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Senate

The Senate met at 9:30 a.m., and was called to order by the Honorable CHUCK HAGEL, a Senator from the State of Nebraska.

PRAYER

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

Righteous God, in whom we discover what is right and receive the courage to do it, we seek to be a nation distinguished because of righteousness. Today, as we celebrate the birthday of Abraham Lincoln, our 16th President, we remember his memorable response to someone who expressed the hope that You, Lord, were on their side. Lincoln said, ''I am not at all concerned about that, for I know that the Lord is always on the side of the right. But it is my constant anxiety and prayer that I—and this Nation—should be on the Lord's side.''

We echo that prayer today. Help us to think of prayer not to convince You of our plans, but to gain clarity about Your plans for us. We renew our commitment to seek Your will for the decisions we must make. Bless the Senators today as they discern what is right and take their place together on Your side. In the name of our Lord and Savior. Amen.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate.

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 12, 1997.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHUCK HAGEL, a Senator from the State of Nebraska, to perform the duties of Chair.

STROM THURMOND,
President pro tempore.

Mr. HAGEL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. CRAIG. Mr. President, on behalf of the majority leader, I will state the schedule of today's session.

This morning, there will be a period of morning business until the hour of 11 a.m. At 11 a.m. the Senate will resume consideration of Senate Joint Resolution 1, the constitutional amendment requiring a balanced budget. Under the order, Senator BYRD will be recognized immediately to make a statement regarding the resolution. At the hour of 1:30 today, under a previous consent order, the Senate will resume debate on the pending amendment relating to national security, which was offered by Senator DODD. Debate on that amendment will be equally divided until 5:30 today, at which time the Senate will proceed to a vote on or in relation to Senator Dodd's amendment.

Once again, all Senators can expect a rollcall vote at approximately 5:30 today. Additional votes can be expected during today's session on any further amendments that may be ordered to Senate Joint Resolution 1, or, perhaps, on any available nominations, as well as on one or two Senate resolutions, which we are attempting to clear for consideration.

I thank my colleagues for their attention.

MORNING BUSINESS

The ACTING 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 11 a.m. The time between 9:30 and 10 a.m. shall be equally divided, with 15 minutes under the control of the Senator from Missouri [Mr. ASHCROFT] and 15 minutes under the control of the Senator from North Dakota [Mr. DORGAN].

Mr. CRAIG. Mr. President, I understand those Senators will be on the floor in a few moments.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. ASHCROFT and Mr. DORGAN pertaining to the introduction of S. 304 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. D'AMATO. Mr. President, I ask that I may be permitted to proceed as in morning business.

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

(The remarks of Mr. D'AMATO pertaining to the introduction of S. 305 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

Mr. FORD. Mr. President, I understand we have about 4 minutes left on Leader DASCHLE's time. I ask unanimous consent I be allowed to use that time.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

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

(The remarks of Mr. FORD pertaining to the introduction of S. 306 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The time between 10:30 and 11 a.m. shall be under the control of the Senator from Wyoming [Mr. THOMAS] or his designee.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, as I understand it, the 30 minutes between 10:30 and 11 are under the control of Senator THOMAS from Wyoming. I am going to ask, in his place, that we yield up to 10 minutes to the Senator from Minnesota.

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

The Senator from Minnesota is recognized.

OUR CHILDREN AND THE BALANCED BUDGET AMENDMENT

Mr. GRAMS. Mr. President, I want to talk a little bit this morning about the balanced budget amendment and really how important it is to our children, our grandchildren, and really to the future of this country.

As a nation, we find ourselves at a very critical juncture. The choices we face today are stark: It is either stagnation or growth, poverty or prosperity, hope or hopelessness for our Nation's children. Throughout the history of this world, great nations have risen and great nations have fallen. Many have perished simply as a result of one fatal fiscal miscalculation at a critical time—a time at which we find ourselves today.

We must move forward because we have a moral obligation to pave a trail and to light the way. Yet, a single misstep as we enter into the 21st century could cast our children off the path and into darkness.

Now, despite the improvement of our short-term fiscal outlook in the past decade, we face great danger from the fiscal imbalances ahead that swing over us like a sword dangling from a thread. Without a balanced budget amendment to address these risks, I am afraid that the national debt will destroy this Nation.

The debt today stands at over $5.3 trillion, and the cumulative damage of the national debt to the economy over the past 40 years has been enormous. Our Nation has fallen from its perch as the world's greatest creditor to become the world's greatest debtor Nation in history.

A child born today enters the world already $20,000 in debt and faces an additional $1,300 every year just to pay the interest on that debt.

By the year 2007, the national debt will rise to $8.5 trillion, and children born then will inherit a share of nearly $30,000. That is $30,000, whether poor, middle-class, or well off. Every child in every household in this land is affected.

Now, as historian John Steele Gordon writes in his new book, ''Hamilton's Blessing: The Extraordinary Life and Times of Our National Debt,'' the size of the debt itself is not the problem—it is the fact that we have run it up to such extraordinary levels without justification.

Gordon's research shows that in the first 184 years of our independence, the Nation borrowed a total of $300 billion to fight the wars that made and preserved our Nation. But he goes on to say that, in the last 36 years, we have taken on more than 17 times as much new debt—at first, in an attempt to maximize economic output, but in recent years, as he explains, no good reason whatsoever has been the cause behind this.

Mr. President, the imbalance between the Government's entitlement promises and the funds it will have available to pay for them will alone bankrupt this Nation.

Now, the Bipartisan Commission on Entitlement and Tax Reform has warned us that in the year 2012, projected outlays for entitlements and interest on the national debt will at that time consume all tax revenues collected by the Federal Government. In 2030, projected spending for Medicare, Medicaid, Social Security, and Federal employee retirement programs alone will consume all of our tax revenues, leaving nothing to educate our kids, to keep their streets safe, to cure their diseases, or to protect the environment.

Shortsighted politicians repeatedly refuse to make tough choices, and the knowledge that we have no clear public policy to address this imbalance darkens our future even more.

Although the solutions to our problems are anything but simple, we must not shy away from them any longer. The balanced budget amendment will force Congress and the administration to work together to defuse this time bomb. Without it, the deficit spending will continue, and that is despite all the rhetoric from both Congress and the White House to the contrary.

Even if we indeed balance the budget through a statutory requirement, we all know that this is not a guarantee that our budgets will balance in the future. Our national debt will take several generations to eliminate now. We not only need the will to balance the budget, but we also need the means to follow through, to keep the budget balanced, and to begin to return the borrowed money. We need the balanced budget amendment. Talking about the protection of our children, without addressing the long-term risks that are poised to imprison them is corrupt.

Mr. President, I have heard my colleagues many times on the other side of the aisle this week raise the word children as if it were a protective shield. ''We can't enact the balanced budget amendment,'' they say, ''the education of our children will suffer.'' ''We can't enact the balanced budget amendment, the nutritional health of our children is at stake.'' ''We can't enact a balanced budget amendment, our children's medical needs will go unserved.''

They have also used the phrase that we have attacked children because they are the path of least resistance. Well, we know the work that we undertake every day in this Chamber has a profound effect on every American child, just as it affects every taxpayer, every working family, and every senior citizen. I am certain there is not a single Senator in this Chamber who would deny a child a good education, deny a child a hot meal, or deny a doctor's tender care.

Yet, through our own greed, we have denied that very same child a future free of a debt that they did not incur and which they do not deserve to bear.

Now, I ask you this, Mr. President: Who was protecting our children while Congress amassed a debt of $5.3 trillion? Those children were not here to be able to say don't do that. We took the path of least political resistance when we put our children into debt. They did not have a voice on this Senate floor to stop us from doing that.

Who stood up for America's children while Congress signed their names to a mortgage that they will never be able to escape?

Who came to the floor of this Chamber crying out for the children when we sacrificed their financial security for another piece of pork, or another Federal program?

I will tell you this, Mr. President. The same Senators who today raise the shield of children as their argument against the balanced budget amendment were nowhere to be found when America's children needed them most.

Only the balanced budget amendment will protect our children from the suffocating excess of a Congress free to spend dollars that it does not have.

So, Mr. President, the legal authority of the balanced budget amendment will ensure that we do not drown our children in a sea of debt. The moral authority of a higher power demands that we do nothing less.

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

Mr. COVERDELL. Mr. President, I commend the Senator from Minnesota for his remarks on behalf of the balanced budget amendment to the Constitution. I think he makes a very poignant statement when he alludes to the condition of our children in the future. I have always enjoyed reading Thomas Jefferson's admonitions about

the future of the democracy. I can't state it with the eloquence with which he did, but he makes the point that the Senator from Minnesota makes, and I think it is worth revisiting. He essentially said that it is morally wrong for a contemporary generation to make decisions about debt for future generations. It is morally wrong, Mr. President, for a contemporary generation to use the resources of generations yet to come. In essence, any time a contemporary generation is in the business of consuming the resources of those yet to come, they are engaged in abrogating the freedom of those yet to come, which is an unconscionable act for Americans because this is a Nation that was born in freedom and independence and has invested unlimited sacrifice to preserve it.

Yet, we seem to want to overlook it when we look at these 28 budgets from Republican and Democratic Presidents, all of whom in their own way were a part of abrogating freedom of somebody yet to come because they all used resources of people who have no voice—nothing to say. Our legacy is to hand them debt. And how terribly inappropriate it is.

I was reviewing some financial policy recently. I think it is called generational economics. What that means is something like this. My mother and father kept 80 percent of their lifetime wages to do the things that we have always depended on and asked for the American family to do. It has been the core ingredient in terms of taking care of America, and they raised myself and my sister; got us through school gracefully; housed us all through our medical needs and trying to prepare us for stewardship. My sister, who is 10 years younger than I, will keep about 45 percent of her lifetime wages—her parents 80 and she 45. Currently, an average family in the State of Georgia can keep, after direct taxes and cost of government, about 45 percent of their wages. So she has half the resources. A lot of it she does not get is in this pile of 28 budgets. But worst of all is the fact that a child who was born on January 1 of this year, 1997, will keep, under the current scheme of things, 16 percent of their lifetime wages. In other words, it will take 84 percent of their wages to fulfill these obligations that continue to mount. I would have to say, Mr. President, that that child born on January 1 of this year could never be considered to be free by any definition in our Constitution or in the basic tenets and fundamentals of American life.

So from the turn of the century we have gone from a family that keeps 80 percent of the fruits of its labor to contemporarily keeping about 45 percent, to a child today faced with having to forfeit 84 percent of what their life's earnings are to fulfill the largess of all of these budgets.

I don't know what kind of proof we need to advise us that we need to change the way we manage our financial affairs just to look at the generational impact, and then to go back and be reminded that Thomas Jefferson said what we are doing right here is an abrogation of freedom and independence and that we are in the business of denying freedom for Americans yet to come.

The 80, 40, 16 says it all to me. If you want to just talk about monetary circumstances, we are headed toward doubling the deficit, which means we are piling more paper on this pile right here. Just in the term of this President we are going to double the deficit. We are going to add about another $100 billion to it. Then, after that, it looks like a NASA space shuttle. It just skyrockets. So the fuel and the engines of using the future resources seem unchecked and unbalanced.

So if these 28 years of evidence are not enough to compel somebody to understand that we need to change the way we manage this debt, then you can simply look at the current budgets before us and see that we are going to continue to add debt on debt on debt.

Sometimes when you talk to people in America about the scope of what we have been doing, about the 80, 40, and 16 percent, about the size of the current debt, which I think is $5.3 trillion looking at the big picture—of course, I have been talking about 7 minutes or so, but it is probably closer now to $5.4 trillion—it is depressing and sobering. And I always like to leave the message with more optimistic tone.

I point out that balancing our budgets, moving to a balanced budget path, passing a balanced budget amendment to the Constitution, does not require draconian effort. Actually, they represent modest, sound, and reasoned steps to take control of our financial affairs, which saves the country for the future, which is laudable, and for which every generation of Americans have been charged of doing—take steps to guarantee that they turn the country over to the future in good hands rather than crippled—that by taking these reasoned steps, balanced budgets, a balanced budget amendment to the Constitution, that it not only saves the country for the future, but it creates the immediate positive effect on every citizen today. Every family, every business, and every community has an immediate positive effect. It lowers interest rates. It makes more capital available for businesses to seek and generate more business. More businesses will be started, particularly small businesses. The job lines will be shorter. It will be easier to get a job. If you are graduating from high school or graduating from college and you are in the job market, or there has been a change, it is going to be a lot easier.

Specifically, Mr. President, a balanced budget amendment would produce around $2,000 new disposable income, putting it into the checking account of every Georgia family, and, Mr. President, every Kansas family. I suppose the average family in our two States is pretty similar. They make about $40,000 a year. Probably both parents are working. And as I said, by the time the Government marches through their checking account, they have less than half of that left. That gets them down to around $20,000, $23,000 to do everything we ask them to do.

Now, think about it. What is the effect of putting $2,000 back into that checking account? That is the equivalent of a 10-percent pay raise. And we all know the kind of stagnation that has occurred, because of this kind of activity, in those checking accounts over the last several years.

Think of the opportunity that this creates for school and education and health care, which we have been talking so much about, for children, to have $2,000 of new resources for every average family across the country. Look at it as if you are a mayor or county commissioner. We would likely save about $333 million in lower debt service in the State of Georgia or $103 million for the capital city of Atlanta, GA. Every school district, every county, every municipality, every State will immediately begin to benefit from our taking these kinds of steps to rein in and manage our budget.

We had a host of people down here suggesting you just do not need a balanced budget amendment to the Constitution; you just need the will. I do not know how many years we have to discuss our lack of will to understand that we need to change the rules. We passed the line-item veto for the first time, and that is a new tool. That is on the right track. A lot of people were concerned: Would a Republican Congress give the Democrat President the line-item veto? They did. They did because they believed we do need new disciplinary tools to manage our financial affairs.

I have to say that I have concluded—and I think, on balance, this is correct—if you are against a balanced budget amendment to the Constitution, you are really not for balanced budgets. The President has told us we should have balanced budgets, and he ought to be supporting us in this effort. I have to say, Mr. President, that if this fails—I hope it does not; it is going to be close, but if it fails, the President will bear the responsibility for it because he has decided to fight this. The power of the President is enormous. But if you are for balanced budgets, then you are for a balanced budget amendment to the Constitution.

Mr. President, I do not think you know any individual, and I doubt that you know any family, nor any business, that has been successful in achieving that which it needs to do, its mission in life, that has abused his or her, their, its financial health. You just do not know anybody like that or you will not know them very long. So it is with nations.

I was speaking yesterday to a group of foreign ambassadors and dignitaries who are visiting the United States on

an educational program to try to understand our Congress, our Government, and our Nation. I told them that if you really want to understand the nature of the decisions and the environment in the United States, you have to understand her domestic financial crisis. You have to understand what the Senator from Minnesota said. He talked about the fact that the bipartisan entitlement commission has shown us that within a very short period of time, just a handful of Federal programs consume 100 percent of our Treasury.

I was simply telling these foreign visitors that to have an appreciation for what is happening in the debate over the resources we devote to our national defense and to world order, to the debate over what we can make available to foreign assistance, it is being driven by this pile of 28 different budgets that are out of balance and that this generation of Americans, you and I, Mr. President, and all of our citizens, are going to be charged with dealing with this dilemma. We have known about this problem all these years, but it was always going to be somebody else to work it out. There is no generation for us to give the baton to. We are the last watch. It is you and I. We are going to make the decision, whether it is indecision or decision, on our watch that will determine what kind of country we give to the next generation.

Mr. LEAHY. Mr. President, I note the Senator from West Virginia is going to be recognized at 11. I wonder if the Senator from Georgia is going to take the full time until 11 o'clock.

Mr. COVERDELL. Does the Senator from Vermont need a moment or two? I would be glad to yield the remainder of my time—

Mr. LEAHY. I need about 2 minutes.

Mr. COVERDELL. To the Senator from Vermont.

Mr. KYL. Will the Senator yield?

Mr. COVERDELL. I am sorry; I did not see the presence of the Senator from Arizona.

Mr. KYL. I would advise the Senator from Georgia, I have about 3 minutes of remarks.

Mr. COVERDELL. Let me ask this, I say to the Senator from West Virginia. The Senator from Kentucky used about 2 minutes of the time under our control, and I wonder if I might ask unanimous consent that our time last until 11:02, and I would grant 2 minutes to the Senator from Arizona and the closing 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona.

Mr. KYL. I thank the Chair. I thank the Senator from Georgia.

BALANCE THE BUDGET FOR AMERICA'S FAMILIES

Mr. KYL. Mr. President, during the next few months, millions of Americans will confront the annual task of filing their income-tax returns. What people would be startled to learn is that about 53 cents of every dollar of individual income tax they send in to the IRS this year will be required just to pay the interest on the national debt.

That is 53 cents out of every dollar that will not be available to spend on health care for children, for education, for the environment, for aid to victims of domestic violence, for law enforcement, for national defense, or for any of the other important programs that serve the American people. It is 53 cents of every dollar just to pay interest on the bills that Congress and the President have racked up in years past.

That 53 cents of every dollar does not even begin to pay down the national debt, which is increasing at a rate of $4,500 per second—a debt that threatens our children's very future. It now totals more than $5.3 trillion, or about $20,000 for every man, woman, and child in the country.

Some people say that a balanced budget would mean drastic cuts in important programs. But it is really the deficit—the debt—that is savaging our ability to respond to the Nation's needs. How much more could we do for the American people if we did not have to set aside 53 cents of every income-tax dollar just to pay interest? How much more could people do for themselves if their tax bills were cut in half and they had that 53 cents to spend on their own needs?

It is really a balanced budget—not more deficits—that offers the greatest protection for the important programs our Government provides. A balanced budget will ensure that we have the money, for example, to take care of our obligations to seniors and those in need, to make streets safe for law-abiding citizens, and to make our country secure. It is, after all, those programs—those programs that are priorities for the American people—that will be funded first under a balanced budget.

Of course, setting priorities would be something new for the Federal Government. We are used to operating with a national checkbook that has had an unlimited balance. That has allowed Congress to spend as much as it wants for whatever it wants. And when you have an unlimited balance to draw from, every program is as important as the next.

But as any family knows, when you have to live within your means, you cannot have everything. The basics come first. In the context of a balanced Federal budget, that means things like Social Security, Medicare, and national security move to the front of the line.

That is what it means to prioritize. It is just plain common sense.

Most economists predict that a balanced budget would facilitate a reduction in long-term interest rates of between one and two percent. That means that more Americans will have the chance to live the American dream—to own their own homes. A 2-percent reduction on a typical 30-year mortgage in Arizona would save homeowners over $220 a month. That is $2,655 a year.

A 2-percent reduction in interest rates on a typical $15,000 car loan would save buyers $676. The savings would also accrue on student loans, and credit cards, and loans to businesses that want to expand and create new jobs. Reducing interest rates is probably one of the most important things we can do to help people across this country. It is money in the pocket of every American.

Mr. President, we need to balance the budget. The American people want us to balance the budget. But the only way to ensure that we really get there is to pass the balanced budget amendment.

The PRESIDING OFFICER. The Senator has spoken for 2 minutes.

The Senator from Vermont is recognized.

JUSTICE CLARENCE THOMAS' FIRST AMENDMENT RIGHTS

Mr. LEAHY. Mr. President, I ask unanimous consent that at the end of my comments, an article in the Wall Street Journal of January 31, 1997, entitled ''Black Leaders Try to Deny Thomas' Status as Role Model,'' be printed in the RECORD.

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

(See exhibit 1.)

Mr. LEAHY. Mr. President, there have been a number of articles in various papers over the last couple of years about groups that tried to block Justice Clarence Thomas from speaking at various schools. I abhor this kind of activity.

Justice Thomas was nominated by the President of the United States, went through his hearing, we had a vote on it up or down, and he was confirmed. That is the major trial that he should have to go through. He has the same rights, first amendment rights, as every one of us to speak. I am proud of the fact I come from a family that made the first amendment a hallmark, in bringing up the three Leahy children. I have been in this body for 22 years, defending the first amendment from attacks from any side, and I am proud of the achievements that has brought about. But I would say that those who try to block anyone from speaking disregard the first amendment.

McCarthyism of the left is as bad as McCarthyism of the right. If some disagree with what Justice Thomas says, then let them seek their own forum to express that disagreement. Do not block the statements from being made in the first place. That is wrong. We, in this country, ought to understand that those who try to block speech, from the right or from the left, do a disservice to our Constitution, do a disservice to our country, and, most important,

they do a disservice to the diversity that makes up the greatest democracy in history.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal Jan. 31, 1997]

BLACK LEADERS TRY TO DENY THOMAS STATUS AS ROLE MODEL

(By Edward Felsenthal)

WASHINGTON.—When Benjamin Carson, a prominent African-American surgeon, was helping organizers find an inspiring speaker to close a weeklong ''Festival for Youth'' in Delaware this month, he pushed for Supreme Court Justice Clarence Thomas.

It wasn't only Justice Thomas's exalted title and status as one of the country's highest-ranking public servants that attracted Dr. Carson. It also was his remarkable rise from poverty. The two men were acquainted through their membership in the Horatio Alger Society, a group whose members have overcome significant odds to achieve success.

But when the Baltimore surgeon issued the invitation, he never dreamed that he would set off a political firestorm. After an organized protest from a regional chapter of the National Association for the Advancement of Colored People, which threatened to picket the talk, Justice Thomas backed out.

Normally, ethnic organizations are only too eager to have top elected or appointed officials visit and speak to community groups, especially young people. But the Delaware protest was the latest incident in an unusual drive against a public official by some black leaders to deny the conservative, 48-year-old justice a position as a role model within the African-American community.

UNFLATTERING COVER STORIES

Last year, after a school-board member and local parents threatened to protest, a Maryland school temporarily retracted an invitation for Justice Thomas to speak at an awards ceremony for eighth graders. Emerge, an influential magazine among the black intelligentsia, has run two unflatering cover stories on the justice, one portraying him wearing an Aunt Jemima-style kerchief, the other portraying him as a lawn jockey. His judicial decisions also have attracted unusual personal attacks, including a stinging open letter from former U.S. Judge Leon Higginbotham.

Justice Thomas, whose bitter 1991 confirmation hearings became a national spectacle because of Anita Hill's allegations of sexual harassment, is certainly no stranger to controversy. But the recent protests are extraordinary because they have little or nothing to do with the highly charged issues raised during his difficult confirmation. Instead, they have to do almost entirely with Justice Thomas's conservative views and decisions criticizing policies such as affirmative action.

While feminist groups took the lead in fighting against his Supreme Court nomination, this time the criticisms of Justice Thomas are being leveled almost entirely by other blacks. Various civil-rights leaders claim—sometimes in terms that are astonishingly abusive even by Washington standards—that Justice Thomas has betrayed his race by opposing the affirmative-action policies that his critics say helped get him where he is, and by voting with the court's conservatives on other civil-rights issues.

''If white folks want to have Justice Thomas serve as a role model for their kids, that's their business,'' says Hanley Norment, president of the NAACP's Maryland branch. Mr. Norment, who helped plan the protest against Justice Thomas at the Delaware festival, dismisses him as a ''colored lawn jockey for conservative white interests.''

DISSENTING VOICES

A number of black leaders, including national NAACP President Kweisi Mfume, have raised concerns about the campaign against Justice Thomas, and some say African-Americans should take pride in his accomplishments. ''This is an embarrassment,'' says Michael Meyers, executive director of the New York Civil Rights Coalition. Justice Thomas ''doesn't hold my views on affirmative action. He doesn't hold my views on race. But he is on the United States Supreme Court, and he's entitled to . . . respect.''

That sentiment is echoed even in some seemingly unlikely places. ''Of course, he's a role model,'' says Charles Ogletree, the Harvard Law School professor who was Anita Hill's lawyer during the confirmation hearings. His success proves ''that you can come up from poverty and have a huge impact in our society.''

Justice Thomas's career has engendered conflicted feelings in black America from the moment he hit the national scene as chairman of the Equal Employment Opportunity Commission in the Reagan administration. Although mainstream black groups such as the NAACP were worried that he was hostile to many civil-rights laws, they opted not to fight his 1989 selection to the federal appeals court in Washington. And although many of those same groups later decided to oppose his elevation to the Supreme Court, some believed that his humble origins might ultimately make him more sympathetic to their civil-rights agenda.

That hasn't happened. He has joined the court's conservative wing in ruling that it's unconstitutional to draw up voting districts primarily on the basis of race. He concurred in a 1995 ruling that put strict limits on federal affirmative action, saying such programs ''stamp minorities with a badge of inferiority and may cause them to develop dependencies.'' He also concurred that year in a decision that curbed school desegregation, expressing astonishment that ''courts are so willing to assume that anything that is predominantly black must be inferior.''

Other justices participated in these decisions, too, of course. But Justice Thomas's African-American critics seem to view his role as uniquely unforgivable, and that sentiment in turn has provoked the concern about his influence on black youth.

IT DOESN'T AFFECT HIM

Justice Thomas won't comment on the Delaware incident, but friends insist he isn't ruffled. ''He's been around long enough dealing with the so-called civil-rights community [that] it doesn't affect him,'' says Stephen Smith, a Washington lawyer and former law clerk for Justice Thomas.

After the area NAACP leaders threatened their protest, Justice Thomas wrote festival organizers to say that, while he doesn't object to ''peaceful demonstrations,'' he didn't want to distract from the event's focus on children. Finally, says a gleeful Mr. Morment, the Maryland NAACP official, ''the guy made some decision that we agree with.''

Other black leaders say they too would object if the justice were invited to speak to kids in their area. It is a way of ''getting his attention'' to communicate that ''we're disappointed with the actions that you've taken, and so therefore we can't hold you up as a role model,'' says Hazel Dukes, president of the New York conference of the NAACP.

It is in one sense ironic that Justice Thomas has provoked such criticism: On a court whose members are more likely to be found speaking at high-brow judicial conferences than obscure local convention halls, Justice Thomas has shown a special interest in talking with ordinary people, particularly the young. His message is ''inspiring and uplifting,'' says Norman Hatton, a vice principal at the Thomas G. Pullen School in Landover, Md., where the justice spoke at the awards ceremony last summer.

Indeed, even some NAACP leaders are adopting a more conciliatory approach. In a recent speech, Mr. Mfume, the national president, criticized the Maryland chapter, saying protests against Justice Thomas shouldn't rise to such a level that they impede his right to speak. ''We must never rush to silence free speech,'' he said. ''It doesn't matter how we feel about Justice Thomas.''

Dr. Carson, the surgeon, adds: ''Children shouldn't be forced to watch ''a bunch of silly adults . . . put people into corners and castigate them. . . . If anything is a bad role model, that is.''

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

The PRESIDING OFFICER [Mr. THOMAS]. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the order, morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

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

The bill clerk read as follows:

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

The Senate resumed consideration of the joint resolution.

Pending:

Dodd amendment No. 4, to simplify the conditions for a declaration of an imminent and serious threat to national security.

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

Mr. BYRD. Mr. President, the measure before the Senate is a proposed amendment to the Constitution mandating a balanced budget annually. It is unconstitution-like. I am not saying it is unconstitutional. If it is riveted into the Constitution, of course it would be constitutional. But I am saying it is unconstitution-like in its words, which lack the vision, the simplicity, and the majestic sweep of language that we find in the Constitution. Rather, it sounds and reads like a bookkeeping manual on principles of accounting. The amendment is replete with words like ''outlays,'' ''fiscal year,'' ''receipts,'' ''estimates of outlays and receipts,'' ''receipts except those derived from borrowing,'' ''repayment of debt principal,''—words which

are out of keeping with the graceful language used by the Framers in writing the original Constitution and the Bill of Rights. The amendment is made up of 8 sections constituting a total of circa 310 words, more than were used by the Framers in stating the Preamble to the Constitution and in establishing a Congress composed of two Houses, establishing a House of Representatives, establishing a Senate, establishing the Presidency, establishing the Supreme Court, and including the article setting forth the mode by which the Constitution would be considered ratified and in effect. Moreover, it is a masterpiece of confusing details, deceptive illusions, and doublespeak.

It is misleading. I am talking about this amendment now that we have before the Senate. It is misleading, contradictory in its terms, and is ultimately bound to disappoint the American people and undermine their faith in the credibility of the Nation's basic document of law and government.

We all agree—all 100 of us—that continued massive deficits are bad for the country, and we are all in agreement that action must be taken by the legislative branch, working in cooperation with the executive branch, to bring our budgets under control and into balance at some point, yea, even to provide for surpluses so that the country can begin to retire the principal and reduce the interest on the national debt, which, in only the last 16 years, has assumed colossal proportions beyond anything that was even imagined during the previous 192 years and 39 administrations in the history of the Republic. I am saying during the 192 years previous to the first Reagan administration. I need not remind my colleagues and those who are listening to the debate—although I shall—that until the beginning of the first administration of Ronald Reagan, total debt of the U.S. Government was a little under $1 trillion, while, beginning with the first administration of President Reagan and continuing up to this time, over $4 trillion has been added to that debt. In other words, four-fifths of the total debt held by the public have been added in the last 16 years, four-fifths—four times the amount of debt that was accumulated during the first 192 years in the life of this Republic, during the first 39 administrations in the life of this Republic, up until the first administration of President Reagan.

Does anyone challenge that? Does anyone wish to stand on this floor and say, ''That ain't so''?

It is no wonder, then, that the American people have lost faith in their Government, and if this proposed constitutional amendment is approved by both Houses of Congress and ratified by the necessary three-fourths of the State legislatures, the people of this country will have no cause for reassurance that our fiscal and deficit problems will ever be resolved. I fear that the situation will not have been made better but, rather, will have been made worse.

I have not been able to listen to all of the speeches that have been made by all of the proponents of the amendment.

I have tried to listen to as many as I could. I have not been able to hear them all. But of those that I have heard, there has not been one—not one—that has addressed itself to the details of this amendment.

We have heard many times that the devil is in the details. I have not heard a single proponent—not one—explain the amendment section by section or stated how and why the adoption of this amendment will, indeed, bring down the deficit and lead to a balanced budget. I would like for them to explain each section and explain how that section is going to bring the deficits down.

All of the speeches that I have heard merely talk about the need for getting the deficit under control. I am for that. But none has explained how this particular proposed constitutional amendment is going to do the job. All I have heard have been ''the sky is falling'' speeches—oh, the sky is falling—which have simply stated the need for getting our house in order, to which we all can agree and stipulate.

So they say deficits are bad; our national debt is too large; we need to get the deficits under control. Nobody disagrees with that. That is all the speeches I have heard. As I say, I have not heard them all. But all of the speeches by the proponents I have heard have amounted to that: Deficits are bad; we have to do something about them.

And what do they propose to do? Adopt this amendment. They don't explain how it will rectify the situation.

So I continue to wait to hear a single proponent—just one—who will come to the floor and explain clearly as to how each section will contribute to the common objective that we all seek; namely, a balanced budget, and explain beyond any doubt that these sections of this amendment, as so constructed, will do the job. You can bet on it.

Everyone is in agreement that consistently operating with deficits is undesirable, but we are told to accept on faith this proposed constitutional amendment. We are told it will do the job, but we are not told how it will do the job. We are not given the details as to the sacrifices and the pain the people must endure in order to achieve yearly budget balance. We are only told that continued deficits are not good, which we all know to start with, but that this amendment will fix the problem. We are, therefore, importuned to buy what really amounts to a ''pig in a poke.'' And as far as the explanation of the amendment thus far is concerned, we cannot even be assured that there is a pig in that poke.

