, and to submit quarterly reports to Congress on progress made in carrying out the conversion until it is fully implemented.

*Section 108. Reports on Commerce with and Assistance to Cuba from Foreign Countries*

Directs the President to submit an annual report to Congress on assistance to and commerce with Cuba from foreign countries. Each report shall contain: (1) a description of all bilateral assistance, including humanitarian assistance; (2) identification of Cuba's trading partners and the extent of such trade; (3) a description of joint ventures completed or under consideration by foreign nationals and business firms involving facilities in Cuba; (4) a determination as to whether any facilities are claimed by a U.S. person; (5) a determination of the amount of Cuban debt owed to each foreign country and business, including the amount of debt exchanged, forgiven, or reduced; and (6) steps taken to assure that raw materials and semi-finished or finished goods produced by facilities in Cuba involving foreign nationals or businesses are not entering the U.S. market.

*Section 109. Importation Sanction Against Certain Cuban Trading Partners*

(a) Prohibits importation into the United States of any sugars, syrups, or molasses that are the product of a country that the President determines has imported sugar, syrup, or molasses from Cuba. The intent of this section is to prevent indirect support of the Cuban sugar industry through countries that buy Cuban sugar for either domestic consumption or reprocessing for export and sell their own or the reprocessed sugar to the United States.

(b) Provides for the removal of the sanction in subsection (a) if the country certifies to the President that the country will not import sugar, syrup, or molasses that is the product of Cuba until free and fair elections are held in Cuba. Such a certification would cease to apply if the President makes a subsequent certification under subsection (a).

(c) Instructs the President to report to Congress all determinations in subsections (a) and (b).

(d) Allows the President to reallocate to other countries the quota of sugars, syrups, and molasses allocated to a country subject to sanction under subsection (a).

TITLE II: SUPPORT FOR A FREE AND INDEPENDENT CUBA

*Section 201. Policy Toward a Transition Government and a Democratically-Elected Government*

States that U.S. policy is to: (1) support the self-determination of the Cuban people; (2) facilitate a peaceful transition to representative democracy and a free market economy in Cuba; and (3) be impartial toward any individual or entity in the selection by the Cuban people of their future government. Once the President has determined that a democratically-elected government exists in Cuba, the U.S. policy shall be to: (4) enter into negotiations regarding the status of the U.S. Naval Base at Guantanamo; (5) restore diplomatic recognition and support the reintegration of Cuba into entities of the Inter-American System; (6) remove the economic embargo; and (7) pursue a mutually beneficial trading relationship.

*Section 202. Authorization of Assistance for the Cuban People*

(a) Authorizes the President to provide assistance for the Cuban people after a transition government or a democratically-elected government is in power in Cuba, as determined under section 203. Assistance may be provided under this section notwithstanding any other provision of law, except that no assistance may be given until the President determines that a transition or democratically elected Cuban government has ''taken appropriate steps according to international law standards'' to return or compensate for property taken from US citizens and entities on or after January 1, 1959 [section 620(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2379(a)(2))].

(b)(1) Directs the President to develop a plan detailing the manner in which the United States would provide assistance to the Cuban people in response to the formation of a transition and a democratically-elected government in Cuba.

(2) Limits assistance to a transition government to such food, medicine, medical supplies and equipment, and other assistance as may be necessary to meet the humanitarian needs of the Cuban people.

(3) Specifies that assistance under the plan for a democratically-elected government shall consist of assistance to promote free market development, private enterprise, and mutually beneficial trade; such assistance should include assistance provided by the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency, international narcotics control assistance, and Peace Corps activities.

(c) Requires the President to determine as part of the assistance plan whether to designate Cuba as a beneficiary country under section 212 of the Caribbean Basic Economic Recovery Act once a democratically-elected government is in power in Cuba.

(d) Authorizes the President, upon determining that a democratically-elected government is in power in Cuba, to extend most-favored-nation (MFN) status to Cuba and to otherwise encourage renewed investment in Cuba, notwithstanding any other provision of law.

(e) Directs the President to take the necessary steps to communicate this plan to the Cuban people.

(f) Requires the President to transmit to Congress, not later than 180 days after the enactment of this Act, a detailed report on the plan developed under this section.

*Section 203. Implementation; Reports to Congress*

(a) Authorizes the President to begin assistance to Cuba upon transmittal to Congress of a determination that a transition government is in power in Cuba.

(b) Requires the President to transmit to Congress a preliminary report, within 15 days of such a determination, setting forth the strategy and implementation of assistance, followed by a full report not later than 90 days after making the determination.

(c) Authorizes the President to begin assistance to Cuba upon transmittal to Congress of a determination that a democratically-elected government is in power in Cuba.

(d) Requires an annual report, within 60 days of the end of each fiscal year, on the assistance to be provided under the plan developed under section 202(b) and the assistance to be provided in the current fiscal year.

*Section 204. Termination of the Economic Embargo on Cuba*

Terminates the economic embargo on Cuba upon transmittal to Congress of a presidential determination that a democratically-elected government is in power in Cuba.

*Section 205. Requirements for a Transition Government*

Defines a transition government in Cuba as one which (1) is demonstrably in transition from communist totalitarian dictatorship to democracy; (2) has released all political prisoners; (3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior; and (4) also ''makes public commitments'' to (A) establishing an independent judiciary, (B) respecting internationally recognized human rights and basic freedoms, (C) guaranteeing the rights of free speech and freedom of the press, (D) permitting the reinstatement of citizenship to Cuban-born nationals returning to Cuba, (E) organizing free and fair elections for a new government, (F) assuring the right to private property, (G) taking appropriate steps either to return to U.S. citizens property taken by the government of Cuba on or after January 1, 1959 or to provide equitable

compensation to U.S. citizens for such property, (H) having a currency that is fully convertible domestically and internationally, (I) granting permits to privately-owned telecommunications and media companies to operate in Cuba, and (J) allowing the establishment of an independent labor movement and of independent social, economic, and political associations. Other provisions include that the transition government: (5) does not include Fidel Castro or Raul Castro; (6) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people; and (7) permits the deployment throughout Cuba of independent and unfettered international human rights monitors.

*Section 206. Requirements for a Democratically-Elected Government*

Defines a democratic government in Cuba as one which, in addition to the requirements in section 205, (1) is the product of free and fair elections in which opposition parties had sufficient time to organize and were permitted full access to media; (2) is showing respect for basic civil liberties and human rights; (3) has established an independent judiciary; (4) is moving toward a market-oriented economic system based on the right to own and enjoy property; (5) is committed to making constitutional changes that would ensure regular free and fair elections; and (6) has returned to U.S. citizens, and entities which are 50 percent or more beneficially-owned by U.S. citizens, property taken by the Government of Cuba from such citizens and entities on or after January 1, 1959, or provides full compensation in accordance with international law standards.

TITLE III: PROTECTION OF AMERICAN PROPERTY RIGHTS ABROAD

*Section 301. Exclusion from the United States of Aliens Who Have Confiscated Property Claimed by United States Persons*

Denies entry into the United States to any alien (including a spouse or dependent of that person) who has confiscated, has directed, or has overseen the confiscation, of U.S. property abroad. This provision is applicable to corporate officers, principals, or shareholders of an entity that has been involved in the confiscation, purchase, or receipt of a confiscated property.

*Section 302. Liability for Trafficking in Confiscated Property Claimed by United States Persons*

(a) Holds any person or government which traffics in property confiscated by a foreign government liable for money damages to the U.S. claimant of the confiscated property. Treble damages are authorized in cases where the person or government trafficking in confiscated property has received notice of a U.S. person's claim of ownership. If property was confiscated before the date of enactment of this Act, no U.S. person may bring an action unless such person acquired ownership of the claim to the confiscated property before such date. If a property is confiscated on or after the date of enactment of this Act, the U.S. person who is the plaintiff must demonstrate to the court that the plaintiff has taken reasonable steps to exhaust all available local remedies.

(b) Gives Federal district courts exclusive jurisdiction over any actions brought under this section.

(c) Waives sovereign immunity for any actions brought under this section.

*Section 303. Determination of Claims to Confiscated Property*

(a) Provides that conclusive evidence of ownership by a U.S. person to confiscated property is established when the Foreign Claims Settlement Commission certifies the claim or when the claim has been determined valid by a court or administrative agency in the country in which the property was confiscated.

(b) Amends the International Claims Settlement Act to allow a U.S. national to bring a claim to the Commission for determination and certification of the amount and validity of a claim against the Cuban government of confiscation of property.

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By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, Mr. SIMON, Mr. PELL, and Mr. DORGAN):

S. 382. A bill to establish a Wounded Knee National Tribal Park, and for other purposes; to the Committee on Indian Affairs.

THE WOUNDED KNEE NATIONAL TRIBAL PARK ESTABLISHMENT ACT OF 1995

Mr. DASCHLE. Mr. President, today I am joining with my colleague from South Dakota, Senator PRESSLER, and Senators CAMPBELL, SIMON, PELL, and DORGAN to introduce legislation that would establish the Wounded Knee National Tribal Park in the State of South Dakota. The purpose of this effort is to acknowledge the armed struggle between the Plains Indians and the U.S. Army that culminated in the death of over 300 Lakota Sioux men, women, and children at Wounded Knee, SD, on December 29, 1890.

There is no question about the historical significance of the Wounded Knee tragedy. Wounded Knee not only signaled an end to a chapter in American history often referred to as the ''Indian Wars'' but it also marked a change in national policy that once forced Indian tribes to locate on smaller and smaller reservations.

History books show that on December 15, 1890, Federal agents, concerned about the potential ramifications of a spiritual movement among the Sioux Indians, attempted to arrest Chief Sitting Bull. When one of his followers shot at the agents, they returned gunfire, mortally wounding Sitting Bull.

Sitting Bull's half-brother, Chief Big Foot, took in Sitting Bull's followers. The band fled from the Bad Lands toward the Pine Ridge Indian Reservation. The U.S. Army intercepted the party and accepted an unconditional surrender from Chief Big Foot. The entire band was escorted to a military camp at Wounded Knee Creek.

At Wounded Knee, a single gunshot was fired. It is not known to this day whether the shot was fired by a member of the Sioux Tribe or the U.S. Army. What is known is that the gunshot led to a largely one-side volley of bullets leaving approximately 350 to 370 Sioux men, women, and children dead or wounded. The U.S. Army suffered 60 casualties, many of whom reportedly were hit by bullets fired by their comrades.

These are the tragic facts of what is known as the Wounded Knee Massacre. One hundred years later, in 1990, the 101st Congress passed Senate Concurrent Resolution 153, which acknowledged the carnage at Wounded Knee and expressed ''congressional support for the establishment of a suitable and appropriate memorial to those who were tragically slain at Wounded Knee.''

The bill we are introducing today gives substance to the sentiment expressed by the resolution.

Mr. President, considerable time and thought has been given to the Wounded Knee memorial project by descendants of the victims and survivors of the Wounded Knee tragedy, by the Oglala Sioux and the Cheyenne River Sioux tribal governments, and by Members of Congress, the State of South Dakota, and the Department of the Interior.

The effort to establish a memorial goes back even further than 1990. Since 1950, Wounded Knee has been studied six times by the National Park Service and has been identified as a prime candidate for addition to the National Park System. Since 1987, the Lakota Tribes of South Dakota have been working with the National Park Service to plan for the preservation of Wounded Knee.

In Congress, the Senate Indian Affairs Committee held hearings on proposals to establish a Wounded Knee Memorial and Historic Site on September 25, 1990 in Washington, and on April 30, 1991 at the Pine Ridge Indian Reservation in South Dakota.

In May 1991, at the request of the Lakota Sioux and with the support of the Secretary of the Interior, the National Park Service began to explore management alternatives for the Wounded Knee site. The process included strong public participation from the Oglala Sioux Tribe, the Cheyenne River Sioux Tribe, and the Wounded Knee Survivors Association.

Those hearings enabled all the parties involved to discover much common ground and strengthened our shared resolve to move forward with the establishment of the Wounded Knee National Tribal Park.

The step we are taking today is not an end, but a beginning.

Many issues remain to be addressed, including land acquisition for the Wounded Knee National Park, design of the memorial, and management of the National Tribal Park. I welcome debate on these and other matters, and look forward to participation in the debate.

By passing this legislation, we will clear the way for resolution of those issues. More important, we will preserve for future generations an important chapter from the text of America's past.

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. 382

*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 ''Wounded Knee National Tribal Park Establishment Act of 1995''.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) in December of 1890, approximately 350 to 375 Sioux men, women, and children under the leadership of Chief Big Foot journeyed from the Cheyenne River Indian Reservation to the Pine Ridge Indian Reservation at the invitation of Chief Red Cloud to help make peace between the non-Indians and Indians;

(2) the journey of Chief Big Foot and his band of Minneconjou Sioux occurred during the Ghost Dance Religion period when extreme hostility existed between Sioux Indians and non-Indians residing near the Sioux reservations, and the United States Army assumed control of the Sioux reservations;

(3) Chief Big Foot and his band were intercepted on the Pine Ridge Indian Reservation at Porcupine Butte by Major Whitside, surrendered unconditionally under a white flag of truce, and were escorted to Wounded Knee Creek, where Colonel Forsyth assumed command;

(4) on December 29, 1890, an incident occurred in which soldiers under the command of General Forsyth killed and wounded over 300 members of the band of Chief Big Foot, most all of whom were unarmed and entitled to protection of their rights to property, person, and life under Federal law;

(5) the 1890 Wounded Knee Massacre is a historically significant event because the event marks the last military encounter of the Indian wars period of the 19th century;

(6) in S. Con. Res. 153 (101st Cong., 2d Sess.), Congress apologized to the Sioux people for the 1890 Massacre;

(7)(A) paragraph (2) of such concurrent resolution provides that Congress ''expresses its support for the establishment of a suitable and appropriate Memorial to those who were so tragically slain at Wounded Knee which could inform the American public of the historic significance of the events at Wounded Knee and accurately portray the heroic and courageous campaign waged by the Sioux people to preserve and protect their lands and their way of life during this period''; and

(B) paragraph (3) of such concurrent resolution provides that Congress ''expresses its commitment to acknowledge and learn from our history, including the Wounded Knee Massacre, in order to provide a proper foundation for building an ever more humane, enlightened, and just society for the future'';

(8) the Wounded Knee Massacre site, and sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion on the Cheyenne River Indian Reservation and Pine Ridge Indian Reservation, are nationally significant cultural and historic sites that must be protected through the designation of the sites as a national tribal park; and

(9) the Wounded Knee Massacre is a nationally significant event that must be memorialized by establishing suitable and appropriate memorials to the Indian victims of the Massacre, located on the Cheyenne River Indian Reservation and Pine Ridge Indian Reservation.

(b) PURPOSES.—The purposes of this Act are to—

(1) establish the Wounded Knee National Tribal Park consisting of—

(A) sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion located on the Cheyenne River Indian Reservation; and

(B) the 1890 Wounded Knee Massacre Site and sites relating to the Massacre and Ghost Dance Religion located on the Pine Ridge Indian Reservation;

(2) establish suitable and appropriate national monuments within both units of the Wounded Knee National Tribal Park to memorialize the Indian victims of the 1890 Wounded Knee Massacre; and

(3) authorize feasibility studies to—

(A) establish the route of Chief Big Foot from the Cheyenne River Indian Reservation to Wounded Knee as a national historic trail; and

(B) establish a visitor information and orientation center on the Cheyenne River Indian Reservation.

**SEC. 3. DEFINITIONS.**

As used in this Act:

(1) COMMISSION.—The term ''Commission'' means the Wounded Knee National Tribal Park Advisory Commission established under section 8(a).

(2) NORTH UNIT.—The term ''North Unit'' means the area of the Park comprised of the sites referred to in section 2(b)(1)(A).

(3) PARK.—The term ''Park'' means the Wounded Knee National Tribal Park established under section 4.

(4) REAL PROPERTY.—For the purposes of this Act, the term ''real property'' includes lands, and all mineral rights, water rights, easements, permanent structures, and fixtures on such lands.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) SOUTH UNIT.—The term ''South Unit'' means the area of the Park comprised of the sites referred to in section 2(b)(1)(B).

**SEC. 4. ESTABLISHMENT OF WOUNDED KNEE NATIONAL TRIBAL PARK.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a national tribal park to be known as the ''Wounded Knee National Tribal Park'', as generally described in the third alternative of the report completed by the National Park Service entitled ''Draft Study of Alternatives, Environmental Assessment, Wounded Knee, South Dakota,'' and dated January 1993, and as more particularly described in this Act.

(2) AREA INCLUDED IN PARK.—The Wounded Knee National Tribal Park shall consist of—

(A) a North Unit that may include—

(i) such sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion, including the campsite of Chief Big Foot at Deep Creek, as the Cheyenne River Sioux Tribe, in consultation with the Director of the National Park Service, considers necessary to include in such unit;

(ii) a cultural center and museum complex;

(iii) projects described in section 9(b)(2); and

(iv) a suitable and appropriate national monument to memorialize Chief Big Foot and his band of Minneconjou Sioux; and

(B) a South Unit that may include—

(i) the 1890 Wounded Knee Massacre site, as generally described in the 1990 boundaries studies authorized by the National Park Service, and such other sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion as the Oglala Sioux Tribe, in consultation with the Director of the National Park Service, considers necessary to include in such Unit;

(ii) a cultural center and museum complex at or near the Wounded Knee Massacre site;

(iii) projects described in section 9(b)(2); and

(iv) a suitable and appropriate national monument to memorialize the Sioux Indians involved in the 1890 Wounded Knee Massacre.

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with each of the Cheyenne River Sioux Tribe with respect to the North Unity, and Oglala Sioux Tribe with respect to the South Unit to carry out planning, design, construction, operation, maintenance, and replacement activities, as appropriate, for the units.

(2) REQUIREMENTS FOR COOPERATIVE AGREEMENTS.—A cooperative agreement entered into under paragraph (1) shall set forth, in a manner acceptable to the Secretary—

(A)(i) the responsibilities of the parties referred to in paragraph (1) with respect to the North Unit and the South Unit; and

(ii) the manner in which contracts to carry out such activities will be administered;

(B) the procedures and requirements for the approval and acceptance of the design of, and construction of the North Unit and South Unit;

(C) such Federal management policies described in the publication entitled ''Management Policies, U.S. Department of the Interior, National Park Service, 1988'' as the Secretary considers necessary to qualify both units of the Park for affiliation;

(D) a general management plan for each unit of the Park that shall include plans—

(i) to protect and preserve the religious sanctity of the Wounded Knee Massacre site and other religious sites located within each unit;

(ii) to restore the Wounded Knee Massacre site, and other important historic sites located within the units, to the original condition of the sites at the time of the Massacre, including the removal of all buildings and structures that have no historical significance;

(iii) for the enactment of tribal zoning ordinances to protect areas surrounding each unit from commercial development and exploitation;

(iv) for the implementation of a continuing program of public involvement, interpretation, and visitor education concerning Lakota Sioux history and culture within each unit;

(v) to protect, interpret, and preserve important archaeological and paleontological sites within each unit;

(vi) for visitor use facilities, and the training and employing of tribal members within each unit, as provided in subsection (e); and

(vii) to waive or require entrance fees at the Wounded Knee Massacre site; and

(E) the role and responsibilities of the Advisory Commission established under section 8(a) in relation to both units.

(c) TITLE.—

(1) PROPERTY ACQUIRED FOR THE NORTH UNIT.—Title to all real property acquired for the North Unit of the Wounded Knee National Tribal Park shall be held in trust by the United States for the Cheyenne River Sioux Tribe.

(2) PROPERTY ACQUIRED FOR THE SOUTH UNIT.—Title to all real property acquired in the South Unit of the Wounded Knee National Tribal Park shall be held in trust by the United States for the Oglala Sioux Tribe.

(d) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide technical assistance to the Cheyenne River Sioux Tribe and Oglala Sioux Tribe for carrying out the activities described in subsection (b)(1).

(2) TRAINING.—In addition to providing the assistance described in paragraph (1), the Secretary may train and employ members of the tribes concerning the operation and maintenance of both units, including training in—

(A) the provision of public services, management of visitor use facilities, interpretation and visitor education on Sioux history and culture, and artifact curation at both units; and

(B) the interpretation, management, protection, and preservation of other historical and natural properties at both units.

(e) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT.—Except as otherwise provided in this Act, the activities described in subsection (b)(1) shall be subject to the Indian

Self-Determination Act (25 U.S.C. 450f et seq.).

**SEC. 5. ACQUISITION OF LANDS FOR WOUNDED KNEE NATIONAL TRIBAL PARK.**

(a) IN GENERAL.—The Cheyenne River Sioux Tribe and Oglala Sioux Tribe may acquire by purchase from a willing seller, by gift or devise, by exchange, or in other manner—

(1) surface and subsurface rights to any tract of fee-patented or trust land; or

(2) easements that cover such lands,

that those tribes, in consultation with the Secretary, consider necessary for inclusion in the North Unit or the South Unit of the Wounded Knee National Tribal Park.

(b) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe to acquire land and any interest in land or other real property that is necessary for a unit of the Park.

**SEC. 6. MANAGEMENT.**

(a) MANAGEMENT OF NORTH UNIT.—

(1) IN GENERAL.—The Cheyenne River Sioux Tribe, or a designated agency or authority of that tribe, shall operate, maintain, and manage the North Unit pursuant to the terms and conditions contained in a cooperative agreement between the Secretary and the Cheyenne River Sioux Tribe entered into by the Secretary and the tribe pursuant to section 4(b).

(2) EXCLUSION.—The Cheyenne River Sioux Tribe shall have no jurisdiction or authority over the South Unit.

(b) MANAGEMENT OF SOUTH UNIT.—

(1) IN GENERAL.—The Oglala Sioux Tribe, or a designated agency or authority of such tribe, shall operate, maintain, and manage the South Unit pursuant to the terms and conditions contained in a cooperative agreement between the Secretary and the Oglala Sioux Tribe entered into by the Secretary and the tribe pursuant to section 4(b).

(2) EXCLUSION.—The Oglala Sioux Tribe shall have no jurisdiction or authority over the North Unit.

**SEC. 7. PLANNING AND DESIGN OF NATIONAL MONUMENTS; FEASIBILITY STUDIES.**

(a) MONUMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the national monuments on the North Unit and South Unit authorized by subparagraphs (A)(iv) and (B)(iv) of section 4(a)(2) shall be planned, designed, and constructed by the Secretary, after consultation with an advisory committee that the Secretary shall appoint in consultation with—

(A) the Wounded Knee Survivors Association of the Cheyenne River Indian Reservation;

(B) the Wounded Knee Survivors Association of the Pine Ridge Indian Reservation; and

(C) direct descendants of the band of Minneconjou Sioux of Chief Big Foot.

(2) AUTHORITY OF THE CHEYENNE RIVER SIOUX TRIBAL COUNCIL AND THE OGLALA SIOUX TRIBAL COUNCIL.—(A) The Cheyenne River Sioux Tribal Council and the Oglala Sioux Tribal Council shall have no authority to plan and design the monuments referred to in paragraph (1).

(B) The Cheyenne River Sioux Tribal Council and the Oglala Sioux Tribal Council shall have the authority to enter into contracts for the construction, operation, maintenance, and replacement of the monuments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

(b) FEASIBILITY STUDIES.—

(1) IN GENERAL.—The Secretary shall complete feasibility studies to—

(A) establish and mark the route taken by Chief Big Foot and his band from the Cheyenne River Indian Reservation to Wounded Knee as a national historic trail; and

(B) establish a visitor information and orientation center on the Cheyenne River Indian Reservation.

(2) REPORT.—Not later than 1 year after funds are initially made available to the Secretary for a feasibility study conducted under this subsection, the Secretary shall complete the study and submit a report that contains the findings of the study to Congress.

**SEC. 8. WOUNDED KNEE NATIONAL TRIBAL PARK ADVISORY COMMISSION.**

(a) IN GENERAL.—There is established within the Department of the Interior the Wounded Knee National Tribal Park Advisory Commission. The Commission shall advise regularly the Cheyenne River Sioux Tribe and Oglala Sioux Tribe, or any designated agency or authority of either tribe, concerning the management and administration of the North Unit and South Unit.

(b) ROLE AND RESPONSIBILITIES.—The role and responsibilities of the Commission shall be defined in the cooperative agreements that the Secretary shall enter into with the Cheyenne Sioux Tribe and Oglala Sioux Tribe under section 4(b). The Cheyenne River Sioux Tribe and Oglala Sioux Tribe, or any designated agency or authority of either such tribe, shall consult with the Commission not less frequently than 4 times each year.

(c) PERIOD OF OPERATION.—The Commission shall exist for such time as either the North Unit or the South Unit is in existence.

(d) MEMBERSHIP.—The Secretary shall appoint 17 members of the Commission. In addition, the Director of the National Park Service or a designee of the Director shall serve as an ex-officio member of the Commission. The Secretary shall appoint the members of the Commission after consulting with, and soliciting a recommendation from each of the following:

(1) The Chairman of the Cheyenne River Sioux Tribe.

(2) The President of the Oglala Sioux Tribe.

(3) The Chairman of the Wounded Knee Community Council on the Pine Ridge Indian Reservation.

(4) The Chairman of the Wounded Knee Subcommunity Council on the Pine Ridge Indian Reservation.

(5) The Chairman of the White Clay Community Council on the Pine Ridge Indian Reservation.

(6) The Chairman of District No. 3 on the Cheyenne River Indian Reservation.

(7) The Chairman of Red Scaffold Community on the Cheyenne River Indian Reservation.

(8) The Chairman of Cherry Creek Community on the Cheyenne River Reservation.

(9) The Chairman of Bridger Community on the Cheyenne River Reservation.

(10) The Chairman of the Board of Directors of the Oglala Sioux Parks and Recreation Authority.

(11) The President of the Wounded Knee Survivors Association of the Cheyenne River Indian Reservation.

(12) The President of the Wounded Knee Survivors Association of the Pine Ridge Indian Reservation.

(13) The Secretary of the Smithsonian Institution.

(14)(i) The Governor of the State of South Dakota and the historic preservation officer of such State.

(ii) The Governor of the State of Nebraska and the historic preservation officer of such State.

(e) CHAIR.—The offices of Chairman and Vice Chairman of the Commission shall be rotated between the Chairman of the Cheyenne River Sioux Tribe (or a designated representative of the Chairman) and the President of the Oglala Sioux Tribe (or a designated representative of the President) on a year-to-year basis. If both the Chairman and Vice Chairman are absent from any meeting, the members of the Commission who are present at the meeting shall select a member who is present to serve in the place of the Chairman for the meeting.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members. In a manner consistent with the public meeting requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall from time to time meet with persons concerned with Park issues relating to the North Unit or South Unit. The Commission shall record all minutes and resolutions of the Commission and make such records available to the public upon request.

(g) ADMINISTRATIVE DIRECTOR.—

(1) IN GENERAL.—The Secretary, in consultation with the Commission, shall employ an Administrative Director for the Commission and define the duties of the Administrative Director. The Administrative Director shall be paid at a rate not to exceed the annual rate of basic pay payable for grade GS–12 of the General Schedule under subchapter IV of chapter 53 of title 5, United States Code, without regard to—

(A) the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) the provisions of chapter 51, and subchapter III of chapter 52 of that title relating to classification and General Schedule pay rates.

(2) OFFICE.—The office and staff of the Administrative Director shall be located at such location as the Secretary considers appropriate.

(h) SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a nonreimbursable basis, such administrative support services as the Commission, in consultation with the Secretary, may request.

(i) EXPENSES.—Members of the Commission who are not otherwise employed by the Federal Government, while away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel and all other related expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(j) APPLICABILITY OF FEDERAL ADVISORY ACT.—Except with respect to any requirement for reissuance of a charter, and except as otherwise provided in this Act, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission established under this Act.

**SEC. 9. FUNDRAISER AGREEMENTS WITH NONPROFIT CORPORATIONS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe, or a designated agency or authority of either tribe, may, with the approval of the Secretary, enter into an agreement with a nonprofit corporation to raise funds from private sources to be used in lieu of, or supplement, any Federal funds made available by appropriations pursuant to the authorization under section 11.

(b) NEW PROJECTS.—The Cheyenne River Sioux Tribe and the Oglala Sioux Tribe, or a designated agency or authority of either tribe, shall have the power and authority to enter into a separate agreement with a nonprofit corporation to—

(1) raise funds from private sources to pay for all obligations, costs, and fees for professional services contracted, incurred, or assumed by the tribe, or a designated agency or authority of the tribe, that are related, directly or indirectly, to the development or establishment of the Park; and

(2) raise funds from private sources to plan, design, construct, operate, maintain, and replace—

(A) an international amphitheater dedicated to the Indigenous Peoples of the Americas to be located at or near the Wounded Knee Massacre site, which, if constructed, shall become the permanent home of the Francis Jansen sculpture; and

(B) any other project that the Cheyenne River Sioux Tribe or the Oglala Sioux Tribe may, in consultation with the Secretary, choose to include within the North Unit or South Unit.