So now let us proceed to take a look section by section at the amendment, which we are all being implored to support and which, if we buy on to this amendment, the American people will, likewise, be beseeched to ratify in their State legislatures throughout the country: Don't look at the details, don't bother, just accept on faith. Things are bad, deficits are bad, we have to do something about it. Ipso facto, vote for this amendment. It will do the job.

For the benefit of the American people who do not have a copy of this amendment and who are watching and listening to the words spoken on this floor, I have had the entire amendment placed on this chart and will now go through it section by section in the hopes of shedding a little light at least on what I believe to be a very anti-Democratic, anti-Republican, and anticonstitutional proposal. Not unconstitutional, but anticonstitutional.

So let us start at the beginning. The Bible says, ''In the beginning.'' You can't get much beyond that, ''In the beginning, God * * *''

Well, in the beginning, let's take the very top section. Let's start at the top.

Section 1 of the constitutional amendment states:

Total outlays for any fiscal year shall not exceed—

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—

For a specific—

excess of outlays over receipts by a rollcall vote.

Mr. President, and Mr. and Mrs. America, this states that for every dollar that is spent in any fiscal year, there shall be $1 of income. That is what it says. In other words, for every dollar that goes out in a given year, a dollar will have to come in, unless three-fifths of the Members of both Houses of Congress provide by law for a specific excess of outlays over receipts by a rollcall vote.

If Congress is bound to spend more than it takes in, how can it do it? It can only do so by a rollcall vote and by passing a law which states the specific excess by which dollars spent will exceed dollars received. It will not be enough for Congress to provide by law in a given year that outlays ''may exceed receipts.'' That is not enough. To comply with the language of this section, Congress will have to state specifically the excess of outlays over receipts that it is willing to approve.

Moreover, this cannot be done by a simple majority in each House of Congress, as is the case with most other laws that are passed by Congress. The stickler here is that three-fifths of the whole number of each House will have to approve the specific excess. Got to be exact, the exact amount. ''All right, Senators, we're getting ready to vote. We've got to know the exact amount by which the outlays will exceed the receipts, because it has the words 'specific excess'.''

For example, the Senate is composed of 100 Members and three-fifths of them will be required to loose this amendment from its chains. Three-fifths of

the whole number of the Senate means that at least 60 Members of the Senate would have to vote in favor of permitting the specific excess of dollars paid out over dollars taken in. Sixty Members. Fifty-nine will not be enough.

It will not matter if there is a snowstorm outside the doors and only 59 Senators can get to the Senate to vote. That is a quorum—that is over a quorum. But that will not matter. Even if they all vote to allow outlays to exceed receipts by an exact and specific amount, that will not be enough.

Now, this may appear to be a very simple matter on the surface, but upon closer examination it will be anything but simple.

Why do I say this? Because there is no way on God's green Earth that human beings can precisely predict what the total outlays will be for a fiscal year until that fiscal year has expired and the U.S. Treasury Department has tallied up the final figures of what the income versus the spending was for the year just ended. No way—no way—that anyone, that any human being or any computer contrived by any human being can determine before the fiscal year is out the exact amount by which outlays for any fiscal year have exceeded the receipts of that fiscal year. No way. It is impossible. No way, until the fiscal year has expired and the U.S. Treasury Department has tallied up the final figures of what the income versus the spending was for the year just ended. You will not know until that happens.

And only then, which is usually late in the month of October—perhaps the third or fourth week of October—several weeks after the end of any fiscal year, are the facts known as to the exact amount of the outlays and the exact amount of the receipts, and, consequently, whether or not there was a deficit, and, if so, specifically how much was the excess of outlays over receipts. We will not know it by the end of the fiscal year.

So what are we going to do then? The fiscal year has ended. September 30 is gone. We do not know what the excess was. How then can three-fifths of the Members of the Senate vote for a ''specific excess of outlays over receipts'' when the final books are not closed, the amounts are not tallied. Nobody knows.

I might stand on my feet and say, ''Mr. President, how much is the excess?'' Nobody can tell me. And we will not know it for perhaps 3 or 4 weeks after September 30, after the fiscal year has ended.

Therefore, there is no way for Congress to provide by law for a ''specific excess of outlays over receipts'' during the fiscal year in question. The specific amount of any excess of outlays over receipts cannot be known by the human mind until the U.S. Treasury has totaled up the figures for a fiscal year that has already ended 2 or 3 weeks earlier and advised Congress of the results.

Consequently, we are being presented in the very first section of the amendment with a requirement that cannot be met. It cannot be met. Now, let us examine more closely. Take the first portion of Section 1: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *'' That language is very clear. It cannot be misconstrued or misunderstood. It means exactly what it says. It does not say that total outlays ''may not exceed.'' It does not say that ''Total outlays for any fiscal year may not exceed total receipts.'' It does not say that ''Total outlays for any fiscal year should not exceed total receipts.'' Nor does it say that ''Total outlays for any fiscal year ought not exceed total receipts.'' It says, total outlays shall not—shall not—shall not—exceed total receipts for that fiscal year, no ifs, ands or buts. The Federal budget, under this language, must be balanced every fiscal year right down to the bottom dollar. There is no wiggle room—wiggle room—none.

Now, let us understand what this means. We are told by the proponents of this amendment that the Federal Government should have to balance its budget every year, like a family does. How many times have I heard that? ''Oh, we ought to do like the average American family. We ought to do like a family does or do like the State governments do it. The Federal Government ought to do like the State governments do it. They balance their budgets. The American family balances its budget. And the Federal Government ought to do the same.'' How many times have I heard that? How many times have you heard it, Mr. President?

The truth is that the American family does not and the truth is the State and local governments of this country do not do what this amendment requires the Federal Government to do. The fact is that the unified Federal budget is not the same as a family budget. The fact is that the unified Federal budget is not the same as the budgets that State and local governments are required to balance—or that they are supposed to balance. They are not the same.

Unlike those budgets, unlike the State budgets, the unified Federal budget includes all spending that occurs in a fiscal year regardless of whether that spending is for recurring operating costs of the Federal Government or whether that spending is for public investments.

Now, would anybody stand and challenge that? Would anybody tell me that the States are operating under the same kind of unified Federal budget that the Federal Government is operating under? Yet they say we ought to do like the States. The Federal Government ought to balance its budget like the States balance their budgets. Just one—I would like to hear a Senator challenge that statement.

Under the unified Federal budget, capital investments, such as roads, airports, transit systems, military procurement for weapon systems, military aircraft, battleships, missiles, are required to be paid for in full as the purchases are made. This is a system of budget accounting that no business, no State or local government, and no family has to abide by.

Let us consider the family budget. I consider my family budget a typical family budget. I can remember when I had to buy a bedroom suite—on May 25, 1937; soon it will be 60 years. On May 25, 1937, I bought a bedroom set, looking forward to the day when I pay that preacher $2 and take my wife away. We would not be going on any honeymoon. Of course, we have been on a honeymoon now for 60 years, but we would not be going anywhere. There would not be any gifts, would not be any flower girls, would not be any best man—except ROBERT BYRD. I bought a bedroom suite, paid for it at the company store where I was employed as a meatcutter and in produce sales, $5 down, $7.50 every 2 weeks until it was paid off.

So that is the way most families have to manage. Most families that I know have to borrow money to buy their homes, have to borrow money to buy their farms, they have to borrow money to purchase necessary assets such as automobiles with which they get to work and get home from work, and they have to borrow money to provide their children with a college education. I do not think that one will find very many Americans who would want to have to balance their family budgets in a manner that would require them to pay for the entire cost of their home in the same year, the entire cost of the farm in the same year, the entire cost of the automobile in the same year, or the entire cost of a college education for their children. Yet that is what the U.S. Government would be required to do by this section of this amendment.

Mr. and Mrs. America, be on your guard; you need to know that. When you listen to these proponents say that the Federal Government should balance its budget just like the States balance theirs—listen, Governors, you know better than that. When the proponents say that the Federal Government should balance its budget just like the average American families balances its budget, hold on. Pay attention. That is not what it does.

Similarly, the proponents tell us that most States and local governments are required to have balanced budgets. What the proponents fail to point out is the fact that State governments are required to balance only their operating budgets. Do not tell me that ''ain't'' so, because it is. The States are allowed to have separate capital budgets, which are excluded from the annual budget balancing requirement. A State may be required to keep its operating budget in balance each year, but the budget with which it floats bonds for the construction of school buildings or highways and other capital investments is not required to be balanced

each year. I know. I know that is the way the West Virginia Constitution operates. It does not require a unified budget as this amendment would or as the Federal Government does operate on a unified budget.

If such capital investment budgets were required to be balanced each year, as this amendment would mandate that the Federal Government do, the States in many instances would not be able to build schools and highways and bridges. Is that not so, Governors who may be listening? Is that not so, State legislators who may be listening? The capital budgets of States are excluded from the annual budget-balancing requirement of the State constitutions. Under this balanced budget amendment, however, the Federal Government would be forbidden to adopt capital budgeting, and this would gravely endanger our ability to purchase the kinds of public assets or make the kinds of public investments that are so critical to this Nation's future economy and to its future security.

The language of this first section of the amendment, if the amendment is ever adopted and ratified, will prohibit the Federal Government from purchasing capital assets and repaying the costs of them over time for the simple reason that it says that each year, the total outlays shall not exceed the total receipts; shall not exceed the total income of the Federal Government. Rather, the Federal Government would be required to pay for the entire cost of all these capital investments as they are purchased. I believe if the American people focus on this issue alone, it should be enough to convince them of the unwisdom of placing such a straitjacket on Federal budgeting into our Constitution.

But the proponents of the amendment will say, ''Hold on. Hold on, Senator. This language allows a waiver of the budget balancing requirement.'' Sure enough, there is a portion of section 1 which reads, ''. . .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 the two halves of this sentence do not match up. This sentence is classic doublespeak. Mr. and Mrs. America, that is exactly what we are doing here, engaging in doublespeak. It is a kind of ''have it both ways'' sentence—the kind of stuff that politicians are so proficient at crafting. On the one hand, we are saying that the Federal Government's spending shall not exceed its income, that it must live within its means, and that that concept is important enough to rivet into the Constitution of the United States. But in the very same sentence, without skipping a beat, the language also says that all that is so unless three-fifths of the whole number of each House waive that requirement.

So there is a requirement for a supermajority vote of three-fifths of each House to approve a waiver, and that constitutes minority control in each House, which is anathema—anathema—to the principle of majority rule, anathema to the democratic—small ''d''—rule, the principle of majority rule, a cardinal principle of representative democracy. That is basic in this Republic. It means that a minority can block action. The requirement of a supermajority three-fifths vote is a prescription for gridlock. A majority of three-fifths would be difficult to get on a politically charged vote of this kind where partisanship would rear its ugly head. What would happen, then, when the President's advisers tell him late in a fiscal year, or at the beginning of the next fiscal year, that despite previous estimates to the contrary—or if it is the last of October, in the next fiscal year—there was a substantial deficit and that Congress has not been able to produce the necessary three-fifths vote in each House to waive the requirement set forth in section 1 for a balanced budget.

The clock is ticking. The fiscal year is running out. And a deficit looms large, large on the horizon. The President's advisers tell him he is constitutionally bound to balance the budget.

Now, Mr. President, those Senators didn't do it. They could not muster the three-fifths vote to waive that provision in section 1.

The President is, therefore, told to impose the necessary cuts in spending for the remainder of the fiscal year in order to achieve budget balance. He has no choice.

At this late point, during any fiscal year, what could the President do? He would have no choice but to make arbitrary cuts in Federal spending, which could mean a reduction in payments to which many citizens are entitled under the law. Among the programs for which monthly checks are issued by the U.S. Treasury are Social Security benefits, military and civilian retirement benefits, veterans benefits—hear me, veterans—veterans benefits, payments for Medicare and Medicaid, and payments to contractors. To those who say that your Social Security check, or—veterans, lend me your ears—your veterans pension, or your military or civilian retirement checks are safe under this constitutional amendment, I can assure you that they are not. Moreover, it is highly likely that the judiciary will find itself embroiled in yearly budget decisions.

I see in this committee report these words on page 23—words in the committee report that comment on section 6 of the amendment:

> The provision precludes any interpretation of the amendment that would result in a shift in the balance of powers among the branches of Government.

How can any committee report say, with any authority that is dependable authority, that the provision precludes any interpretation of the amendment? Is that not what the committee report said? ''The provision precludes any interpretation of the amendment. . .'' That is saying to the courts, Mr. Justice, your court is precluded from interpreting the amendment in any way that would result in a shift of the balance of powers among the branches of Government. How much is that piece of paper going to be worth? Yet, a committee report says it. ''The provision precludes any interpretation of the amendment that would result in a shift of the balance of powers among the branches of Government.''

The President impounds the moneys. He feels he has to impound them. He has to stop the checks. He has to put a halt on the mailing of the checks. He impounds moneys. Does that constitute a shift in the balance of powers between the legislative and executive branches? And, Mr. Proponent, are you going to tell me that the courts will abide by this committee language here, that they will feel bound by this committee language, they will be ''precluded''? That is what this language says, that ''the provision precludes any interpretation of the amendment that would result in a shift in the balance of powers among the branches of Government.''

Let me also say at this point that section 1 of the amendment is a hollow promise. It says the budget shall be balanced, but it does not say how the budget must be balanced. It does not say how the deficits shall be reduced. Where are the proponents? This is what I have been waiting to hear. I am opposed to this constitutional amendment. I want someone to tell me and to convince me and prove to me, by their written words, that I am wrong, that I am not reading these sentences correctly, that they don't say what I have said they say. I want someone to show me that I am wrong.

It does not say how or where to cut Government spending. It does not say how or whether revenues should be increased. There isn't a proponent of the amendment that I have heard stand on the floor and say, ''This is how we are going to make this section work. We are going to have to raise taxes.'' I haven't heard a proponent stand up on this floor—not one—and say the President's proposed tax cut is going to have to be forgotten, or that the tax cuts proposed by the Republican Party—the GOP, the Grand Old Party—are going to have to be forgotten. Not only should we not have the tax cuts—I say we should not cut taxes. Here is one Senator who, if I were a proponent of this amendment, I would say, well, I am against cutting taxes. I believe we ought to balance the budget. I believe we ought to wipe out these deficits. But this language does not say how or where to cut Government spending. It does not say how or whether revenues should be increased. And all of the Republicans, in 1993, stated that the reason they did not vote for that budget balancing package—which worked—most of them used the excuse that it increased taxes. That may be what we will have to do again. But the language

in this amendment doesn't say whether revenues should be increased.

But never mind, the proponents of the amendment have provided an escape hatch right in the amendment itself. Take a look at section 6.

Section 6 states, ''The Congress shall enforce and implement this article by appropriate legislation * * *'' There is nothing new about that. Congress has the power now, working with the President, to balance the budget. But this amendment says, ''The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.''

I hope that the new Members of the Senate will pay close attention to this language. I can understand that when new Members come here, they haven't had any experience with the terminology or the Federal budgets, with the estimates of revenues and outlays from year to year, and how those estimates have been off. I can understand that. So I can forgive new Members. But I hope they will listen. Section 6 states that, ''The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.'' This is the Achilles' heel of the balanced budget amendment to the Constitution.

I especially would like the proponents of this amendment to come over here and defy what I am saying about section 6 of this constitutional amendment.

While section 1 is the core of the amendment, because it says that the budget shall, not may, but shall be balanced every year, section 6 in the very same amendment says that we don't really have to balance the budget as section 1 would require. The proponents of this amendment are telling us in section 6 that they are just kidding in section 1 when they say that the budget must be balanced. In section 6, they are saying, ''We don't really mean it, Mr. and Mrs. America.'' In section 1, the amendment says that ''outlays shall not exceed receipts'' in any fiscal year, but section 6 says only that estimates of outlays shall not exceed estimates of receipts in any fiscal year.

So, if this amendment is adopted, the sacred document of the Constitution will say, in no uncertain terms, in section 1 that Congress shall balance the budget every year. But just read a little further, and the Constitution of the United States will say, forget section 1, Congress doesn't really have to balance outgo with income, doesn't have to balance outlays with receipts. All we have to do is just rig the estimates, so that estimated spending will not exceed estimated income for any given fiscal year.

Isn't that what this says?

Section 1, therefore, makes the entire balanced budget proposal as phony as a $3 bill. Better still, phony as a $2.50 bill; phony. If the escape hatch is used, we will be right back where we have been so many times in the past, balancing the budget will be smoke and mirrors, and anyone who can read the English language knows it. Because there it is as plain as the nose on your face: ''The Congress shall enforce and implement this article''—meaning the constitutional amendment to balance the budget—''by appropriate legislation, which may rely on estimates of outlays and receipts.'' Section 6 makes this proposed constitutional amendment a fraud; a fraud. I shall have more to say about section 6 at another time, but I will say this much: I say it makes the amendment a fraud.

Let the proponents read what the committee report says about section 6. Let me read from the committee report. Page 23 of the committee report: ''The Congress shall enforce and implement * * * creates a positive obligation on the part of Congress to enact appropriate legislation to implement and enforce the article.'' Then the committee looks at the words ''which may rely on estimates of outlays and receipts.''

The committee report goes on to say this: ''Estimates''—the word ''estimates''—''means good faith, responsible, and reasonable estimates made with honest intent to implement section 1.'' The committee knows that it is providing a loophole that is large enough for Atilla to drive his 700,000 horsemen through, large enough for Tamerlane, large enough for Amtrak—because it says in the first section the budget must be balanced, the budget shall be balanced; outlays may not exceed receipts.

Then it comes along in section 6 and says, ''Well, we don't really have to do that; don't really have to pay any attention to that language. What we really mean is that the estimates of outlays shall not exceed the estimates of receipts. And the record will show, as I will on another day, that it is impossible for the estimates—insofar as the record is concerned, it has been impossible for the estimates to balance or to come out as stated. It is impossible for anyone to estimate what the revenues are going to be. It is impossible for anyone in this Government to estimate what the revenues will be. It says, well, estimates really mean good-faith, responsible, and reasonable estimates.

What is meant by ''good faith''? How do we know when they are ''good faith'' estimates? How do we know when they are ''responsible'' estimates? How do we know when they are ''reasonable'' estimates? How do we know when those estimates are made with ''honest intent''? We have seen the numbers ''cooked.'' David Stockman was the Director of OMB during the early years of the Reagan administration. The numbers were ''cooked,'' and David Stockman said so. So they were rigged.

The committee goes on and says, ''This provision gives Congress an appropriate degree of flexibility''—you bet it does —''in fashioning necessary implementing legislation. 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. In addition, Congress could decide that a deficit caused by a temporary, self-directing drop in receipts or increase in outlays during the fiscal years would not violate the article.''

This is the committee report I am reading from, and it is talking about section 6 in this constitutional amendment. The language goes on to say in the committee report: ''Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1.'' How much is ''small''? How much is ''very small''? What would be a ''negligible deviation''?

We have a $1.7 trillion budget. Let us say that the deviation is $50 billion. Is that ''small''? Is that ''very small''? Let us say the estimate only missed it by $50 billion. That is $50 for every minute since Jesus Christ was born. Is that small enough? It is only 3 percent of the total budget, $50 billion. As a matter of fact, you can make it $51 billion of a $1.7 trillion deficit. It would only be off 3 percent. Is that ''negligible''? Is that small enough?

It goes on to say: ''If excess of outlays over receipts were to occur, Congress could require that any shortfall must be made up during the following fiscal year.''

Now, this is the committee report explaining the amendment. And that is shilly-shally. That is what the committee report says. I did not say it. Section 6 provides the loophole, it provides the way out, the way to get around section 1 in the amendment, the way to get around this balanced budget amendment. I will have more to say about that section at a later time.

Now let us look at section 2 of the balanced budget amendment. Section 2 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 such an increase by a rollcall vote.''

In practical terms, what this section means is, again, if a minority in the Congress decides that they do not want to go along with the policies of the majority, they can put this country into default on its debt. If the United States ever defaulted on the payment of its debt, that action would send the world financial markets into utter chaos. This is the same as any family's filing for bankruptcy. Forget about ever getting another mortgage on the home or another automobile loan. Any lender, knowing that you have already skipped your payments and gone bankrupt, is going to charge you an exorbitant rate of interest on your next loan, that is, if you can ever get another loan.

Failure to raise the debt limit or ceiling, when required, would have far-reaching effects on the U.S. Treasury's

ability to pay Social Security and veterans' pensions and other obligations, and the Nation's creditworthiness would be destroyed. Millions of people depend on Federal payments, including employees, pensioners, veterans, investors, contractors, as well as State and local governments. If the debt ceiling is reached and the necessary supermajority vote of both Houses is not achieved, all of these payments must be stopped.

The fact is that over the last 16 years, there have been 30 occasions when the Congress has voted to increase the debt limit. And yet, on only 2 of those 30 occasions have we met the three-fifths requirement of this balanced budget amendment. It is not going to be easy. A minority will have many opportunities to play politics with this phraseology in this amendment. Only on 2 of those 30 occasions have we met the three-fifths requirement for this balanced budget amendment. On the other 28 occasions, less than three-fifths of the whole number of both Houses voted by rollcall to provide the necessary increase in the debt limit.

I have seen the occasion arise many times when this party or that party, one party or the other, will play politics with this language. I have seen situations in which the Democrats laid back, would not vote for an increase in the debt limit. They would make the Republicans do it. And I have seen the occasions when the Republicans would lay back and not vote to raise the debt ceiling, make the Democrats do it.

One particular instance comes to mind. This is just an example:

''On Friday, October 12, 1984, the 98th Congress adjourned after the Senate, in a final partisan political battle, narrowly approved an increase in the national debt ceiling to $1.82 trillion. Senate Republicans cleared the way for adjournment when, without the vote of a single Democrat''—I was the minority leader—''without the vote of a single Democrat they,'' meaning the Senate Republicans, ''approved an increase in the national debt ceiling. 'There will be no more votes today,' said Baker,'' meaning Howard Baker, ''as he smiled broadly. 'There will be no more votes this session. There will be no more votes in my career.' His Senate colleagues and spectators in the galleries came to their feet to give the Tennessee veteran a roaring ovation as he sat in his front-row seat. Baker joined in the light laughter saying, 'Frankly, I first thought that applause was for me. But then I realized that it was for sine die adjournment.' ''

''Following the vote on the debt limit, Senator DANIEL PATRICK MOYNIHAN said, 'For 4 years, Republicans have always made us Democrats pass a debt limit. Then they campaigned against it. Now it's their debt limit. Let them pass it.' ''

So those are the games that were played, and they will be played again.

Section 3 of the amendment is as follows: ''Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the U.S. Government for that fiscal year, in which total outlays do not exceed total receipts.''

So this section means then that the President of the United States must send a balanced budget to the Congress before each fiscal year even though during a recession the President may deem it advisable to recommend a fiscal deficit in order to help get the country back on its feet. That will happen from time to time. The language of section 3 would preclude his doing so. He is not supposed to recommend a fiscal deficit. He is required by the constitutional amendment to recommend a balanced budget.

Notwithstanding this requirement, however, a President's Office of Management and Budget could ''cook the numbers,'' as was done during the administration of President Reagan. Didn't David Stockman say so? That is not just ROBERT BYRD talking. They cooked the numbers to reflect whatever income and spending numbers the administration wanted. And they can do it again. They will do it again—cook the numbers.

The President's budget could, for example, forecast that the economy will grow faster than it really will grow, and therefore would take in more tax revenues; or the administration could forecast that interest rates would be much lower than most economists predict, or that unemployment would drop during the upcoming budget year, thereby causing the budget to be in balance. Cook the numbers.

In short, the President and his staff can, as we have seen in the past—don't say, ''It ain't so,'' because it is—come up with any number of rosy scenarios in order to make the numbers balance. Consequently, simply telling the President of the United States that he must send a balanced budget to the Congress does not in fact get us any closer to balancing the budget. The American people will again be treated to ''make believe,'' ''Alice in Wonderland'' budgets while we politicians just keep on playing the same old shell game in ways that will fool the American public.

Section 4 reads:

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

What the proponents of this amendment are doing is making it more difficult for Congress to close tax loopholes—to get rid of what are called tax expenditures. Mr. President, that little piece of the economic pie amounts to about $500 billion in lost revenues every year. This is not to say that all of these tax writeoffs are bad policy. Certainly the mortgage interest deduction has allowed many more Americans to own homes than may have otherwise been the case. So, many of the writeoffs are wholesome and healthful for the economy. But, at same time, some of these writeoffs are simply tax loopholes which, like leeches, suck the blood from the economic body politic.

No one likes to raise taxes, but it is something that has to be done, and for 208 years, Congress has been able, by a simple majority vote in both Houses, to increase revenues. It does have to be done, from time to time, no matter how much we may dislike having to vote to do it. Yet, this section would require a kind of ''floating'' supermajority in both Houses in order to increase revenue. Let me explain this term which I have invented. For over two centuries, the Constitution has required only a simple majority in each House to raise revenues. For example, let us say that there are 90 Senators present and voting on a measure to raise taxes. Up to this point, a simple majority, just 46 Senators of the 90, could pass the bill. Under this proposed constitutional amendment, with 90 Senators voting, 51—51 Senators, not 46; 51 Senators, or five more Senators than a simple majority—would be necessary.

Now, depending upon what day of the week, what hour of the day, of course, a supermajority of five votes would be necessary rather than a simple majority of one vote. But let us say that 80 Senators are present and voting. A simple majority would require 41 Senators to pass the bill. With this new constitutional amendment in place, at least 51 Senators would be required—or 10 more votes than is presently required. Hence, a supermajority of 10 in that hypothetical case would be necessary. And so on. If 70 Senators voted, ordinarily 36 Senators could pass the bill. But under this constitutional amendment, 51 Senators would be required, or 15 additional Senators over and above a simple majority; a supermajority of 15. So it is a ''floating supermajority.'' This is why I refer to it as a ''floating supermajority.'' It floats, or changes, depending upon the number of Senators present and voting, so that if the supermajority of five votes is necessary to pass the tax bill on a Wednesday, let us say, a supermajority of 10 votes or 15 votes may be necessary if the passage of the bill should occur on Thursday or Friday. It could be 9 o'clock in the morning in one case and 4 o'clock in the afternoon in the other. So it would fluctuate. It is not an exact number. It will float from day to day and from hour to hour, depending upon the clock and the calendar.

Section 5 states:

> 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.

Mr. President, Congress does not always declare war anymore. Even when it does declare war, the declaration

may not necessarily be lifted when the shooting stops. Congress declared war against Germany in 1941. Not very many Americans, and not all the Members of the U. S. Senate, perhaps, realize that this declaration of war existed until September 28, 1990. Consequently, if this constitutional amendment to balance the budget had been a part of the U.S. Constitution during that period, the Congress could have waived the balanced budget requirement every year for almost a half century—because a declaration of war was ''in effect,'' technically.

So, here again, this section requires a ''floating'' supermajority, as did section 4, in order to receive the necessary approval by both Houses of Congress.

If the Nation is not engaged in a conflict that causes an imminent and serious military threat to national security, then a three-fifths majority would be required to waive the amendment for national security reasons. I would like to remind my colleagues just to think back with me to the 1990–1991 timeframe and recall President Bush's military buildup in the Persian Gulf. Prior to the actual Desert Storm engagement, a very expensive military buildup was necessary to provide the materiel and the personnel to conduct that conflict. Under this constitutional amendment, should a similar situation arise, the President would be required to achieve a three-fifths majority of both Houses in order to enact into law a waiver under section 1 because the waiver under section 5 would not be applicable, in that we would not be ''engaged'' in a military conflict; we are just getting ready for one. We are just rolling up our sleeves. We are just preparing. We are getting things all lined up, but we are not actually in a military conflict. But that has to be done because you cannot provide the materiel, the equipment, the engines of war just overnight. Furthermore, under section 5, a three-fifths majority could be required to increase military spending to deter aggression, provide military aid to our allies, or to rebuild forces after a military conflict.

Until such a three-fifths majority is achieved, what happens to the Nation's defenses? What happens to our national security? Will our allies be able to count on the United States to stand shoulder to shoulder with them if a necessity for such should materialize in the future?

Will they have any confidence that the United States will act? They have to be more confident than I am confident that the three-fifths vote would be here in this Senate.

Section 7 states:

Total receipts shall include all receipts of the United States Government except those derived from borrowing.

''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.

Under the definition of section 7, Social Security checks and veterans benefits, veterans pension checks, Medicare reimbursement checks—they are outlays. Does anyone dispute that? Those are outlays. The senior citizens of this country and the veterans of this country are being asked to accept on blind faith the fact that their Social Security checks or their Medicare benefits will be secure if this constitutional amendment is adopted here and ratified later by the requisite number of States.

They are being told—Social Security recipients are being told, the recipients of veterans checks are being told—that even though the Social Security trust fund is not specifically exempted from the balance mandate, they have no need to worry, because Congress is on record as agreeing to balance the budget without touching the fund.

The Balanced Budget and Emergency Deficit Control Act of 1985, commonly known as Gramm–Rudman-Hollings, placed Social Security off budget beginning in 1986. This legislation, with its protections for Social Security, passed the Senate by a vote of 61 to 31 with a strong bipartisan majority. The Budget Enforcement Act of 1990 reinforced these earlier protections for Social Security by placing it even more clearly off budget. What the American people are not being told by the proponents of this amendment, however, is that a mere statute—a mere statute—protecting Social Security is subordinate to the Constitution of the United States, which is the supreme law—the supreme law—of the land. It will top, it will trump any statute. The supreme law. Here it is, the Constitution of the United States. Tops any statute.

Nor would the good intentions of the present Congress be binding on future Congresses. I say to the veterans and to the senior citizens of our country, be on your guard. If this proposal becomes a part of the U.S. Constitution, your checks—your checks—will be at risk of being reduced in the future.

Finally, Mr. President, section 8 says:

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

Which means simply that it can't take effect prior to fiscal year 2002. So those of us who are up for reelection in the year 2000 could, if it was our desire, vote for this amendment, go on home, sit in the old rocking chair, and just rock away, because the hammer isn't going to fall on me. This thing will not go into effect until 2002, at the earliest.

What does that mean? That also means that Members of the House and Senate will be relieved of the pressure until 2002. So we can just go on our merry way. It will all be taken care of, it will all become automatic, this is self-enforcing, it's automatic. The sky is falling; the debt is bad; the deficit is terrible; just vote for the constitutional amendment to balance the budget; it's just that simple.

This section amounts to nothing more than a feel-good section. What this is saying is that we can wait to actually balance the budget. We do not need to do it now, Mr. President. This year of 1997 may well be the most opportune time in many, many years to achieve a balanced Federal budget. The President has submitted a budget that is projected to balance by the year 2002. We have already made substantial progress toward that end. The deficit has already been reduced over 60 percent in the last 4 years. It is time to finish the job that we started 4 years ago and enact legislation that will achieve a balanced budget by 2002, not wait until 2002 to start to balance the budget.

So, Mr. President, when looked at in its entirety, this proposed constitutional amendment amounts to nothing more than constitutional flimflam, constitutional pap. If it is adopted, we would have turned majority rule on its head and replaced it permanently with minority rule. And in the meantime, we will have perpetrated a colossal hoax—h-o-a-x—on the American people, and our children will have been robbed of their birthright to live under a constitutional system of checks and balances and separation of powers.

We have all heard the moaning and groaning, the shedding of tears about our children, how they are going to bear the fiscal burden that has been placed upon them. I share that feeling. I voted for the package in 1993 that reduced the Federal deficit by $500 billion, something like that, $500 billion, which has resulted in four consecutive years of reduced deficits.

I voted for that. No Senator on that side of the aisle can say that he voted or she voted for that. They will say, ''Well, the reason I didn't is because it increased taxes.'' Well, that may be part of the pain that we will have to undergo to relieve that burden from our children's backs.

I do not think the President should be advocating tax cuts now. I do not think that the GOP, the grand old party, should be advocating tax cuts at this time. Forget about the tax cuts and relieve the burden on our children's backs by that much.

I am concerned too about my grandchildren and my great grandchildren and their children, that they will not live under a Constitution such as that which was handed down to us by our forefathers.

But let me remind my colleagues who may be listening, let me remind the American people who may be listening, this amendment does not require that the budget be balanced. It does if we only look at section 1. But when we look at the amendment in its entirety and go down to section 6, we realize full well that it does not mean that. We are only required to balance the estimates, the estimates of revenues, the estimates of outlays. So what this amendment does is require us to balance the estimates.

Mr. President, I am reminded of Plato's Allegory of the Cave. In his ''Republic,'' Plato, in a dialogue with a friend, speaks of human beings living in a cave, with their legs and their necks chained so that they can only look toward the rear of the cave. They are prevented by the chains from turning around, from turning their heads toward the entrance of the cave. And above and behind them is a fire blazing, causing shadows to appear on the walls of the cave, the shadows creating strange images that move around the walls, as the flames flicker and as men and objects pass between the fire and the human beings who were chained. The den has an echo which causes the prisoners to fancy that voices are coming from those moving shadows.

At length, one of the human beings is liberated and compelled suddenly to stand and turn his neck around and walk toward the cave's entrance, walk toward the light at the entrance. As he is compelled to move toward the cave's opening, he suffers pains from the light of the Sun and is unable to see the realities, unable to see the realities of which in his former state he had only seen the shadows. He even fancies that the shadows which he formerly saw were truer than the real objects which are now revealed to him.

He is reluctantly dragged up a steep and rugged ascent until he is forced into the presence of the bright noon day sun and he is able to see the world of reality.

Mr. President, as I listened to my colleagues who are proponents of the balanced budget amendment, I hear them year after year urging support of a constitutional amendment, and they use the same old arguments year after year. They must be getting tired of hearing those arguments over and over. I know I am tired. They seem never to view the amendment with reality but always with their backs turned toward the light and their faces turned toward the darkness, as it were, of the rear of Plato's allegorical cave. As in his Allegory, they seem to be impervious to a realistic view of the amendment, but continue to insist that it is really the elixir, the silver bullet, and they seem to resist holding it up to the light but prefer, instead, to concentrate on its shadows, its feel-good platitudes.

I view the amendment as a flickering, unrealistic image on the walls of the cave of politics. Most of the proponents of the amendment are unwilling to take a look at the amendment, section by section, phrase by phrase, clause by clause, and word by word, preferring to live with the image that has so long been projected to the overwhelming majority of the American people by the proponents of the amendment. It is a feel-good image that will not bear the light of scrutiny, and the echoes that come back from the walls of the cave of politics are the magic incantations that we hear over and over and over again in this so-called debate—''vote for the amendment''—which really is not a debate at all. It has not been thus far. Maybe it will become one. If it were a debate, the proponents would be on the floor, even now, challenging the conclusions that I have drawn and expressed and telling me that I have not been reading the amendment correctly—''No, the amendment does not say that,'' they should be saying—in which I have proclaimed it to be a fraud.

Elijah smote the waters of the Jordan with his mantle and the waters parted, and he and Elisha crossed over the Jordan on dry land to the other side of the Jordan. I have seen that old river of Jordan, one of the great rivers of the world. I thought it was going to be a wide, deep river. Not a wide river. Not a deep river. Some places it might be 2 feet deep, that great old river of Jordan.

I bet my friend here sings songs about that old river of Jordan.

> On Jordan's stormy banks I stand,
> and cast a wishful eye
> To Canaan's fair and happy land
> where my possessions lie.

So Elijah smote the waters with his mantle and the waters parted, and he and Elisha crossed over on dry land to the other side of the Jordan. This constitutional amendment will never be the mantle that will part the waters of political partisanship and divisiveness, ''cooked numbers,'' and doctored estimates so as to provide a path across the river of swollen deficits to the dry land of a balanced budget on the opposite banks of the stream. Where are those who will challenge what I have said about section 6, who will say that I am wrong about this amendment's unworthiness of being placed in the Constitution, who will cite the errors of my argument and explain to this Senate the amendment, section by section, and explain why this amendment will work, how it will work, where the cuts will be made, and how the revenues will be increased. All of these good things do not just happen once the amendment is added to the Constitution.

If this amendment is the panacea that so many in this body claim it to be, then certainly it could stand the scrutiny of point-by-point, section-by-section debate. It is flawed, as I believe, and if it is flawed, as I believe, we must dare to hold it to the light and expose it. The American people should not be sent such a far-reaching amendment without an exhaustive discussion of the havoc that it could create.

This is not a campaign slogan—''pass the balanced budget amendment.'' It is not a Madison Avenue jingle designed to sell soap. Why not just put it on the bumpers of our automobiles as a bumper sticker—''pass the constitutional amendment.'' This is an amendment to the most profound and beautifully crafted Constitution of all time. And we owe the American people the best, most thorough debate on its provisions of which we are capable as lawmakers and as their elected representatives.

Let us all come out of the cave and not fear or shrink from the bright rays of the Sun on the language of this amendment.

AMENDMENT NO. 6

(Purpose: To strike the reliance on estimates and receipts.)

Mr. BYRD. Mr. President, I ask unanimous consent I may offer an amendment at this time and that it be laid aside pending the consideration of other amendments that may have been introduced already.

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

Mr. BYRD. Mr. President, I shall read the amendment:

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

Section 6. The Congress shall implement this article by appropriate legislation.

Mr. President, that does away with balancing by estimates.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 6.

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

''SECTION 6. The Congress shall implement this article by appropriate legislation.

Mr. BYRD. Mr. President, I will be happy to consider a time limit on this amendment and vote on it on a future day. I am agreeable to trying to work out a time limit at some point. I just offer it today so that it may be made part of the RECORD and may be printed and that we may, then, with this understanding, return to it at a future day.

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

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

Mr. LEAHY. Mr. President, the distinguished Senator from West Virginia has done a service to this body, as he has for so many years in so many different issues at so many different times.

In part of this debate over the last 2 days, I have on more than one occasion urged the proponents of this constitutional amendment to step up to what I call the Byrd challenge. I know the distinguished senior Senator from West Virginia knows that I say that most respectfully because when the distinguished Senator from West Virginia lays down a challenge on a constitutional issue, every one of us, Democrats or Republicans, should pay attention because what he is doing is challenging the U.S. Senate to rise above politics, rise above polls of the moment, but to stand up for our Constitution for the ages. Polls come and go. Polls change. The Constitution stands for the ages.

I think of the vote as the war clouds gathered in Europe before World War II, the vote to extend the draft, I believe it was by one vote. Those who voted to extend the draft cast a very unpopular vote for the most part. Where would democracy be today if they had not had the courage to step beyond the polls of the moment? Look at the Marshall plan. I remember former President Nixon telling me that he remembers 11 percent of the people in this country were in favor of the Marshall plan, but if Harry Truman had not had the courage to push forward and had not Members of this body and the other been willing to stand up, we would not have had the democracy stand where it does today.

If this great country, the greatest democracy, the most powerful economy, the most powerful Nation in history, hamstrings itself into something in the Constitution where it cannot reflect basic economic realities, those of us who succumb to the passing moments of a poll may regret, and our children may regret, that we did not listen to the Byrd challenge.

I repeat what I said before many times, the Byrd challenge is here. I ask proponents of this constitutional amendment to focus on the words of this proposed amendment, explain what they mean, explain how this proposed constitutional amendment will work. Senator BYRD has explained this amendment word by word, section by section, phrase by phrase, and what he has done is asked the obvious questions—what does it mean?

Mr. President, we are in this Chamber, the Chamber that shows respect for silence, for the silence is thundering in response to the distinguished Senator from West Virginia, because there has been no response to his question, what do these phrases mean, what do these words mean, what do these sections mean?

Mr. BYRD. Would the distinguished Senator yield?

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

Mr. BYRD. I thank the distinguished Senator. I hope that Senators will look carefully at section 6 of the proposed constitutional amendment and that they will also look very carefully at the words of the committee report, which deals specifically with section 6. The distinguished Senator from Vermont is on the Judiciary Committee. He wrote some differing views from those of the majority of the committee, and they are printed in the committee report. But inasmuch as my amendment strikes most of section 6, I hope that Members—and I particularly call to the attention of new Members of the body, section 6 and the language in the report which provides the loopholes that will give us all a way out of having to live up to this constitutional amendment give us a way out of having to balance the budget, in the event that it is adopted by both Houses and ratified by three-fourths of the States.

I thank the distinguished Senator from Vermont.

Mr. LEAHY. I thank the distinguished Senator from West Virginia. I close only with this: None of us in this body owns a seat in the U.S. Senate. We are privileged and honored to serve here at the time we are here, and then we go on. But our Constitution does own a place in our country. It has been amended only 17 times since the Bill of Rights. We should never rush pell-mell into an amendment to this Constitution without thinking through the consequences.

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

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. SNOWE. Mr. President, I think it is important for the American people to know how significant and important this debate is on the constitutional amendment to balance the budget. I served 16 years in the House of Representatives and am now in my third year in the U.S. Senate. Some have argued that when we debate this amendment, we are hearing the same old argument over and over again. That is true, because we have the same problem year in and year out. That is why those of us who support a constitutional amendment feel so strongly about the necessity to have this amendment in the Constitution of the United States because it will ensure stability and security for the future of this country and for our children and our grandchildren.

Having served in this overall institution for 19 years now, we have heard the debate on the constitutional amendment. This is about our eighth time in either the House or the Senate, or both, that we have been debating this issue. Guess what? Each and every time we have heard the same arguments over and over again as to why we don't need a constitutional amendment, that it is not necessary, that we can do it on our own, that if only we had the will or the discipline, we could enact a balanced budget, that it is simply not necessary. Well, if that was the case, why then don't we have a balanced budget? Why is it that we are still trying to enact a balanced budget? Why is it that we are still trying to reach an agreement with the President of the United States on a balanced budget?

The President said the other day in his State of the Union Address, ''We don't need to rewrite the Constitution of the United States. All we need is your vote and my signature.'' Well, we gave him our vote on a balanced budget. It was submitted to the President of the United States last year. Guess what? We didn't get his signature.

That is the problem. We can all have our disagreements about the particulars. But in the final analysis what is required in a balanced budget amendment is that you have to agree to the bottom line. There is a bottom line. What this amendment says is that total outlays will not exceed total receipts in any fiscal year. I know that is a concept that is difficult to understand in this institution because it is nothing that we have ever been required to do. What we feel is important to the security interests of this country is to ensure that we have balanced budgets in perpetuity.

Almost every State in the country is required to have a balanced budget. Yes. Most of them are required to balance their budgets because of a constitutional amendment in their State constitution, like my State of Maine. My husband served for 8 years as Governor. Believe me, they didn't argue with particulars of the constitutional amendment. They understood what they had to do because they took an oath of office as each and every one of us does in the U.S. Senate and the U.S. House of Representatives. We are required to uphold the Constitution of the United States as each and every Governor is required to uphold their State constitution.

So what they did in good faith is reach an agreement on a budget, and in their case a biennial budget. Yes, if their estimates were wrong, they made adjustments. Their constitutions are not prescriptions for perfection. It is an attempt to comply with the constitution. That is what the Governors and the State legislatures do all across the country. If their estimates are wrong, if their projections for interest rates, unemployment rates, or inflation rates are wrong, they make adjustments throughout the year or at the end of the year, because they understand they are required to balance the budget.

So, I find it sort of nothing short of extraordinary that we sit here and argue, ''Well, this amendment is providing too much flexibility because we are relying on estimates.'' Yet, on the other hand we are facing numerous challenges and propositions to a constitutional amendment to balance the budget that would enhance our flexibility because there are those who argue, from across the aisle and other opponents, who say, ''Well, a constitutional amendment is too restrictive, we can't respond to circumstances such as recessions or downturns of the economy, a national economic emergency of some kind.'' So we are getting it from both sides—from those who say it is too restrictive and other opponents who argue saying it isn't restrictive enough. That is the problem here. Because in the final analysis, if we are truly interested in ensuring that we balance our budget, I suggest that we could overcome our institutional opposition by passing a constitutional amendment to balance the budget.

As I have said in the past to those who argue that, ''Well, it is just really a gimmick,'' if there was a gimmick, Congress would have passed it long ago because Congress loves gimmicks. But this constitutional amendment isn't a gimmick. It is an attempt to put our fiscal house in order.

It is interesting. We get this coming and going, if you listen to the debate. We have charts that show declining deficits. But what about the charts that show the deficits moving up beyond the turn of the century and even before that time? We will be required in the year 2002 alone to reduce the deficit to balance the budget by $188 billion. But the opponents will not tell you about the deficits in future years that will double and triple—double and triple. In the year 2025 alone, the deficit will be in that one year alone $2 trillion. You know 2025 isn't that far away, if you think about your children and your grandchildren and the staggering debt that they will be required to assume because we are just passing it on.

In fact, if we do not manage this debt, the next generation will be required to pay an 82-percent tax rate and see a 50-percent reduction in their benefits. And that is a fact.

Are we not required or obligated to address that question? An 82-percent tax rate and a 50-percent reduction in benefits. That is what we are leaving to the next generation. I know I and others as strong proponents of this amendment share a true responsibility to begin to address this question. I would like to think that we have faith in this institution sufficient enough to know that this can happen. But it will not and it has not.

The last time we balanced the budget in the U.S. Congress was the same year that Neil Armstrong landed on the Moon. That is what these 28 unbalanced budgets on this desk represent. That is the point. Since 1950, we have only had five surpluses—five. In a century, practically speaking, 27 times. That is the track record. That is the historical track record.

Is that the gamble we want to take for the next generation? I say not. And that is why I am prepared to take the risk in terms of the interpretation of a constitutional amendment to balance the budget, because it is that important to our future. And so each and every time we hear everybody saying: ''We can do it; it is important, I agree; we should have a balanced budget; we can do it on our own,'' just think for a moment. We have not had one since 1969.

The fact is we cannot even agree statutorily. We had that debate last year for a long time. In fact, a group of us on a bipartisan basis offered our own plan to try to serve as a catalyst for this debate. In fact, we received 46 votes. And I did not like everything in that budget, I have to tell you. But I was willing to agree to it because I thought the bottom line was that important. I do not doubt for a moment that it is difficult to reach an agreement among 100 Senators or 435 Members of the House, so a total of 535, plus the President of the United States. But there has to be some give-and-take in this process, some flexibility in order to reach the bottom line. Unfortunately, we have too much flexibility because we are not required to balance the budget. Oh, sure, we have some statutes, but Congress has long ignored those statutory requirements to balance the budget—long ignored them. That is why a constitutional amendment is so important.

I frankly think there is no greater issue, no issue more central to the economic future of our country as well as to our children and to our grandchildren than balancing the budget. I know the administration is touting an economic recovery, but I have to tell you there are not a lot of people in my State participating in a full economic recovery. Many people are feeling very anxious about the future, about their children's future. The overwhelming majority of Americans—in fact, some polls say as high as 88 percent—have said that they do not believe the next generation will achieve the American dream.

I say that is disheartening, and yet I can understand why people would feel pessimistic, because they know they are working hard to try to make ends meet, and they know their children will be working hard to make ends meet in order to maintain a decent standard of living.

We have heard, well, household income is up. But the real household income in America today is down below the levels of 1990 when we were facing a recession. And certainly my State and New England, California were the hardest hit regions in this country. But that is because there are more people working in the family today; they are having more jobs in order to make ends meet.

There was a cartoon last year showing the President touting the millions of jobs that had been created, and the waiter serving him lunch said, ''Yeah, and I have four of them.'' That is the point. People are having to work longer and harder than ever before to make ends meet.

So then you look at the tax burden. We have heard a lot of discussion about taxes. The tax burden is high. It now represents 38 percent of a family's income—more than food, shelter, and clothing combined. So not only are people working longer and harder in more jobs, but also they are facing a rising tax burden.

Then we hear about economic growth, and we have seen the projections for the future—2.3, 2.1, 2.5, but the average projected growth for America in the next 5 years is about 2.3 percent. If we had had that growth rate for the last 30 years, we would not have achieved today's economy until the year 2003. We would have had 13 million fewer jobs in America.

The point is that this balanced budget is crucial to American families because it means more income in their pockets. That is the bottom line. That is the mathematics of it all, because the less the Government spends, the less it borrows, the more money American families will have in their pockets. That means savings to them. It means their car loans, their student loans, their mortgages will be less costly. That is a fact. In fact, all combined, they could realize a savings of $1,500 a year because interest rates will be less.

That is real money to the average American family. It is less money they have to give to their Government. It is more money that they have to spend. Frankly, that is what this debate is all about, how we can improve the standard of living for American families and begin to think about our priorities here in the Congress and the priorities for our Nation. But when you do not have to meet a bottom line like every family does in America, every business, every State, you do not have to think about what is a priority anymore. You do not have to think how well or efficiently or effectively we will spend the hard-earned taxpayers' dollars. We just do not have to think about it because we can just incur deficits year in and year out. Even the President's budget that he submitted to the Congress last week adds another $1 trillion over the next 5 years. And that is supposed to be a balanced budget.

That is what we are talking about. So that is why I happen to think a constitutional amendment to balance the budget is the only course of action that we can take to ensure prosperity for the future.

I know we can have our differences, but in the final analysis we ought to agree that this is the one step we can take. A balanced budget will be great for American families. It will be great for America because it will expand economic growth, and economic growth is the engine that drives a healthy economy. It will help to increase wages, create more jobs, unleash millions, billions of dollars in capital to allow this country to expand and to grow. I do not think we ought to accept budgets that compromise our economic standards, our economic opportunities, because that is what unbalanced budgets do. We are facing a very competitive future in this global economy. The American people understand that. They understand that, and they are worried because they are not certain how their children will be able to prepare for that competitive economy.

That is why education has become a central issue and a central part, I know, of our agenda here in the Senate, and a central part of the President's agenda—because we are going to have to prepare to make investments in education, not only for the basic education needs of Americans but also in continuing education so they are constantly prepared for the changes in skills and technology. But, in order to

make those investments, we have to set priorities in our budgets. We have to have more money to spend. That is why I think balancing the budget and investing in education are not mutually exclusive goals; that you can be fiscally responsible but at the same time be visionary, be compassionate about the investments that we need to make as priorities for America. That is what a constitutional amendment to balance the budget will do, because it will require us to do it each and every year, to examine and reexamine our priorities and how well these programs are functioning.

We have an obligation to make sure that every dollar that is spent is spent wisely and efficiently. Under the current budget process, there is no such requirement.

John F. Kennedy once said, ''The task of every generation is to build a road for the next generation.'' I cannot think of a more important road than the one that leads to fiscal security for future Americans. We have no less an obligation to ensure that, because never before has one generation delivered to the next generation a lower standard of living. But we are in danger of doing that now, and that is why I think it is so important that we grapple with reality and reach the conclusion that the only way we can ensure that prosperity and security for Americans is by enacting a constitutional amendment to balance the budget.

I yield floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I see several of my colleagues are waiting. I am only going to speak 6 or 7 minutes. Do I have to ask unanimous consent?

The PRESIDING OFFICER. The Chair will observe that at 1:30 the Senate will proceed, under the previous order, to the Dodd amendment for 4 hours.

Mr. GRASSLEY. I will just take what time is left.

Mr. DORGAN. If the Senator will yield for a question? Mr. President, the Senator indicated he wished to speak for 6 or 7 minutes. The Senator from North Carolina, apparently, wishes to speak for 3 minutes, and I had come to the floor wanting to speak also on the legislation.

I ask the Senator to propound a unanimous-consent request that he speak for 7 minutes, the Senator from North Carolina follow for 3 minutes, after which I be recognized.

The PRESIDING OFFICER. The Chair would observe that we would need unanimous consent to deal with the Dodd amendment, as to whether or not that time would be extended.

Mr. HATCH. Mr. President, I ask unanimous consent that time be taken out of both sides equally in the Dodd amendment, because I think we have more than enough time. If we need more time, we will ask unanimous consent to get more.

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

Mr. GRASSLEY. I thank Senator HATCH very much for taking care of that, Mr. President. I appreciate that very much.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Senator from Maine had a very good statement that we all ought to take cognizance of, and that is based on her experience, being that her husband was Governor of Maine and they had to live within a balanced budget, year after year after year. It does force discipline upon policymakers. She gave an eloquent statement from that point of view, as well as a lot of other good reasons why we need a constitutional amendment to balance the budget.

FINANCIAL ACCOUNTABILITY AT DOD

Mr. GRASSLEY. I want to speak on a problem that I have been speaking about in the Department of Defense, but it also emphasizes the need for having a balanced budget, because the shenanigans that go on in the Defense Department would not go on if we had more discipline in this town in regard to the expenditures of taxpayers' money.

On January 28, I spoke here on the floor about irresponsible financial accounting policies being pursued over at the Department of Defense. This policy is the responsibility of the chief financial officer at the Pentagon. The person holding that position now is Mr. John Hamre, but it would be applicable to anybody holding this position. The chief financial officer is supposed to be tightening internal controls and improving financial accounting. That is exactly why we passed, in 1990, the Chief Financial Officer's Act. Mr. Hamre should be cleaning up the books at the Pentagon and watching the money like a hawk. If that had been the case, we would not need to have a constitutional amendment for a balanced budget, if we had been doing that properly over the last 25 years.

Sadly, the job is not being done. To make matters worse, the bureaucrats are pushing a new policy on progress payments that will loosen internal controls and cook the books. This new policy is embodied in draft bill language that was being circulated in the Pentagon for review as recently as January 30. I expressed my concerns about the new policy in my statement on January 28. In a nutshell, this is what I said then and it is still appropriate today:

I am afraid that this new draft language would subvert the appropriations process that is so key to keeping tight control on how the taxpayers' dollars are expended by the Congress of the United States.

I even alerted the chairman of the Appropriations Committee to the bad aspects of this language. The new language is not one bit constructive. It would not fix Defense's crumbling accounting system. It would merely condone and perpetuate crooked bookkeeping practices.

Since raising this issue here on the floor, I have exchanged letters with Mr. Hamre. I ask unanimous consent that correspondence be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNDER SECRETARY OF DEFENSE,
Washington, DC, January 29, 1997.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: I was astounded yesterday to see that you went to the floor of the Senate to personally attack me. You made no effort to discuss your concerns with me either directly or through your staff. You did not contact me to ask me to explain my position on a draft proposal circulating within the Department for comment. And the ''concerned citizen'' you cite in your letter who provided this information has never contacted me. This was a Pearl Harbor attack, and I am very disappointed in it.

Frankly, we have done more in the past 3 years to clean up financial management problems in the Department than anyone else has done in the past 30 years. Secretary Perry deserves high praise for making this a priority. I have certainly dedicated myself to this task. You can ask any objective individual in town and they would tell you we have made enormous progress.

In the past 3 years we have closed over 230 inefficient accounting offices and consolidated them into new operating locations with improved business practices and equipment. We have closed over 300 payroll offices and transferred accounts from some 25 old outdated payroll systems into a new modern system with a 500 percent improvement in productivity. We have reduced problem disbursements by over 70 percent in 3 years. We have instituted new policies that freeze activity on accounts that are in deficient status, and I am forcing the Services to obligate funds to cover negative unliquidated obligations. We are prevalidating all disbursements of funds for all new contracts and have lowered the prevalidation threshold on existing contracts.

Yet without even offering to discuss the issue with me, you blast me from the floor of the Senate, claiming I am ''ready to throw in the towel'' on financial management reform. That is nonsense, and I am disappointed that you would suggest it. I don't blame you personally. I worked for the Senate for 10 years and I know how busy Senators are. I know that you are often given material by staff who represent the fact as correct. But it is disappointing that you would not even ask me to come over to discuss it with you. After you had heard my side, it would be perfectly fair for you to blast me if you still disagreed. But you didn't even ask me to meet with you.

For the record, the language which you criticized has nothing to do with the M account as you allege. It would not ''thumb our nose'' at the appropriations process or the law as you state in your speech. It would not pool funds at the contract level. This language merely clarified that progress payments are a financing device to lower borrowing costs. In their 40 year history, progress payments were never designed to do anything other than finance a contract. Every progress payment we make is linked directly to the source funds identified to the contract, and detailed audits are conducted

before the contract is closed. We don't reimburse contractors for the full costs they incur precisely to guarantee that we don't overpay contractors. This language was designed to clarify a problem we have with progress payments. Progress payments cannot be linked to funding sources unless the acquisition community mandates that every contractor in the country change its accounting systems to accommodate DoD fiscal law prohibitions and invoice us in terms of congressional appropriation categories. That would not be good business sense and violates the underlying purpose of progress payments.

Next time, Senator Grassley, please contact me first before you attack me on the floor of the Senate. You actually set back financial management reform by your attacks because people pull back from actions just to avoid the criticism.

Sincerely,

JOHN J. HAMRE.

U.S. SENATE,
Washington, DC, January 30, 1997.

Hon. JOHN J. HAMRE,
Under Secretary of Defense, 1100 Defense Pentagon, Washington, DC.

DEAR JOHN: I am writing in response to your letter of January 29, 1997, expressing anger and disappointment about my recent speech on the floor of the U.S. Senate about the lack of ''Accountability at the Department of Defense.''

Your anger and disappointment seem to flow from one main source. You think I made no effort to discuss this matter with you before blasting you on the floor of the Senate. You state, and I quote:

''You made no effort to discuss your concerns with me either directly or through your staff. You did not contact me to ask me to explain my position on a draft proposal circulating within the Department for comment.''

John, that statement is totally false, and I demand an apology.

As soon as the draft language on progress payments came to my attention, my staff contacted your personal office directly at 703–695–3237 to express concern about it. That was the very first thing we did. My staff was informed that you were out of the building on travel and to call Navy Captain Mike Nowakowski, one of your congressional liaison officers. That was done immediately. Initially, on January 14th, Captain Nowakowski reported that he could find no trace of the draft language on progress payments but indicated that he would keep looking. At that time, my staff communicated my grave concerns about the proposal in detail, including a warning that I would go to ''battle stations'' if this language was, in fact, under active consideration. When Captain Nowakowski was unable to locate the language, I was able to obtain a copy elsewhere. My office faxed the document to him at 4:03 pm on January 14th. During a subsequent conversation on January 22nd, Captain Nowakowski confirmed that the language was indeed under review within the department. He also told me that he had personally briefed you on all my concerns.

John, those are the facts. The facts show that I did everything humanly possible to communicate my concerns directly to you. Your letter is out of line and inconsistent with the facts.

Furthermore, I believe Captain Nowakowski is telling the truth. He briefed you in detail about my concerns. He made that statement on January 22nd and reconfirmed it again this morning. I shared my concerns with you—as best I could through that unresponsive and cumbersome bureaucracy that is your office. So why did you say I made no effort to discuss my concerns with you either directly or indirectly through my staff? And why didn't you react and respond to my concerns? You should have called me and asked to see me. My door is always open to you.

John, you know that when I am disturbed about some development at the Pentagon, I usually go to the floor and talk about it. My staff informed one of your other congressional liaison officers—''Hap'' Taylor—that I was planning to do exactly that. When I do it, it is usually an unpleasant experience for some. But it's unpleasant only for those who fail to be responsible and accountable for the taxpayers' money. Since I am not a member of the Armed Services Committee, I think of the floor as my committee forum for defense issues.

John, you owe me two things. First, you owe me an explanation. If Captain Nowakowski is tell the truth—and I believe he is, then you need to explain the inaccurate assertions in your letter. Second, you owe me an apology.

I look forward to your response.

Sincerely,

CHARLES E. GRASSLEY
U.S. Senator.

UNDER SECRETARY OF DEFENSE,
Washington, DC, January 30, 1997.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: I have received your January 30 letter demanding an apology. I am sorry that I won't do that because I believe I am the wronged party. You blasted me on the floor of the Senate and I wrote you a personal letter. It seems to me that a modicum of decency would hold that if you intend to criticize me *by name* on the floor of the Senate, I should have a chance to talk with you first before you do that. Yet you didn't do that.

You state in your letter ''I did everything humanly possible to communicate my concerns directly to you.'' I really don't know how you can conclude that. On two separate occasions in the past I had breakfast with you. I have spoken with you in previous occasions on the phone and at hearings. I have repeatedly stated my willingness to meet with you at any time. You have written me numerous letters and I have written back. Yet on this occasion you did not call my office, you did not ask me to come to meet with you, you did not send me a letter outlining your concerns.

My staff aid, Captain Nowakowski, told me that your staffer, Mr. Charles Murphy, had a copy of this language and ''had some serious concerns.'' At the time the document was in circulation for comment and did not represent Department policy. It is *still* in the coordination stage. We hadn't decided on what to do yet, so it was inappropriate to respond to a staff call expressing concerns on something that the Department had not adopted. Even then, Charlie (whom I have known for 10 years and consider a friend) didn't call me or ask to meet with me to relay your concerns.

Senator, I do respect you, but I owe you no apologies.

Sincerely,

JOHN J. HAMRE

U.S. SENATE,
Washington, DC, January 27, 1997.

Hon. TED STEVENS,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR TED: I am writing to express concern about a legislative proposal that is under consideration within the Department of Defense (DOD).

This provision, if approved, would significantly loosen controls over progress payments. DOD progress payments total about $20 billion per year. A copy of the proposed language is attached.

First, the Inspector General (IG) has been keeping a close eye on this whole problem for a number of years. IG audit reports consistently show that the department regularly violates the laws that the proposed language would undo. This is like legalizing the crime—instead of trying to fix the problem.

Second, this proposal is inconsistent with Comptroller Hamre's commitment to begin the process of matching disbursements with obligations before a payment is made. In last year's Report No. 104–286 (pages 18–19), your Committee directed Mr. Hamre to develop a detailed plan, including dollar thresholds and milestones, for eliminating all problem disbursements. The attached language would put that whole idea on a back burner indefinitely.

Third, the attached language would subvert the appropriations process. If DOD is to be authorized to merge and pool acquisition monies—R&D and procurement funds—at the contract level, then Congress must make some kind of corresponding adjustment in the way those monies are appropriated. To do otherwise might make the appropriations process irrelevant somewhere down the road.

I would like to ask you to urge Mr. Hamre to reconsider the attached proposal and search for a better way to solve the problem. Ted, there is obviously a problem in the payments process. We need to understand the problem before we try to fix it.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

Mr. GRASSLEY. Mr. Hamre's letters tell me that he may not understand this issue. He seems confused. It is confusion like this that dictates more fiscal discipline in this town, and that can only come from a constitutional amendment requiring a balanced budget.

His letter of January 29, I think, contains two contradictory statements. In one breath he says that payments and appropriations are in sync. In the next breath, he admits that payments and appropriations are out of sync.

But then he goes on to say that the cost of getting them in sync would just be too high, that we cannot worry about whether payments are matched with a particular product or a particular invoice or appropriation account. He says, ''that would not be good business sense.'' It would place an unfair burden on the contractors.

Just think, when it comes to matching disbursements of money with an invoice, it might also place an unfair burden on contractors and government accountants.