**SEC. 10. DUTIES OF OTHER FEDERAL ENTITIES.**

The appropriate official of any Federal entity that conducts or supports activities that directly affect the Park shall consult with the Secretary and the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe with respect to such activities to minimize any adverse effects on the Park.

**SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

**SEC. 12. RULE OF STATUTORY CONSTRUCTION.**

Nothing contained in this Act is intended to abrogate, modify, or impair any rights or claims of the Cheyenne River Sioux Tribe or Oglala Sioux Tribe, that are based on any treaty, Executive order, agreement, Act of Congress, or other legal basis.

Mr. PRESSLER. Mr. President, I am pleased to join my colleague from South Dakota, Senator DASCHLE, as well as Senators CAMPBELL, SIMON, PELL, and DORGAN in introducing legislation to establish the Wounded Knee National Tribal Park in the State of South Dakota. The purpose of our legislation is to acknowledge, preserve and protect the historically significant sites of the Wounded Knee tragedy of 1890. National recognition of this area is long overdue.

The legislation we are introducing today is the product of our cumulative efforts over the past several sessions of Congress to properly recognize the Wounded Knee tragedy. Indeed, Wounded Knee has been the subject of Senate consideration for a number of years. Let me highlight some of this activity:

During the 101st Congress, the Senate Select Committee on Indian Affairs held hearings to discuss the historical significance of Wounded Knee. Also during the 101st Congress, the Senate adopted Senate Concurrent Resolution 153, recognizing the 100th anniversary of the Wounded Knee Massacre. This resolution, which I cosponsored, also expressed support for the establishment of a suitable and appropriate memorial to those who were slain at Wounded Knee in 1890.

Late in the 102d Congress and again in the 103d Congress, Senator DASCHLE and I introduced legislation (S. 3213 and S. 278) to establish the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial.

During the 103d Congress, the Senate Energy Committee's Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 278 (July 29, 1993).

In addition to this congressional activity, the National Park Service has studied the historical significance of Wounded Knee six times since 1950. The Park Service consistently has reaffirmed it as a nationally significant area. In fact, our bill is in part based on one of the proposed alternatives mentioned in a January 1993 NPS report on Wounded Knee.

Mr. President, I hope the Senate will agree during this 104th Congress to ensure the protection and preservation of the historical sites at the Wounded Knee tragedy. I look forward to working with my colleagues, members of the Cheyenne River and Oglala Sioux Tribes, the Governor of South Dakota, the National Park Service, and other organizations to move this legislation forward. Above all, we must ensure this legislation is implemented with proper consultation with the Indian communities. It is imperative that Indian perspectives be included in developing the memorials' interpretive sites.

Enactment of our legislation will promote a greater understanding of the events associated with the Wounded Knee tragedy. In addition, appreciation of Indian culture, heritage, and history will be enhanced through establishment of these memorials.

## ADDITIONAL COSPONSORS

S. 50

At the request of Mr. LOTT, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 50, a bill to repeal the increase in tax on social security benefits.

S. 104

At the request of Mr. D'AMATO, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 104, a bill to establish the position of Coordinator for Counter-Terrorism within the office of the Secretary of State.

S. 191

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 191, a bill to amend the Endangered Species Act of 1973 to ensure that constitutionally protected private property rights are not infringed until adequate protection is afforded by reauthorization of the Act, to protect against economic losses from critical habitat designation, and for other purposes.

S. 219

At the request of Mr. NICKLES, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 219, a bill to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes.

S. 307

At the request of Mr. LEAHY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 307, a bill to require the Secretary of the Treasury to design and issue new counterfeit-resistant $100 currency.

S. 324

At the request of Mr. WARNER, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 324, a bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes.

S. 327

At the request of Mr. HATCH, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 348

At the request of Mr. NICKLES, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 348, a bill to provide for a review by the Congress of rules promulgated by agencies, and for other purposes.

SENATE JOINT RESOLUTION 17

At the request of Mr. KEMPTHORNE, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of Senate Joint Resolution 17, A joint resolution naming the CVN-76 aircraft carrier as the U.S.S. *Ronald Reagan*.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. SIMON, the names of the Senator from Minnesota [Mr. GRAMS], the Senator from Texas [Mr. GRAMM], the Senator from Ohio [Mr. DEWINE], the Senator from Virginia [Mr. ROBB], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Indiana [Mr. COATS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of Senate Concurrent Resolution 3, A concurrent resolution relative to Taiwan and the United Nations.

AMENDMENT NO. 236

At the request of Mr. BRYAN his name was added as a cosponsor of Amendment No. 236 proposed to House Joint Resolution 1, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

## AMENDMENTS SUBMITTED

### BALANCED BUDGET AMENDMENT

#### DOLE AMENDMENT NO. 237

Mr. DOLE proposed an amendment to the instructions to refer House Joint Resolution 1 to the Committee on the Budget; as follows:

In lieu of the instructions, and after the words ''Budget Committee'' on page 1, lines 1 and 2, insert: ''that for the purpose of any constitutional amendment requiring a balanced budget, the Budget Committee shall report back forthwith H.J. Res. 1 in status quo, and at the earliest date practicable they shall report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal.''

#### DOLE AMENDMENT NO. 238

Mr. DOLE proposed an amendment to amendment No. 237, proposed by him, to the instructions to refer House Joint Resolution 1 to the Committee on the Budget; as follows:

Strike all after the first word and insert the following: '', for the purpose of any constitutional amendment requiring a balanced budget, the Budget Committee of the Senate shall report forthwith H.J. Res. 1 in status quo and at the earliest date practicable after February 8, 1995, they shall report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal.''

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, February 9, 1995, in open session, to receive testimony on the Defense authorization request for fiscal year 1996 and the future years Defense program.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, February 9, 1995, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of the hearing is to receive testimony on the President's fiscal year 1996 budget for the Department of Energy and the Federal Energy Regulatory Commission.

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

COMMITTEE ON FINANCE

Mr. BURNS. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Thursday, February 9, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on individual retirement accounts, 401K plans, and other savings proposals.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, February 9, 1995, beginning at 10 a.m., in room G–50 of the Dirksen Senate Office Building on challenges facing Indian youth.

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

COMMITTEE ON THE JUDICIARY

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, February 9, 1995, to consider Senate Joint Resolution 19 and Senate Joint Resolution 21, as amended.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on employee involvement and worker management cooperation, during the session of the Senate on Thursday, February 9, 1995 at 9:30 a.m.

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

## ADDITIONAL STATEMENTS

### RULES OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mrs. KASSEBAUM. Mr. President, the rules of the Senate Committee on Labor and Human Resources were approved in an executive session held on January 18, 1995. Pursuant to rule XXVI, section 2, of the Standing Rules of the Senate, I submit the rules of the committee for publication in the RECORD.

The rules follow:

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

(Nancy Landon Kassebaum, Chairman)

RULES OF PROCEDURE (AS AGREED TO)

Rule 1.—Subject to the provisions of rule XXVI, paragraph 5, of the Standing Rules of the Senate, regular meetings of the committee shall be held on the second and fourth Wednesday of each month, at 10:00 a.m., in room SD–430, Dirksen Senate Office Building. The chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2.—The chairman of the committee or of a subcommittee, or if the chairman is not present, the ranking majority member present, shall preside at all meetings.

Rule 3.—Meetings of the committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate.

Rule 4.—Subject to paragraph (b), one-third of the membership of the committee, actually present, shall constitute a quorum for the purpose of trnasacting business. Any quorum of the committee which is composed of less than a majority of the members of the committee shall include at least one member of the majority and one member of the minority.

(b) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a minority member, the measure or matter shall lay over for a day. If the presence of a member of the minority is not then obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(c) No measure or matter shall be ordered reported from the committee or a subcommittee unless a majority of the committee or subcommittee is actually present at the time such action is taken.

Rule 5.—With the approval of the chairman of the committee or subcommittee, one member thereof may conduct public hearings other than taking sworn testimony.

Rule 6.—Proxy voting shall be allowed on all measures and matters before the committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

The committee may poll any matters of committee business as a matter of unanimous consent; provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

Rule 7.—There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate, unless a majority of said members vote to forgo such a record. Such records shall contain the vote cast by each member of the committee or subcommittee on any question on which a ''yea and nay'' vote is demanded, and shall be available for inspection by any committee member. The clerk of the committee, or the clerk's designee, shall have the responsibility to make appropriate arrangements to implement this rule.

Rule 8.—The committee and each subcommittee shall undertake, consistent with the provisions of rule XXVI, paragraph 4, of the Standing Rules of the Senate, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9.—The committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the chairman and the ranking minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief

summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the committee or a subcommittee. The committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10.—Should a subcommittee fail to report back to the full committee on any measure within a reasonable time, the chairman may withdraw the measure from such subcommittee and report that fact to the full committee for further disposition.

Rule 11.—No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12.—It shall be the duty of the chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13.—Whenever a meeting of the committee or subcommittee is closed pursuant to the provisions of subsection (b) or (d) of rule 26.5 of the Standing Rules of the Senate, no person other than members of the committee, members of the staff of the committee, and designated assistants to members of the committee shall be permitted to attend such closed session, except by special dispensation of the committee or subcommittee or the chairman thereof.

Rule 14.—The chairman of the committee or a subcommittee shall be empowered to adjourn any meeting of the committee or a subcommittee if a quorum is not present within fifteen minutes of the time schedule for such meeting.

Rule 15. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the committee or a subcommittee for final consideration, the clerk shall place before each member of the committee or subcommittee a print of the statute or the part or section thereof to be amended or replaced showing by stricken-through type, the part or parts to be omitted and in italics, the matter proposed to be added.

Rule 16.—An appropriate opportunity shall be given the minority to examine the proposed text of committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the majority to examine the proposed text prior to filing or publication.

Rule 17.—(a) The committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the committee.

(b) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the committee or subcommittee shall constitute a quorum: provided, with the concurrence of the chairman and ranking minority member of the committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(c) The committee may, by a majority vote, delegate the authority to issue subpoenas to the chairman of the committee or a subcommittee, or to any member designated by such chairman. Prior to the issuance of each subpoena, the ranking minority member of the committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the chairman of the committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the committee requesting same, or to any assistant to a member of the committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the rules of the Senate. Such information, to the extent that it is relevant to the investigation shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the chairman of the committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

(d) Any witness summoned to testify at a hearing or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(e) No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the committee or subcommittee.

Rule 18.—Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, on a form approved by the committee which shall be sworn to as to its completeness and accuracy. The committee form shall be in two parts—

(I) information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, and which is to be made public; and

(II) information relating to financial and other background of the nominee, to be made public when the committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Information relating to background and financial interests (parts I and II) shall not be required of (a) candidates for appointment and promotion in the Public Health Service Corps; and (b) nominees for less than full-time appointments to councils, commissions or boards when the committee determines that some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests (part II) shall not be required of any nominee when the committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the chairman, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19.—Subject to statutory requirements imposed on the committee with respect to procedure, the rules of the committee may be changed, modified, amended or suspended at any time; provided, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20.—In addition to the foregoing, the proceedings of the committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

[Excerpts from the Standing Rules of the Senate]

RULE XXV—STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(m)(l) Committee on Labor and Human Resources, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Measures relating to education, labor, health, and public welfare.
2. Aging.
3. Agricultural colleges.
4. Arts and humanities.
5. Biomedical research and development.
6. Child labor.
7. Convict labor and the entry of goods made by convicts into interstate commerce.
8. Domestic activities of the American National Red Cross.
9. Equal employment opportunity.
10. Gallaudet College, Howard University, and Saint Elizabeths Hospital.
11. Handicapped individuals.
12. Labor standards and labor statistics.
13. Mediation and arbitration of labor disputes.
14. Occupational safety and health, including the welfare of miners.
15, Private pension plans.
16. Public health.
17. Railway labor and retirement.
18. Regulation of foreign laborers.
19. Student loans.
20. Wages and hours of labor.

(2) Such committee shall also study and review, on a comprehensive basis, matters, relating to health, education and training, and public welfare, and report thereon from time to time.

RULE XXVI—COMMITTEE PROCEDURE

Each[1] standing committee, including any subcommittee of any such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such testimony and to make such expenditures out of the contingent fund of the Senate as may be authorized by resolutions of the Senate. Each such committee may make investigations into any matter within its jurisdiction, may report such hearings as may be had by it, and may employ stenographic assistance at a cost not exceeding the amount prescribed by the Committee on Rules and Administration.[2] The expenses of the committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

* * * * *

5. (a) Notwithstanding any other provision of rules, when the Senate is in session, no

[1] As amended S. Res. 281, 96–2, Mar. 11, 1960 (effective Feb. 28, 1961).

[2] Pursuant to section 68c of title 2, United States Code, the Committee on Rules and Administration issues Regulations Governing Rates Payable to Commercial Reporting Farms for Reporting Committee Hearings in the Senate. Copies of the regulations currently in effect may be obtained from the Committee.

committee of the Senate or any subcommittee thereof may meet, without special leave, after the conclusion of the first two hours after the meeting of the Senate commenced and in no case after two o'clock postmeridian unless consent therefor has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leaders, from his designee). The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget. The majority leader or his designee shall announce to the Senate whenever consent has been given under this subparagraph and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

(b) Each meeting of a committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the member of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance of any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

(e) Each committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting or conference whether or not such meeting or any part thereof is closed under this paragraph, unless a majority of its members vote to forgo such a record.

* * * * *

GUIDELINES OF THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES WITH RESPECT TO HEARINGS, MARKUP SESSIONS, AND RELATED MATTERS

HEARINGS

Section 133A(a) of the Legislative Reorganization Act requires each committee of the Senate to publicly announced the date, place, and subject matter of any hearing at least one week prior to the commencement of such hearing.

The spirit of this requirement is to assure adequate notice to the public and other Members of the Senate as to the time and subject matter of proposed hearings. In the spirit of section 133A(a) and in order to assure that members of the committee are themselves fully informed and involved in the development of hearings:

1. Public notice of the date, place, and subject matter of each committee or subcommittee hearing should be inserted in the Congressional Record seven days prior to the commencement of such hearing.