So just what is the thinking of the chief financial officer? Clearly, there is a problem in the Department of Defense's payment process. There is a major disconnect. On the one hand, we have a whole body of law governing the use of appropriations; on the other, we have payments for factory work that are supposed to be matched with corresponding appropriations.

Unfortunately, the law and the payments just don't mesh. They can't be reconciled. So long as the two are not

in sync, the Pentagon is operating outside the law, and it doesn't reflect the fiscal discipline that we need in this town and that we would get with a constitutional amendment.

Unfortunately, the new policy in this draft language that is floating around the Pentagon does not put them back in sync. It will keep them out of sync permanently.

To understand the root cause of this problem, we need to step back in time. Bureaucrats do not like it when congressional overseers revisit history, but that is what we need to do. We need to revisit an old IG report, the inspector General's audit report dated March 31, 1992. That is number 92–064. It is on the Titan IV Missile Program.

That is where the problem was first detected and exposed, and that is the problem the bureaucrats are trying to cover up in this new policy.

The Titan IV was not an isolated case. Unfortunately, the practices uncovered on Titan IV typified common practices throughout the Department. This report showed the Defense Department regularly violates the laws that the draft language would undo. Instead of fixing the problem, this proposed language would legalize the crime.

Mr. President, the laws that were violated were designed to protect Congress' constitutional control over the purse strings. Progress payments to Martin Marietta on the Titan IV contract were made in violation of those laws. Those payments were made on a predetermined sequence of appropriations. Those are words that mean the money was drawn from available appropriation accounts using a random selection process.

What a way—random selection to justify the expenditures of the taxpayers' money. That is a blatant violation of the law. That is the inspector general talking, Mr. President, not the Senator from Iowa.

Yet, as difficult as it may be to comprehend, this unlawful procedure was sanctified by Air Force Regulation 177–120, starting February 15, 1988. In other words, that is an outlaw decree.

Congress appropriates money for specific purposes. Those purposes are specified in law, and that is how the money must be spent. That's what the law says. The Pentagon bureaucrats promise to straighten up this mess after the fact, down the road, after the money goes out the door. They try to retroactively adjust—that's their language—adjust the ledgers—to make it look like the payments and the appropriations were in sync.

That is fine and dandy, Mr. President. It makes the books look nice and neat, but the books then do not reflect the reality of how the taxpayers' money was spent or what the appropriators intended. The books do not tell you how the money was really spent. If they don't do that, then they are inaccurate, and that's what I call cooking the books.

Back in 1992, the inspector general tried to shut down the Defense Department's unlawful payment process. Mr. President, the inspector general told the Department to get on the stick, obey the law, fix the problem.

Well, guess what? The big wheels over at the Pentagon nonconcurred with the IG. That means, take a hike, in other words. They said the payment process was working just fine; it doesn't need any fixing; don't mess with it.

We should be thankful that the IG had courage and did not back down.

This dispute came to a head, after years of talk, in March of 1993. There was a high-level powwow at that time. The financial wizards in the Pentagon got together and signed a peace treaty. They said, basically, obey the law.

They were given 120 days to do it.

The treaty was signed by: Ms. Eleanor Spector, Director of Defense Procurement; Mr. Al Tucker, Deputy Comptroller; and Mr. Bob Lieberman, assistant IG for auditing.

Mr. President, 4 years have passed since that agreement was signed. Those same officials are still in the same place. But nothing has been fixed.

Now, we have the DOD CFO telling us that nothing will be fixed. The status quo will be institutionalized and legalized. Titan IV is the model for the future.

CFO Hamre is responsible for this mess.

Why didn't Mr. Hamre enforce the March 1993 agreement? What exactly has happened in the 4 years since the agreement was signed? How did we end up where we are?

We need to know the answers to these questions. We need to understand the problem before we try to fix it.

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

Mr. FAIRCLOTH. Thank you, Mr. President. Mr. President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

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

AVIATION SAFETY

Mr. FAIRCLOTH. Mr. President, the White House Commission on Aviation Safety and Security is going to present its recommendations to the President today, and I commend the commission for its work and support most of its recommendations.

Aviation safety should be a prominent feature on the list of bipartisan issues upon which we can find common ground this year. There are 22,000 commercial flights every day in the United States. The American air traffic control system served 550 million passengers last year. Mr. President, in my home State of North Carolina, 22 million people last year passed through the Charlotte airport.

The safety of literally millions of Americans hangs in the balance of our commitment to aviation modernization. I have a rather personal interest in this issue. I was in a plane crash in 1983 and wound up in a lake surrounded by fire in an airplane without wings.

I want to stress the importance of the commission's call for rapid modernization of our air traffic control system. These efforts to upgrade the system will necessitate certain costs, and no one in this city is more concerned about the taxpayers than I, but the system is decades old and on the verge of collapse.

Mr. President, one of the better-kept secrets around Washington seems to be the $1.4 billion that we have squandered on a failed effort to upgrade the aviation computer network over the last several years. IBM worked for years to create a modern air traffic control computer system and spent more than $1 billion of the taxpayers' money. The exact figure is unclear, but the contractors think—they think—that they will be able to salvage some of this work—some of it—as the process starts anew.

The system at O'Hare Airport in Chicago includes computers that are more than 30 years old, and, as you know, its failures leave some air traffic control personnel with blank screens. The lives of the passengers are in the hands of air traffic controllers hobbled by a system that is both inadequate and obsolete.

The Federal Government called for installation of a Doppler radar system to detect wind shear at airports around the country. However, Mr. President, the system is operative at just a few airports. This Congress maintains an obligation to the air passengers of this country. Clearly, this obligation is not yet met, and too much money has been wasted.

As a member of the Transportation Appropriations Subcommittee, I intend to keep a keen eye on the dollars as I always do, but I also want to see a cost-effective modernization of the system. We owe a safe system to the taxpayers. Their tax dollars are paying for it, and they are entitled to it, and they need it. It is incomprehensible that the computers at one the busiest airports in the world can go blank. This is a condition that boggles the mind.

I believe the hiring policies of airline companies and airports also merit serious thought. The airlines need to be certain that the people who service and maintain airplanes do not have questionable backgrounds. These security issues are critical to the safety of the American flying public.

There are other safety concerns of note. The American airplane fleet is aging. We need to ensure that inspections are thorough and frequent on these older aircraft. There is nothing wrong with an older airplane, but it needs to be inspected and updated, lest problems go undetected and new technologies go unused.

We need to take these and other steps to ensure that the American air traveler is safe. We can ensure safe skies without excessive inconvenience and delay, and, Mr. President, I am committed to just that.

I thank the Commission for its efforts. I look forward to working with my colleagues and the administration to implement some of these recommendations.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

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

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the resolution.

Mr. DORGAN. Mr. President, I wanted to come to the floor of the Senate to respond to and to discuss some items on the constitutional amendment to balance the budget.

There has been a great deal of talk about the constitutional amendment here on the floor of the Senate. There have been press conferences on both sides and a great deal of literature distributed in the Senate. I want to talk about what the issue is and what the issue is not.

The issue is not, as some would have us believe, a discussion between those who think it is meritorious to balance the Federal budget and those who think we should not balance the Federal budget. Generally speaking, most Members of the Senate believe it is important for this country's long-term economic interest to find a way to balance the Federal budget. We ought to do that. This Federal Government has spent more than it has taken in for a good long while. I would just say, that it is the irresponsibility of Democrats and Republicans that have allowed that to happen.

It is true that there is a difference in how they want to spend money, but there is not a plug nickel's worth of difference between Republicans and Democrats about how much they want to spend. One side might want to spend more for Head Start and another might want to spend more for B–2 bombers or whatever. But nevertheless, if we take a look at the aggregate appetite for spending you will not find a plug nickel's worth of difference on either side of the aisle. Priorities and choices, though would be different.

But both political parties—Presidents who are Republican, year in and year out, Presidents who are Democrat, not quite as many, I might add—both have submitted budgets to the Congress that are wildly out of balance and that have had substantial deficits. So this is not a case where one can stand on slippery sand and say, ''It's your fault. You're the folks who are at fault over here.'' It is everybody's fault. And it ought to stop. We ought to balance the Federal budget because that will be good for this country.

The debate here is, shall we alter the Constitution of the United States? Shall we change the Constitution of the United States? I would observe that if it is done, 5 minutes from now the Federal debt and the Federal deficit will not have been altered by one penny. We will have altered the constitution of the United States, but we will not have changed by one penny the Federal deficit or the Federal debt.

I want to talk a bit about that because I think there are circumstances under which we should alter the Constitution. There are circumstances under which I will support a constitutional amendment to balance the budget. But I think when we do change the U.S. Constitution we ought to do it with great care and we ought to do it right, because you do not get many chances to correct a mistake.

First, I want to talk about debt. The discussion about debt is an interesting one because we have people coming to the floor of the Senate and they say, ''Well, these Federal deficits that we have had, you know, everybody else has to balance their budget. Business has to balance its budget. Consumers have to balance their budgets.''

We have about $21 trillion of debt in this country, about $21 trillion of debt. This chart shows what has happened to debt. The growth of debt in my judgment has not been very healthy for this country, not in the public sector, not in the private sector.

This shows what has happened to business debt, corporate debt, household debt, Federal Government debt. Take a look at the curve. And $21 trillion worth of debt.

Now someone might stand up and say, ''Well, everybody else has to balance their budget.'' That is not true. If so, what is all this debt about? In fact, we have developed a culture in this country in which it is fine for the private sector to send a dozen solicitations to college students who have no jobs and no visible means of support saying to them, ''Please take our credit card. You have a $1,000, $2,000, or $5,000 approved limit. Just go ahead and take our credit card. We want you to have a credit card. You don't have a job, no income. Take our credit card.'' That is the culture in our country. Is it good for this country? I do not think so.

I said also, the culture is walking down the street as a consumer, and the picture window of the business literally raps on your elbow and says, ''Hey, you, walking in front of me here,'' the window says, ''Come in and buy this product. It doesn't matter you can't afford it. Doesn't matter you don't need it. Buy the product. Take it home. You don't have to make a payment for 6 months. And we'll give you a rebate next week. And charge it.'' That is the culture. Is it right? No, it is not right.

We ought to change that. We ought to change it here in the Federal system by balancing our budgets responsibly. And we have a problem well beyond this Federal system. Take a look what is happening with credit card debt in this country. Take a look at consumer debt.

My point is, we ought to be concerned about the Federal debt and the Federal deficit, but we ought not stand up and say that is the only place debt exists. We have a whole culture of debt that raises real significant questions about where we are headed and how we are going to get there.

The discussion today is about altering the Constitution in order to require budgets be in balance. Last evening I was privileged to see a preview of something that is going to be on public broadcasting on the life of Thomas Jefferson. It is a wonderful piece written by Ken Burns. It describes Thomas Jefferson writing the Declaration of Independence at age 33. I got a copy of that today. I can only imagine having the kind of talent that he had. I mean, he was almost unique in the history of the world in his ability to think and write and express for us the spirit of what this democracy is.

Thirty-three years old and in a boarding house he writes:

> When in the Course of human events, it becomes necessary for one people to dissolve their political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.
>
> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

You can see Thomas Jefferson's handwriting and his corrections, the words he has crossed out, the words he has added when he wrote this marvelous, wonderful document.

The year following the writing of this document when he was 33 years old, a group of 55 white men, largely overweight, we are told, convened in a small room in Philadelphia called the Assembly Room in Constitution Hall. They said it was so hot that summer in Philadelphia that—and those folks had such ample girth—that they had to cover the windows to keep the Sun out because it got very warm and they did not have air-conditioning in those days. And those 55 men wrote for this country a constitution.

The Constitution itself is quite a wonderful document. Thomas Jefferson was in Europe at the time. He contributed to the writing of the Constitution by sending substantial writing back about the Bill of Rights. The Constitution of course is the living document that is unique in the history of this world.

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Language so clear and so wonderfully written, they established the foundation of this country, the fabric of a democracy that has now become the most successful surviving democracy on this Earth.

The spirit of that document, the spirit of that Constitution is, I think, attested to by virtually all who serve here in what it means to us, our families, our future, to our country. When we decide that we should consider altering that Constitution, provisions for which were made in the very Constitution, we should do it carefully.

We have had people propose all kinds of schemes to alter the Constitution of the United States. I am told there was a proposal to alter the Constitution that would require a President first coming from the northern part of America and then followed by a requirement that the next President come from the South.

There have been thousands of proposals—some good, some bad, some baked, some half-baked—to change the Constitution of the United States. In fact, it was not very long ago that we had three proposals to alter the Constitution, in the last session of Congress, proposed to be voted on by the U.S. Senate, in the period of 6 weeks—three separate proposals to alter the work of Franklin, Madison, Mason, George Washington, and so many others, who over 200 years ago framed this issue.

Mr. HATCH. Will the Senator yield?

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

Mr. HATCH. When I got the unanimous consent-agreement, I did so that all time would be divided equally. Can the Senator give me an indication of how long he will be speaking?

Mr. DORGAN. About another 10 to 12 minutes.

Mr. HATCH. Could we divide the time so the Republican time will be taken off our time and the Democratic time is taken off your time? It would be fairer.

Mr. DORGAN. I do not have a problem with that. There will be ample time for everyone to speak. I am happy to accommodate the Senator.

I ask unanimous consent I be allowed to speak for the next 12 minutes and it come off the Democratic time.

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

Mr. DORGAN. I observe that there will be no limit of time for anyone here to speak to their last breath about any subject they so choose on this issue, I guess.

I will continue because I wanted to provide a framework for what I was going to say. I respect the Senator from Utah, Senator HATCH. He has been on this floor on this issue and he has not wavered. He believes very strongly in what he is doing. I would support him if he would make one change in the constitutional amendment.

A columnist said, ''Call his bluff,'' naming me by name. I say to the Senator, you make the change and I vote with it. I expect the change will not be made. If you do, chalk me up. I am one more vote.

I want to talk about that change and the dimensions of it and the response of it. The change is in the issue of Social Security. We have had a lot of debate about this. Some said this is the biggest red herring in the world. Two political pundits this weekend said this is a fraudulent issue. Of course, pundits are either 100 percent right or 100 percent wrong and no one knows which or who. A columnist said this is a totally fraudulent issue. I want to describe the issue once again and describe why I think not only is it not fraudulent, it is one of the most significant issues we will face in fiscal policy. A position on this issue is now prepared to be put into the Constitution of the United States in a way I think hurts this country.

Let me describe it. Social Security is a remarkably successful program in this country. We decided some long while ago that we would have people pay in a payroll tax and that payroll tax would accumulate money which would be available to people when they retire. What has happened is we have developed kind of a ''bulge'' in our population, a very large group of children who were born just after the Second World War. I mentioned the other day, kind of kidding, but it was true, there was a tremendous outpouring of love and affection after the Second World War. A lot of folks came back and a lot of this love and affection blossomed into the largest baby crop in the history of our country. It caused some real long-term demographic problems, because when they hit the retirement rolls, what will happen is we will have the fewest numbers of workers supporting the largest number of retirees in this country's history.

What was to be done? About 13 years ago, a discussion was held about how do we finance that when the largest baby crop hits the retirement rolls and we do not have enough money. The answer was, let's accumulate some surpluses in the Social Security system to be used when we need them later. I do not expect there is disagreement about that, that we have a circumstance where we accumulate $70 million more now than we need to be put into a trust fund to be saved for the future. If there is disagreement, I want to hear that, but those are the facts.

Now, what is happening is a proposal is now made to alter the U.S. Constitution with this language, according to the Congressional Research Service, and the language says that all receipts and expenditures shall be counted for purposes of completing a balanced budget, and therefore the Congressional Research Service says ''because the balanced budget amendment requires that the required balance be between the outlays for that year and the receipts for that year,'' the moneys that we are ''saving in the surplus would not be available as a balance for the payments of benefits.'' That means if we save $70 million extra this year for Social Security to be made available in the year 2015 or 2020, and in the year 2020 we balance the rest of the budget but want to spend that surplus we have in the Social Security accounts, the Congressional Research Service says you cannot do it. You cannot do it. This ought not be a controversial conclusion. I do not know of anyone who disagrees with it. You cannot do it unless you raise taxes in the rest of the budget to accommodate it.

I say if that is the case, why are we raising more money than we now need in Social Security if it will not be saved and it will not be available for future use?

I want to read to my colleagues something from the Social Security trustees last year:

> ''Total income for Social Security is estimated to fall short of the total expenditures in the year 2019 and will continue thereafter under the immediate assumptions, but in this circumstance the trust funds would be redeemed over that period to cover the difference until the assets are exhausted in 2029.

That is what the Social Security trustees said. CRS says that cannot be done because the trust funds will not be able to be used in those years unless you have raised taxes on the other part of the budget or cut spending in the other part of the budget, and I say in the year 2029 it would require $600 billion that year alone.

I have a 9-year-old son. This is not rocket science. I think he would understand that double-entry bookkeeping does not mean you can use the same money twice. You cannot say I am using this money to show a balanced budget and then use this money to save over here for Social Security. You do it one way or the other. You cannot do it both ways.

My Uncle Joe used to own a gas station. Can you imagine him coming home to my Aunt Blanche and saying, ''We lost money this year, Blanche, but I put away money for my employees because I bargained with them and I told them I put money in their retirement account. So we got money in their retirement account for their pensions. But since I lost money in the service station, what I intend to do is take their money out of the retirement account I have put it in and use it over here so I can tell people I don't have a loss on my service station anymore.'' My aunt would say, ''Joe, you cannot do that. It is illegal. Somebody will send you to jail for that.'' Joe would say, ''Well, the folks down there in Washington, DC, seem to think it is OK. They think they can take $1 trillion in the first 10 years and put it first in this pocket and then in that pocket, thumb their suspenders and puff on their cigars and say, ''We balanced the budget.''

Guess what? The year in which the budget is presumably balanced and the year in which all of those who will

stand up on the highest desk in this Chamber and bray and bellow and trumpet and talk about how they balanced the budget, I ask every American to look at one number. What happened to the debt in that year in which they balance the budget? The answer: They say they balanced the budget and they have to increase the Federal debt limit by $130 billion, the same year in which they claim they balance the budget. Why? Because the budget has been balanced.

And it is not just me. I say to the Senator from Pennsylvania, who is on the floor, he raised the same points the other day. There are Republicans in the House, two or three dozen, that raised the same points. I do not know how he and others will vote on final passage, but I say, as controversial as this is, I agree with what the Senator from Pennsylvania said on the floor the other day. I agree with what Congressman NEUMANN and others are saying in the House. I agree with the presentation I am making. This is an issue that is not insignificant, $1 trillion in 10 years, and it is much more than that in the 20 to 25 years that you have to look out to see what will be the consequence of this kind of proposal.

Let me frame it in a positive way. I believe we ought to balance the Federal budget. I will support altering the Constitution to place in the Constitution a requirement to balance the Federal budget. We will vote on an alternative, on a substitute constitutional amendment to balance the budget that does that. I will offer it. I intend to vote for it. I will not vote for a constitutional amendment that accomplishes this—that essentially reduces by 10 years the solvency of the current Social Security system and guarantees that which we are supposed to be saving will not be saved and that which we are supposed to be saving cannot, by virtue of the language of this constitutional amendment, be available for use by Social Security recipients when it was promised.

Sometimes I get the feeling that the only thing we do in this Chamber is talk to ourselves. We just talk back and forth with ''budgetspeak'' and language and a priesthood of dialog that only we understand and that seems almost totally foreign to the American people. I will bet you that with a lot of this discussion that's the case. The American people, I think, want a balanced budget and should expect that we can do what is necessary to balance the budget. But let me emphasize again that, although I believe there is merit to alter the Constitution to require a balanced budget, if we alter the Constitution at 2:05, by 2:10—which is 5 minutes later—we would not have changed by one penny either the Federal debt or Federal deficit. That will only be altered by decisions on taxing and spending made individually by Members of this Congress, deciding what is a priority and what isn't, how much should we spend or should we not spend, or how we raise revenues or how don't we raise revenues. Only those decisions will bring us to a place we want to be—a balanced budget that provides for the long-term economic health of this country.

My hope is that, in the coming days, when we finish this debate, we will have accomplished something in that we will all have resolved not only to perhaps make a change in the Constitution, if we can reach agreement on how that is done, but we will have resolved that we should, as men and women, balance the budget. Changing the Constitution is not balancing the budget. Some want to substitute that as political rhetoric. But, ultimately, the question of whether we balance the budget will be determined by the choices that we make individually.

Mr. President, I see the Senator from Connecticut on the floor. I wanted to say to the Senator that I used a bit of the time in the 4-hour block. I hope he didn't mind. I wanted to make this point. I hope to come back in general debate, and I hope that the Senator from Utah and I can engage on the consequences of this language because I think it is a trillion-dollar question that remains unanswered. I would like to have a dialog back and forth rather than just presentations that vanish into the air when the presentations are completed. I thank the Senator from Connecticut.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER [Mr. SESSIONS]. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I have checked with the managers of both sides and he has agreed to yield me 5 minutes. I ask unanimous consent that I may proceed as in morning business for a period of up to 5 minutes.

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

NOMINATION OF ALEXIS M. HERMAN, TO BE SECRETARY OF LABOR

Mr. SPECTER. Mr. President, I have sought recognition to speak briefly on the issue of the pending nomination of Ms. Alexis M. Herman to be Secretary of Labor, and I urge that Ms. Herman be given a hearing on the subject so that there may be a determination, one way or the other, about her qualifications to be Secretary of Labor.

I talked at some length to Alexis M. Herman yesterday. A request had been made by the White House for me to meet with her, perhaps in my capacity as chairman of the Appropriations Subcommittee that has jurisdiction over the Department of Labor. And I met with Ms. Herman in the context of a number of questions that have been raised about her qualifications to be Secretary of Labor.

There has been an issue raised about her handling of her position as liaison for public matters in the Office of Public Liaison, as to whether there had been some activities that went over the line in political activities or fundraising. I questioned Ms. Herman about that at some length, although not in a dispositive form. But it seems to me that she is entitled to be heard on the subject and to have a decision made one way or the other about whether she is qualified or disqualified.

I questioned her about the circumstances where there was a coffee, which had started out in her department, where she had issued an invitation to Mr. Gene Ludwig, who was Comptroller of the Currency, to a meeting with bankers, at a time when she thought it was going to be a substantive meeting and it would not involve fundraising. Later, she found out that there were individuals from the Democratic National Committee who were involved, and she then did not attend the meeting herself, but had not informed Mr. Ludwig about the nature of the meeting in order to withdraw the invitation to him.

There have been other questions raised about the Anti-Deficiency Act, and perhaps other matters. But I think it is very important when someone is nominated for a position and there is public controversy and public comment, that that individual have his or her ''day in court'' to have a determination made as to whether she, or he, may be qualified to handle the position.

I thought it was very unfortunate, when Prof. Lani Guinier was nominated for a key position, Assistant Attorney General in the Department of Justice, that her nomination was withdrawn without having an opportunity for her to be heard. At that time, I met with her and read her writings and I thought she was qualified. But I thought, surely, there should have been a determination by the committee. I recall the withdrawal of the nomination of Zoe Baird, who was up for Attorney General of the United States, and I recollect when Judge Ginsburg had been nominated for the Supreme Court; neither of them had finished their hearings. I think it is very important, in the context where we are trying to bring good people into Government and, inevitably, they are under a microscope, which is the way it is, and that is understandable. But they ought to have a chance to be heard and have their day in court and have a chance to defend themselves and have the public know what has gone on. If they pass, fine, and if they do not, so be it. But they ought to have that opportunity.

I respected the decision made by Judge Bork back in 1987 when he wanted the matter to go forward and to come to a vote so that there would be a determination, because I think it is very unfortunate and unwise that when somebody allows their name to be put forward and you have these allegations in the newspapers about misconduct or impropriety, the impression is left with the public that that is, in fact, the conclusion, if the White House withdraws

the name—as the White House did with Prof. Lani Guinier—or if the person doesn't move forward to a hearing.

I talked to my colleague, Senator JEFFORDS, who chairs the Labor Committee, and Senator JEFFORDS has advised me that he is reviewing the outstanding questions, and the prospects are that there will be a hearing. But after meeting with Ms. Herman and having some say over her Department's activities in my capacity as chairman of the Appropriations Subcommittee, I did want to voice my sentiments on this subject to urge that her nomination go forward. I do not have a final view as to the merits, yes or no. But I think she is entitled to be heard.

Aside from the allegations that have been made about her, she has a very distinguished record. She is a graduate of Xavier University and has worked in the public and private sectors. She has quite a distinguished record as a businesswoman, has served in the administration of President Carter, and has served in the current administration. She may well be qualified, or the contrary may be the case. But I think it ought to be heard so she can have a determination on the merits. I thank my colleagues, Senator HATCH and Senator DODD, for allowing me this time.

I yield the floor.

Mr. DODD. Mr. President, before turning to the subject of my amendment here, let me commend my colleague from Pennsylvania for his comments. I associate myself with his remarks regarding Alexis Herman and the hope expressed by him that a hearing will be held promptly for Alexis Herman. She deserves that hearing.

I have known Alexis Herman for some time. She is eminently qualified, Mr. President, to fulfill the position of Secretary of Labor. There have been issues raised, and the purpose for which we have hearings is to allow those issues to be aired and to give a person an opportunity to respond. In the absence of that hearing, of course, the allegations remain. In many instances, as the Senator from Pennsylvania has pointed out, there is never the kind of opportunity to respond with the same voice and the same positioning with which the allegations are oftentimes made.

Under our system it is absolutely essential in my view that she be given that opportunity. I am totally confident that she will respond to those issues when she is asked publicly to respond to them. It is part of the process here going back years that when people are nominated for high office in any administration they are always advised not to respond or comment but to save their comments for a hearing. Oftentimes it happens that the nominee is left in the position of having to face an assault of questions that are raised and never gets the opportunity to respond because you are advised to the contrary. Then for whatever reason, if you never get that hearing, they stay out there.

So I applaud my colleague from Pennsylvania for coming to the floor this afternoon and raising this issue. I join with him in urging that our committee—and I sit on the Labor Committee—set up a hearing as soon as possible and move forward. Then, as the Senator from Pennsylvania has pointed out, the committee and/or this body will express its opinion one way or the other. But we will resolve the matter and not leave the individual out there to hang, if you will, in limbo. With all of the appropriate suggestions that the Senator from Pennsylvania has made, as we try to attract people to come serve in our Government and they watch examples like this, it is very difficult to convince people to step forward when they see what can happen to someone who is, in my view, entirely innocent of any of the allegations raised but never gets the opportunity to address them.

So I applaud my colleague.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

AMENDMENT NO. 4

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the Dodd amendment No. 4, with the time between now and 5:30 p.m. divided with 107 minutes to Senator HATCH and 95 minutes to Senator DODD.

Mr. DODD. Mr. President, I rise in support of the amendment I have offered here this afternoon. We have several hours of debate. It may not be necessary to consume all of that time. I will notify my colleagues. Others may want to come over and address the issue. Although we have set a time of 5:30 p.m. for a vote, we may find ourselves having exhausted all of the brilliance on both sides of this amendment and able to move to a vote earlier than that. It would take unanimous consent to vote earlier, but that may happen at some time here this afternoon.

In the meantime, Mr. President, let me state once again what this amendment does. I urge my colleagues and others to pay attention. I will put aside the debate of whether or not we ought to have a constitutional amendment to balance the budget. That matter has been debated and will be debated over the next several days.

The amendment that I raise, Mr. President, does not address the underlying question of whether or not we ought to have a constitutional amendment to balance the budget. But it addresses section 5, and section 5 only, of the proposed amendment. It raises what I believe to be a very legitimate issue in dealing with the national security of this country.

This is an amendment that I offer which you could support and do no damage—in fact, I would think strengthen—the argument in support of the constitutional amendment for a balanced budget. I myself have serious underlying problems with the constitutional amendment. I do not want my colleagues to have any illusions about that. But I am going to put aside that debate and ask my colleagues to draw their attention to section 5 and an amendment that I will offer that I think addresses a legitimate concern.

My amendment corrects two serious flaws in this section. Let me read this section, if I can. Section 5 of the proposed amendment, not my amendment, the proposed constitutional amendment, says:

> 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.

First of all, this most important section currently contains language, in my view, that would seriously undermine—the distinguished Presiding Officer is a former Attorney General, and someone who has had a serious amount of experience in judicial matters will appreciate that every word in the constitutional amendment is not a casual word. These words must be selected very, very carefully. So I do not treat this lightly at all.

''A declaration of war''—these are the words that are most of concern to me—and ''the United States is engaged in a military conflict which causes an imminent and serious military threat to national security . . .''

The provisions of the balanced budget are waived only if war is declared, or if the United States is ''engaged.'' The balanced budget amendment is quite clear in specifying that our Nation must be engaged in military conflict before a waiver can be granted.

The problem, as I see it, is that prudent foreign policy often requires responding to serious threats before we actually become involved in military conflict. Yet, the language of this amendment is ''engaged''—not ''might be engaged or there is a threat of engagement''—but rather is ''engaged'' in military conflict.

Throughout our history this Nation has often found itself necessarily engaged in conflict but yet in situations where immediate action was essential. The gulf war is one example that immediately comes to mind. I will discuss that example and others in the debate shortly.

My amendment removes this section 5 and would lift the provisions of the balanced budget amendment under a declaration of war or if the United States faces an imminent and serious military threat to national security. The requirement of being engaged is dropped.

The amendment that I offer would also clearly define the role of Congress in certifying the existence of an imminent and serious military threat. Under the current language, in section 5 the courts could conceivably be

called on to determine whether or not an imminent and serious military threat to national security exists.

My amendment—the amendment that I offer and is at the desk—makes clear that a resolution passed by Congress is the sole requirement for certifying that such a threat exists.

Finally, the amendment that I have offered restores a reasonable standard for voting. The balanced budget amendment creates a cumbersome, I believe, standard for passing the resolution certifying that a military threat exists. It says a ''majority of the whole number of each House'' must pass the resolution. In the case of the U.S. Senate, this means that 51 Senators would have to vote in favor of the resolution, no matter how many Senators were present and voting. This could be absolutely critical, particularly in a time of national crisis. When not all Senators are able to reach Washington on short notice, for instance, we could be prevented by our own Constitution from quickly and properly responding to an international emergency.

Furthermore, the ''whole number'' standard leaves open the question, I point out, of whether or not the Vice President would be allowed to cast a vote should we arrive at a tie of 50–50. My amendment alleviates this problem by requiring a simple majority of those present and voting for passage of the waiver resolution.

Mr. President, I am well aware of the heartfelt support, as I mentioned at the outset, of these remarks on the part of my colleagues who are squarely for a constitutional amendment to balance the budget.

I also know that many of us—myself included, clearly—have underlying problems with the whole balanced budget amendment. But I think we should all be able to agree, regardless of where we are positioned on the issue of a constitutional amendment to balance the budget, we should all be able to agree that any amendment to the Constitution should in no way shackle our country in time of an emergency.

The amendment that I offer, Mr. President, I think helps ensure that the Nation remains prepared and able to respond in time of an international crisis.

For these reasons, I hope that it will enjoy the support of a broad majority of my colleagues.

Mr. President, I want to cite the language of the amendment that we are offering.

Let me recite the copy of the amendment that I am offering:

On page 3, line 7, strike beginning with ''is'' through line 11 and insert, ''faces an imminent and serious military threat to national security as declared by a joint resolution.''

The point being here, if you are not actually engaged, or you don't have a declaration of war and the Nation, in preparation for such a conflict, wants to exceed the balanced budget requirements, we should be able to do that.

I do not know of anyone who would believe that, as important as this amendment is, it should have a higher priority than the national security interests of the country. Yet, my fear is based on the exact language of section 5—that that is the problem we have posed before us. If it requires a declaration of war, or requires, as the language reads, ''is engaged in a conflict,'' it seems to me that we would have to wait for one of those two conditions to be met in order to waive any constitutional requirements prohibiting deficit financing.

And so I would urge the adoption of this amendment which says, ''faces an imminent and serious military threat to national security as declared by a joint resolution,'' so that we do not allow the courts to decide. You can imagine a debate going on here about whether or not an imminent and serious threat existed, someone runs to the Federal courts and says, ''I don't think it is an imminent and serious military threat,'' and we have a panel of judges deciding whether or not that threat exists. I do not think any of us want to see that happen. So the joint resolution allows that a simple majority of Senators would be able to declare the threat in order to waive the provisions of the balanced budget amendment.

I mentioned earlier, Mr. President, that there are historical examples for this that I think point out the problem. They are historical and they may be 100 years old or 20 years old. None of us can say with any certainty what we may face tomorrow or next week or next year or the next century. But I will cite five examples to point out the problems.

Imagine, if you will, that this section in a constitutional amendment to balance the budget were in place at the time we faced these five crises. Ask yourself how would we have responded, what would have been the implications, putting aside whether or not you were for or against the particular issue at hand.

The gulf war is one; lend-lease, back in the late 1930's, early 1940's, the Cuban missile crisis in 1962, the Panama crisis back under the Bush administration, and the defense buildup during the Reagan administration.

Let me cite, first of all, the gulf war example. Saddam Hussein, as many in this Chamber will recall and, invaded Kuwait on August 1, 1990. We were running a deficit, I would point out, Mr. President, at that time of $221 billion, on August 1, 1990, putting us in gross violation requirements of the balanced budget amendment. There were only 2 months left in the fiscal year, no time to adjust spending or to raise taxes, I might point out. We were not certain ourselves how we were going to respond to that situation, but an invasion of Kuwait clearly had happened. Saddam Hussein was threatening not only Kuwait where he had invaded but Saudi Arabia, and clearly our security I think. By controlling Saudi Arabia, of course, he would have become a dominant force in the gulf, and the obvious implications of that for the United States and the West are clear.

We had to deploy troops to protect our allies and our security, and the President did so. But we were not engaged in a conflict, and we had not gone through the lengthy process of making a declaration of war. It was merely a question of whether or not we were going to be able to place those troops immediately in the Middle East in anticipation because an imminent threat certainly occurred, but we were not engaged. It was not until January 16, 1991 that we began the air war. The initial deployment to defend Saudi Arabia, Desert Shield as it was called, was 100,000 troops. The eventual deployment to prepare to invade Kuwait was 500,000 troops. The total cost was $71 billion. The deficit, as I pointed out, was $221 billion.

Our action, I would argue, could not have happened under a balanced budget amendment under section 5 because we were not engaged in military conflict. A resolution allowing military action to force out Hussein passed the Senate in January 52 to 47, after a lengthy debate about whether or not we ought to use military force immediately.

My colleague from Utah certainly was here and remembers that debate. My colleagues on both sides of the aisle who supported the action in the gulf ought to remember this and remember what happened.

If the balanced budget amendment had been in effect in 1990, a minority of Senators could have blocked those Senators who supported action and we would not have been able to have the waiver. I do not know what the implications would have been.

In 20–20 hindsight, we say, look, it was clear. As things worked out, there was an imminent threat. There was a debate here, heated debate in the country about what our action should be. You can imagine in addition to the complicated questions of whether or not we ought to respond, we would have had to go through and waive constitutional amendment requirements. This would have been with all of the people in this country divided, as many were, over whether or not we ought to be involved in the Middle East, putting United States servicemen and women at risk. With all the questions, we then either would have had to go through a process of declaring war, which we have not done in 55 years, or go through a process of waiting for an actual engagement to occur. As section 5 says, engaged—not likely to be engaged, not might be engaged, not a threat of engagement. It says you must be engaged.

So my amendment, as I pointed out earlier, which talks about the imminent threat, facing an imminent and serious military threat to national security, is a far better standard and test, it seems to me, in order for us to respond to those situations.

Let me cite the example, if I can, of lend-lease. There is no one in this Chamber who was serving at the time. Our colleague from South Carolina, Senator THURMOND, of course, remembers this debate, I am sure, very vividly, as someone who served in World War II, I believe the only remaining colleague of ours who served in World War II.

Britain was in a crisis. We were highly divided in this country in the late 1930's as to whether or not the United States ought to be involved. In fact, I think surveys at the time indicated most Americans were opposed to the United States being involved in a European conflict. We had in fact America First groups. Charles Lindbergh, I recall, was a leading proponent of the United States staying out of World War II. The conflict in Europe was raging. So we had a significant debate in this country over whether or not we ought to be involved.

I do not know of anyone today who would argue that the leadership of Franklin Roosevelt, putting together the creative lend-lease program, providing the military assistance Britain needed in its great hour of crisis, did not make all the difference in the world. And but for the lend-lease program, the map of Europe might look substantially different, not to mention what might have occurred elsewhere had we not taken that action.

We were not engaged in the conflict, under the standard asked to be met in this balanced budget amendment. You were not likely to get a declaration of war in 1939 given the divisions in the country. And yet we had a deficit. Now, it was not a huge deficit. It was, in March of that year, 1941, $4.9 billion. It sounds pretty small by today's standards, but as a percentage of the budget it was probably not substantially different than today. And even with someone with the prowess of Franklin Roosevelt, can you imagine if we had to go then through the waiver process in order to get the kind of resources necessary. I do not want to dwell on this particular instance but nonetheless I think the point is quite clear. We would have required a waiver. We were highly divided as a country. As it turned out, lend-lease got a lot of support. In the vote that occurred, actually a majority, a substantial majority here supported lend-lease. But certainly those who are students of history recall the great division in the country on this issue complicating the problem, and the difficulty that Franklin Roosevelt would have had in responding to that situation.

The Cuban missile crisis, in 1962. Again, we were not engaged. There was clearly a threat, in my view, to the security of the United States. We were not going to declare war at that particular point at all. The President had to respond to that situation. We had a deficit of $7.1 billion in 1962. But under the standards as laid out in the balanced budget amendment, the proposed language in section 5, the buildup that President Kennedy initiated to respond to that would have required us to go through all these difficulties of requiring waivers. Or you would have had to have the courts decide if in fact it met the standard of an imminent and serious military threat.

The invasion of Panama, again, another example. The deficit in 1989 was $153 billion. The cost of the operation was $163 million. Clearly we would have had to go through this process as well.

And the Reagan years of the buildup in defense. Again, you could argue—certainly everyone would have, I think—that there was an imminent danger of conflict with the Soviet Union. We were not going to declare war against them. We were not engaged in a military conflict against them. We had sizable deficits, and we increased defense spending between 1980 and 1988 from $134 billion to $290 billion. Of course, we were accumulating $1.5 trillion in debt at the same time. The amendment says: Declaration of war, engaged in a conflict. Many argue today the ultimate collapse of the Soviet Union was a direct result of our buildup at that time; that it was the Soviets' inability to meet that buildup, although they tried, that caused the kind of economic collapse that resulted in the downfall of the Soviet Union. Yet, we would have gone through this process, and you can only imagine the debate—and there was a significant one, by the way, over whether or not we ought to support that buildup or not—you can imagine what would have been heard around these Chambers about the constitutional amendment to balance the budget and whether or not we ought to be doing this. It could have complicated that process seriously.

I think you could have met the test in 1980 through 1988, of saying the Soviet Union posed an imminent and serious military threat to national security, and then had a joint resolution passed, as my amendment that I am offering today would have allowed us to do, that would have gotten you through the process. That is why I am offering the amendment. I am not just striking section 5, I am offering new language as an alternative.

So the Reagan buildup, I think, is another good example of what could have occurred. I am not arguing for or against it, where people were on that issue, but just imagine the kind of debate that would have ensued.

Let me also point up another argument here that I think deserves mention. One of the difficulties in preparing, of course, is you do not want to give your potential adversary any additional opportunities to take advantage of what is inherently a process that is slow in this country, our legislative form of government, our democracy. If a potential opponent knows that we have this balanced budget amendment, with section 5, that requires a declaration of war, that we have to be engaged, that we need waivers with a whole House voting, 218 House Members, 51 Senators, that is a pretty significant advantage to give. That is one more set of hurdles that we have to go over in order to respond.

I do not think that is engaging in hyperbole, Mr. President. Why would we in any way try to make it more cumbersome for the Commander in Chief of this country—not necessarily this one, because this amendment will not go into effect until long after this President has left office, but some future Chief Executive of our Nation—to be able to respond to those situations? I am not saying they ought to be able to do it without any check by the Congress, but I think stating the country needs only to face an imminent threat and then get a joint resolution ought to be enough to get a waiver of this amendment. To insist upon a declaration of war or actual engagement seems to me to be setting far too high a standard when the national security interests of this country could be in jeopardy. Yet, that is exactly what we are doing with this amendment.

So, for those reasons I hope my colleagues will look favorably upon this amendment, even if you are for the underlying amendment. I think this improves the underlying amendment. Some have suggested we should not have offered this amendment because, for those of us who have serious doubts about setting fiscal policy in the Constitution, the adoption of this amendment certainly takes away one of, I think, the most significant arguments against the balanced budget amendment. That is that we place the language of this amendment in a higher priority, in a higher standard, than the national security interests of the country.

I see my colleague from Michigan is here. I have some more comments I would like to make in a few moments, but unless my colleague from Utah, who may want to be heard at this particular moment, so desires—I have just been informed, by the way, I made the mistake of saying ''Senator THURMOND,'' and I have quickly been informed by several offices, Mr. President, here—not the senior Senator from Utah, but Senator BUMPERS, Senator CHAFEE, Senator WARNER, Senator INOUYE, Senator AKAKA, and Senator HOLLINGS, GLENN, HELMS, ROTH, and STEVENS have been ringing up the phones here. I apologize to my colleagues. I thought they were much younger than that, and assumed they were. How am I doing here? Am I recovering from that faux pas?

However you want to do this. I will yield the floor at this point, and, obviously, the Senator from Utah has priority.

Mr. HATCH. I understand the distinguished Senator from Michigan would like to make his remarks. I have some remarks I would like to make immediately thereafter, so I ask unanimous consent I defer to him so he can make his remarks in support of the amendment of the distinguished Senator from

Connecticut, and then I would like to proceed immediately thereafter.

The PRESIDING OFFICER. How much time does the Senator request?

Mr. HATCH. I ask how much time the distinguished Senator from Michigan needs.

Mr. LEVIN. I ask for 8 minutes.

Mr. HATCH. I ask unanimous consent he be permitted to speak for 8 minutes and then the floor return to me.

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

The Senator from Michigan.

Mr. LEVIN. I thank the Chair, and I thank my friend from Utah.

Mr. President, I support the Dodd amendment because it would simplify the national security exception to the balanced budget amendment before us, and it would do so in a common-sense way that I would think both supporters and opponents of the balanced budget amendment should be able to support.

As currently drafted, the balanced budget amendment before us would limit the national security exception to cases in which the United States is already ''engaged in military conflict.'' This language would seriously limit our defense options by precluding the use of the exception to prepare for imminent military conflict.

The way the amendment before us is written, our troops must actually be engaged in battle in order for the exception to apply. The Dodd amendment addresses this problem by extending the waiver authority to any case in which the United States ''faces an imminent and serious military threat to national security, as declared by a joint resolution of Congress,'' even if we are not yet engaged in military conflict.

Former Secretary of Defense Bill Perry opposed the balanced budget amendment largely because, in his words, of ''the total lack of flexibility we would have in dealing with contingencies.''

Here is what Secretary Perry said:

Even if threats to America's global interests were increasing or our forces deteriorating, the BBA could lead to deep defense cuts. . . .

The fact that these consequences could be avoided with three-fifths approval of each house of Congress is no safeguard. Preservation of an adequate defense posture would become dependent on exceptional political efforts. . . . Even when a three-fifths majority minus one in either house believed that BBA cuts were unjustified, the minority view would prevail. Not exactly ideal for the world's most powerful democracy and best hope for future peace and stability.

This is not an academic issue—the security of our country could be at stake in a very real way. As former Secretary of Defense James Schlesinger testified at the same hearing, ''we would have had great difficult winning World War II'' without significant deficit spending in the years before we entered the conflict. Dr. Schlesinger explained as follows:

You will recall that the turning point in the Pacific war was the Battle of Midway. The ships, the carriers that won the Battle of Midway were built as a result of deficit spending during the latter part of the 1930's. It was the consequence of legislation on naval construction under conditions of severe deficit that were embodied in the Vinson-Trammell legislation.

At Midway the battle was won by the *Yorktown*, launched in 1937 after that legislation, the *Enterprise*, launched in 1938, and the *Hornet* in 1941. Those ships would not have been available under strict interpretation of this amendment. Even the battle of the Coral Sea might have been lost in the Pacific war. . . . [A]lmost all of the capital ships of the U.S. Navy had been laid down before the end of 1941, all of our battleships and virtually all of our carriers, the *Iowa* class, most of the *Essex* class, and the like.

. . . I point this out because this Nation was not at war until December 8, 1941, and the relief that was provided in this amendment would not have been applicable until December 8, 1941.

Mr. President, the appropriations bills that funded the construction of the ships that won the Second World War were all enacted at a time when we were running record peacetime deficits, and I say record deficits. The Senator from Connecticut made reference to some of these deficits, and they sound small by current standards, but by any kind of apples-and-apples comparison, they are very large.

In 1939, the deficit was $2.8 billion, which was over 30 percent of our total outlays. The deficit now, as a percentage of our outlays, is something like 7 percent. But in 1939, the $2.8 billion deficit was a significant percentage of our outlays, over 30 percent.

In 1940, the deficit was $2.9 billion, over 30 percent of our outlays. In 1941, the deficit was $4.9 billion, as the Senator from Connecticut said, and that was about 36 percent of our outlays. Our deficit now, as a percentage of outlays, is only about 7 percent. Plenty large, but still a lot less than it was in those years.

So we would have been in a situation in those years where 60 percent, or three-fifths of the votes, would have been required in order to do deficit financing for those classes of ships which won those battles which won World War II. And that is why Dr. Schlesinger's comments about the outcome of World War II are so significant. These are real-world battles which are determined by those votes.

The Naval Act of 1938, which authorized construction of every category of warships—3 battleships, 2 carriers, 9 cruisers, 23 destroyers and 9 submarines—passed the Senate on May 3, 1938, with 56 votes. Now, that is two votes short of the three-fifths majority that would have been required by the balanced budget amendment, had it been in effect at that time.

So the stakes involved in the Dodd amendment are very significant.

I wonder if the Senator will yield me 2 additional minutes, if that will be all right with the Senator from Utah.

Mr. DODD. Yes.

Mr. LEVIN. Mr. President, those two votes, which determined whether we would build those ships, had a huge effect on the outcome of this war. There is no reason, if we are serious about protecting our national security, why we should require that we actually be engaged in a conflict. If a joint resolution of the Congress says that conflict is imminent, which it was in 1938 and 1939 and 1940, surely that ought to be enough to allow us to act by majority vote in order to save this country.

Finally, as the Senator from Connecticut has pointed out, the same kind of issues could have been raised during the gulf war that were raised by Dr. Schlesinger relative to World War II.

If I still have time left, I want to finish with one other point that the Dodd amendment corrects. How much time does this Senator have remaining?

The PRESIDING OFFICER. One more minute.

Mr. LEVIN. I thank the Chair.

The Dodd amendment addresses a second problem with the text of the balanced budget amendment. The joint resolution, as currently drafted, requires that the United States be engaged in military conflict which ''causes an imminent and serious military threat to national security and is so declared'' by Congress.

That word ''and'' in the current language creates two requirements: First, that there be a declaration by Congress and, second, that there be an imminent and serious threat to national security. In other words, the word ''and,'' creates a second requirement—the actual existence of a threat—which opens this up to judicial review and creates a real problem which is corrected by the Dodd amendment.

The last thing that we need at a time when our Nation faces an imminent and serious threat is to place in question the legitimacy of Federal spending to meet that threat. When our national security is at stake, we cannot afford to wait for the courts to give a stamp of approval to emergency spending programs. The Dodd amendment would address this problem by making it clear that a congressional declaration that an imminent and serious threat to the national security would alone be sufficient to trigger the exception.

Mr. President, most of us hopefully want to bring the budget back into balance, but we must achieve that goal without undermining our ability to defend our vital national interests in the face of imminent threats or danger. Regardless whether we support the balanced budget amendment or oppose it, I would hope that we could all support the Dodd amendment and ensure that we have the flexibility we need to protect our national security where we face an imminent and serious threat.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Utah.

Mr. HATCH. Madam President, I did not realize the distinguished Senator from Connecticut had not finished his remarks. I will be happy to allow him to finish.

Mr. DODD. No, go ahead.

Mr. HATCH. Madam President, I will proceed then on our time. I have to oppose this amendment proposed by the Senator from Connecticut, and I hope all of my colleagues will do the same.

Senator DODD has offered an amendment to section 5 of the balanced budget amendment. I might add, section 5 is a very important part of Senate Joint Resolution 1, the balanced budget amendment. We realize that protecting the security of the Nation is the most important responsibility that we have. Indeed, it is the most important duty for any government. Thus, we have dealt with that problem in section 5 of the balanced budget amendment. In that provision, we allow the requirements of this amendment to be waived in two circumstances. One is ''any year in which a declaration of war is in effect.'' The other is when the Nation is ''engaged in a 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.''

Those are two very important protections. They protect us from all that the distinguished Senator has been talking about, and, frankly, his amendment, I think, gums this up pretty badly.

The balanced budget amendment, therefore, deals with the two situations in the modern era in which the Nation faces a challenge to its ability to survive, situations in which there is a declared war between this Nation and another country and situations in which there is a military conflict that is unaccompanied by a declaration of war, but that nonetheless causes an imminent and serious military threat to national security.

In those circumstances the authors of the balanced budget amendment believe that the Nation may need greater flexibility than the amendment otherwise allows. At the same time, the carefully balanced text of that provision makes sure that the circumstances in which such a waiver can be more easily accomplished are limited only to those situations in which such a waiver is necessary.

I have the greatest respect for my colleague from Connecticut, Senator DODD. We are very close friends, but his amendment would upset the balance that we have achieved in section 5.

Senator DODD's amendment would permit a waiver of the balanced budget amendment whenever we face a serious military threat by a simple joint resolution, but he explicitly removes the requirement that the resolution become law. That is troublesome in this context. Ordinarily, being silent about such a matter would be of no consequence. After all, any Member of this Chamber, like any Member of the House of Representatives, can introduce a joint resolution or can submit a resolution on this matter. The real work comes in getting a bill or a resolution passed. But here, by removing the requirement from section 5 of the BBA, [the balanced budget amendment], that the joint resolution ''become law,'' Senator Dodd's amendment could be read by an activist court as eliminating the requirement that the resolution actually become law.

Thus, in order to waive the balanced budget amendment under the Dodd amendment, the President would not have to sign the resolution, would not have to put himself on the line, or herself on the line, and neither House of Congress would have to pass or even vote on the resolution. No committee would have to mark up the resolution. No hearings need be held. Apparently, all that it would require is that any Member of either body merely introduce a joint resolution declaring that the United States faces a serious military threat.

That sole action would apparently suffice to waive the balanced budget rule for the entire fiscal year under the Dodd amendment. Clearly, that would be a bizarre state of affairs. I would be much more impressed with this amendment if it was sponsored by those who literally have been long-time supporters of a balanced budget amendment. Literally, this is an amendment that looks as though it is making every attempt to gut the balanced budget amendment.

Madam President, both the balanced budget amendment waiver for national security and the Dodd amendment use the threshold phrase of ''an imminent and serious military threat to national security'' as being a situation in which the balanced budget amendment requirements could be waived. Even though both the balanced budget amendment and the Dodd amendment used that phrase, there are two critical differences between the two.

The first critical difference is the following: Unlike the Dodd amendment, this amendment that is currently pending, the balanced budget amendment, Senate Joint Resolution 1, that we want to pass, also requires that the United States actually be ''engaged in military conflict'' in order to waive the balanced budget rule by less than a three-fifths vote. By contrast, the Dodd amendment does not require that this Nation be engaged in such military conflict. In fact, the Dodd amendment would delete the term ''military conflict'' from the final balanced budget amendment.

That alone is a significant difference between Senate Joint Resolution 1 and the amendment offered by our distinguished Senator from Connecticut. I understand what a military conflict is. It involves shooting, combat, or the like. By contrast, the term ''threat'' is far more expansive and far more pliable. That term embraces a broad range of situations that could fall far short of the type of circumstance in which section 5 of Senate Joint Resolution 1 as presently written would allow the balanced budget amendment's requirements to be waived.

It is easy to imagine various events that could occur that would trigger the waiver provisions of the permissive Dodd amendment. For example, last year China fired several missiles in the vicinity of Taiwan, a valuable friend of the United States, as is China. That could have triggered the provisions of the Dodd amendment if somebody merely filed a resolution, pursuant to the Dodd amendment. The United States also has been witness to oil embargoes which also could trigger the Dodd amendment in the future. These events and others—you can go down a long list—would have allowed the Congress to easily waive the requirements of the balanced budget amendment if the Dodd amendment became part of the final, passed balanced budget amendment.

Indeed, ever since the advent and proliferation of nuclear weapons, it could be cogently argued that the United States has ''faced an imminent and serious military threat to national security.'' You can argue that every year in a sense. And that threat would be presented not just by the republics of the former Soviet Union or by China, which are nuclear powers, but also by other countries that may be on the cusp of developing nuclear weapons, chemical weapons, biological weapons, and so forth, by terrorist nations, to say nothing of any other weapons that may come along. So anyone who sought refuge or seeks refuge from the tough choices necessary to balance the budget could invoke this threat and waive the balanced budget rule. So it would never be effective, that is, if the Dodd amendment is adopted. That is just as clear as the amendment.

The second difference between the balanced budget amendment, Senate Joint Resolution 1, the amendment we are trying to pass as written, and the Dodd amendment is closely related to the first. The balanced budget amendment requires that the military conflict cause the imminent and serious military threat to national security. That would be the only circumstance under which the balanced budget amendment's requirements could be waived. The existence of a military conflict, therefore, is not sufficient by itself to allow Congress to escape the requirements of the balanced budget amendment. No. That military conflict also must have a particular effect; namely an imminent and serious military threat to national security.

These two requirements in Senate Joint Resolution 1, Madam President, which the distinguished Senator from Connecticut would like to amend with this permissive language, are two important requirements. As much as we pray that these events do not occur, we must face the reality that there may be times when our Nation is at war. We also must face the reality that there may be times when our Nation is embroiled in a military conflict imminently threatening national security

but unaccompanied by a formal declaration of war, such as occurred during the gulf war. When either such event occurs, the Nation and the Congress may need greater flexibility than the balanced budget amendment would allow. I am sure we all agree that protecting the survival and safety of our Nation is our most pressing responsibility.

Senator DODD's proposal does not serve these goals. His amendment is not designed to allow the military to deal with threats to national security that do not rise to the level already discussed by me. Nor is his amendment limited to permitting the military to increase spending to respond to such a threat. No. His amendment would waive all the requirements of the balanced budget amendment even though Congress has not declared war and even though the President has not committed our Armed Forces to a military conflict. His amendment provides an escape hatch for all other—for all other—situations.

In short, Madam President, the Dodd amendment is a gigantic loophole. Its effect is to weaken and confuse the standard by which the balanced budget amendment may be waived and thus weakens the balanced budget amendment itself. In this age, it is well established that nations with greater economic power stand a much better chance of prevailing in sustained military conflicts. There is nothing that would be better for our economic strength than to pass Senate Joint Resolution 1, the balanced budget amendment.

If we pass this loophole offered by the Senator from Connecticut, it will be abused and thus allow our debt to continue to increase. In years when we should be in balance, the debt will continue to pile up. Our children will be saddled with even more debt, and we will be woefully unprepared as a nation if it is ever necessary to defend our liberty in the future.

By the terms of the President's proposed budget, we would spend nearly as much on net interest in the debt next year as we will on the defense needs of our Nation—just to pay the interest on the debt. That makes the need for the balanced budget amendment about as clear as it can be.

If we continue to allow this debt to skyrocket, if we put loopholes such as this into the balanced budget amendment, if we do not stop this fiscal insanity that currently pervades our Nation, we will simply not have the economic strength to stand on our own militarily or to protect our interests in times of threat. There is nothing better for our Nation's defense than to adopt Senate Joint Resolution 1, the balanced budget amendment, and be certain that we will have the economics necessary to keep our military the best equipped, best trained force in the world.

Indeed, the Dodd amendment could be abused in a way that hurts our military preparedness. Congress could purposely underfund the military at the beginning of the fiscal year to use the extra funds for other programs.

In fact, I suspect that is what is really deep down behind this. If we can waive the balanced budget for almost any reason that we call a threat to our national security, without the constraints that we have written in section 5, which is what the Dodd amendment would do, then those who want that to happen and want that loophole so that we can waive it any time we want to under almost any circumstances could spend more on liberal spending programs rather than really doing for the military what needs to be done.

Our amendment requires them to do what is right for the national security interests of this country, if this matter is going to be waived. It requires the President and the Congress to take some responsibility in that matter, and it does not just waive all these obligations that we think have to be there.

But under the Dodd amendment, they could underfund the military, knowing that during the course of the year they could take any international conflict and use it as a justification to waive the balanced budget amendment.

In effect, if we pass this amendment by the Senator from Connecticut, those who support it would generate their own crisis by having purposefully underfunded the military. I mean, if we in fact abuse the way the balanced budget amendment would be used, that is what it would amount to under the Dodd amendment.

Madam President, this sort of gaming of the system shows that the Dodd amendment is a risky gimmick that will endanger both our military readiness and our economic strength.

I might add that the amendment that will come later on Social Security is even a more risky gimmick that will endanger Social Security for all of our senior citizens because they would take it off the budget so that it does not have to be dealt with not just in times of surplus, but in times of tremendous default and in times when there are not enough moneys there to run it. We have to keep it on budget to keep the pressure on everybody to do what is right to keep Social Security going for our seniors.

Let me just take a few moments and elaborate on the military readiness issues.

The Dodd amendment is too vague. It merely acknowledges the status quo—that there exists national security threats that are routinely handled by the readiness components of our defense budget. Its adoption could actually undermine our ability to provide a responsive surge to escalating threats to our vital interests.

The amendment of the Senator from Connecticut does not acknowledge the differences of national security interests, nor does it tell us what is at stake. It is too broad, and by consequence so vague as to allow exceptions to the balanced budget amendment based on the status quo, day-to-day operation of our defense policy.

To quote from former Secretary of Defense William Perry:

> Vital U.S. interests can be at risk when the United States or an ally is threatened by conventional military force, economic force, by economic strangulation, or weapons of mass destruction. These threats to vital interests are most likely to arise in a regional conflict and, by definition, may require military intervention.

Madam President, as you can see, the Dodd amendment would allow the waiver of the balanced budget amendment at almost any time in our country's history where there is any kind of military threat that fits within the broad language that the then Secretary of Defense, in contrast, as seen from the statement, says that vital interests can be placed at risk by threat. And he continues, such threats by our vital interests ''may require military intervention.''

Senate Joint Resolution 1 complies with current defense thinking. It says that when the President takes a step beyond the normal acts of protecting national security interests and places our forces in harm's way, then should Congress, and only then should Congress, consider by majority vote suspending the balanced budget amendment restraints on defense spending.

My next objection is that military spending is not and was never intended to be the only way to meet national security threats. In fewer words, still, Madam President, the amendment does not acknowledge either the multiple military and nonmilitary strategies that meet our national security requirements, nor does it appear to realize that we employ a military strategy only when diplomatic and other foreign policy remedies fail.

Finally, the Dodd amendment contradicts and challenges some basic readiness, budgeting and programming concepts that both the President and the Congress support. The Secretary of Defense says, ''The number one priority of the Defense Department is maintaining the readiness and sustainability of U.S. forces.''

The concerns of the distinguished Senator from Connecticut are adequately covered by the program-budget process. This is explained by the Secretary of Defense as follows:

> The U.S. national military strategy outlines a broad spectrum of commitments, specifically that U.S. forces must be prepared to fight and win the nation's wars, deter aggression and prevent conflict, and conduct peacetime engagement.

The same report goes on to say that ''U.S. forces are ready to meet these missions.''

Now, Madam President, the day-to-day national security risks that the Dodd amendment worries about are, as we can see, already inventoried and covered in our defense budget.

Let me return to another statement of the former Secretary of Defense, William Perry:

[The] challenge is to make sure the Department of Defense has the right resources allocated to the right purposes in support of readiness.

Here, the Secretary emphasizes the need for the types of priority-making that the amendment before us would eviscerate since, again, everything under the DOD amendment becomes a priority.

But, to balance this debate, let me turn to Secretary Perry, who wisely cautioned:

Even with a solid foundation of readiness funds in the DOD budget, the costs of unbudgeted contingency operations can reduce resources to carry out training, maintenance, and other readiness-related activities.

We share with Secretary Perry the need to stress readiness and the corresponding need to be able to respond to exceptional or contingency threats.

In summary, Madam President, the balanced budget amendment as drafted offers a level of support to current defense planning that strengthens our defense policy. In stark contrast, the amendment of my friend from Connecticut would place our national security interests at a level of great risk by undermining the sound budget formulation, priority-making, and management practices that Congress and the President have worked out over the past decade.

Now, I do not think I need to say anything more about the Dodd amendment. I hope that all my colleagues will vote it down because this amendment would just be another way of eviscerating or doing away with the effectiveness of Senate Joint Resolution 1, once passed by us and ratified by three-quarters of the States. We have adequately protected our national security interests the way article 5 is written, and we do it in a way that does not allow phony loopholes so the people can spend more on liberal projects. I guarantee you, if we adopt the Dodd amendment that will cause the amendment to be waived over for almost any reason. And all the moneys raised will probably not be for the military over the year the amendment is thrown out. Those moneys will be spent on liberal social programs, precisely what we want to emphasize. If we do waive the balanced budget amendment and we provide a means to do that during serious crises, if we do waive it then, we have to stand up and vote to do so and we do it because we have to bolster our military, and it can be done only under very rare circumstances where it really needs to be done. Under the Dodd amendment, it can be done under almost any circumstance, almost any time anybody files a resolution to do so. That would just plain do away with the effects of the balanced budget amendment.

I think that is enough for me to say about the Dodd amendment. I take a few minutes now, because I think it is important to do so, to pay respect to my dear colleague and friend who spoke earlier on the floor, the distinguished Senator from West Virginia.

Everybody knows the esteem that all of us have for the distinguished Senator from West Virginia. The Senate means as much to him as anybody who has ever sat in the Senate. This country means a great deal to him. He feels very deeply about his positions, and he argues them forcibly and eloquently. I really do, indeed, after having thought for quite a while about what he said this morning and early afternoon—he spoke for about an hour and 40 minutes, as I recall—I thought I should at least speak a little bit about that here today if I can.

The balanced budget amendment is appropriate in its subject matter and approach to be included in the Constitution. It establishes a process-based control on the part of the Federal Government's spending abilities, specifically, on its ability to borrow. Inasmuch as borrowing affects all future Americans, our children and grandchildren, it is appropriate to place rules on the Federal Government to protect those Americans who will be affected but are not now represented in this political process.