2. Seven days prior to public notice of each committee or subcommittee hearing, the committee or subcommittee should provide written notice to each member of the committee of the time, place, and specific subject matter of such hearing, accompanied by a list of those witnesses who have been or are proposed to be invited to appear.

3. The committee and its subcommittee should, to the maximum feasible extent, enforce the provisions of rule 9 of the committee rules as it relates to the submission of written statements of witnesses twenty-four hours in advance of a hearing. When statements are received in advance of a hearing, the committee or subcommittee (as appropriate) should distribute copies of such statements to each of its members.

EXECUTIVE SESSIONS FOR THE PURPOSE OF MARKING UP BILLS

In order to expedite the process of marking up bills and to assist each member of the committee so that there may be full and fair consideration of each bill which the committee or a subcommittee is marking up the following procedures should be followed:

1. Seven days prior to the proposed data for an executive session for the purpose of marking up bills the committee or subcommittee (as appropriate) should provide written notice to each of its members as to the time, place, and specific subject matter of such session, including an agenda listing each bill or other matters to be considered and including:

(a) two copies of each bill, joint resolution, or other legislative matter (or committee print thereof) to be considered at such executive session; and

(b) two copies of a summary of the provisions of each bill, joint resolution, or other legislative matter to be considered at such executive session; and

2. Three days prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or subcommittee (as appropriate) should deliver to each of its members two copies of a cordon print or an equivalent explanation of changes of existing law proposed to be made by each bill, joint resolution, or other legislative matter to be considered at such executive session.

3. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, each member of the committee or a subcommittee (as appropriate) should provide to all other such members two written copies of any amendment or a description of any amendment which that member proposes to offer to each bill, joint resolution, or other legislative matter to be considered at such executive session.

4. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or a subcommittee (as appropriate) should provide each member with a copy of the printed record or a summary of any hearings conducted by the committee or a subcommittee with respect to each bill, joint resolution, or other legislative matter to be considered at such executive session.

COMMITTEE REPORTS, PUBLICATIONS, AND RELATED DOCUMENTS

Rule 16 of the committee rules requires that the minority be given an opportunity to examine the proposed text of committee reports prior to their filing and that the majority be given an opportunity to examine the proposed text of supplemental, minority, or additional views prior to their filing. The views of all members of the committee should be taken fully and fairly into account with respect to all official documents filed or published by the committee. Thus, consistent with the spirit of rule 16, the proposed text of each committee report, hearing record, and other related committee document or publication should be provided to the chairman and ranking minority member of the committee and the chairman and ranking minority member of the appropriate subcommittee at least forty-eight hours prior to its filing or publication.●

## IT'S DRUGS, STUPID

● Mr. SIMON. Mr. President, one of the finest public servants in my years in Congress was Joseph Califano, who headed what was then known as Health, Education and Welfare for President Carter. He wrote a story in the Sunday New York Times on the drug problem that makes eminent good sense.

Recently, the Chicago Sun-Times had a front-page story saying that 95 percent of those who apply for drug treatment are being turned down. I visited Cook County jail with 9,000 inmates. In a minimum security barracks, with about 45 men sleeping on cots, one of the prisoners told me he wanted to get into drug treatment. I turned to the assistant warden who was with me and asked why he could not get in, and the warden said they had only 120 spots for drug treatment for 9,000 prisoners. I turned to the rest of the men and asked how many of them would like to get into drug treatment and about 30 raised their hands.

Our failure to provide drug treatment for people who need it is short-sighted. We demagog on the crime issue and pretend we are really doing something when we create 60 new causes for capital punishment and set more mandatory minmums. The reality is, we are

doing nothing through those things to reduce the crime rate.

Senator KENNEDY uses the figure that 75 percent of those who do receive drug treatment while in prison do not come back, and 75 percent of those who do not, do come back. I don't know if those statistics are precisely accurate, but the general principle is clearly accurate. I am grateful to Joe Califano for providing sensible leadership once more.

At this point, I ask that his statement be printed in the RECORD.

The statement follows:

[From the New York Times, Jan. 29, 1995]

IT'S DRUGS, STUPID

(By Joseph Califano)

Despite all the Republican preening and Democratic pouting since Nov. 8, neither political party gets it. If Speaker Newt Gingrich is serious about delivering results from his party's ''Contract With America'' and if President clinton means to revive his Presidency, each can start by recognizing how fundamentally drugs have changed society's problems and that together they can transform Government's response.

For 30 years, America has tried to curb crime with more judges, tougher punishments and bigger prisons. We have tried to rein in health costs by manipulating payments to doctors and hospitals. We've fought poverty with welfare systems that offer little incentive to work. All the while, we have undermined these efforts with our personal and national denial about the sinister dimension drug abuse and addition have added to our society. If Gingrich and Clinton want to prove to us that they can make a difference in what really ails America, they should ''get real'' about how drugs have recast three of the nation's biggest challenges.

Law, Order and Justice—In 1960 there were fewer than 30,000 arrests for drug offenses; in 30 years, that number soared beyond one million. Since 1989, more individuals have been incarcerated for drug offenses than for all violent crimes—and most violent crimes are committed by drug (including alcohol) abusers.

Probation and parole are sick jokes in most cities. As essential first steps to rehabilitation, many parolees need drug treatment and after-care, which means far more monitoring than their drug-free predecessors of a generation ago required, not less. Yet in Los Angeles, for example, probation officers are expected to handle as many as 1,000 cases at a time. With most offenders committing drug- or alcohol-related crimes, it's no wonder so many parolees go right back to jail: 80 percent of prisoners have prior convictions and more than 60 percent have served time before.

Congress and state legislatures keep passing laws more relevant to the celluloid gangsters and inmates of classic 1930's movies than 1990's reality. Today's prisons are wall to wall with drug dealers, addicts, alcohol abusers and the mentally ill (often related to drug abuse). The prison population shot past a million in 1994 and is likely to double soon after the year 2000. Among industrialized nations, the United States is second only to Russia in the number of its citizens it imprisons: 519 per 100,000, compared with 368 for next-place South Africa, 116 for Canada and 36 for Japan.

Judges and prosecutors are demoralized as they juggle caseloads of more than twice the recommended maximum. In 1991 eight states had to close their civil jury trial systems for all or part of the year to comply with speedy trial requirements of criminal cases involving drug abusers. Even where civil courts remain open, the rush of drug-related cases has created intolerable delays—4 years in Newark, 5 in Philadelphia and up to 10 in Cook County, Ill. In our impersonal, bureaucratic world, if society keeps denying citizens timely, individual hearings for their grievances, they may blow off angry steam in destructive ways.

Health Care Cost Containment.—Emergency rooms from Boston to Baton Rouge are piled high with the debris of drug use on city streets—victims of gunshot wounds, drug-promoted child and spouse abuse, and drug-related medical conditions like cardiac complications and sexually transmitted diseases. AIDS and tuberculosis have spread rapidly in large part because of drug use. Beyond dirty needles, studies show that teenagers high on pot, alcohol or other drugs are far more likely to have sex, and to have it without a condom.

Each year drugs and alcohol trigger up to $75 billion in health care costs. The cruelest impact afflicts the half-million newborns exposed to drugs during pregnancy. Crack babies, a rarity a decade ago, crowd $2,000-a-day neonatal wards. Many die. It can cost $1 million to bring each survivor to adulthood.

Even where prenatal care is available—as it is for most Medicaid beneficiaries—women on drugs tend not to take advantage of it. And as for drug treatment, only a relatively small percentage of drug-abusing pregnant mothers seek it, and they must often wait in line for scarce slots. Pregnant mothers' failure to seek prenatal care and stop abusing drugs accounts for much of the almost $3 billion that Medicaid spent in 1994 on impatient hospital care related to drug use.

The Fight Against Poverty.—Drugs have changed the nature of poverty. Nowhere is this more glaring than in the welfare systems and the persistent problem of teen-age pregnancy.

Speaker Gingrich and President Clinton are hell-bent to put welfare mothers to work. But all the financial lures and prods and all the job training in the world will do precious little to make employable the hundreds of thousands of welfare recipients who are addicts and abusers.

For too long, reformers have had their heads in the sand about this unpleasant reality. Liberals fear that admitting the extent of alcohol and drug abuse among welfare recipients will incite even more punitive reactions than those now fashionable. Conservatives don't want to face up to the cost of drug treatment. This political denial assures failure of any effort to put these welfare recipients to work.

The future is not legalization. Legalizing drug use would write off millions of minority Americans, especially children and drug-exposed babies, whose communities are most under siege by drugs. It has not worked in any nation where it's been tried, and our own experience with alcohol and cigarettes shows how unlikely we are to keep legalized drugs away from children.

Drugs are the greatest threat to family stability, decent housing, public schools and even minimal social amenities in urban ghettos. Contrary to the claim of pot proponents, marijuana is dangerous. It devastates short-term memory and the ability to concentrate precisely when our children need them most—when they are in school. And a child 12 to 17 years old who smokes pot is 85 times as likely to use cocaine as a child who does not. Cocaine is much more addictive than alcohol, which has already hooked more than 18 million Americans. Dr. Herbert D. Kleber, a top drug expert, estimates that legalizing cocaine would give us at least 20 million addicts, more than 10 times the number today.

It's especially reckless to promote legalization when we have not committed research funds and energies to addiction prevention and treatment on a scale commensurate with the epidemic. The National Institutes of Health spend some $4 billion for research on cancer, cardiovascular disease and AIDS, but less than 15 percent of that amount for research on substance abuse and addiction, the largest single cause and exacerbator of those diseases.

Treatment varies widely, from inpatient to outpatient, from quick-fix acupuncture to residential programs ranging a few weeks to more than a year, from methadone dependence to drug-free therapeutic communities. Fewer than 25 percent of the individuals who need drug or alcohol treatment enter a program. On average, a quarter complete treatment; half of them are drug- or alcohol-free a year later. In other words, with wide variations depending on individual circumstances, those entering programs have a one-in-eight chance of being free of drugs or alcohol a year later. Those odds beat many for long-shot cancer chemotherapies, and research should significantly improve them. But a recent study in California found that even at current rates of success, $1 invested in treatment saves $7 in crime, health care and welfare costs.

Here are a few suggestions for immediate action to attack the dimension drugs have added to these three problems:

Grant Federal funds to state and Federal prison systems only if they provide drug and alcohol treatment and after-care for all inmates who need it.

Instead of across-the-board mandatory sentences, keep inmates with drug and alcohol problems in jails, boot camps or halfway houses until they experience a year of sobriety after treatment.

Require drug and alcohol addicts to go regularly to treatment and after-care programs like Alcoholics Anonymous while on parole or probation.

Provide Federal funds for police only to cities that enforce drug laws throughout their jurisdiction. End the acceptance of drug bazaars in Harlem and southeast Washington that would not be tolerated on Manhattan's Upper East Side or in Georgetown.

Encourage judges with lots of drug cases to employ public health professionals, just as they hire economists to assist with antitrust cases.

Cut off welfare payments to drug addicts and alcoholics who refuse to seek treatment and pursue after-care. As employers and health professionals know, addicts need lots of carrots and sticks, including the treat of loss of job and income, to get the monkey off their back.

Put children of drug- or alcohol-addicted welfare mothers who refuse treatment into foster care or orphanages. Speaker Gingrich and First Lady Hillary Rodham Clinton have done the nation a disservice by playing all-or-nothing politics with this issue. The compassionate and cost-effective middle ground is to identify those parents who abuse their children by their own drug and alcohol abuse and place those children in decent orphanages and foster care until the parents shape up.

Subject inmates, parolees and welfare recipients with a history of substance abuse to random drug tests, and fund the treatment they need. Liberals must recognize that getting off drugs is the only chance these individuals (and their babies) have to enjoy their civil rights. Conservatives who preach an end to criminal recidivism and welfare dependency must recognize that reincarceration and removal from the welfare rolls for those who test positive is a cruel Catch-22 unless treatment is available.

Fortunately, the new Congress and the new Clinton are certain not to legalize drugs. Unfortunately, it is less clear whether they will recognize the nasty new stain of intractability that drugs have added to crime, health costs and welfare dependency, and go on to tap the potential of research, prevention and treatment to save billions of dollars and millions of lives.

If a mainstream disease like diabetes or cancer affected as many individuals and families as drug and alcohol abuse and addiction do, this nation would mount an effort on the scale of the Manhattan Project to deal with it.●

## AMERICA'S GOLD-STAR MOM: ROSE

● Mr. SIMON. Mr. President, I am asking that a column written by Steve Neal, in tribute to the mother of our colleague, EDWARD KENNEDY, be placed into the RECORD.

It is a great tribute to Mrs. Kennedy.

I did not have the privilege of knowing her well, but I wish I had.

In addition to what is said in the Steve Neal column, I believe it is not an exaggeration to say that no mother has contributed as much to the Nation in our 206 year history as Rose Kennedy.

Her life was a story of tragedy and triumph and a brilliant spirit, despite all the tragedies. The remarkable contributions that TED KENNEDY makes to this body and to the Nation are one of many tributes to Rose Kennedy.

At this point, I ask that the Steven Neal column be printed in the RECORD.

The column follows:

[From the Sun-Times, Jan. 24, 1995]

AMERICA'S GOLD-STAR MOM: ROSE

(By Steve Neal)

Rose Fitzgerald Kennedy had style. She spoke on her son's behalf at a Veterans of Foreign Wars hall in Brighton. Mass. It was John F. Kennedy's first campaign. He was running for Congress in 1946. Mrs. Kennedy, who had lost her eldest son Joseph in World War II and had nearly lost another, didn't talk about her family's tragedy. She dazzled the crowd with her wit. As the daughter of a former Boston mayor, Rose Kennedy was a political natural. When she finished her talk at the VFW hall. Mrs. Kennedy got a rousing ovation. Then she introduced the young JFK.

Dave Powers, JFK's war buddy, recalled that Kennedy was ''slightly over-whelmed that his mother could talk that well to an audience.'' As Mrs. Kennedy made her exit, her son stopped her and said, ''Mother, they really love you.''

So did the world.

Rose Elizabeth Fitzgerald Kennedy, who died Sunday at 104, was America's gold-star mother and one of the more extraordinary women of the 20th century. She taught JFK how to give a political speech and how to work a crowd. He couldn't have had a better teacher.

Three of her sons were elected to the U.S. Senate and her son John won the presidency of the United States. She took pride in their accomplishments.