Now, Madam President, I call myself a student of the Constitution, and I do not undertake to amend it lightly. However, our history clearly shows the need for a balanced budget constitutional amendment if we are ever going to balance the budget. Although the text of Senate Joint Resolution 1 is modest in length, it is very significant. Its language has been worked out by Members of both parties over many, many years of fine tuning, and that language has now reached the point where it is a bipartisan, bicameral approach.

Since constitutional amendments are of such importance, I will take a few minutes to walk through the provisions of the balanced budget amendment and discuss how they will cure us of our addiction to debt. Since the distinguished Senator from West Virginia did walk through these, I would like to maybe do the same. I will have more to say on this later.

Mr. DODD. Will the Senator yield, to respond to a couple of issues raised by the pending amendment?

Mr. HATCH. Yes, I yield if I do not lose my right to the floor.

Mr. DODD. I thank my colleague for that. I want to respond to a couple of provisions. The amendment we have before us, the amendment that I offered here, requires that we face an imminent and serious military threat to national security as declared by joint resolution. I was informed ''as declared by joint resolution'' does not mean someone really introducing a resolution, but that a joint resolution would have to pass both Houses. But I am fully prepared to offer an amendment. It would take unanimous consent to clarify any ambiguity about my intention here. This is not a declaration by an individual Member, but a decision by both Houses that an imminent and dangerous situation exists. I will modify my amendment so as to remove any question of my intention here and what the legislative office, in drafting this, informed this Senator that the language ''declared by joint resolution'' certainly means. If there is any doubt in anybody's mind, I'll do that. The last thing I want to do is have any one Senator able to offer a resolution that would trigger a waiver of the balanced budget amendment.

Second, I think it is important because the Secretary's name has been raised by my friend from Utah on numerous occasions. Allow me, for the benefit of my colleagues, to read from prepared testimony from the Secretary of Defense:

We are here today not to give you a comprehensive discussion of the balanced budget amendment, but rather to discuss specifically one very important aspect, which is the effect it would have [the balanced budget amendment] on our national security and particularly the effect it would have on our defense programs. Almost any reasonable assumption of how the balanced budget amendment would be implemented in spinning budgets and in specific programs would affect the defense programs in a fundamental way and I believe would fundamentally undermine the security of the Nation.

Let me emphasize that and repeat it:

. . . I believe it would fundamentally undermine the security of the Nation. In addition to that, the balanced budget amendment would threaten frequent interruptions of many long-term processes that are essential to maintaining a prudent defense posture.

The statement goes on longer, but those particular words certainly don't leave any doubt as to where the Secretary of Defense stands on this issue.

Third—and then I will allow my colleague from Utah to pick up where he wanted to—I urge my colleagues to read the report language in section 5 of the Judiciary Committee on this amendment, as it gives an explanation of what section 5 means. On page 22, Madam President, I am quoting, and it is dated February 3, 1997:

This section, as amended, guarantees that Congress will retain maximum flexibility in responding to clear national security crises, such as in declared war or imminent military threat to national security.

Now, if that is what it did, I would not offer this amendment. But it does not. It should take into consideration the declaration of war or imminent military threat to national security. But that is not what the amendment says. The amendment says in section 5, which is before us:

. . . the United States is engaged in military conflict, which causes an imminent and serious military threat to national security.

It is the ''engaged'' part that I have such difficulty with here, because if it just said ''imminent military threat to national security,'' then you could say, fine, I understand that. We have a threat out there; we are not engaged yet, but we have a threat. So we ought to be able to pass a joint resolution here that declares that threat to exist, and the waiver then would apply. But

this is not flexible. My colleagues ought to understand that. It is not flexible. You must have a declaration of war and/or this Nation must be engaged in military conflict, and it requires all 218 House Members and all 51 Senators—not 49 to 48, but 51—to then waive the provisions.

I think that is so restrictive. As important as my colleagues believe this amendment is in dealing with the fiscal matters of this country—and I am not here to argue that point today, Madam President, because that is an ongoing debate. I accept the sincerity of those who propose this amendment. But I hope no one would suggest that, as important as the fiscal matters of this country are, we would make it so restrictive for the Nation to respond to a military crisis that we would require a declaration of war or actual engagement in a conflict before we could decide to waive these provisions in order to respond to them. I think that is threatening.

This is a dangerous section, as written, regardless of how one feels about the constitutional amendment. This is dangerous. This is clearly dangerous. I ask my colleagues—this is not report language now. We are talking about the actual words included in the organic law of our country, the organic law. Every word, every letter is important. It is not insignificant. These are not casual words. To require a declaration of war or to be actually engaged in military conflict before you can waive the provisions of this constitutional amendment, I think, is dangerous indeed. I am offering an amendment which does not strike it altogether but which says ''faces an imminent and serious military threat to national security as declared by a joint resolution.'' That way, if there is an imminent threat to our national security, a majority of us here and in the other body can pass a resolution that declares that to be the case, and then we ought to be able to waive the provisions and respond to them.

My colleagues know as many examples as I do where we have not met the threshold of a declaration of war or been engaged in a military conflict. Examples where we, the overwhelming majority, I suspect, would have assumed there was enough of an imminent threat out there that we should have responded. We also see a highly divisive country when we see that. I do not offer this lightly, as others have suggested, as somehow a back-door approach for liberal spending programs. This goes right to the heart of our Nation's response to a crisis and whether or not we elevate the importance of fiscal prudence here to such a status that it exceeds the ability of the Nation to respond under its primary, essential function, and that is to protect the security of our Nation.

I suggest, Madam President—in fact, I will read this. On page 22, the last section—they define, by the way, in these sections what each word means. The bottom of page 22 of the report.

. . . is engaged in military conflict.

Here is how the report defines those words:

''. . . is engaged in military conflict,'' is intended to limit the applicability of this waiver to situations involving the actual use of military force which nonetheless do not rise to the level of a formal declaration of war.

This isn't my language. This is the report language. I am not interpreting this language. It must involve the actual use of military force before they meet the threshold of imminent danger.

There are just hundreds of cases where something that does not involve actual use of force can meet the threshold of imminent danger. Yet, the authors of the section, very clearly—and you can imagine a Federal court, some day in the next century, reading this language as to what the words mean, and it doesn't say likely use of force or maybe a use of force, but actual use of force. We have the awkward situation, to put it mildly, of this Nation responding to its primary function—that is, to protect its citizenry when placed under threat.

Again, I will offer at the appropriate moment—I don't know why I need to, but if certain people think I have drafted this in a way to suggest that any one Member can offer a resolution and that is going to trigger a waiver—again, I submitted my language to the legislative offices here to prepare this, and they tell me that the ''declared by a joint resolution'' meets that standard of what the intent is here—clearly, not just any one Member offering a resolution, but obviously both Houses passing it. I haven't gotten to the language in the amendment about the whole House, in terms of having 51 people. We have seen situations where Members don't get back, for whatever reason, where some crisis faces the Nation and Members can't get here. What a ridiculous situation to place this body in. I know we're not living in the horse-and-buggy age here, when Members couldn't get here and where they sat around and waited for enough Members to arrive which would allow a majority of both Houses to respond. But we sat here and determined that somehow meets purity, and insisted upon the whole of both Houses, and then, of course, I believe we excluded the Vice President from casting a vote in a tie. You have to have 51 votes of the Members, and the Vice President while the Presiding Officer is not a Member of this body. And I think that is a shortcoming as well. It is minor compared to the actual language here that requires a declaration of war, or as the report language defines is engaged in military conflict, it must involve the actual use of military force. I think that standard is way too high for us to be able to waive the provisions of this balanced budget amendment to respond to a security crisis in this country.

You can vote for my amendment, and you can be for the balanced budget amendment. It does not threaten the underlying purpose of a balanced budget amendment. I believe it is a lot wiser to be cautious on all issues of national security. This is not some secondary or collateral issue. This is the primary function of any government. The primary function is to protect the security of the people. We have set a standard here that I think places that primary responsibility in some jeopardy.

So for those reasons, I urge my colleagues to accept this amendment. And I will be glad to yield the floor at this point. I will raise a couple of additional issues in a few minutes. But let me yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, of course the underlying amendment of the Senator from Connecticut threatens the very purpose of the balanced budget amendment. Even if he does make this small change of adding language that makes the resolution became law, this certainly would improve his amendment. That is a small matter. The reason he would have to do that, if his intention is that the resolution be passed by both bodies and signed by the President, is because he has deleted specifically our requirement that any resolution become law, meaning it passes both Houses and it is signed by the President.

So there is no other way the court would construe it other than the way I have suggested it. But that is a small matter because Senator DODD's new amendment, assuming that he modifies his current amendment, clarifies his intent in one regard. He would make it clear that a joint resolution must become law. That would be an improvement.

But my other criticisms remain. There would be too many instances in which Senate Joint Resolution 1's requirements could be waived. Today, any action by a foreign nation can pose an imminent and serious military threat to our Nation. Under Senator DODD's amendment, any such action would allow Congress to engage in increased social spending, and waive this balanced budget amendment.

To me that is ridiculous. It isn't a protection. It is just another way to continue business as usual. I frankly am not for that, and I do not think most others will be either.

Look closely at the Dodd amendment that allows all spending to increase—not just military spending. The ostensible purpose is to protect us militarily and our national security. But it waives the budget for all spending. It makes one wonder why. And it allows virtually any action by any country—certainly countries like Russia or China—to justify increased social spending.

I have to admit that my colleagues are ingenious at wanting to keep the status quo going, and that is their

right to unbalance the budget and spend and spend and spend so they can go home and claim, ''Look at what we are doing for you.'' They are putting us into bankruptcy. And all of us are doing it, both parties, without any restraint. Now they want to remove this restraint. To be honest with you, I think basically what people want to do is just keep business as usual.

Secretary Perry in accepting the Dodd amendment would admit that the readiness principles are wrong that he articulated. For example, he would be saying that current threats are not covered. The Dodd amendment has no plan for a contingency. National security is always a justifiable budget buster regardless of the crisis of the moment.

Let us just read the language that the Senator would change. The way the original amendment, the underlying amendment, Senate Joint Resolution 1 reads, section 5 says, ''Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.'' That is the same. ''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.'' That is what the current amendment says. That is a tremendous protection. Declaration of war or waiver by a joint resolution passed by the whole number, a majority of the whole number of both Houses, meaning a constitutional majority, which becomes law and signed by the President. Under those circumstances this balanced budget amendment can be waived.

There are those who are strong supporters of the balanced budget amendment which didn't want this language in here. Senator Heflin and a number of us worked this out so that both sides would feel that they are adequately taken care of. But it is no secret. There are a lot of people who do not want this section at all because they believe that a patriotic group of Senators and Congresspeople would naturally waive the balanced budget amendment by a higher vote, by the three-fifths vote necessary to do it to put us into more debt to pay for it. But we have made it a much lesser standard. It will be a constitutional majority required by both Houses.

Look at the way the distinguished Senator from Connecticut would have this read. ''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'' but in which the United States ''faces an imminent and serious military threat to national security.'' And then he strikes ''and is so,'' and then just says ''as declared by a joint resolution,'' period. I imagine he is willing to modify his amendment and add ''which becomes law.'' The ''which becomes law'' would make this amendment a little bit better. But, frankly, it doesn't solve the problem of the easy ability anybody would have for anything that can be called ''facing an imminent and serious military threat to our national security'' which can include almost anything. That would be the easiest way to waive this amendment at any time any social spending becomes the desire of the people and the Congress. And, by the way, that is what is causing our problems for 28 straight years now—social spending.

I am so afraid I am going to knock these over sometime and squash somebody, and they would squash somebody. It would probably break somebody's leg. I have been told by a number of Senators that we are violating OSHA. Too bad OSHA doesn't have control over this separated power. But there is no other way to show to the American people just how really bad it is—28 straight years of unbalanced budgets. And now we are going to put changes in this amendment that would allow us to go to 29, 30, right up to 68 years, or more. We will never get it under control, if we have amendments like this. So we have to stand up and do what is right.

Mr. DODD. Will my colleague yield for a question or so?

Mr. HATCH. Yes.

Mr. DODD. First of all, I raised the issue about the Vice President because it is unclear.

Mr. HATCH. The Vice President would not have a right to vote here, but he doesn't have a right to vote for this amendment either.

Mr. DODD. Let me ask my question. Under section 5, as drafted in the proposed constitutional amendment, then the vote by the whole of both Houses would exclude the vote by the Vice President. Is that correct?

Mr. HATCH. That is correct, just like a vote for this constitutional amendment excludes the Vice President, and countless other votes exclude the Vice President.

Mr. DODD. We are talking about a waiver issue here.

Mr. HATCH. In any event, he would be excluded.

Mr. DODD. Is there any other situation which my colleague from Utah can cite in which we have excluded the vote of the Vice President in a tie vote?

Mr. HATCH. Every constitutional amendment that has ever been passed.

Mr. DODD. I am talking about a matter that would come before this body.

Mr. HATCH. Sure. On cloture votes; all cloture votes. You will have to have 60 votes.

Mr. DODD. That is a procedural vote.

Mr. HATCH. Procedural or not, that is what this vote would be.

Mr. DODD. To waive.

Mr. HATCH. Sure. That would be both procedural and substantive. Cloture votes are substantive and procedural.

Mr. DODD. A cloture vote is not a tie vote. There you have to have a number of votes.

Mr. HATCH. Neither would they be. In other words, what we are doing——

Mr. DODD. You don't get cloture 50–50.

Mr. HATCH. No, you get cloture at 60——

Mr. DODD. Right. On matters that require a simple majority, will my colleague cite a single example where a simple majority is required in this body where the vote of the Vice President would be excluded?

Mr. HATCH. Yes. Every vote where it is not 50–50.

Mr. DODD. I am saying where the vote is 50–50.

Mr. HATCH. Well, where the vote is 50–50, where that is required, yes, but we are talking about a constitutional amendment.

Mr. DODD. I am not talking about the amendment. I am talking about a provision——

Mr. HATCH. Let me finish.

Mr. DODD. That requires that this body act, and that is the provision of the constitutional amendment, requires that the whole House of both Chambers vote.

Mr. HATCH. That is right.

Mr. DODD. And it requires 51.

Mr. HATCH. Right.

Mr. DODD. My question is, can my colleague from Utah cite a single example where a supermajority is not required, where there is a 50–50 tie, that the vote of the Vice President would be excluded in that situation?

Mr. HATCH. Yes. In every vote in the House of Representatives.

Mr. DODD. No, in the Senate.

Mr. HATCH. Let me finish. I cannot cite a single example in the Senate, but that is irrelevant. The fact is the reason we are writing the constitutional amendment is to provide a means whereby you have to have a constitutional majority, without worrying about the Vice President, who is not a Member of this body other than to preside, if he wants to, and break majority vote ties. We are saying that we need a constitutional majority of at least 51 Senators to resolve this problem, and at least 218 Members of the House. And since it is a constitutional amendment, we would be changing the current method of budgeting to require higher majority votes in order to waive the balanced budget amendment requirements. That is what we are doing.

Mr. DODD. Let me ask my colleague a couple other questions.

Mr. HATCH. Sure.

Mr. DODD. Under the language of this amendment, would the decision to send 100,000 troops to the gulf——

Mr. HATCH. Will the Senator yield?

Mr. DODD. Certainly.

Mr. HATCH. Because I do think I just need to make a couple more comments on the Vice President.

Mr. DODD. I am sorry.

Mr. HATCH. Just to make the record. The question does arise, as the Senator

phrased, as to how Senate Joint Resolution 1 affects the obligations of the Vice President, as President of the Senate, to vote in case of a tie vote in the Senate. The answer is that a balanced budget amendment does not change the Constitution's basic reliance on simple majority votes or the Vice President's role in casting a vote in those cases where Senators are equally divided.

Article I, section 3 of the Constitution provides that ''The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.''

By the plain meaning of this provision, the Vice President is not a member of the Senate. He is merely the Presiding Officer, the President of the Senate, a neutral empire, and thus cannot vote or take part in the deliberations of the Senate. And even though our current Vice President is a former member of the Senate, he is no longer a member of the Senate. He is a member of the executive branch. But he does have that function.

The only exception to this is where there exists a tie vote. In that case to ''secure at all times the possibility of a definitive resolution of the body, it is necessary that the Vice President should have only a casting vote.''

That was taken from Federalist Paper No. 68 written by Hamilton.

But the situation where the Vice President can break a tie vote only applies to a simple majority vote, the run-of-the-mill ordinary vote of the Senate. It very seldom happens but it can happen under those circumstances. Where the Constitution, however, provides for a supermajority vote, in situations where the Framers of the Constitution feared the passions of the majority rule would retard reasoned deliberation, there really is no occasion for a tie vote, and therefore the Vice President may not vote.

These include the two-thirds requirement of each House to override a veto. When the President formally rejects legislation passed by both Houses of Congress, the drafters of the Constitution contemplated the simple democratic majoritarian rule does not serve the best interests of this country. A constitutional majority will not even do in that instance. Congress may override the President's veto only by a supermajority vote.

The two-thirds vote requirement of the Senate to give its advice and consent to treaties and the two-thirds vote requirement of the Senate to convict on impeachment are other examples where the Vice President has absolutely no vote whatsoever.

I add the votes on cloture. You are going to have at least 60 votes in order to invoke cloture. You could go on I think.

In each of these cases the Vice President has no role in casting a deciding vote.

The balanced budget amendment supermajority provisions, whether the three-fifths number of the whole number of each House of Congress—that section 1 waiver to allow outlays to exceed receipts; section 2 waiver to increase the limit on the debt, or the constitutional majority provisions—a majority of the whole number of each House—section 4 requirement to raise revenue, section 5 requirement to waive amendment when the United States is involved in military action that is a threat to national security—would work the same way as the Constitution's other supermajority provisions.

Because these supermajority provisions require a majority vote of the whole number of each House of Congress, and it is clear that the Vice President is not a Member of either House, these provisions, like the two-thirds vote in the Senate for treaties, is an exception to the simple majority vote general rule that the Vice President may vote in cases of a tie in the Senate.

Moreover, with a supermajority requirement, a tie vote is meaningless. For instance, 60 votes in the Senate would be required to raise the debt ceiling, where a three-fifths vote is required under section 2 of this amendment, and 51 votes would be needed to raise taxes as required by section 4. A 40 to 40 vote or even a 50 to 50 vote does not meet that requirement. Therefore, the Vice President would have no role in casting a deciding vote. But that does not in any way diminish his constitutional authority.

Madam President, what we are debating here is very important. What the balanced budget amendment does is establish a constitutional requirement that Congress live within its means, that we quit doing this to America, as represented by these 28 years in a row of unbalanced budgets since 1969. All the supermajority requirements are saying is that if Congress wants to waive the Constitution, a simple majority will not do. You have to have a true majority—in the case of the section 4 requirement to raise revenue and section 5 requirement to waive the amendment when the United States is involved in a military action that is a threat to national security—or a supermajority in the case of the section 1 waiver of the balanced budget requirement or the section 2 waiver of the debt limit. And every Senator and every Congressman must be on record and thereby accountable to his or her constituency.

Now, I have at least 3 or 4 hours more that I could go on on this subject.

Mr. DODD. I am not going to press my colleague. The point I wanted to make, if my colleague will yield further, is that we are creating an unprecedented exception. The waiver provision—put aside the constitutional amendment. I am not debating that. I am debating this one section.

Mr. HATCH. All right.

Mr. DODD. Under this one section we are carving out a unique exception for the first time in the history of this country. Section 5 says adopted by a majority of the whole House and its Members. We exclude the Vice President in a 50–50 tie.

Mr. HATCH. Right.

Mr. DODD. In casting a vote.

Mr. HATCH. That's right.

Mr. DODD. We do not do that under any other circumstance in the 208-year-old history of this Republic——

Mr. HATCH. Other than the ones I have listed.

Mr. DODD. I say to my colleague. It is not a supermajority here. It is a dangerous precedent in my view. So on a 50 to 50 vote on whether we met the other standards would fail and the President of the United States would not be able to act.

Let me ask my colleague from Utah just a couple quick questions. I cited examples earlier, putting aside whether you agreed or disagreed with the action taken. In August 1990, when President Bush sent 100,000 troops to the Middle East, were we in actual—to quote the language of this section 5, were we engaged, in the Senator's opinion, in military conflict at that point?

Mr. HATCH. Sure.

Mr. DODD. Were we engaged at that point in August 1990 for the United States——

Mr. HATCH. When we sent troops to Saudi Arabia?

Mr. DODD. Yes. By the way, the interpretation of engaged is actual use of military force.

Mr. HATCH. Well, we already had had attacks by the Iraqis and we were there to protect our people. I would say that.

Mr. DODD. How about lend-lease, under President Roosevelt?

Mr. HATCH. One thing about lend-lease that I felt was very important is that during that period of time if we had any deficits at all, they were very minor.

Mr. DODD. They were large. They were 36 percent of the overall budget, much larger than they are today.

Mr. HATCH. Before that they were minor in comparison to what we have today.

Mr. DODD. The point I am trying to get at here is the question of actual—the language here of section 5 is ''is engaged in military conflict.'' I make a strong case to the Senator here that in those situations we were not engaged in military conflict.

Mr. HATCH. Sure, we were.

Mr. DODD. We ultimately became engaged.

Mr. HATCH. They were moving forces and materiel and——

Mr. DODD. That's not engagement.

Mr. HATCH. It may not be, until we shot the first shot, but the fact is that is what happened, and when it did happen, I cannot imagine either House of Congress not voting to provide a constitutional authority to provide whatever help the military needed.

Mr. DODD. Doesn't it make more sense to leave out your declaration of

war language here and then have the threshold as an imminent threat? We all have to vote here. It's not as if it happens by one person. But at least you could respond without a court. Because I could imagine you might take the position in the Persian Gulf that that could have been the outcome. Let us say I disagreed with you. I run to Federal court. I read the language there and I cite the report language and the report language says, under this section, ''is engaged in military conflict involving the actual use of military force.''

My point to the court would be that is not actual use of military force. Therefore you cannot waive this provision.

Mr. HATCH. You don't think moving billions of dollars worth of military force into the Persian Gulf——

Mr. DODD. I think actual use of military force is my interpretation. I don't understand——

Mr. HATCH. That might be an argument in this body. If it is, then those who want to increase military spending or waive this budget, all they have to do is get a constitutional majority to do so. We are just saying it should not be easy to waive the constitutional amendment.

Mr. DODD. I don't think this is easy, as you are suggesting it is. But you are putting a straitjacket, in my view——

Mr. HATCH. Hardly.

Mr. DODD. Putting a straitjacket on the ability of this country in future years to respond to a threat to national security by insisting on a declaration of war and actual conflict—actual conflict.

Mr. HATCH. Hardly. What we are saying is if it's an actual conflict and something that deserves the United States of America risking its soldiers and its young men and women, then the President ought to declare a war or come up here and say, ''I want a constitutional vote to support me.''

Mr. DODD. My colleague knows how mischievous people can be in utilizing things like this.

Mr. HATCH. Not when it comes to our young men and women. Give me a break.

Mr. DODD. If you are short of a conflict and try to get ready for it and try to get the votes to prepare for it, we have seen the debates that rage here.

Mr. HATCH. True, and those debates——

Mr. DODD. And you are offering, I suggest, to a potential enemy a wonderful arrow, an additional arrow in their quiver, where they can sit there and say, ''They are at the end of the fiscal year. These people have difficulties. They'd have to rearrange their budget. It is going to require votes of the whole House. People could not show up.'' I see this as an advantage. You are subjugating, I say with all due respect to my wonderful friend, you are subjugating national security interests to the fiscal concerns you raise in this budget. Your priorities are switched. As important as fiscal matters are, to place in jeopardy the ability of the United States to respond quickly and efficiently to an imminent threat to its national security, for the life of me, I don't understand why we would be risking that.

Mr. HATCH. If I could regain my control of the floor?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. We are saying precisely the opposite. We are saying to keep this country secure, to have this country remain the greatest country in the world, quit spending it into bankruptcy and put some fiscal mechanism in the Constitution that requires us to quit spending it into bankruptcy. If we want to have a strong military, then, by gosh, let us be willing to stand up and vote for it.

I have to tell you, this Senator for 21 years has been a strong supporter of a strong national security. I voted for virtually everything that would help this country and protect our young men and women. I think, in a time of imminent threat to this country, I have never seen a case since I have been here where liberals, moderates and conservatives alike would reject protecting our young men and women. We are not going to see it in that case.

But I will tell you this, there is no justification whatsoever to put into this amendment the changes that the distinguished Senator from Connecticut wants, which would allow the amendment to be waived for almost any circumstances and, frankly, waived for what? Because they are going to spend more money on the military? Give me a break. It is going to be so they can continue spending the way they always have, so they can continue to build this mountain of paper, of national debt that we have had for 28 straight years, and out of the last 66 years, 58 years of debt.

That is what we are trying to stop. If we want a strong military, if we want strong national security, if we want to protect ourselves from imminent threats, if we want to protect ourselves from war, if we want to protect ourselves from being invaded, if we want to protect ourselves and our allies, then by gosh we better get spending under control. And this balanced budget amendment is about the only thing the vast majority of us in Congress right now can think of that will help us to do it.

Mr. DODD. If my colleague will yield?

Mr. HATCH. What the amendment of the distinguished Senator from Connecticut would do is it would just plain make it so anybody could waive the balanced budget amendment for any reason at any time. And I guarantee it will not be waived to increase military spending.

Mr. DODD. If my colleague will yield, my colleague had read this amendment. My colleague is getting a bit emotional. If he would read the amendment——

Mr. HATCH. I am not getting emotional.

Mr. DODD. ''Faces an imminent and serious military threat to national security as declared by joint resolution.''

Mr. HATCH. I read that.

Mr. DODD. Is my colleague suggesting, that the majority would go along willy-nilly with this resolution because they wanted to spend more on the program. Are we not faced with the perverse situation of having Presidents declare war in order to meet the standard of some imminent threat here?

Mr. HATCH. I don't think so.

Mr. DODD. This language is very clear. It is pointed at a very important situation that would be before us. And to suggest somehow this is a back-door attempt to fund spending programs on domestic issues, does my colleague really believe the majority in the Senate here today would vote for a back-door domestic spending increase——

Mr. HATCH. No, I don't think it would.

Mr. DODD. On the grounds there was imminent threat to our national security?

Mr. HATCH. I don't think a majority would vote to do that. But I am saying that is what this amendment would allow a majority to do, a simple majority. We are saying that is wrong. We have provided enough of a safety hatch to protect the country the way the amendment is written. If we adopt the amendment of the distinguished Senator from Connecticut, my goodness gracious, we could have the balanced budget amendment waived for a year any time we want to and it would just nullify the effectiveness of the balanced budget amendment.

I do not see anything wrong with the President either declaring war or coming up here to make a case he needs more money for the military, but he or she ought to come up here——

Mr. DODD. If my colleague will yield, that is what the amendment says.

Mr. HATCH. No, I am not yielding here. I want to finish my comments.

Mr. DODD. I thought the debate was kind of healthy.

Mr. HATCH. I will yield to my colleague, but I would like to be able to at least finish a sentence now and then, or at least once in a while.

I think it is very important that Presidents make their case, and I think Presidents can make their case, whoever the future Presidents would be. I think we would be very loathe to reject a President's case that the national security is being threatened. I cannot imagine the Congress doing that, to be honest with you, since the Second World War. Up to then we kind of blithely went along, acting like nothing is ever going to happen because we are way over here. This is now a very small world, and our country knows we have to back keeping ourselves strong because we are, frankly, the bulwark for freedom all over the world.

One thing I really don't think we should do, and I think a vast majority

in this body will also not think we should do, is to make it possible to waive this amendment at the mere majority vote of some future Congress, just because somebody alleges, through a resolution, that there is some imminent threats.

I yield to my colleague from Idaho.

Mr. CRAIG. I thank the chairman for yielding.

Mr. President, the Dodd amendment is more loophole than law.

Whatever the Senator's intentions, this amendment actually would put a two-step loophole in the balanced budget amendment and in the Constitution:

Step one: Declare a military threat with a simple majority;

Step two: Deficit spend as much as you want, on whatever you want.

That's it. The plain words of this amendment actually do nothing to help military preparedness.

The relevant wording of the amendment, as it would be amended by Senator DODD's words are as follows:

The provisions of this article may be waived for any year in which the United States faces an imminent and serious military threat to national security as declared by a joint resolution.

Nothing in the Dodd amendment requires its deficit spending to be dedicated to defense. Nothing in the Dodd amendment requires its deficit spending to be dedicated to meeting the ''imminent and serious military threat.'' After declaring a military threat, Congress could then vote to cut defense spending—maybe with the argument that a gesture of peace and good will would defuse that imminent military threat. Then Congress could vote, by simple majority, for unlimited deficit spending for any and all non-military spending programs. Would Congress use this loophole cynically as an excuse to deficit spend? I'm reminded of the movie, ''Field of Dreams,'' in which the lead character was told, ''If you build the ball field, they (the players) will come.'' When it comes to the hard choices of balancing the budget, you could say, ''If you build the loophole, they will borrow and spend.''

The Dodd amendment still follows that old, status quo, borrow-and-spend mentality. There are those who really cannot conceive of a world without deficit spending.

They believe the American people want to have their cake, eat it too, and send a big credit card bill to the next generation. They believe you can have everything, if only you keep deficit spending. The trouble is, if we don't stop deficit spending, we will lose everything: our prosperity, millions of jobs, economic security for our senior citizens, and the American Dream of a better life for our children.

I suggest we really can have an adequately prepared defense and regularly balanced budgets, too.

In fact, the more we balance our budgets, the more we will have to spend on defense—and every other priority—because of a healthy, growing economy, because we'll stop devoting about 15 percent of our annual budget just to net interest payments.

And, in fact, at the very height of the cold war, during the 15½ years of the Truman and Eisenhower administrations, we still managed to balance the budget 7 times before spending on domestic social programs really took off in the 1960's.

The debt is the threat to defense. Escalating interest payments crowd out all other priorities. In 1976, 7.2 percent of the Federal budget went to make interest payments on the Federal debt. In 1996, net interest consumed 15.5 percent of the budget. As a result, Defense and other programs have already felt the budget knife.

According to the report of the National Entitlement Commission chaired by our colleague Senator KERREY of Nebraska, and our former colleague Senator Danforth:

By 2012, unless appropriate policy changes are made in the interim, projected outlays for entitlements and interest on the national debt will consume all tax revenues collected by the federal government.

That means no money left for defense—or capital investment, education, the environment, national forests and parks, law enforcement, science, or other domestic discretionary programs.

The balanced budget amendment is the best friend our national defense could have. The Congressional Budget Office estimates that moving toward a balanced budget during fiscal year 1998–2002 will reduce Federal debt service costs over that period by $36 billion and improve economic performance enough to produce a ''fiscal dividend'' of another $77 billion in revenues and interest rate savings, making more money available over the long-term for priorities within a balanced budget.

Committing to a balanced budget—and it's not a convincing commitment without this constitutional amendment—actually helps pay for itself.

The balanced budget amendment places trust in the people—the Dodd amendment distrusts the people. I am willing to risk my priorities under a balanced budget. That's the whole point of balancing the budget—it requires us to set priorities.

When former Senator Simon used to join us on this floor in sponsoring the Balanced Budget Amendment, he was quite clear in his priorities under a balanced budget:

Raise taxes, cut defense, increase social programs. And I have been quite clear in my priorities under a balanced budget: Restrain the overall growth of spending; cut wasteful domestic social programs; safeguard our national defense; and cut taxes to be fairer to families and spur economic growth, if possible.