''As Jack's mother, I am confident that Jack will win because his father says so, and through the years I have seen his predictions and judgments vindicated almost without exception,'' Mrs. Kennedy wrote in her diary in June, 1960. ''And so, I believe it. He also says, and has said all along, that if Jack gets the nomination he can beat Nixon.''

Mrs. Kennedy had a long memory. ''We are all furious at Governor [Pat] Brown of California and Governor [David] Lawrence of Pennsylvania because they will not come out for Jack now. Their support would clinch the nomination for him. Joe has worked on Lawrence all winter but he still can't believe a Catholic can be elected.''

Mrs. Kennedy wrote of JFK's first debate: ''I watched Jack last night on the debate, praying through every sentence, as I had prayed during the day. He looked more assured than Nixon and looked better physically. Jack seemed to have the initiative and once or twice rose to inspiring heights of oratory.'' But she noted that he could improve: ''People think that Jack speaks too fast. I agree and have already told him.''

Four of her children had tragic deaths. She said that the wounds of those tragedies never healed. But her courage and faith kept her going. ''One of the best ways to assuage grief is to find a way to turn some part of the loss to a positive, affirmative use for the benefit of other people,'' Mrs. Kennedy wrote in her memoirs. ''I do believe that God blesses us for that and the burden is lightened.''●

## ANGUISH IN RWANDA

● Mr. SIMON. Mr. President, recently, the Washington Post had an interesting editorial titled, ''Anguish in Rwanda.''

It speaks of the need for the United Nations to have a few troops, to give some stability to a nation that is teetering on the edge of instability. Perhaps even that is a too favorable description of the situation.

I introduced legislation in the last session, which I will be reintroducing this session, to authorize the United States to have up to 3,000 troops that would be available to the United Nations for their efforts, subject to the approval of the President of the United States. We should call on other nations to do the same.

The great threat to U.S. security and the security of other nations today is instability. By having a small force, a group of volunteers from within our Armed Forces available, we could do much to provide stability in places like Rwanda.

I ask that the Post editorial be printed in the RECORD.

The editorial follows:

[From the Washington Post, Jan. 25, 1995]

ANGUISH IN RWANDA

To protect a million-plus Rwandan refugees in Zaire, the United Nations appealed to 60 nations for peace-keepers. All 60 said no. The secretary general then asked for a few dozen U.N. officers to support soldiers from Zaire. Again the answer was no. Falling back, U.N. Secretary General Boutros Boutros-Ghali now simply asks the Security Council to make available some Zairian troops assisted by civilian refugee officials. The prospects are uncertain.

In the camps there is no uncertainty, only desperation. The Hutus who perpetrated genocide in Rwanda last spring lost to the Tutsi-minority rebels and then carried many of their people, with their supporting community structures, into exile in Zaire. The international relief agencies found these structures essential to funnel in quick aid. But that gave new power and coin to the old Hutu hierarchy, including war criminals, who steal the aid and keep refugees from going home. A moral dilemma has split the agencies: Stay and sustain a regime of killers, or leave and let suffering refugees suffer more. This is the context in which the United Nations seeks to build an alternative security structure.

Last year's television pictures of the genocide publicized the need for emergency supplies, and many responded. But the humanitarian needs of the camps merge into an obscure zone of political struggle, and many lose interest. Dozens of countries were ready to send material aid. None is ready to expose its soldiers to risk for the Hutus. Nor is the problem confined to Rwanda. Its descent to a hollowed-out chaos where it can no longer order its own affairs is typical of the ethnic and national disputes that now disfigure world politics. Expect more in humanitarian crises, the CIA warned last month, and less in international relief.

So many things remain to be done. Right at the top ought to be the establishment of a standby humanitarian food-and-police service, run out of the Security Council, where the United States has a veto, so that when the next quaking call comes, the secretary general does not have to run around begging 60 distracted countries to help in vain.●

## GOOD MORNING, VIETNAM

● Mr. SIMON. Mr. President, a few weeks ago, Senator FRANK MURKOWSKI and I had the chance to visit Vietnam. And shortly after we got back, I read the column by Tom Friedman in the New York Times about Vietnam, which makes so much sense.

We are now inching toward full diplomatic relations that should have occurred years ago. Sixteen years ago I had lunch with the Vietnamese delegation at the United Nations and urged full diplomatic recognition at that time. We should do it now—the sooner, the better.

I ask that the Tom Friedman column be printed in the RECORD.

The column follows:

[From the New York Times, Jan. 18, 1995]

GOOD MORNING, VIETNAM

(By Thomas L. Friedman)

HANOI, VIETNAM.—In 1966, at the height of the Vietnam War, Senator George Aiken became famous for suggesting that we simply declare victory and bring American troops home. That victory was phony, but 29 years later we truly have one in Vietnam, if winning is measured by a Vietnam that is economically, politically and strategically pro-Western. Yet despite that victory, Washington is reluctant to open full diplomatic relations with Hanoi and consolidate its tentative move into America's orbit. It's time. It's time we started relating to Vietnam as a country, not a conflict. It's time that we declare victory and go back to Vietnam to reap it.

President Bush should have been the one to open relations. He knew it was the right thing to do, and he had the credibility with veterans' groups to do it. But he didn't. (Wouldn't be prudent.) President Clinton, despite his problems with Vietnam vets, has inched closer to Hanoi, by lifting economic sanctions last year and agreeing to a low-level liaison office this year. For months the State Department has been quietly recommending full normalization, but after the midterm Republican rout the White House said ''Forget it.'' (Wouldn't be prudent.) That is America's loss.

Vietnam's 72 million industrious, literate people are building a market economy from the ground up. Because U.S. diplomats and businesses are not here in force as the foundation stones are laid and the legal system is reformed, this means U.S. standards, regulations and laws are not being wired in. Australia already dominates the phone system, British Petroleum has the oil sector and Singapore advises on the legal code.

I was riding in a taxi here the other day and the driver was studying English from BBC tapes. For 30 minutes I had to listen to a repetition of: ''I like football. I like Manchester United,'' the prominent British soccer team. When they think football here they don't think Dallas Cowboys, and when they think telephones they don't think AT&T.

Strategically, the big issue in Asia will be the containment of China, whose military might, and appetite, will grow as China grows. There is no more powerful counterweight to Beijing than Hanoi, whose tiny army bludgeoned China's in their 1979 border war. China is Vietnam's historical enemy. Most of Hanoi's boulevards are named for heroes of the wars against China. The biggest display in the Hanoi Army Museum is not of Vietnam's victory over the U.S. in 1975, but its victory over the Mongols from the north in 1288. A U.S.-Vietnam entente would get China's attention—and keep it.

As for our M.I.A's, every U.S. official dealing with this issue says Vietnamese cooperation has improved (not diminished, as opponents of relations predicted) since we lifted the economic embargo. The reason is not anything the Hanoi Government is doing, but because the Vietnamese people, villagers and veterans, are now coming forward with information about graves and bones that they were holding back as long as America was embargoing them economically. U.S. M.I.A. officials say normal relations and more Americans traveling here would only elicit more grass-roots cooperation, which is the only way the 1,621 remaining M.I.A. cases will be resolved.

It is pathetic that a small, vindictive cult of M.I.A. activists in America—who broadcast U.F.O. sightings of P.O.W.'s roaming the Vietnamese countryside and demand we withhold normalization to punish Hanoi for war we never should have fought—have intimidated Washington into a Vietnam policy that is bad for M.I.A.'s and bad for America.

The Vietnamese, who have 300,000 M.I.A.'s, have let the future bury the past. As Deputy Foreign Minister LeMai told me: ''If we nursed all of our grudges with all the powers that we have fought against, we wouldn't have relations with anyone. The war divided your society; recognizing Vietnam would put this behind you. It would heal your own wounds.''

He's right. It's time we too buried the past. Hue today is a cuisine, not a battle; Tet is a New Year's celebration, not an offensive; Haiphong is a harbor, not something to be bombed at Christmas; and Highway 1 is where they run the Hanoi Marathon, not the military artery of an enemy nation. President Clinton didn't start this war, and he didn't fight this war, but with a little bit of courage, he could finally end this war.●

## A FRACTURED COMMUNITY AND SHORT OF PERFECTION

● Mr. SIMON. Mr. President, recently, the annual Man of the Year Award in St. Louis was given to two people rather than one, our two former colleagues, Tom Eagleton and Jack Danforth.

They are both among our finest.

I am pleased that the citizens of St. Louis appropriately honored both of them.

The St. Louis Post-Dispatch published their comments on that occasion, and because of our association with the two of them and because of what they say about government and our attitudes toward one another in this excessively partisan climate, I urge my colleagues to read their comments.

I ask that their remarks be printed in the RECORD.

The remarks follow:

[From the St. Louis Post-Dispatch, Jan. 10, 1995]

### A FRACTURED COMMUNITY

(By Thomas F. Eagleton)

I recently attended a meeting of St. Louis businessmen and heard Charles ''Chuck'' Knight, chairman and CEO of Emerson Electric, say the following: ''Downtown's top attractions—the Arch, Busch Stadium, Kiel Center, Union Station, the convention center, the new football stadium, the casinos—will draw in excess of 12 million visitors annually. That's more than Disneyland.''

Chuck Knight is correct in his enthusiasm for downtown St. Louis, Downtown St. Louis has been revived. Downtown St. Louis is being rescued.

But the city of St. Louis as a whole has not. The Arch does not a city make. Busch Stadium does not a city make. The Kiel Center does not a city make. A football stadium does not a city make.

A city is people. A city is neighborhoods. A city is the interrelation of people with common concerns and common hopes. A city is the cohesive interaction of its peoples and its purposes. A city is the sum of its treasured pact and its capacity to flourish in the future.

Today's city of St. Louis can glory in its past as one of America's great cities, but as presently structured, it is a fading city with a troubled future.

When I entered politics, the city of St. Louis had 850,000 people. Today it is 380,000. The 1994 official State of Missouri demographic report says that in 2020 the population of St. Louis will be between 225,000 and 275,000—much smaller than the Wichita of 2020.

There is a structural noose around the St. Louis region's neck. We don't discuss it much, but the St. Louis metropolitan area is the textbook example of the most politically fragmented, disarrayed urban region in the nation. We are America's worst-case governance scenario. When we succeed, we do so in spite of our structural handicaps.

Back in 1876, the voters approved the separation of the city from the county. There were five municipalities in St. Louis County at that time. There are now 90. One has 11 residents. There are 21 St. Louis County cities with under 1,000 people. Only nine exceed 20,000.

There are 43 fire protection units and 62 police departments.

In the St. Louis metropolitan region, resource disparities are staggering. The city has been tax-abated to excess. In the county, there continues a frenetic, never-ending ''land rush'' to capture tax base in unincorporated portions of the county.

I realize we live in a time when it is out of fashion to discuss the impact of government on private decision-making. I also realize that we like to cling to the sentimental notion that somehow quaint Webster Groves and Ladue, for example, are so self-sufficient as to have no need of interaction and interconnection with governmental conditions around them.

Just as the city of St. Louis has outlived its history, St. Louis County has outgrown its sentimental quaintness. Our city and our county are an aggregation of jerry-built, haphazard, fragmented, disconnected governmental units, many barely treading water. We have had a succession of Boards of freeholders, a Board of Electors, and a Boundary Commission. All have attempted to tinker with the governmental structure and for one reason or another have made no discernable improvement.

We have tried some targeted remedies, such as a Sewer District, Junior College District, Zoo and Museum District, and joint support for a hospital. We have Bi-State. These regional efforts have helped, but the city-county disunion persists.

St. Louis and St. Louis County still remain as the foremost textbook example of how free people can misgovern themselves on the local level.

Enough handwringing. What do we do?

We have two choices.

Creeping incrementalism. Deal with the situation at the margins—tinkering with charter reform—go to the Missouri legislature or voters for non-controversial changes.

Cold bath. Just as the end of communism required a bold, total leap into capitalism, so too the end of St. Louis-St. Louis County disunion will require a bold, total immersion. St. Louis, like Berlin, would be whole again.

I fervently believe in the latter precept. Incrementalism won't go to the root of the distress. I'll give an example. Whether the St. Louis Police Board is appointed by the governor or the mayor will not have an overwhelming, decisive impact on the destiny of St. Louis. Only the boldness of urban consolidation—one city—will be meaningful.

Let me be clear. I am not alleging that solving the governmental barriers of the St. Louis region will alone create a spontaneous regeneration of a new and greater St. Louis with unfettered decency and personal responsibility reigning supreme.

Eliminating the Berlin Wall has not as yet equalized East and West. Eliminating Skinker Boulevard as our own Berlin Wall between poverty and prosperity will not by itself ensure an instantaneous panacea.

It would allow for local government to do its part of the societal job at its united best rather than at its fragmented worst. It would allow for a consolidation of effort and a focus of responsibility that simply isn't possible when political authority is fragmented into bits and pieces.

The day should come when St. Louis recaptures its population, its tax base and its greatness.

To paraphrase a famous Jewish sage, if not now, when? If not us, who?

[From the St. Louis Post-Dispatch, Jan. 10, 1995]

### SHORT OF PERFECTION

(By John C. Danforth)

It is a most special honor to be joined in anyone's mind with Tom Eagleton. For all of my political life, Tom has been for me the model of what a public servant should be—smart, energetic, dedicated, always committed to the principles in which he believed. It never mattered to me that his positions were not exactly my own. He was a very fine Senator, and he is a very good friend, and I am proud to share this honor with him.

I don't know whether I am making much more out of it than was intended, but it seems to me that there is a message in this dual award—a message from St. Louis to the country—that it is St. Louis' own answer to

the meanness and the anger that is the politics of the 1990s. The message is that politics does not have to be as mean and as angry as is now the rule.

I don't say this only because of the personal relationship between Tom and me. But beyond recognizing our good relationship, there is something more in the message of today's awards.

Consider what it means when there are two men of the year who made careers in politics, when one is a Democrat and the other a Republican, one a liberal, the other a conservative, one a supporter of Carter and Mondale, the other a supporter of Reagan and Bush. Consider what it means when there are two men of the year, who often disagreed, who often canceled one another's votes in the Senate.

For those citizens who are in a constant state of rage about government, it would be difficult to honor either Tom or me; it would be impossible to honor both of us at the same time. It would be difficult to honor either of us because, with the thousands of Senate votes we cast, each of us has done enough controversial things to make every Missourian mad at least some of the time.

And if it would be difficult for an outraged citizen to honor either one of us separately, it would be absolutely impossible to honor both of us together. Even those who agreed with one of us could not have agreed with both of us at the same time.