But Paul Simon and I both felt it was so imperative that we require balanced budgets, that we were both willing to risk our individual priorities for the greater good—the economic survival of our Nation and the security of our children. If we balance budget, we take the risk that our individual priorities may or may not prosper. If we don't balance the budget—if we don't pass this amendment—we risk the future of our Nation and our children. I trust the American people to have the right priorities—and to elect Senators and Representatives who reflect those priorities, at last, in a series of balanced budgets.

The balanced budget amendment—Senate Joint Resolution 1 unamended—already takes national security into consideration. Look back at our history.

Traditionally, our Nation ran deficits during wars and paid back its debts during peacetime. Senate Joint Resolution 1 would restore exactly that norm of behavior. Only in the last few decades has the Government borrowed and spent in good times and bad, in war, peace, and cold wars.

Senate Joint Resolution 1 is careful and precise: A waiver may be had by a simple majority in the case of a declared war. There are serious consequences—both to the people here at home and in terms of international law—when you declare war. It is an act of survival, an act of the highest urgency.

Next, Senate Joint Resolution 1 requires a vote by a ''majority of the whole number''—a constitutional majority—to deficit spend if we are actually in a military emergency and engage our armed forces. This is a slightly higher threshold—added by former Senator Heflin, who was both a deficit hawk and a defense hawk—and it is appropriate, since we are talking about a conflict here that is still legally not a declared war.

Finally, in all other cases, we require a three-fifths vote to deficit spend because deficit spending has become a cancer on our economy and it should be hard to run up ever-higher debt.

Mr. President, what the amendment does, and I think the Senator from Connecticut is well aware, is it returns us to the traditional pattern of defense spending. We used to, in times of war and national emergency, deficit spend only to pay it off afterward because we believed in the fiscal solvency and the fiscal importance of a balanced budget. Somehow, about three decades ago, we went screaming away from that idea. We borrowed through World War I and then we paid it back. We borrowed through World War II, and we worked every effort to pay it back. That is exactly what the constitutional amendment does. In neither of those cases did we find ourself in imminent danger, other than our own philosophy as a nation.

But, when it came to rally to the cause of human freedom for this country, we deficit spent. But we paid it back afterward. The tragedy of today is that we fail to recognize that form of fiscal responsibility.

Mr. DODD. Will my colleague yield?

Mr. HATCH. I will be happy to yield for a question, but could I yield on your time?

Mr. DODD. Please. I am not suggesting here—let us put aside the underlying debate on the constitutional amendment to balance the budget. Even if my amendment were to be adopted, I say to my colleague from Utah, he knows I have serious reservations with the underlying amendment. I merely wanted to address this one section here.

Mr. HATCH. I understand.

Mr. DODD. The language—I urge again my colleague to read it—I am not making the language up and writing the report language—says, ''in which a declaration of war is in effect,'' and, also, ''The provisions of this article may be waived for any fiscal year in which the United States is engaged in a military conflict.''

Put aside the issue of how we vote here. The language says ''is engaged in a military conflict.'' I turn to the report language that defines those words. On page 22, it says it must involve the actual use of military force.

I just know my colleagues can think of numerous examples—not phony ones, not insignificant ones—where there was imminent threat, the national security of this country was in jeopardy, we were not engaged, we were not actually using military force, but we would have wanted to waive the provisions of this particular section in order to respond to it.

Whether you are for or against the constitutional amendment, it seems to me is a collateral issue at this point. The question I raise is: This language is so restrictive, it requires a declaration of war or actual engagement. Courts will interpret every word of this language in the constitutional amendment.

My suggestion is not to get rid of this altogether. Keep in the declaration of war, but add or replace the language ''engaged'' and talk about the imminent threat to the national security and require a resolution to be adopted by both Houses so that it isn't just one person's interpretation, but that a majority of those present and voting in both Houses.

That is not a slight hurdle to overcome, particularly when it amounts to waiving the provisions of a balanced budget amendment. I presume my colleagues will take that seriously. But we ought to be able to do it short of actual engagement in a conflict, and if we don't, I think we restrict this Nation's ability to respond to future conflicts that could jeopardize our national security and the people of this country.

We do not take our jobs lightly. We would have to meet that threshold. We would understand by doing so, we would waive the provisions of the Constitution. That is a very serious matter to undertake. It is not just a casual resolution. But it seems to me we ought to be able to do so in preparation for something that may involve the engagement of our men and women, our forces, and prepare them for it and prepare the Nation for it. We cannot do that under section five as presently written.

The PRESIDING OFFICER [Mr. FAIRCLOTH]. The Senator from Utah.

Mr. HATCH. Mr. President, my colleague, as I can see, feels very deeply about his position. I am not casting aspersions on him. I know he is very sincere in what he is doing here today, but all we are saying is unless the President declares a war, which he has in his amendment, that this article can't be waived for a fiscal year, for any fiscal year unless 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.''

If we take what the distinguished Senator from Connecticut wants, then it would be a tremendous loophole. It would allow people who are not as sincere as he is to come in here and waive, on simple majority vote, the whole balanced budget amendment for almost any reason at all it will ruin our chance for fiscal responsibility.

The Senator from Connecticut is confusing the question of congressional authorization of military action with spending measures. The balanced budget amendment has no effect on the ability of Congress to approve actions like Panama. It has no effect at all. What the balanced budget amendment does require is that when it comes to paying for those actions, that we act responsibly and only waive the amendment in the case of a declaration of war or if we have a three-fifths vote of both bodies to do so. It is just that simple.

Or, if we actually are ''engaged in a 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,'' in other words, by a constitutional majority, that is all this amendment does.

I think to a degree, the distinguished Senator from Connecticut is mixing the President's Commander in Chief authority to act with congressional authority to provide resources. The Commander in Chief can act. There is nothing that stops the Commander in Chief from acting, and if the moneys are there, he can act in ways that utilize more money. But the fact of the matter is, if the moneys are not there, he or she is going to have to come up here and make a case, and I can't imagine where there is an imminent and serious military threat to national security that the Congress will not provide the necessary votes. We do not challenge the President's authority. Rather, the balanced budget amendment opponents resist congressional control over all spending, including defense, and that is really what is the thrust of this amendment, in the eyes of many.

I respect my colleague from Connecticut. Yes, I get a little excited about these kind of amendments, too. The whole purpose of a balanced budget amendment is to give us some mechanism to try and stop this charade, and, frankly, I think most people in America, if they really look at it, become very cynical about Congress, because they see this charade that's been caused over 28 straight years now. They see us trying to find every way we can to spend more and more. Some are so cynical that they believe people around here spend so they can keep themselves in office and go home, beat their breasts, and say, ''Look what I have done for you.'' They never say ''with your own money, your own borrowed money.''

We are trying to stop this charade. We are trying to at least put some dents in it, and the balanced budget amendment might do that.

Mr. LEAHY. Mr. President, I think that Senator DODD has put his finger on a very serious flaw in the language of the proposed constitutional amendment.

Section 5 of the proposed amendment requires the United States to be engaged in military conflict before a waiver may be obtained. The military conflict must be one that causes an imminent and serious military threat to national security. Moreover, the Senate report's section-by-section on this language compounds the problem by indicating that only certain kinds of military conflict may qualify. Only military conflict that involve the actual use of military force may serve as a basis for this waiver.

I hope that this is not what the authors, sponsors and proponents of this constitutional amendment truly intend. If it is, they are creating constitutional circumstances that make military spending and preparations easier only when military force is actually used and military conflict ensues. Arming to deter aggression would no longer be the preferred course, aiding allies in a conflict rather than dispatching U.S. military forces would no longer be as viable and alternative and rebuilding our military capabilities after a conflict would no longer be possible without a supermajority vote of three-fifths of the Congress. I cannot believe that anyone in the Congress would propose such restrictive measures.

I have spent much of my time in the Senate working with Republican and Democratic administrations to avoid the actual use of military force. This amendment is written in such a way that it serves to encourage such use. Nothing that would serve to place our men and women in harm's way more quickly or leaves them less well equipped or prepared should garner the support of this Senate. I hope that all Senators will consider favorably Senator DODD's important amendment. I

urge the manager and the sponsors of the resolution to abandon their no-amendments strategy and consider the merits of the Dodd amendment.

Mr. HATCH. Mr. President, I think maybe we spent enough time on this. I would like to spend a few minutes replying to Senator BYRD, who I respect deeply and who is one of the people I most admire in this body. He spoke for about an hour and a half, an hour and 40 minutes this morning in a very intelligent and eloquent way, but I think there are a number of things about his remarks that do need to be clarified.

Like I say, the text of section 1 of this amendment before the body is modest in length. It is very significant. It is language that has been worked out over many years in a bipartisan, bicameral way. Constitutional amendments are of great importance, and I would like to just take a few minutes to walk through the provisions of the balanced budget amendment and discuss how they would cure our so-called addiction to debt.

The core provision of Senate Joint Resolution 1 is contained in section 1, which establishes, as a fiscal norm, the concept of a balanced budget amendment. That section mandates that:

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

This section does not require a particular process the Congress must follow in order to achieve a balanced budget. There are many equitable means of reaching that goal. Each program will have to compete on its own for the resources available. Thus, the balanced budget amendment, Senate Joint Resolution 1, does not dictate any particular fiscal strategy upon Congress.

Section 1 also provides reasonable flexibility by providing for a waiver of the balanced budget amendment. In order to invoke this waiver, both Houses of Congress must provide by law for a specific default which must pass by a three-fifths rollcall vote. This careful balancing of incentives creates enough flexibility for Congress to deal with economic or other emergencies. However, the waiver will not be easy when a future Congress is simply trying to avoid the tough choices necessary to balance the budget. Many supporters of the balanced budget amendment have suggested that in the future it might be in the Nation's interest to plan to run a reasonable surplus to ensure easier compliance with its terms and to be able to begin to pay down the debt with any surplus funds.

Another important aspect of this section is that in a year that the Congress chooses to waive the balanced budget rule, it must do so ''for a specific excess of outlays over receipts . . .'' That means that the maximum amount of deficit spending to be allowed must be clearly identified. By forcing Congress to identify and confront a particular deficit, this clause will prevent a waiver for a specific purpose, such as an economic downturn, from opening the door to a whole range of deficit-funded spending.

Another key feature of section 1 is that it requires any waiver to be by rollcall vote. A rollcall vote will be required to ensure the required three-fifths vote has been recorded so that the American people will be able to see who stood for fiscal responsibility and who for adding more debt on our children's and grandchildren's heads. The balanced budget amendment will increase accountability in Government. Gone will be the days of late-night unrecorded voice votes to spend away America's future. If there is to be a deficit, the American people will know who wanted it and why they wanted it. They can make their own judgment as to who has the right priorities.

Section 2 provides that:

> 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.

So that is pretty clear. Section 2 works in tandem with section 1 to enforce the balanced budget amendment. Section 2 focuses public attention on the magnitude of Government indebtedness.

To run a deficit, the Federal Government must borrow funds to cover its obligations. If borrowing will go beyond a previously enacted statutory limit, the balanced budget amendment will require a three-fifths vote in order to raise that limit.

This section acts as an incentive to not only balance the budget in good times, but to start paying down the existing debt that is so high now that it is mind-boggling. By doing so, Congress will provide more flexibility for itself by opening more breathing room between the actual debt and the debt limit. This is, in truth, what we should have been doing for years.

We hear so much about the recent and temporary decline in the annual deficit. It is amazing to me that some people consider a smaller increase in the debt a reason to celebrate. I do not think it is. The debt is still increasing. We must balance the budget. It is over $100 billion this year, that deficit.

We must balance the budget and stop increasing the debt at all. Indeed, our goal should be to run a surplus during prosperous times so that we can start paying down the debt and meet threats to our national security.

I wonder how a credit card company would respond if I told them that although my debt was more than three times my annual income, I overspent by less this year than I did last year. They would sure as heck cut me off, as they would any of us.

Section 3 provides:

> 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.

That is important. While this may not seem important to some people, consider how long it has been since we had a balanced budget—28 solid years now. These are all unbalanced budgets for 28 years. That is why this stack of books next to me is so high.

The President's budget does not balance this year either. He claims it will get us to balance by 2002. I hope we can work with him to do that. But without a balanced budget amendment, I fear it is not going to happen. If you look at his budget, 75 percent of the cuts are in the last 2 years, when he is out of office. So it is pretty clear to me that it is not as sincere an attempt as I would like to see it. The President understands this game. His budget, like I say, saved 75 percent of the cuts for only after he leaves office—another plan to leave it to the future and let the next guy pay the bill.

It is time for us to break our habit of deficit by default. People propose deficit spending in Washington without a second thought. I believe that by the simple action of having the President propose a budget that balances in that fiscal year, we will go a long way towards changing the debt-happy attitudes in this town and that, in turn, will help us stay in balance after we reach it.

Section 4 requires approval by a majority of the whole number of each House by a rollcall vote for any bill to increase revenue. This will provide a responsible and balanced amount of tax limitation and improve congressional accountability for revenue measures. It is important to stop borrowing, but to unduly borrow burdens hard-working Americans and would also be deleterious to the Nation and to its citizens.

Section 4 will help us to curb spending and taxing by requiring a majority of the whole Congress, not just those voting at a given time, and by forcing Members of Congress to go on record with a rollcall vote. These reforms are a crucial part of putting our fiscal house in order.

Section 5 guarantees—and I will not read it; we have been reading that—but it guarantees that Congress will retain maximum flexibility in responding to clear national security crises such as a declared war or imminent military threat to national security.

This section provides a balance between the need for flexibility to react to a military threat to the Nation and the need to keep the balanced budget amendment strong. Clearly, if the United States is involved in a declared war, the situation is serious and the waiver of the balanced budget rule should not be overly difficult. Unless clear situations, but still in instances of military conflict, the threshold is slightly higher.

In order to waive the balanced budget rule Congress must pass the waiver by a majority of the whole number of both Houses and it must become law, must

be signed by the President. This prevents the balanced budget amendment from being too easily waived.

Thus, taken together, section 5 allows the country to defend itself but also protects against a waiver that is borne more of a desire to avoid the tough choices needed to balance the budget than of military need.

Section 6 states:

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

This section makes explicit what is implicit. The Congress has a positive obligation to fashion legislation to enforce this article. Section 6 underscores Congress' continuing role in implementing the balanced budget requirement. This provision precludes any interpretation of the amendment that would result in a shift in the balance of powers among branches of Government.

We have heard from time to time claims by opponents of the balanced budget constitutional amendment that the President or the courts will become unduly involved in enforcing the amendment. This section, together with the plethora of legal precedent and documents, shows that such claims are misplaced.

This provision also gives Congress appropriate flexibility with which to fashion the implementing legislation by permitting reliance on estimates. Since obviously no one can predict the future with absolute certainty, we must rely on estimates when we plan budgets. This provision recognizes that we must rely on estimates to make the constitutional amendment workable.

Section 7 defines ''receipts,'' ''outlays.''

Section 7 defines receipts and outlays. Receipts do not include money from borrowing—it is high time we stopped thinking of borrowing as a normal source of income. Outlays do not include money used to repay debt principle. This will further encourage future Congresses to start to pay down our mammoth debt.

Perhaps more than any other section, opponents try to change this one most often. By altering the definitions of receipts and outlays they know they could tear a giant loophole in the balanced budget amendment. So they come forth with a parade of exemptions, for every interest under the sun, and each would provide those who are addicted to debt a way to get their fiscal fix. We must not allow it. The supporters of honest, fiscal responsibility should not be distracted from their goal of balancing the budget in spite of the desires to respond to all manner of sympathetic political causes.

Finally, section 8 states that the amendment will take effect in 2002 or 2 years after it is adopted, whichever is later. This will allow Congress a period to consider and adopt the necessary procedures to implement the amendment, and to begin the process of balancing the budget.

In conclusion, Mr. President, let me reiterate that the balanced budget amendment is the only way we are going to be able to balance the budget. We have tried statutes, they don't work. We have tried mustering the political will, it hasn't worked. And we have tried just letting the debt grow, that can't work. We need to end our cycle of debt with a hard and fast rule, that cannot be easily discarded when it becomes inconvenient. We need the balanced budget amendment.

Mr. President, let me respond to a few charges which have been leveled against the amendment.

Some suggest a conflict between the general requirement of balance and the allowance for a waiver.

Allowing for a waiver by vote is not inconsistent with the purpose of Senate Joint Resolution 1, which is to make it harder to borrow as a general matter, yet provide flexibility to borrow in case of need demonstrated by the appropriate consensus.

Section 6 of Senate Joint Resolution 1 provides that ''Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.'' To be sure, reliance on good faith estimates is necessary to make the balanced budget amendment workable. No budget cannot be balanced to the penny; particularly the $1.6 trillion Federal budget.

Opponents of the balanced budget amendment contend that this reliance on estimates is improper because CBO budgetary estimates are not always precisely accurate, specifically if you compare the estimates for the beginning of the fiscal year with what the actual numbers are at the end of the fiscal year. It seems to me that by definition an estimate is not necessarily going to match up to the exact figures at the end of the year. But that is no reason to stop using estimates. They are a reasonable and logical way to approach the uncertainty inherent in trying to predict the future.

The balanced budget amendment will still function smoothly even given this lack of absolute certainty at the beginning of the year. If, over the course of the fiscal year outlays exceed receipts in a way not previously anticipated, we have two choices. We can either pass a reconciliation bill to bring the budget back into balance, or, if necessary, we can waive the balanced budget rule for that year as provided for in the text of the amendment.

Further, under the Budget Act, both OMB—for the President's budget estimate—and CBO by law must provide for three budgetary estimates: one at the beginning of the fiscal year, the second as a mid-course correction, and the last before the end of the fiscal year. Thus, there exists a statutory fine-tuning process that assures a degree of accuracy—not perfect accuracy—but one that provides for workable budgetary estimates. If we see during the course of the year that our estimates are going to be off, we have time to make the necessary corrections.

I believe that reliance on estimates is both reasonable and sound. If we did not permit a reliance on estimates, I have little doubt that someone on the other side would be on the Senate floor arguing that the balanced budget amendment would be unworkable because it does not let us rely on estimates.

The bottom line is that at the beginning of the year, we have no crystal ball, only reasonable estimates to work from. The balanced budget amendment accepts that plain truth and accordingly provides for the use of estimates. We use budget estimates in Congress every day. The President just sent a budget that he claims will balance by 2002. That is an estimate. We will pass a budget resolution here in the Senate, and that will rely on estimates. The balanced budget amendment merely continues this time-honored, logical, and reasonable practice.

If the opponents of the balanced budget amendment succeed, we will be condemning our children to even higher debt, even higher taxes, and even lower wages, by any estimate. I hope that everyone in the Senate will keep that in mind as this debate continues.

The Senator raises two points that were discussed in the committee report that accompanied Senate Joint Resolution 1. While I understand the concerns, I believe that they are based on a misreading of the report.

The report allows that, ''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.'' This does not mean that the budget will be out of balance at the end of the year. It simply states that the budget need not be in perfect balance every second of the year. And there is nothing in the text of the balanced budget amendment to indicate that it should. However, the temporary condition described in the committee report must be self-correcting by the conclusion of the fiscal year, in order to avoid a three-fifths vote. I see no harm in allowing this flexibility during the course of the year.

Additionally, the report states that Congress could permit negligible deviations be made up in the next year. Again, this is not nearly as remarkable as some have made it out to be. We all know that sometimes the very last few outlays and receipts of the year are not known until after the fiscal year is over. The balanced budget amendment neither requires nor envisions that this logistical truth become a problem. In such an event, the Congress could provide itself with the flexibility to make up any negligible deficits to be made up the next year. What is crucial is that the funds must be made up, thus keeping us in balance. It simply would not make any sense to bring the Government to a halt over a 4-cent deficit.

And the balanced budget amendment does not require that we do. That is all that this statement in the committee report is saying.

Some opponents claim that the BBA is too inflexible. It has been repeatedly referred to as a ''straightjacket.'' On the other hand, we also hear that the BBA is not stringent enough. In fact, the balanced budget amendment strikes just the right balance between strict provisions to counter the strong incentives in Congress to deficit spend and the reasonable flexibility necessary for the amendment to function in the real world.

What we need to do is focus on the problem—our national debt is over $5.3 trillion and climbing. Only the balanced budget amendment will put us in a position to end that climb.

Meeting the requirements of the balanced budget will require a heightened vigilance of Congress; it will require that the Federal Government be more aware of and concerned about our borrowing and spending habits. No, it will not be as easy as simply spending and then borrowing if we did not plan well. It will require that we plan better and be better stewards over that plan. I think that is appropriate, given the importance of the problem, and of our duty.

The point has also been raised that Congress will not know precisely if we are in balance of the size of the deficit to the dollar before the end of the year. That is why we have the workable flexibility of relying on estimates, yet we will need to plan and administer the process with care.

Congress may and should shoot for a small surplus to avoid a last minute unforseen deficit, and if the estimates near the end of the year suggest we will run a deficit, we can approve a deficit at the high end of the estimates. If we approve an estimate that is slightly larger than we needed, it is not like we actually spent the money.

While some may say that relying on estimates creates a loophole, I submit that the risks of this provision are substantially less than our current process of simply spending and borrowing as a matter of course.

DEBT CEILING SUPER MAJORITY

Concerns have also been raised that under section 2 it will be too hard to get the three-fifths currently required and that a minority in Congress will be able to hold us hostage with the threat of forcing a default. For one thing, threatening default is not likely.

This Nation has never defaulted on its debt. And let me tell you, if this country ever reached a point where there were 41 Senators, nearly the entire current Democratic membership of the Senate, who were so militantly disillusioned with this Nation that they were truly willing to let us default on our debt, the 60-vote requirement to raise the debt ceiling would be the least of our problems.

Now, the opponents of the three-fifths requirement cite the budget battles of last Congress as evidence that it is sometimes difficult to raise the debt limit. But Mr. David Malpass, an expert on financial markets who testified at the Judiciary Committee's hearings, showed that those very budget battles—where the word ''default'' was being bandied about with regularity—were seen by the markets as a very positive step. Indeed, he noted that ''The U.S. bond market had a very strong rally from August 1995 through January 1996, with yields falling from 6.9 percent to 6.0 percent.'' He termed this as a very significant positive development for the economy.

Through all the tumult and uncertainty of those budget battles, American investors were excited and encouraged that Congress was finally moving towards a balanced budget. That encouragement manifested itself in lower interest rates, which in turn is the kind of market conditions that can help us balance the budget and strengthen the economy.

Mr. Malpass was prescient enough to foresee this very objection to the balanced budget amendment when he wrote:

> Financial markets are practical. [T]he threat of a default would not be taken seriously as long as both the Administration and Congress expressed the intention not to default. The requirement of a super-majority would not affect this calculation.

A step toward fiscal discipline like passing a solid balanced budget amendment would similarly be viewed positively by the markets. Enacting a weakened one, one like the proposal before us contemplates, with no real debt limit restraint, would undermine the amendment's credibility and its effectiveness.

We have a choice—we can either continue on the downward spiral of more debt, higher interest rates, higher taxes, and lower incomes, or we can move ahead with the balanced budget amendment and lower interest rates, lower taxes, with greater job growth and a stronger overall economy.

Mr. President, we already have several supermajority requirements in the Constitution. Some were in the original text, some have been added by amendment. The one thing they have in common is that they were all meant to come into play in unusual circumstances. That is what we expect of the balanced budget amendment, that the vote to raise the debt of this Nation be an unusual circumstance.

Those who believe the supermajority vote will be the rule rather than the exception betray their mental habit of thinking in terms of deficit spending. We must break this habit and make deficit spending the exception instead of the rule. The balanced budget amendment does not require a supermajority to pass a budget—only a budget that is out of balance. The balanced budget amendment creates a positive incentive for current majorities to avoid borrowing to avoid supermajority votes and risking the kind of intrigue opponents say could happen when supermajorities are required. This is wholly appropriate and reasonable to break Congress of its borrowing habit.

The debt ceiling has sometimes been raised by supermajorities and often it has been raised by simple majorities. What is important is that we have never defaulted. When we have had to have the votes, the necessary votes have always been there. When votes are tallied, it is easy for Members to vote against raising the debt ceiling, knowing that the ceiling will be raised. I expect when we are living under the balanced budget amendment, once again, the necessary votes will be there, but not many more than necessary, because Members may wish to vote against it knowing the necessary votes are there.

Let me conclude with some comments on the objections to supermajorities in Senate Joint Resolution 1.

According to Prof. Harvey Mansfield, Jr. of Harvard, in his scholarly book ''The Taming of the Prince,'' the real genius of our Constitution is that having placed all power in the hands of its citizenry, the American people consented to restraints on that power. Understanding that direct or pure democracies in history were inherently unstable and fickle, the Framers placed restraints on popular rule and congressional power—what we now call supermajority requirements.

Let me mention some of them: Article I, section 3, the Senate may convict on an impeachment with a two-thirds vote; article I, section 5, each House may expel a Member with a two-thirds vote; article I, section 7, a Presidential veto is overridden by a two-thirds vote of each House; article II, section 2, the Senate advises and consents to treaties with a two-thirds vote; article V, a constitutional amendment requires two-thirds of each House or a constitutional convention can be called by two-thirds of the State legislatures, and three-quarters of the State legislatures must ratify; article VII, the Constitution itself required ratification of 9 of the 13 States; the 12th amendment requires a quorum of two-thirds of the States in the House to choose a President and a majority of States is required to elect the President, the same requirements exist for the Senate choosing the Vice-President; the 25th amendment, dealing with the President's competency and removal, requires that if Congress is not in session within 21 days after Congress is required to assemble, it must determine by two-thirds vote of both Houses that the President is unable to discharge the duties of his office.

The Constitution requires that a supermajority approve a constitutional amendment. To pass the balanced budget amendment, we must have 67 Senators vote for it. Is this inappropriate? Or should we allow some number between 26 and 51, or 50 with the Vice-

President casting the tie-breaking vote to approve the balanced budget amendment? The Constitution requires that three fourths of the States ratify the balanced budget amendment. Perhaps our majoritarian friends would prefer that some number of States between 26 and 51 ratify the amendment, with the District of Columbia, Puerto Rico, or Guam casting a tie-breaking vote if the States are evenly divided.

Mr. President, if majority rule were the fundamental principle of our Government, as I have heard some in this debate say, we would not have the Government we do. We would have a unicameral parliamentary system without judicial review, and indeed without the Bill of Rights or a written Constitution, because each of those features of our Government is an intrusion into the principle of majority rule. And they are certainly not the only examples.

The first amendment does not say Congress shall not abridge free speech unless a fletting majority wants to. It does not say that Congress shall not interfere with the free exercise of religion or establish a religion, unless a majority of those present and voting want to. The first amendment takes those options away from even supermajorities of Congress, except through constitutional amendment. Shall we tear up the Bill of Rights and the Constitution because they contain checks on the power of transient majorities? I do not think so.

As I have said, as Thomas Jefferson said, as even Professor Tribe has said, the power of transient majorities to saddle minorities or future majorities with debt is the kind of infringement on fundamental rights that deserves constitutional protection. The Framers wished to protect life, liberty, and property; they reacted harshly against taxation without representation. As I have pointed out throughout this debate, our deficit spending taxes generations which are not now represented; it takes their property and their economic liberty. It is wholly appropriate that we at least increase the consensus of those currently represented to allow them to shackle those who are not—future generations—with the debt, the taxes, and the economic servitude that go with citizenship in a country with high national debt.

Mr. President, opponents of the balanced budget amendment charge that supermajority requirements will create some new kind of sinister bargaining among factions to gain advantage in return for supporting the necessary consensus. This objection strikes me as strange because that kind of negotiation is as old as the legislative process. It happens now in the search for a majority.

Mr. President, under the balanced budget amendment, majorities will continue to set budget priorities from year to year. Only if the majority attempts to borrow money from future generations to pay for its priorities would there have to be a supermajority vote. This allows a minority to play the conscience of the Nation and protect future generations from the type of borrowing sprees we have seen in recent decades.

I would note, Mr. President, that those who believe the supermajority vote will be the rule rather than the exception betray their mental habit of thinking in terms of deficit spending. We must break this habit and make deficit spending the exception instead of the rule. The balanced budget amendment does not require a supermajority to pass a budget—only a budget that is out of balance. The balanced budget amendment creates a positive incentive for current majorities to avoid borrowing to avoid supermajority votes and risking the kind of intrigue opponents say could happen when supermajorities are required. This is wholly appropriate and reasonable to break Congress of its borrowing habit.

Mr. President, it is absolutely clear that to restore the constitutional concept of limited government and its protection of liberty—as well as to restore fiscal and economic sanity—we must pass this balanced budget amendment. We need the supermajority provisions of Senate Joint Resolution 1—a modern day ''auxiliary precaution'' in Madison's words—to put teeth into the balanced budget amendment—to be a force to end business as usual here in Congress—and most important, to foster the liberty of limited government that the Framers believed to be essential.

Mr. BYRD. Mr. President, would the Senator yield for a question?

Mr. HATCH. I would on the Senator's time. I think our time is running down. I know some others want to speak. I would be happy to yield.

Mr. BYRD. How much time do I have?

Mr. HATCH. Mr. President, how much time is remaining for both sides?

The PRESIDING OFFICER. Forty-three minutes for Senator HATCH and 40 minutes for Senator DODD.

Mr. HATCH. I will yield on that basis, that this——

Mr. BYRD. Be attributed to the Democratic side.

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

Mr. BYRD. He might prefer to finish before entertaining questions——

Mr. HATCH. I would like to. Listen, my friend from West Virginia, I am happy to accommodate him any time I can. I know how sincere he is. I know the efforts that he put forth this morning in making his eloquent statement. I am happy to yield, if he desires me to, at this time.

Mr. BYRD. Is the Senator undertaking to——

Mr. HATCH. Under those circumstances.

Mr. BYRD. Is the Senator addressing the concerns I expressed this morning, as I went down the amendment section by section, or is he merely reading the various sections?

Mr. HATCH. I am undertaking to explain some of them. I believe that I will do so some more tomorrow or when we get back from recess. But I am making an effort to do some explanation here today. And, hopefully, I am explaining away some of the difficulties that the distinguished Senator has raised.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. I will say that I will make more specific responses later.

Mr. BYRD. Would the Senator explain to me why the Judiciary Committee, in its analysis of section 6, took the pains to explain that '''estimates,''' for example, ''means good faith, responsible, and reasonable estimates made with honest intent to implement section 1,'' without also indicating in the committee report the definition of what is meant by ''good faith,'' what is meant by the word ''responsible,'' what is meant by the word ''reasonable'' in connection with the word ''estimates''?

Mr. HATCH. I believe any reasonable interpretation of section 6 knows that there is no way—and the distinguished Senator was right when he made the comment earlier in the day—that there is no way of absolutely being accurate on estimates. We have to do the best we can to estimate the outlays and receipts at the beginning or at some time during each year for the next succeeding year. There is just no question about it, because there is no way we can absolutely predict what will happen in the future. But I think through implementing legislation we can resolve the budgetary problems with regard to estimating outlays and receipts in a way that would be workable. And we would have to do so under this amendment.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. Under the same terms I would, on the Senator's time.

Mr. BYRD. May I ask the distinguished Senator, who is going to be the judge of whether an estimate has been rendered in good faith, whether it is a responsible estimate, or whether there is a reasonable estimate?

Mr. HATCH. I think the terms of the committee report should be given the ordinary dictionary meaning. I think that is the way we would have to do it. But Members of Congress would be responsible. Members would define them.