If it is essential to you that your politicians reflect your views, and if it angers you when they don't, then Tom, or I, and certainly both of us together, must have made you very angry very often. Many people have theories to explain the general sense of outrage felt against politics and politicians. Some point to the media generally, or more specifically to talk radio or Rush Limbaugh. Some point to negative election campaigns and unprincipled political consultants. All of that deserves attention, but I think there is something more—something broader than the latest trends in the media or in campaigning. It has to do with what people expect from government.

When expectations are unrealistically high, outrage at failure is sure to follow. When we believe that government should have all our answers, we are angry when it has none of our answers. And unrealistic expectations of government are the order of the day. This is true on both the left and the right. On the left, it is thought that government can manage the economy and cure the ills of society. On the right it is thought that government can deter crime and restore personal and religious values. In each case, platforms and programs are thought to hold the key to success, if only the right law is enacted, if only the right people are in charge.

We attribute our failures as a country to failures of our government. We say that our politicians are out of touch. They don't do things our way. They are incompetent, maybe even corrupt.

Our problems are not of our making, but of their making. If only right thinkers were in power, we could get on with the people's business—the business of balancing the budget and cutting taxes and retaining all the benefits we demand.

It is no wonder that we are so angry at government when our expectations are so high. If government has the power to make things right for us and simply doesn't do so, of course we should be mad.

But we have got it wrong, wildly wrong by any historic standard. It is not that government is bad, only that it is government. As such it is limited, not by accident, but by design, not because it is poorly run, but because it is run as our founders intended it to be.

Government is not perfect, and it was not supposed to be perfect. It is not omnipotent, because it was not intended to be omnipotent. It was not intended to rule the economy or our health care system or our families or our values. It never had the total answer, it never had total power—it had limited power and the limited capacity to make things better.

It makes sense to honor Tom Eagleton and Jack Danforth with the same award only if there is a high level of tolerance for each of us, only if you see that each of us was off the mark, that neither of us had all the answers, that it was enough to make a good try.

The business of government is not to reach perfection, for perfection is not reached in this world. Marxism's lesson is that when government attempts to reach perfection, it must be totalitarian.

## RECALLING A MAN WHO STAYED THE COURSE

● Mr. SIMON. Mr. President, one of the gems in our society today is Jack Valenti, president of the Motion Picture Association of America and former assistant to Lyndon Johnson.

Recently, I saw his op-ed piece in the Los Angeles Times on the 30th anniversary of the inauguration of Lyndon Johnson as president.

His article reminded me what I heard on the radio recently that our statistics on the children who live in households below the poverty level has risen to 26 percent. I did not hear the source for that, I do not know if it is accurate. The traditional measurement we have been using is 23 percent. And what a tradegy that is. No other Western industrialized democracy comes anywhere near a figure like that, a figure that is totally and completely preventable.

While the Vietnam war marred the record of Lyndon Johnson, what he accomplished in the domestic field—in helping people who desperately need help—should jog our conscience today. There is so much mean-spiritedness and lack of concern for the poor. It appalls me.

All Americans need hope and instead of giving many of them hope, we are giving them jail cells or desperate poverty.

I ask that the Jack Valenti item be printed in the RECORD.

The editorial follows:

RECALLING A MAN WHO STAYED THE COURSE

(By Jack Valenti)

On this day 30 years ago, Lyndon B. Johnson was inaugurated in his own right as the 36th President of the United States. He has been elected President the previous November in a landslide of public favor, with the largest percentage of votes in this century, matched by no other victorious President in the ensuing years. This day plus two is also the 22nd anniversary of his death.

Is it odd or is it merely the lament of one who served him as best I could that his presidency and his passing find only casual regard on this day?

He was the greatest parliamentary commander of his era. he came to the presidency with a fixed compass course about where he wanted to take the nation, and unshakable convictions about what he wanted to do to lift the quality of life. Against opposing forces in and outside his own party, in conflict with those who thought he had no right to be President, contradicting conventional wisdom and political polls, he never hesitated, never flagged, never changed course. He was a professional who knew every nook and cranny of the arena, and when he was in full throttle, he was virtually unstoppable.

He defined swiftly who he was and what he was about. He said that he was going to pass a civil-rights bill and a voting rights bill because, as he declared, ''every citizen ought to have the right to live his own life without fear, and every citizen ought to have the right to vote and when you got the vote, you have political power, and when you have political power, folks listen to you.'' He promptly told his longtime Southern congressional friends that though he loved them, they had best get out of his way or he would run them down. He was going to pass those civil-rights bills. And he did.

He made it clear that he was no longer going to tolerate ''a little old lady being turned away from a hospital because she had no money to pay the bill. By God, that's never going to happen again.'' He determined to pass what he called ''Harry Truman's medical-insurance bill.'' And he did. It was called Medicare.

He railed against the absence of education in too many of America's young. He stood on public rostrums and shouted, ''We're going to make it possible for every boy and girl in America, no matter how poor, no matter their race or religion, no matter what remote corner of the country they live in, to get all the education they can take, by federal loan, scholarship or grant.'' And he passed the Elementary and Secondary Education Act.

He was in a raging passion to destroy poverty in the land. He waged his own ''War on Poverty,'' giving birth to Head Start and a legion of other programs to stir the poor, to ignite their hopes and raise their sights. Some of the programs worked. Some didn't. But he said over and over again, ''If you don't risk, you never rise.''

He often said that no President can lay claim to greatness unless he presides over a robust economy. And so he courted, shamelessly, the business, banking and industrial proconsuls of the nation and made them believe what he said. And the economy prospered.

On the first night of his presidency, he ruminated about the awesome task ahead. But there was on the horizon that night only a thin smudge of a line that was Vietnam. In time, like a relentless cancer curling about the soul of a nation, Vietnam infected his presidency.

If there had not been 16,000 American soldiers in Vietnam when he took office, would he have sent troops there? I don't believe he would have. But who really knows? What I do know is that he grieved, a deep-down sorrow, that he could not find ''an honorable way out'' other than ''hauling ass out of there.''

I think that grieving cut his life short. Every President will testify that when he has to send young men into battle and the casualties begin to mount, it's like drinking carbolic acid every morning.

But it was all a long time ago. To many young people not born when L.B.J. died, he is a remote, distant figure coated with the fungus of Vietnam. They view him, if at all, dispiritedly.

But to others, to paraphrase Ralph Ellison, because of Vietnam, L.B.J. will just have to settle for being the greatest American President for the undereducated young, the poor and the old, the sick and the black. But perhaps that's not too bad an epitaph on this day so far away from where he lived.●

## YOU CAN'T LEAD BY FOLLOWING

● Mr. SIMON. Mr. President, in going over some old newspapers that I missed while I was in Illinois over the Christmas/New Year holiday, I came across an op-ed piece by Robin Gerber, a senior fellow at the University of Maryland's Center for Political Leadership and Participation.

It comments on what I consider to be a fundamental weakness in our political process today, that people are trying to follow the polls in how they respond to problems.

There is a great quote in the op-ed piece from our House colleague, STENY HOYER, for whom my admiration has grown through the years. Congressman HOYER states: ''What polls do is confuse us. We're not trying to figure out what's right but what is the passion of the day. Polls make us sloppy intellectually. They are a substitute for thinking.''

I ask that the Robin Gerber item be printed in the RECORD.

The editorial follows:

### YOU CAN'T LEAD BY FOLLOWING

(By Robin Gerber)

There is much talk now of governing from the ''center,'' of how centrist politics can overcome the debacle of the Nov. 8 election and put the president and his party on a true course for reelection in 1996. But it is the moral center that must be found before the political one can be explored.

This quest for defining political vision is imperiled by the misplaced reliance by politicians of both parties on public opinion polls.

Pollsters' authoritative declamations and directions, gleaned from the complex science of gauging the public interest, corrupt the straightforward instincts needed to govern from the gut. Rep. Steny Hoyer, past chairman of the Democratic Caucus, puts it this way, ''What polls do is confuse us. We're not trying to figure out what's right but what is the passion of the day. Polls make us sloppy intellectually. They're a substitute for thinking.''

In an unprecedented effort to lead by following, politicians of the 1990s use polls to support a new form of hyper-interactive governing. Like some collective psychoanalysis on living room couches across the nation, Americans are being probed and prodded as never before. But you can't legislate by the numbers. From the field of war to the football field, no general or quarterback has led by following the combined opinions of the troops or the tight-ends.

Pollsters argue that polls are valuable market assessment tools, a means to focus policy and message on voters' concerns. Even the Founders acknowledged that candidates who depend on the suffrage of their fellow citizens for election should be informed of those citizens' ''dispositions and inclinations and should be willing to allow them their proper degree of influence.'' But polling in 1994 has gone beyond an ancillary tool for governing or campaigning. Rather than a point of departure for sensitive and thoughtful leaders, polls have become a point of no return that overshadows the imperative for leadership. As James MacGregor Burns wrote in his classic text on leadership, ''the transforming leader taps the needs and raises the aspirations and helps shape the values—and hence mobilizes the potential—of followers.'' To be transforming leaders, today's politicians cannot afford to drift, absent the anchor of ideals, in a sea of percentage points.

Two hundred years ago, the Federalist papers expressed our belief as a nation that ''the public voice pronounced by the representatives of the people, will be more consonant to the public good, than if pronounced by the people themselves.'' Measuring and articulating substantive discontent should serve the purpose of keeping elected representatives' debate and decisions in tune with their constituency, not in automatonic lock-step. Pollster Celinda Lake reads the electorate as wanting to raise the pitch of technologically steered democracy so that citizens could directly bestow their opinion on major legislative issues. In that case, perhaps we should give up on our founding ideal of a republic and elect the pollsters directly.

Representative democracy is our greatest national heritage and gives us our greatest national challenge. We seek leaders who will listen and interpret sometimes incoherent, sometimes inchoate messages into policies greater than the sum of our collective consciousness. Political leaders who will transform this country, rather than be transfixed by shifting techno-derived edicts, must lead and govern from the center of their own hearts and minds. No poll has yet been devised that can substitute.●

## EDUCATION CHIEF DECLARES WAR ON TV VIOLENCE

● Mr. SIMON. Mr. President, the problem of television violence, which I have addressed on a number of occasions in committee and on the floor of the Senate, has recently been addressed by a group of psychiatrists and other social leaders in Great Britain, where the standards are appreciably tighter than ours. And in reading the Jerusalem Post the other day, I came across an article titled, ''Education chief declares war on TV violence.''

The reaction in Israel to too much violence on the television screen is like ours and the British reaction.

At this point, I ask that the Jerusalem Post article be printed in the RECORD. The article follows:

### EDUCATION CHIEF DECLARES WAR ON TV VIOLENCE

(By Liat Collins)

Education Minister Amnon Rubinstein last week declared war on TV violence, telling the Knesset that if networks do not demonstrate self restraint in screening movies, he would submit a bill to the cabinet.

Rubinstein's statements came at the end of a discussion on the distribution of ''snuff'' and violent movies in Israel. ''Snuff movies'' document the deliberate torture and murder of a victim for ''entertainment.''

''This type of film goes beyond all acceptable moral boundaries; we're talking about an evil and sick phenomenon. Therefore we must enforce the existing laws, and if need be I will equip myself with extra penal measures,'' Rubinstein said.

''Freedom of expression and civil liberties do not stretch to filmed murders and violence as entertainment,'' he added.

The discussion was initiated by MKs Anat Maor (Meretz), David Mena (Likud), Elie Goldschmidt (Labor) and Shlomo Benizri (Shas), who filed motions for the agenda following an interview in *Yediot Aharonot* with two youths who collect and view these films.

The two adolescents laconically describe how victims have been disembowelled and dismembered alive. One noted that one of the two teenaged killers of taxi driver Derek Roth had seen such movies. He also said he regretted not being awake in time to see the screened footage of the Dizengoff bus bomb.

While condemning the movies, Rubinstein warned of trying to turn two adolescents into representatives of an entire generation.

Benizri, on the other hand, called the phenomenon ''the result of a sick society.'' All the MKs spoke of the need for police cooperation in rooting out the films, and called for strict punitive measures against both distributors and viewers of these movies.●

## P.S./WASHINGTON

● Mr. SIMON. Mr. President, for more than 40 years, since I was a young newspaperman in suburban St. Louis, I have written a weekly newspaper column on the topics of the day.

I hope my colleagues will find the newspaper columns I wrote in January of interest, so I ask that they be printed in the RECORD.

The columns follow:

### THE VALUE OF THE CARTER MISSIONS

There has been some editorial sniping—as well as criticism from political leaders, most of it not in public statements—about former President Jimmy Carter's efforts in North Korea, Haiti and Bosnia.

''We can have only one person making foreign policy for the United States—and that should be the President, is the argument.

What these nay-sayers miss is the reality that Jimmy Carter does not make any pretense of speaking for the United States. If he were to travel abroad and claim to speak for the President when he has no authorization to do so, that would be wrong.

In the case of Haiti, he went on the mission at the request of the President.

But Jimmy Carter is a person of international stature who can do more to bring people together than any person other than Secretary General Boutros Boutros Ghali of the United Nations.

Carter is regarded as well-motivated and not trying to promote any private agenda or any national agenda other than helping to bring about a world of peace and stability.

When he has gone at the request of other nations to be an observer of elections, where countries are moving to democracy, there has been no criticism.

When he helps bring the two sides of a civil war together in Liberia in Africa, no one pays any attention.

At the Carter Center in Atlanta, he gets people from various nations together to discuss frictions and hopes, and there is hardly a paragraph in any newspaper about it.

But when he moves onto a more visible problem, then the critics emerge.

Part of this is because foreign policy has not been a strong suit of President Clinton. He is better at foreign affairs than he was a year ago and a year from now he will be still better.

It is difficult to move from being Governor of Arkansas to overnight being the most influential person in the world on foreign policy.

Because of a partial foreign policy vacuum in the current administration, some believe that the visibility of a former President doing creative things causes Clinton political embarrassment.

My strong belief is that President Clinton should continue to welcome Jimmy Carter's leadership, as he does that of the United Nations Secretary General, but simply make clear that ordinarily Jimmy Carter is acting on his own, not speaking for the United States.

Whether the former President's activities in Bosina will produce long-term gains is still unclear. But they have done no harm, and may do great good.

In North Korea and Haiti there is no question of the significant contribution of Jimmy Carter.

With the possible exception of John Quincy Adams, no former President has served as effectively as has Jimmy Carter. I would also give high marks for post-president leadership to Thomas Jefferson and Herbert Hoover—Jefferson largely through correspondence and Hoover in a variety of public endeavors.

My hope is that Jimmy Carter will ignore the critics and continue to serve the cause of world peace.

We are indebted to him.

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## Inching Toward a Balanced Budget Amendment

The nation is inching toward having a balanced budget amendment to the U.S.Constitution, and that is good news for the generations to come.

We have been living on a huge credit card and when the time comes to pay for it, we say blithely: ''Send the bill to our children and grandchildren.'' It is morally indefensible.

Both political parties share the blame.

For 26 years in a row we have been spending more than we take in, and we are already paying for it. A New York Federal Reserve Bank study shows that between 1978 and 1988 the deficit cost us 5 percent of our national income. The Congressional Budget Office suggests that the loss of 1 percent of our national income means the loss of 600,000 jobs.

The deficit has eaten away at our savings, sending interest rates up, reducting our productive capacity because it makes investment too expensive, ultimately reducing the growth of our national income. As late as 1986, the average manufacturing wage per hour was higher in the United States than any other nation. Now 13 nations have exceeded us.

Studies indicate that between 37 percent and 55 percent of our trade deficit has been caused by the budget deficit. That means that the single biggest cause of sending our jobs overseas has been the budget deficit, but the issue is complicated enough that it is not generally understood.

The General Accounting Office in 1992 reported that if we continue on the course of deficit spending we would have a gradual decline or stalemate in our standard of living, but if by the year 2001 we would balanced the budget, by the year 2020 the average American would have an increased income of 36 percent.

Worst of all, the history of nations is that if we continue piling up debt, eventually we will do what the economist call ''monetizing the debt.'' That means that to ''solve'' our problem we will start printing more and more money and our dollars would be less and less valuable. Among other things, that would devastate all private savings as well as things like Social Security.

On top of all that, more and more of our debt is owed to other nations. We now owe more than $800 billion to people outside the United States and that makes our international situation somewhat precarious. The greater our debt, the less independent we can be. It's true of a family; it's true of a country.

It now looks like the proposal, narrowly defeated in the past, will pass. It has been advocated by many people over the years, the first being Thomas Jefferson.

It will include a provision that if there is a 60 percent vote of the House and Senate, we can have a deficit, for there are years in a recession or war when it may be necessary.

Today interest spending by the federal government is ballooning, squeezing out our ability to respond to great needs. In 1949 we devoted 9 percent of the federal budget to education; today it is 2 percent. In 1950 we were paying interest on the debt of World War II and we spent $5.8 billion. This year we will spend more than $300 billion.

To their credit, President Clinton and a bare majority in Congress reduced the deficit in 1993, but that was only the first step needed.

If we adopt the balanced budget amendment and it is approved by 38 state legislatures, we will all have to sacrifice a little.

But I face a choice of sacrificing a little, or harming the future of my three grandchildren. I don't have a difficult time making that choice, and I don't believe most Americans do.

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## Cultural Chasms That Divide Us

Madeleine Doubek, political editor of the Daily Herald, the widely circulated newspaper based in the northern and western Chicago suburbs, noted that at a recent news conference I answered a reporter's question by saying: ''We have to reach . . . across the borders of race and religion and ethnic background and economic barriers. We have to communicate to people in the suburbs that they have something at stake in the fate of those who are less fortunate in our society.''

She called me and asked whether that implied racism and classism in the suburbs, and I responded that it did.

I do suggest that those evils are a monopoly of the suburbs. Prejudice rears its ugly head in the central cities, and in the rural areas, as well as in the suburbs.

But there has been a flight from the problems of the cities, a flight to better schools and less crime. Sometimes those two understandable causes have also been confused with flight from African Americans and Latinos.

But whatever the cause, the result is a growing gulf between urban America and suburban America, and that's not good for anyone. We don't want this nation to develop into a Bosnia or Northern Ireland. The harm that comes from the deepening divisions in our society should be obvious.

What can we do about it? More specifically, what can suburbanites and all of us do about it? Let me suggest a few things:

(1) Religious institutions play a powerful role in American life. Ask the question at the appropriate meeting, or to the right people, what your church or temple is doing to bring greater understanding across the barriers that divide us. I would be interested in hearing of specific actions that are planned or are being taken.

(2) Rotary Clubs, business and professional women's groups, teachers' associations and other civic and business-related groups can sponsor programs that help to create greater sensitivity. The myths that are believed about another race or religion or ethnic group often can be demolished in this type of setting. When business and professional people understand that it is good economics not to discriminate, everyone wins.

(3) Individuals can make sure that their children are exposed to people of differing cultural backgrounds in a positive way. Too few white families have ever had an African American or Latino or Asian American family to their homes for dinner. Too few African American families have ever had a white family to their home for dinner. The same can be said across too many ethnic and religious barriers. What seems like a small thing for your family to do can be immensely important for the future of your children, and the future of your community and our nation and our world.

I spoke at three events honoring Martin Luther King Jr.'s birthday this year, and what disturbed me about two of them is that I spoke only to African Americans.

Dr. King wanted us to reach out to one another, understand one another, and replace hatred and prejudice with love and understanding.

That message is needed in the suburbs, but also in our cities and rural areas.

''One nation, indivisible'' we recite when we say the pledge of allegiance to our flag.

Do we mean it? Are we willing to do concrete things to make it a reality?

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## Religious Zealotry Can Turn Good Into Evil

There is much that is good about people who have religious beliefs and practice their religion, however imperfectly we all do it. But religion can be abused when people are too zealous—and can be abused when there is a shell of religion that translates into hostility to others.

Almost all religions, if not all, suggest that we should be concerned about those less fortunate. According to a poll conducted for the Center for the Study of American Religion at Princeton University, those who attend religious services weekly in the United States are significantly more likely to think seriously about their responsibilities to the poor.

Many other examples of the good that religious belief provides our society should be given.

But when people are so zealous that they kill people at abortion clinics, or try to impose their beliefs on others, then what is good can become an evil. Many of the most bloody wars have been conducted in the name of religion, usually simply used as a tool by ambitious rulers, but sometimes out of genuine belief by the leaders.

There is also the problem where faith has almost diminished to nothing, except hostility to others who do not share the same religious heritage.

My impression is that most of those involved in the violence of the Protestant-Catholic struggle in Northern Ireland are not necessarily people of deep religious commitment, but people who have grown up with one heritage and have learned to hate the other side.

During my years in the Army I was stationed in Germany, and I remember the young German who told me with great pride that no one in his family had married a Roman Catholic for over a century. I asked what church he attended, and he told me that while he was proud of being a Protestant, he didn't attend any church.

But he had learned to hate.

Hitler had only nominal Christian ties. He believed little, and practiced nothing in the way of religion, but his religious heritage somehow left him with a hatred of Jews.

In Bosnia, nations with strong Orthodox ties are generally much more sympathetic to the Serbian cause than other nations, not for genuine religious reasons but for heritage reasons. Serbia is largely Orthodox Christian.

Muslim countries believe that the reason Europeans and Americans have not responded more to the plight of the Bosnian Muslims is precisely because they are Muslims. I do not believe that is true for the United States, but unfortunately it contains some truth for the more tradition-bound European nations, even though the actual practice of religion is much less evident in Western Europe than in the United States. The

empty shell of Christianity too often only has hostility toward non-Christians.

One of several good things about what we did in Somalia (incorrectly labeled a disaster by those who look at it superficially), in addition to preventing starvation by hundreds of thousands of people, is that a nation labeled by the world as Christian/Jewish, the United States, came to the rescue of a people almost totally Muslim. How would we have looked if the world's most powerful nation had done nothing about massive starvation in a desperate country! But many Muslim nations were permanently surprised that we responded.

The lesson of history is that the genuine practice of religion is wholesome, good for the individual and good for a community and nation. But extreme caution is in order when leaders try to impose their beliefs on others through government.

And the ''stop'' sign should go up when political leaders who share a heritage call on others to hate or kill those who do not share the same faith.●

## NOMINATION OF DR. HENRY FOSTER, TO BE SURGEON GENERAL OF THE UNITED STATES

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to speak briefly about two important issues facing the Senate. The first is the nomination of Dr. Henry Foster, to be Surgeon General of the United States, and the second is the continuing impasse over the baseball strike.

With respect to the Foster nomination, Dr. Henry Foster has had an extraordinary, distinguished career in medicine and public health. And I believe that the forthcoming hearings on his nomination will demonstrate that he is well qualified to be Surgeon General.

I would like to take this opportunity to make three brief points. First, and most important at this stage of the debate, I reject the view that Dr. Foster's participation in abortions should disqualify him from this high position. Abortion is not a numbers game. It is a legal medical procedure and a constitutionally protected right.

Second, the American Medical Association enthusiastically supports Dr. Foster's nomination because of his distinguished service as Dean of Meharry Medical College, his record of achievement in medical research, his impressive leadership on issues such as preventive health care for women and children, for reducing infant mortality and teenage pregnancy and fighting drug abuse.

Third, Dr. Foster has had and deserves to continue to have strong bipartisan support. As recently as 1991, he was honored by President Bush as one of the President's Thousand Points of Light for his innovative I Have A Future Program to reduce teenage pregnancy. I look forward to the consideration of Dr. Foster's nomination by the Senate Labor Committee.

## BINDING ARBITRATION TO SETTLE BASEBALL STRIKE

Mr. KENNEDY. Mr. President, yesterday, I introduced legislation proposed by President Clinton to require the major league baseball players and owners to submit to binding arbitration to settle the baseball strike.

Generally, Congress is reluctant to inject itself in labor disputes. All of us hope that the parties will find a way to end the impasse and settle their differences voluntarily. But there are rare instances in which Congress has a role to play in settling such disputes, and this may well be one of those times.

There is no doubt that Congress' constitutional authority to regulate interstate commerce gives us the power to enact legislation to settle this dispute. Many aspects of major league baseball affect commerce between the States. The strike has caused significant disruptions, especially in the cities where the 28 major league teams play and is about to cause significant additional disruption in Florida and Arizona where spring training is supposed to begin next week.

The U.S. Conference of Mayors estimates that the major league cities lost an average of $1.16 million per home game and 1,250 full- and part-time jobs because of the strike in 1994. Hard-pressed cities with substantial investments of tax dollars in municipal stadiums are losing substantial revenues. The cancellation of the 1994 league playoffs and the World Series was especially damaging to whichever cities would have hosted the playoff games and the World Series.

Obviously, Congress does not intervene in every labor dispute that burdens interstate commerce, but baseball is different and unique. It is more than a nationwide industry. It is our national sport. Baseball is part of American life.

We in Congress as representatives of fans throughout the country should not remain silent while baseball is damaged by a strike that the owners and players seem unable to resolve themselves. Clearly, Congress has the power to act. The question is who speaks for Red Sox and millions of other fans across America. At this stage in the deadlock, if Congress does not speak for them, it may well be that no one will.

For all these reasons, Congress can act and should be prepared to act. Legislation to end the strike would not set a precedent for injecting Congress into other labor disputes. There is still time for the owners and players to resolve this dispute on their own or to act voluntarily to establish a safety mechanism for doing so. The players union is willing to agree to voluntary binding arbitration. It is hard to see why the owners are not willing to do so as well. In that event, Congress would not have to be involved.

The parties can quickly agree to a process that would result in a settlement. If both sides are confident that the merits are on their side, they should be willing to submit to binding arbitration and do it now so that spring training can begin on schedule next week. If the parties do not agree on such a mechanism, it is reasonable and appropriate for Congress to act.

We in Congress may be the last and best hope to salvage the game that means so much to Red Sox fans of all ages in Massachusetts and to the fans of all the other teams in all parts of the Nation.

I ask unanimous consent that a table prepared by the U.S. Conference of Mayors on the economics of the strike may be printed in the RECORD.

There being no objection, the data were ordered to be printed in the RECORD, as follows:

BREAKDOWN OF ECONOMIC IMPACT BY MAJOR LEAGUE CITY

| City, State | Team name | Total loss per game | Stadium revenues | Local taxes | Local business revenues | Jobs lost | Stadium ownership |
|---|---|---|---|---|---|---|---|
| Anaheim, CA | Angels | $1.9 million | $61,000 | $441,000 | $1.417 million | 600 | city. |
| Arlington, TX | Rangers | 2 million | private | incl. in total | incl. in total | 2,500 | private. |
| Atlanta, GA | Braves | 3 million | 2 million | incl. w/stad | 1 million | 6,350 | county. |
| Baltimore, MD | Orioles | 1.2 million | 100,000 | incl. in total | 1.1 million | 2,000 | commission. |
| Boston, MA | Red Sox | 50,000 | private | 10,000 | 40,000 | 400 | private. |
| Chicago, IL | Cubs | 736,181 | 636,000 | 30,000 | 70,000 | 1,000 | commission. |
| Chicago, IL | White Sox | 852,038 | 780,000 | 39,000 | 33,157 | 1,000 | commission. |
| Cincinnati, OH | Reds | 700,000 | 76,416 | 10,138 | 640,700 | 600 | city. |
| Cleveland, OH | Indians | 2.04 million | 1.2 million | 600,000 | 240,000 | 2,000 | commission. |
| Denver, CO | Rockies | 2.04 million | 43,000 | 39,600 | 1.96 million | 1,944 | city. |
| Houston, TX | Astros | 1.04 million | 400,000 | 40,000 | 600,000 | 1,000 | county. |
| Kansas City, MO | Royals | 540,740 | 265,000 | 23,456 | 250,000 | 350 | commission. |
| Minneapolis, MN | Twins | 922,600 | 282,600 | 366,000 | 640,000 | 900 | commission. |
| New York, NY | Mets | 2.06 million | 2 million | 52,500 | incl. in total | 850 | city. |
| New York, NY | Yankees | 2.06 million | 2 million | 62,500 | incl. in total | 850 | city. |
| Oakland, CA | Athletics | 986,197 | 32,395 | 9,358 | 944,444 | 438 | county. |
| Philadelphia, PA | Phillies | 250,000 | 125,000 | 42,000 | 83,000 | 500 | state. |
| Pittsburgh, PA | Pirates | 460,000 | 20,000 | 20,000 | 400,000 | 350 | city. |
| St. Louis, MO | Cardinals | 432,480 | private | 30,320 | 402,160 | 1,180 | private. |
| Seattle, WA | Mariners | 204,745 | 101,245 | 23,500 | 80,000 | 327 | county. |
| San Diego, CA | Padres | 203,000 | 18,000 | 5,000 | 180,000 | 825 | city. |
| San Francisco, CA | Giants | 1,766,000 | 535,000 | 136,000 | 1,095,000 | 800 | city. |

Cities not responding: Detroit, Los Angeles, Miami (Dade County), Milwaukee.
Canadian cities not surveyed: Montreal, Toronto.

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. PELL. 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 DANGER OF RENEWED WAR IN CROATIA

Mr. PELL. Mr. President, I am very concerned about the situation in Croatia, where the Krajina Serbs have refused to consider an international peace plan for the country, and where President Tudjman has indicated that he will ask UNPROFOR troops to leave when their mandate expires in March. Last weekend in Munich, Bosnian Croats and Moslems, with the support of the Croatian Government, agreed to bolster their federation agreement. This good news is overshadowed, however, by dangerous developments in the Croatian peace process.

Last week, Serbian nationalists who control one-third of Croatia declined to consider a plan to resolve the status of Croatia's U.N.-protected area [UNPA's] prompting fears of a renewed Croatian war. The plan was developed by the Zagreb Four—or Z–4—consisting of the United States, Russia, the United Nations, and the European Union. It ought to have been the last step in an otherwise successful process to reduce tensions and normalize relations between Croatia and the Serbs living in the UNPA's.

I would particularly like to commend our Ambassador to Croatia, Peter Galbraith, the United States representative to the Z–4 process—who was a senior staff member with the Senate Committee on Foreign Relations during my tenure as chairman—for his efforts in this regard. A Z–4-negotiated ceasefire is in place, and the parties have agreed to confidence-building measures that include opening transportation and communications links between Croatia and the U.N. zones. These are important gains which I hope will not be lost by last week's setback with regard to a political settlement.

By all accounts, the Z–4 plan goes a long way to address the concerns of both the Croatian Government and the Krajina Serbs. It calls for the restoration of Croatian sovereignty to all the U.N areas, with considerable autonomy for the local Serbian population.

As I said, the Krajina Serbs have not even deigned to look at the plan; the Croatian Government has not yet responded to it. President Franjo Tudjman's decision not to renew the mandate for UNPROFOR, the 15,000-troop U.N. force in Croatia, has dangerous repercussions for the Z–4 process. The threat of withdrawal has provided a convenient, though unacceptable excuse for the Serbs to ignore the peace process.

To my mind, it would be a grave mistake for UNPROFOR to withdraw at this time. Frankly, I am concerned that the U.N. withdrawal will precipitate renewed fighting between the Serbs living in Croatia and the Croatian Government, and indeed, even between Serbia and Croatia. While the United Nations does not have a flawless record in Croatia, UNPROFOR's presence since early 1992 has prevented the reemergence of full-scale war. Without UNPROFOR to patrol the demilitarized zones, the current ceasefire negotiated by the Z–4 is likely to collapse. UNPROFOR's withdrawal could very well offer an opportunity for the Serbs to attack, and Croatia's intentions regarding Serb-controlled areas in the wake of a U.N. withdrawal are unclear.

A new war in Croatia, by all estimates would make the horror in Bosnia pale in comparison. Mr. President, I hope the parties to the conflict wake up; see the treacherous path on which they are headed; call off the U.N. withdrawal; and seriously consider the Z–4 peace plan.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## BUTTE, MONTANA

Mr. BAUCUS. Mr. President, this is my third statement this week on why Micron Technologies should come to Butte, MT.

I would like to talk this evening about a topic that is very dear to my heart; that is, fishing in the great State of Montana.

The first line in Norman Maclean's famous book ''A River Runs Through It'' reads: ''In our family, there was no clear line between religion and fly fishing.''

Our friend and former colleague Jack Danforth has always told me that he thought that was the most beautiful sentence in the English language. We all know that Senator Danforth is an ordained minister. But what many may not know is that he is also an avid fly fisherman.

And any avid fly fisherman knows that fishing in Montana's blue ribbon streams is something close to a religious experience. It is one of the things about Montana that makes it a truly special place to live.

Moreover, any successful business looking to relocate or expand puts a high quality of life at the top of their list.

Micron, being a successful company, wants its employees to be as productive as possible. And the best way to be productive in your job is to have a good quality of life.

For many Montanans, quality of life is measured by how many days they can fish. And the Butte area is right in the middle of some of the best trout fishing in the world. Rivers like the Big Hole, Ruby, Beaverhead, Missouri, and the Clark Fork are on any serious fisherman's wish list, and Butte is only an hour or so away from each of these rivers.

George Grant, a renowned fly-tier and lifelong resident of Butte, once wrote:

> In the nine great trout States of the Western United States it would be difficult to find a single stream that exceeds the overall quality of the Big Hole River. The Big Hole rises at high altitude and flows clear and cold through wide valleys and narrow canyons seldom presenting similar water or scenery throughout its entire 150 fascinating miles.

Having spent a little time on the Big Hole myself, I have got to agree.

Finally, the folks at Micron are used to the language of the semiconductor industry—words like D–RAMs, C–MOS, kilobits, dice, and E–PROM's.

Well, Montana fisherman have their own language. We talk about pupas, nymphs, emergers, and mayflies. We tell stories—and sometimes they are even true—about rainbows, browns and cutthroat hitting on PMD's, san juan worms, wooly buggers, and Joe's Hoppers.

Fortunately, the folks at Micron should not feel too intimidated. There are plenty of guides, fly shops and friendly locals in Butte who will help translate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## REMEMBERING SENATOR J. WILLIAM FULBRIGHT

Mr. PELL. Mr. President, the United States lost a great and distinguished citizen today with the death of former Senator J. William Fulbright.

Senator Fulbright was a giant in the Senate. He became a person of international reknown and reputation during the period of his chairmanship of the Committee on Foreign Relations from 1959 until his defeat in 1974. I came to know him very will after I joined the Committee on Foreign Relations in 1969 and came to admire very much his careful and thorough approach to issues of tremendous national importance, most especially the war in Vietnam.

William Fulbright was born in Missouri and grew up in Fayetteville, AR. He attended pubic schools, graduated from the University of Arkansas in 1925, as a Rhodes Scholar from Oxford University England in 1928, and from the Law Department of George Washington University in 1934. In 1939 he became president of the University of Arkansas—the youngest in its history. He served one term in the House of Representatives from 1943–1945 and went on to election to the Senate in 1944. He was reelected in 1950, 1956, 1962, and 1968.

William Fulbright brought to his political career a great love and understanding of the responsibilities of an educator. His experience as a Rhodes Scholar taught him the value of international exchanges and led him to conceive of the Fulbright Scholars Program in the period immediately following World War II, which he described as ''a modest program with an immodest aim.'' Since the program's establishment in 1946, more than 100,000 people from abroad have studied in the United States and more than 65,000 U.S. students and professors have studied overseas in what is undoubtedly the largest and most successful international exchange program in existence.

Earlier, as a freshman member of the U.S. House of Representatives, Senator Fulbright offered a resolution setting forth U.S. support for an international peacekeeping organization. This resolution, the first to be passed by the U.S. Congress since the League of Nations debacle following World War I, set the stage for establishment of the United Nations in 1945.

He was a maverick during much of his time in the Senate and was known for taking positions he believed in regardless of their level of popularity. For instance, in 1954, he cast the single Senate vote against funding Senator Joseph R. McCarthy's investigative subcommittee.

Senator Fulbright's period of greatest prominence was that of the Vietnam war. He introduced the Tonkin Gulf Resolution, which gave President Johnson virtually free rein in the early stages of the Vietnam war. Only two Senators opposed the resolution and Senator Fulbright later made it clear he wished it had been three, including himself. ''Not that it would have made the slightest difference in the course of affairs, but I'd feel better about myself.''

Senator Fulbright was one of the earliest critics of the war. Under his stewardship the Committee on Foreign Relations conducted extensive investigations of involvement in Vietnam, held numerous hearings and was the fountainhead of legislative initiatives beginning in 1969 to restrict United States activities in Vietnam. In 1973, a Fulbright-Aiken amendment stopped direct involvement of United States combat forces in Vietnam.

Through the committee's intensive work on the war, Senator Fulbright tried steadfastly to educate his colleagues, the Senate, the Congress, and the public as to the tremendous folly of the Vietnam involvement.

I can well remember watching Senator Fulbright facing down hostile witnesses while chairing hearings of great thoroughness and steadily and calmly posing questions until the truth of various problems was there for all to behold.

His widow, Harriett, recalled that the Senator deeply believed ''that in order to ensure prosperity for all members of a free country, those who live in a democracy must be educated,'' In fact, education ran through the heart of whatever he said and did. His speeches he wrote himself on yellow pads in pencil, full of lines through any fuzzy phrase. He worked them over until he was satisfied that every sentence was not only perfectly understandable but devoid of hyperbole. They were meant to clarify and persuade; in other words to educate—to educate audiences around the world as well as constituents.

One of the finest writers in the history of the Washington Post, the late Henry Mitchell, wrote a profile of William Fulbright in 1984. He pointed out that, despite Senator Fulbright's concerns over the arrogance of power:

> He does not say a nation can forget self-respect in the world or allow its citizens to be run over roughshod by others.
>
> ''But dignity has nothing to do with domination, nor is self-respect the same thing as arrogance. A nation can take pride in its accomplishments without taking on a missionary role in the world. . .
>
> ''Which is the greater legacy any generation of leaders can bequeath, a temporary primacy consisting of the ability to push other people around, or a well-run society of cities without violence of slums, of productive farms and of education and opportunity for all citizens?''
>
> To ask it is to answer it.

Mr. President, the Vietnam war made the Nation very much aware of the efforts of William Fulbright and of the Committee on Foreign Relations. To many in official Washington, he was anathema. But to others who saw Vietnam as a quagmire he was simply a hero. A leader who gave legitimacy, respectability and honor to opposition to the war and what it was doing to the United States. At the time there were many who were quite disdainful of William Fulbright and who disliked him intensely. I remember well how he would sometimes conclude that his sponsorship of a measure would cost votes rather than gain them. This was a price that he felt he had to pay.

In 1993 Senator Fulbright's fellow Arkansan, President Clinton, awarded the Medal of Freedom to the Senator. President Clinton said at that time ''Senator Fulbright has long been known as a patriot and a realist. He has never been one to waste time and energy cursing the darkness; he is far too busy seeking and finding lamps to be lit.''

William Fulbright has been gone from this body for over 20 years. The controversy surrounding him as certainly abated and many more have come to appreciate the intelligence and care he brought to his assessment of public issues. His reputation has grown over the past two decades rather than dwindled. And his term as chairman of the Committee on Foreign Relations is now regarded as a halcyon period for the committee and the Senate.

There were many challenges to be faced in the period of his chairmanship and he did not shirk from taking those challenges on and doing his best to meet them. His central interest was never personal aggrandizement but rather the discovery of the best way for the Nation to proceed. He is gone now but his legacy is powerful and he will live on as Fulbright Scholars are trained and educated and return to their countries and to the United States better able to play meaningful and productive roles.

Our deepest sympathy goes to his widow, Harriett and his family.

## MEASURE TO BE HELD AT THE DESK

Mr. HELMS. Mr. President, if the Senator will yield, I would be so grateful.

I need under the rules to ask unanimous consent concerning holding of a bill until tomorrow.

Let me do it this way. I am advised we have to check with both sides. I think it would be agreeable to both sides, Mr. President. I send to the desk a bill, and I ask that it be appropriately referred tomorrow, and I send a statement herewith to that bill.

The PRESIDING OFFICER. Without objection, the bill will be received today and referred today.

Mr. HELMS. If the Chair will withhold, I have three unanimous-consents. One is required to be made orally. Let me do that.

I further ask unanimous consent that this bill be held at the desk until the close of Senate business tomorrow, February 10, so that Senators wishing to do so may become original cosponsors.

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

Mr. HELMS. I thank the Chair, and I thank the Senator.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

## UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 1

Mr. HATCH. Mr. President, I ask unanimous consent that at 11 a.m. on Friday, February 10, there be 30 minutes remaining for debate on the pending motion to refer and amendments thereto, with the first 15 minutes under the control of Senator DASCHLE and the second 15 minutes under the control of Senator DOLE.

I further ask unanimous consent that at 11:30 a.m. on Friday, the Senate proceed to vote on or in relation to the second-degree amendment to the motion to refer, and that immediately following the disposition of the second-degree amendment, no further amendments be in order to the motion to refer, and the Senate proceed to then vote on the first-degree amendment, as amended, if amended, to be followed immediately by a vote on the motion to refer, as amended, if amended.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I reserve the right to object. It is my understanding that there will not be a vote before 5 p.m. on Monday next on or in relation to the Reid amendment and the committee funding resolution.

Mr. HATCH. That is my understanding. I believe the majority leader will agree to that; that there will be no vote on the Reid amendment before 5 p.m., but a time will be set either that evening or the next day for a vote on the Reid amendment.

Mr. REID. I withdraw the reservation.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 73

Mr. HATCH. Mr. President, I ask unanimous consent that, immediately following the disposition of the Dole motion to refer, the Senate temporarily lay aside House Joint Resolution 1 and proceed to the consideration of Calendar order No. 17, Senate Resolution 73, the committee funding resolution, and it be considered under the following time agreement:

One hour on the resolution, to be equally divided between Senators STEVENS and FORD, or their designees; that no amendments be in order to the resolution; that no motions to recommit be in order.

I further ask unanimous consent that, if a vote is requested on adoption of the resolution, that vote occur on Monday at a time to be determined by the majority leader after consultation with the Democratic leader.

Mr. REID. Reserving the right to object, Mr. President, based on our prior unanimous-consent agreement, the vote on the committee funding resolution would not occur before 5 p.m. on Monday?

Mr. HATCH. That is my understanding.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, it is so ordered.

## ORDERS FOR FRIDAY, FEBRUARY 10, 1995

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 Friday, February 10, 1995; that following the prayer, the Journal of proceeding be deemed approved to date and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak for not to exceed 5 minutes each, with the following Senators to speak for up to the designated times: Senator THURMOND, 15 minutes; Senator CAMPBELL, 10 minutes; and Senator ROBB, 5 minutes.

I further ask unanimous consent that at the hour of 10 a.m. the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment, and at that time Senator PACKWOOD be recognized for up to 60 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, so ordered.

Mr. HATCH. Mr. President, for the information of all of my colleagues, under the previous order, there will be a rollcall vote at 11:30 a.m. tomorrow on the second-degree amendment to the motion to refer the balanced budget constitutional amendment.

## RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, and no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:39 p.m., recessed until Friday, February 10, 1995, at 9:30 a.m..