Mr. BYRD. Members of the Congress will be the judge as to whether an estimate is responsible?

Mr. HATCH. We are today, of all of the estimates. We will have to be.

Mr. BYRD. If the Senator will allow me to use a chart, this chart shows the estimated revenues annually from 1980 to 1996. If the Senator will notice, in each of these years, keeping in mind that the green line means that the estimate was right on target——

Mr. HATCH. Or above target?

Mr. BYRD. No. The green line means the estimate was, indeed, right on target. It was not above or below the line. It was not too high. It was not too low.

Would the Senator agree with me that based on this chart, in every year from 1980 to 1996, the estimate was wrong? It was off. It was not correct. In some years the revenues were more than estimated and in some years they were less than estimated. The point of the chart being to show that the estimates have never been absolutely correct. In many instances they have varied; in one instance here, $78 billion. The estimate was off $78 billion. In another instance, the estimate was off $65 billion.

This is the record. This is not a Member's estimate here of what should have been in each of those particular years. This is the record. These bars indicate what went wrong, by how much the estimate was off for each year. Would the Senator tend to believe that in the future the estimates are going to be better than they have been on this chart, which represents 17 years of experience?

Mr. HATCH. Let me answer the first question. Here are 28 years of similar inaccurate estimates. Wait, wait, let me make my point. Here are 28 years of missed estimates. We have been wrong every time in 28 years and we have been wrong because these are all unbalanced budgets.

I agree with the Senator on the second question. Yes, from 1980 to 1996 we have been wrong every time on estimates. On a couple of occasions not very wrong, but during all of that period, the whole 28 years since 1968 and during all of the period between 1980 and 1996 we did not function pursuant to a balanced budget amendment.

Mr. BYRD. What makes the Senator believe——

Mr. HATCH. If I could finish my remarks.

Under the Budget Act, CBO and OMB give estimates each year. CBO is the Congressional Budget Office; OMB is the Office of Management and Budget. They correct the estimates twice during the year as they acquire new data. Congress ultimately has to decide how you balance the differences.

Now, we should plan to get above balance, as the usual course. Most years we should try to stay above balance with regard to estimates and try to stay on the course by amended estimates through the year. That is what we will have to do. I think the implementing legislation will do that.

Let me make another comment, and I will turn back to my dear colleague. Meeting the requirements of the balanced budget amendment will require a heightened vigilance of Congress. It is apparent it will make us get tough on budgets. During those years we had five different statutory balanced budget approaches that led us to that morass and this morass. What we are saying is that the balanced budget amendment will require us to have a heightened vigilance in the Congress. It will require that the Federal Government be more aware of and concerned about borrowing and spending habits. No, it will not be as easy as simply spending and then borrowing if we do not plan. It will require that we plan better and that we use better standards in that planning. I think it is appropriate, given the importance of this problem and the duty we owe to our country.

Now, I think what I am saying is, I agree with my colleague. He makes a very compelling point here that we have not been very accurate in estimating receipts, in estimating outlays and receipts through the 16 years, although I say through 28 years, or 58 of the last 66 years, we have run unbalanced budgets. One reason is we have relied on statutory schemes that have been circumvented in every one of those years, none of which have really worked. The distinguished Senator, by the way, to his credit, pointed out that some of those statutory schemes at the time would not work. I believe some of the rest of us felt that way as well.

What we are saying is from 1997 on, or whenever this amendment is ratified and becomes law and part of the Constitution, by the year 2002 on, and really before that if we can get it ratified before then, we are going to no longer have the luxury of these inaccurate estimates. We will have to do a better job. We will have to be more vigilant. We are going to have to heighten that vigilance, and we will have to meet the requirement of a balanced budget or face the music of having to stand up and vote for higher deficits or more spending by supermajority votes.

I think comparing this time and saying, because we have been inaccurate during times when statutory methods have not worked, with post-balanced-budget-amendment-enactment times where we will have to be more vigilant and we will have to come up with a way of being accurate during the year—right, OMB and CBO now only check that twice. We are going to have to do a much better job.

Now, can we be absolutely accurate? Everybody knows we cannot.

Mr. BYRD. That is the point.

Mr. HATCH. There is no way you can. I do not want to keep going with this system and then this system when we have an alternative that really would put some fiscal discipline in the Constitution that makes us get serious.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. I yield under the same set of circumstances.

Mr. BYRD. The Senator does not want to continue with this system. He refers to this system as a statutory system. And yet—and yet—the amendment itself tells us who will enforce this amendment once it is in the Constitution.

I will read it from section 6:

> The Congress shall enforce and implement this article by appropriate legislation.

So we are going to continue to enforce it. We are going to continue to operate under a statutory system. That is what I am saying. We have been operating under a statutory system. This amendment says we will continue to operate under a statutory system because it says that the Congress will enforce this amendment by appropriate legislation.

What makes the Senator feel that under the new statutory system, that the estimates will be any better than they have been under the old statutory system when both systems are going to be the work of the Congress?

Mr. HATCH. You mean under the new constitutional system if this becomes——

Mr. BYRD. There will not be any different system because the Congress itself will enforce that amendment by appropriate legislation.

Mr. HATCH. Let me answer that question. You have raised a point that Congress will not know precisely if we are in balance or a deficit to the exact dollar before the end of each year. That is why we have the workable flexibility of relying on estimates. Yet we will need a plan to administer that process with care.

Now, Congress may, and I think this would become the norm, instead of now just planning on deficits, Congress may and should plan for a small surplus to avoid a last-minute, unforeseen deficit. If the estimates near the end of the year suggest we will run a deficit, we can approve a deficit at the high end of the estimates. If we approve an estimate that is slightly larger than is needed, it is not like actually spending the money. While some may say relying on estimates creates a loophole, I submit that the risks are substantially less than our current process of spending and borrowing, and that is exhibited by these 28 years of unbalanced budgets. That has been the matter of course. I think we have to change course, and I think the normalcy—I think the distinguished Senator from West Virginia, if I know him as well as I think I do, would be leading the fight to have at least small surpluses each year to take care of any fluctuations that might occur. I don't think he would permit us to get into this mess, which neither he nor I have been able to prevent under the current statutory scheme. But under a balanced budget amendment, we are going to have to be real.

Mr. BYRD. This is not going to be real—section 6. It is not real. It talks about estimates. Now we are going to switch from section 1, which says total outlays shall not exceed total receipts in any fiscal year. In the first place, how do we know whether the outlays have exceeded the receipts before the end of the fiscal year, or even two or three weeks subsequent to the end of the fiscal year? That is number one. Number two, then, we switch to estimates. Why do you proponents of the amendment purport to do two things—one, in the first section, balance outlays with receipts—no ifs, ands, or buts—to the exact dollar. But in section 6, they say, well, just forget about section 1 and balance the estimates. We have all seen how the estimates run.

The estimating is going to be done by the very same people, under the amendment, as have been doing the estimating prior to the adoption of the amendment.

The proponents are promising, absolutely pledging to the people of the United States, that this amendment will balance the budget. That is what they are promising. The Senator just said that. We cannot possibly get the estimates right. The Senator just said that. We can't possibly get the estimates right.

Well, then, may I ask the Senator, are we not misleading the American people with these elaborate claims that we are going to balance the budget when what we are really going to balance is the estimates? Then the Senator admits that we can't be accurate in these estimates. We never have been, and we never will be. There won't be any computers made that will come up with the correct estimates.

Mr. HATCH. This amendment does not mandate a balanced budget as the only option. This amendment requires us to move toward a balanced budgets, because it requires a balanced budget or supermajority votes if we are going to run deficits. So the pressures——

Mr. BYRD. Will the Senator yield on that?

Mr. HATCH. If I could be allowed to finish. So the pressures will be on us to try to have surpluses rather than continue to spend, because sooner or later we have to face the music. Let me make this point. The accuracy of estimates is self-correcting, because OMB and CBO must, by law, correct their estimates twice a year, under current practices. Usually, the original estimates are always off by OMB and CBO. Under the current system, there is not nearly as much pressure to be accurate as there will be under the constitutional amendment system, if we pass this by the requisite two-thirds vote of both Houses and it is ratified by three-quarters of the States. So what if CBO and OMB correct it? The balanced budget amendment does nothing to correct that procedure. It puts pressure on them to, maybe, do more than twice a year corrections.

The balanced budget amendment actually will further budgetary discipline. Congress is the one that must always enforce the system. Every one of us take an oath to uphold the Constitution. If this becomes part of the Constitution, we will have to live up to that oath. We will have to devise a system that really does it. We will still operate under a statutory system of implementing the constitutional rule. We can't order perfection; not even we can order perfection. But the balanced budget amendment will put the appropriate amount of pressure on Congress, which is not there now, as easily can be seen by the Senator's very important chart. It will put the pressure on Congress to ensure truthfulness.

Public reactions will punish those who act cowardly. Everybody will know because we will always have to vote. We can't do it on voice votes anymore, or hide it in the dead of the night, which I know Senator BYRD understands well and does not approve of, as I don't. We would all have to stand up and vote, and the public will know who has voted which way. They are going to expect us to do a far better job than that which has done and than these 28 years of unbalanced budgets.

Let us be honest. There is no way anybody can absolutely, accurately tell what the outlays and receipts are going to be in advance. When we say ''total outlays of any fiscal year shall not exceed,'' it has to be written that way because that is the force that says, Congress, your estimates better be good, a lot better than these statutory estimates we have had in the past, because then we will be under a constraint to balance the budget, or vote by a supermajority vote not to balance it. That is the difference.

Mr. BYRD. If the Senator will yield, Mr. President, permit me to say that I have the utmost admiration for the distinguished Senator from Utah.

Mr. HATCH. And vice versa.

Mr. BYRD. I marvel at his equanimity, his characteristic, and his never-failing courtesy. This is the way he has always been with me. But I must say that, notwithstanding that, I am amazed to hear the distinguished Senator stand on the floor this afternoon and admit that this amendment doesn't require a balanced budget.

Mr. HATCH. It doesn't—it's not the only option.

Mr. BYRD. What about that, he said it again. It doesn't.

Mr. HATCH. It doesn't. We can do whatever we want to. We just have to vote to have an unbalanced budget by the required supermajority or margin.

Mr. BYRD. What about all the Senators coming to the floor and saying the sky is falling, debt is bad, interest on the debt is bad, deficits are bad, and we have to do something about it and take the burden off our children, and vote for a balanced budget amendment?

The Senator has been perfectly honest. He says this amendment doesn't require a balanced budget. Well, let's quit saying, then, that it requires a balanced budget. He is saying that the estimates here are wrong. He may be implying that the people who make the estimates, once the constitutional amendment is adopted, will have greater expertise than those, who are the best in the world right now, who made these estimates.

Mr. HATCH. Will the Senator yield on that point?

Mr. BYRD. The Senator has the floor, so I am glad to.

Mr. HATCH. I appreciate that, to make a comment. I believe there is no question that they would do a better job, because there won't be the same number of games played on budget matters if everybody knows that we have the constraint of either balancing the budget, or voting on a supermajority not to balance it. We all have to face our electorate. Right now, we do a lot of these things for by voice votes and other shenanigans that help to cause these things. When I say ''we,'' I would rather say ''they,'' because I try not to, and I know the Senator tries not to. But it's apparent in that our current system isn't working. I think your chart makes one of the best arguments for the balanced budget amendment of any chart we have had up here in this whole debate, because it shows that what we are doing right now, and what we have done for 28 solid years, doesn't work.

Mr. BYRD. Well then, why are we going to wait 5 years to do something better if the Senator has something better?

Mr. HATCH. We are not. If we pass this through the Senate—hopefully, within the next week or so—by the requisite two-thirds vote, and it passes through the House by the requisite two-thirds vote, that is a notice to everybody in these two bodies that we better start hustling to get a real balanced budget by 2002, where all of us know that the only part of the President's budget that really counts is next year's budget.

It is not the budget as extrapolated out to 2002, especially since 75 percent of it is balanced in the last 2 years after he leaves office. No, it is this next year, and each year thereafter. If we passed this and it is submitted to the States, I can't predict what the States would do. I believe they would ratify this amendment if we have the guts to pass it through both Houses of Congress. And if they ratify this amendment, then, by gosh, I have to tell you that I think the game will be over. We will not be able to do this anymore. There will have to be rollcall votes under the same terms.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. Certainly.

Mr. BYRD. Mr. President, the Senator speaks of guts. It doesn't take guts to vote for this thing. It takes guts to vote against it.

Mr. HATCH. I think it takes guts both ways.

Mr. BYRD. It takes guts to vote against it because the great majority of the American people have been bamboozled about this amendment. They support this, and they are very much in favor of it. So it takes guts to vote against it.

Why does the distinguished Senator think, No. 1, that we are going to be any better at our estimates once this amendment is adopted than we have been in the past? That is No. 1.

Then he talks about—he said something to the effect that once we get this amendment in place, as I understood he was saying to the effect that we will not be able to find ways around it, or some such.

Mr. HATCH. We will not be able to get around these things with voice votes. We will have to stand up and vote by rollcall.

Mr. BYRD. We can vote now by rollcall vote.

Mr. HATCH. But we don't, and there is nothing that requires us to do so, necessarily.

Mr. BYRD. Except the Constitution, if one-fifth indicate that they want to vote. That doesn't happen often. That is very seldom on raising the debt limit. That is very seldom on passing the final budget here.

Mr. HATCH. Let me answer the distinguished Senator's question. It is a good question.

The reason that I think we will be more accurate afterwards is because the incentives will switch. The incentives will switch because unless we balance the budget year after year and start working toward surpluses and not working on deficits, we are going to be in real trouble constitutionally, and we all know that. There will no longer be the game that occurred during the 1980 and 1996 years, as shown by the Senator's very interesting chart. I think that makes one of the best cases I have ever seen for the balanced budget amendment, because the current system is not working.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. Always.

Mr. BYRD. I think the committee report language that was prepared by the committee, of which the distinguished Senator from Utah is chairman, makes one of the best cases against this amendment. He says there won't be any more games played. Take a look at this report. It tells you what games to play.

Let me read it. Talking about the estimates of outlays and receipts, it says, ''Estimates means good faith, responsible, and reasonable estimates made with honest intent to implement section 1, and not evade it. This provision gives Congress an appropriate degree of flexibility.''

We have got more and more ways to play games.

It ''gives Congress an appropriate degree of flexibility in fashioning necessary implementing legislation. For example, Congress could use estimates of receipts or outlays at the beginning of the fiscal year to determine what the balanced budget requirement of section 1 would be so long as the estimates are reasonable and made in good faith.''

Now we are going to play games about who is reasonable, what is reasonable, and what isn't.

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

Will the distinguished Senator indicate to me what would be considered ''negligible,'' what would be considered ''small,'' and what would be considered ''not small,'' and ''not negligible''? We have a budget now of $1.7 trillion. Let us say it is off by $50 billion. Would that be ''negligible''? Would that be ''small,'' $50 billion?

Mr. HATCH. I think the Senator is very logical. But he also has to allow the logic to take into account that Congress may, as I said before, and should shoot for a small surplus—the incentives will be to have surpluses to avoid a last-minute unforeseen deficit. And if the estimates near the end of the year suggest that we are going to run a deficit, then it would be a simple matter for us to approve a deficit at the high end of the estimates. If we approve an estimated deficit that is slightly larger than we need, it is not like we actually spent the money.

Again, I will say some may say that relying on estimates creates a loophole. But there is no other workable way to do it. I submit that the risks that might arise from those provisions in the constitutional amendment are substantially less than our current process, which is clearly not working, of simply spending and borrowing with no restraints whatsoever.

I go back to my point. The distinguished Senator may be right in this regard. Perhaps Senators should not come out here and say, ''This is going to always make us balance the budget.'' I think, more accurately, it should be said that the incentives will be toward balancing the budget, because you will have supermajority votes of three-fifths in order to run deficits, or you will have to have constitutional majorities to increase taxes, which means at least 51 Senators would have to vote for it, and at least 218 Members of the House. That puts pressure on Members of both parties to be accurate, and it puts pressure on them to try to get surpluses rather than deficits. It puts pressure on them in writing implementing legislation to make sure you have legislation that really does work rather than the five failed plans that we have had since 1978, none of which have worked. My friend and colleague knows that. I don't know of anybody more intelligent and more concerned about these matters than the distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. If I could just finish this one sentence, but I have to say that his chart makes my case better than I have made it. I congratulate him for it, and I am grateful that he has put the chart up, because I don't know how anybody can argue for the current system when you look at that chart.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. Of course.

Mr. BYRD. Let's take a look at this chart. The green line, the horizontal line, means that the estimated revenues were right on target. They were not overestimated. They were not underestimated. The revenues were exactly estimated to be exactly on target.

Note the chart which the Senator says makes his case. The chart says that in only one year, 1987, did the estimates even come close to being on target. They were off just $2 billion. So the chart makes my case.

The committee says you can do it by estimates. ''Estimates of outlays shall not exceed estimates of receipts in any given fiscal year.'' The chart shows that you cannot depend upon the estimates, that the people who have the most expertise of any in the world cannot be accurate in their estimates. Why? Because we cannot foresee what the unemployment rate is going to be, we cannot foresee what the rate of national economic growth is going to be, and we cannot see what interest rates are going to be in a year or more down the road. That is why people cannot be accurate in their estimates.

So this committee language makes my case—makes my case when it turns to the use of words like ''estimates,'' and then defines the word ''estimates'' as meaning ''good faith, responsible, and reasonable estimates made with honest intent to implement section 1.''

Let me ask the question of my dear friend, who will be making up these estimates?

The Congress will make the estimates. The Congress will enforce the amendment. So what assurance is there that the Congress is going to make estimates that are correct?

What encouragement does that give to the American people to believe that this amendment, which the distinguished Senator from Utah says does not say we are going to balance the budget, what assurance can the American people have when it is even worse than that by saying that the estimates of outlays will not exceed the estimate of receipts?

Mr. HATCH. Frankly, I think if you have the incentives to produce more accurate estimates of receipts and outlays, there will be an incentive to have the top line have the bars going up every time, where right now we do not have that incentive. We have every incentive to just spend today. There is no restraint on spending whatsoever. The balanced budget amendment would not mandate that you balance the budget if a supermajority is willing to vote not to, but it does change the incentive so that literally you will not want to go into deficit because sooner or later you are going to have to pay the piper under that amendment. Again, I think the Senator's chart makes my case.

Mr. BYRD. What makes the Senator——

Mr. HATCH. I do not think I need the Senator's chart to make the case that our country is in trouble, that we are not doing what is right, that we are continuing to spend us into bankruptcy. And even though there are arguments made that we are only going to have a $107 billion deficit in 1997, that is still a deficit of over $100 billion.

Mr. BYRD. Mr. President, if the Senator will yield, what makes the distinguished Senator believe, when we have a constitutional amendment, Senators are going to have any more backbone than they have now?

Mr. HATCH. Because I believe Senators will live up to the constitutional mandate and the oath of office that they take to do what is right, where at this particular point there is no constitutional mandate to live within budgetary constraints, and it is apparent.

Mr. BYRD. They did not live up to it last year.

Mr. HATCH. Well, there was not——

Mr. BYRD. When they voted for the conference report on the line-item veto. They voted to shift the power of the purse away from the legislative branch to the executive. What makes the Senator believe that they will live up to the Constitution anymore nearly and dearly once this language is in it?

Mr. HATCH. Although I tend to share the Senator's view on the line-item veto, I think the Senator would have to admit there is a question whether that is going to be judged constitutional or not. If we pass a balanced budget amendment, it will become an official part of the Constitution, which is a considerably different situation.

Mr. BYRD. Will Senators be more inclined to vote to increase taxes once this is part of the Constitution than they are now?

Mr. HATCH. Senator Simon thinks so. One reason why he——

Mr. BYRD. Mr. Simon isn't a Senator anymore.

Mr. HATCH. I understand. What Senator Simon argued last year as the leading proponent of this amendment was that he felt there would be a greater propensity to increase taxes to solve these problems. I have to say that I do not believe that is so, but that is what he felt. I do not think that is so. I think it would be very difficult to get constitutional majorities to increase taxes except where they are clearly needed to be increased, and that is why we put in a constitutional majority. Now, it is no secret, and my friend knows this, that there are those on my side who do not think that is adequate.

Mr. BYRD. Do not think what?

Mr. HATCH. Do not think that is adequate. They want a three-fifths majority before you can increase taxes. But the reason we have a constitutional majority is because my friends on the Democratic side would not agree with the three-fifths majority.

Mr. BYRD. Would not what?

Mr. HATCH. Would not agree that it should be a three-fifths majority to increase taxes. I happen to believe that this has to be a bipartisan amendment. It is even though there are, as a percentage, less Democrats supporting it than Republicans. But Democrats have helped to formulate this amendment, and I have to give credit to those who are standing here with us. I think they have guts to stand up under the circumstances and vote for this amendment, as they should.

Now, that does not mean that those who vote against it do not have guts, too, because there is a price that will be paid for voting against this amendment. We all understand that. And let me just say this. I happen to believe that the distinguished Senator from West Virginia has never lacked intestinal fortitude. In fact, I have been through a lot of experiences here that prove that as a matter of fact to me. I could not have more respect for anybody than I do for him as a U.S. Senator.

But again, I think he makes our case. I think these 28 unbalanced budget volumes make our case. I think it is apparent our system is not working. I think if we keep going this way, our children and grandchildren's futures are gone. I know the distinguished Senator is a great family man. I know that he loves his children and grandchildren, as I do mine. We are expecting our 16th and 17th grandchildren within 2 weeks, Elaine and I. I want them to have a future as we have had. But right now with what is happening in accordance with the chart of the distinguished Senator from West Virginia, it is pretty apparent their future is being bartered away because we are unwilling to make the tough choices. I would lots rather have the balanced budget amendment helping us to estimate receipts and outlays than to have this system estimate them, I will tell you that right now. And it is a better system to have a balanced budget amendment.

Mr. BYRD. Well, the Senator is very disarming when he talks about how I love my family and my children and grandchildren.

Mr. HATCH. You do.

Mr. BYRD. He is correct about it. But he still has not answered my question as to why the committee and the proponents of the amendment felt after saying in section 1 that total outlays shall not exceed total receipts in any fiscal year, which is pretty straightforward language, which says that the budget has to be balanced every year, it says that the budget has to be balanced every year, why do we take an approach which says, on the one hand, the budget must be balanced—and that is what I have been hearing from the speakers who are proponents of this legislation—why did they say in the first section that the budget will have to be balanced every year and then in section 6 say, as it were, ''Well, you do not really have to believe that first section? We are not going to hold you to it. We know it will be difficult, if not impossible some years, to hold you to that. So we are not going to require you to equal the outlays with the receipts. But what we are going to do is this. We are going to let you get by by just balancing the estimates.''

Who makes the estimates? Cannot the estimates be cooked? The administration cooked the numbers when they were sending up budgets in the early part of the Reagan administration. They cooked the numbers. These numbers can be cooked once this constitutional amendment becomes a part of the Constitution. They can be cooked. The estimates can be cooked. When can the American people believe us and believe that we mean what we say?

That is all I have been saying here. I have been saying that we do not mean what we say in this amendment. We do not mean what we say in section 1. So what are the American people to believe?

I compliment the distinguished Senator for coming to the floor. He is a man after my own kidney, as Shakespeare would say. He is a man after my kidney. He came to the floor. And I had suggested that someone should come and give us an analysis of these sections and explain how they are going to work and what are we expected to do to make them work.

Well, he came to the floor, and he has been reading the sections of the amendment one by one, which was not exactly what I asked for. I do not have any more faith in the amendment now than I had to begin with. I can read the sections.

I read the sections a number of times. And the distinguished Senator has prepared a chart here so that we can read them over and over again. I want somebody to explain to me how they will work and what is there about that amendment that can assure those people who are looking through the electronic eye that this budget is going to be balanced if this amendment is adopted—the budget is going to be balanced.

Mr. HATCH. Well, I have to ask the distinguished Senator from West Virginia, if this balanced budget amendment passes, as much as he wishes that it would not, and it is ratified by the States, would the Senator from West Virginia, once it is placed in the Constitution, not do his level best to comply with the constitutional requirement, if the amendment is adopted, to meet these estimates that are in there, as he suggested that I would do my duty under the Constitution? I think what I am saying is this: Both charts that the Senator has put up, show that the current system is not working.

Mr. BYRD. Is the Senator—

Mr. HATCH. The reason I point out the current system is not working is because there are not the same pressures to make it work that there would be under a balanced budget amendment.

Second, if we have these wild fluctuations under the balanced budget amendment, there is going to be an awful lot of heck to pay to our voting populace, because they are going to hold us responsible for these wild fluctuations.

Mr. BYRD. You bet they are. They are going to hold you responsible.

Mr. HATCH. They are not doing it now because they do not know who is

responsible for them. If we have to stand up and vote and make supermajority votes to spend and borrow more, then they will know who is doing it to them. If we have to make a constitutional majority to increase taxes, they will know who is doing it to them.

I have to say, if we do not, as a congressional body, have our CBO do better numbers, and the OMB as the executive body do better numbers, then there are going to be changes that will get them to where they have to do better numbers.

Will they always be accurate? There is no way we will always be completely and absolutely accurate.

Mr. BYRD. I have a couple of things to say to what the Senator has said, Mr. President, if the Senator will yield?

Mr. HATCH. Sure, under the same circumstances.

Mr. BYRD. Is he asking me whether or not I will do everything I can, everything in my power, to help to balance the budget? Was that the force of his question?

Mr. HATCH. I am sorry, I missed the question. Excuse me.

Mr. BYRD. Was he asking me that, if this amendment becomes a part of the Constitution, will the Senator from West Virginia do everything he can do to help to balance the budget and get the deficit down? Is that what he was asking me?

Mr. HATCH. Well, let me put it this way. I don't have to ask that question. I know the distinguished Senator from West Virginia would. But I asked it rhetorically because I know that the distinguished Senator from West Virginia would do all in his power to live up to the Constitution, even though he disagreed with the provision of it, once it is part of the Constitution. As would I.

And, frankly, I think that he is not alone. I think there are as many as 535 others in Congress who would, likewise, try to live up to the constitutional amendment.

Mr. BYRD. Mr. President, will the Senator yield and let me answer his question?

Mr. HATCH. Sure. I will be happy to.

Mr. BYRD. I have proved that I will do everything I can to balance the budget. But not only this Senator. They are standing in rows on this side of the aisle.

In 1993, they voted to lower the deficits by almost $500 billion. Working with the President, we had a package to reduce the deficits. I voted for that package. The Senator from Connecticut voted for that package. Many other Senators on this side of the aisle voted for that package. Not one—not one—Senator on the other side voted for that package, to bring down the deficits.

So we do not need a constitutional amendment. We just need the courage to vote for it. I do not know what there is in this constitutional amendment that will give us any more courage and backbone than we already have. I do not know how many will figure that out.

Mr. HATCH. Let me just respond to that. Even, in spite of the reductions in deficit that have occurred over the last 4 years after the enactment of one of the largest tax increases in history—some on our side say the largest tax increase in history; it is debatable, but it is one of the two largest tax increases in history, both of which, I think, were motivated by Members on the other side of the aisle—we are still in hundred-plus billion dollar deficits, going up to $188 billion and on up beyond that by the year 2002.

The fact of the matter is, if it was up to the distinguished Senator from West Virginia and the Senator from Utah, we would have the will.

Mr. BYRD. If it were up to the Senator from West Virginia, we would not have any tax cuts this year.

Mr. HATCH. I was saying, if it was up to the Senator from West Virginia and the Senator from Utah, I believe we would have the will to do what is right.

Mr. BYRD. Would the Senator vote with me to increase taxes?

Mr. HATCH. Let me just finish. But the problem is, it is not up to just the two of us. It has been up to everybody in Congress for 28 years of unbalanced budgets. I know that people do not like these two stacks because they are embarrassing. It is embarrassing to me to have to point to these and say for the 21 years I have been here, these have been unbalanced. For all of those 21 years I fought for a balanced budget amendment. But I have to say, we do not have the will. It is apparent and we are not going to have the will unless we do something about it constitutionally, where everybody will have to face the music.

Right now they do not. And where some on our side love more defense spending and some of the Democrat side love more social spending in ways that may be irresponsible, under the balanced budget amendment I think we are going to all have to be more responsible.

I just wish—this is an erstwhile wish, I understand—but I wish my colleague from West Virginia were on our side on this, because I think it would be a much easier amendment to pass.

But I understand why he is not, and I know how sincere he is. But, like Paul of old—

Mr. BYRD. Like who?

Mr. HATCH. Like Paul of old, who held the coats—

Mr. BYRD. A great Apostle.

Mr. HATCH. The man who held the coats of the men who stoned the first Christian martyr, he is sincerely wrong.

Mr. BYRD. Paul was?

Mr. HATCH. Paul was, yes, for holding the coats of those who stoned the first Christian martyr, Stephen. Paul was sincere. He meant what he said. He really was sincere. But he was wrong.

Mr. BYRD. Mr. President, we are getting off the track.

Mr. HATCH. I don't think so. Sometimes going back in history is a very good thing to do.

Mr. BYRD. Mr. President, the Senator from Utah wishes I were on his side?

Mr. HATCH. I do. I would feel much better.

Mr. BYRD. I am on the Constitution's side.

Mr. HATCH. So am I.

Mr. BYRD. I am on the Constitution's side. And I do not want to see that Constitution prostituted by an amendment that is nothing more than a bookkeeping manual on accounting principles. It has no place in the Constitution. It is not going to give this Senator or any other Senator any more backbone than the good Lord gave to me in the beginning to stand up and vote the tough votes.

I do not want to see the faith of the American people in this book—forget the stack of books there, ever so high. This is the book. I do not want to see the faith of the American people in this Constitution undermined. And it is going to be undermined when we write that language into it and the budgets do not balance.

Let me at least thank the Senator for being honest to the point that he says that this amendment is not going to balance the budget.

Mr. HATCH. No, I didn't say that. I said the amendment does not mandate a balanced budget. I think this amendment will lead us to a balanced budget.

Mr. BYRD. It does not mandate it.

Mr. HATCH. But let me say this. I happen to believe that this little booklet that contains the Constitution of the United States, without the balanced budget amendment, will hopefully have a balanced budget amendment in it. Because, if we do—and I know that sincerely dedicated people like my friend from West Virginia will be voting for more fiscal responsibility and restraint than we do now. And he will have more leverage on not only his side, but our side, to get people to stand up and do what is right.

I do not think that these comments, ''Let's just do it''—I have heard that now for 21 years. ''Let's just do it. Let's just have the will to do it.''

Here is the will of the Congress of the United States. Mr. President, 28 years of unbalanced budgets. I think these volumes speak worlds of information for us, of how ineffective we have been in doing what is right. The Constitution provides, in article V, for ways of amending it when it becomes necessary in the public interest to do so. I cannot imagine anything more necessary in the public interest than a balanced budget amendment, Senate Joint Resolution 1, if you will, a bipartisan amendment, bicameral bipartisan amendment, that literally, literally puts some screws to Congress and some restraints on Congress and makes Congress have to face the music.

Right now, we don't face any music. Let's have the will? Give me a break,

we haven't had the will in almost 66 years, but certainly not in the last 28 years, as represented by these huge stacks of unbalanced budgets of the United States of America.

I have to pay respect to my colleague, because I care for him so much. He is sincere, he is eloquent, and he is a great advocate, and I respect him. In fact, it could be said I love him. The fact of the matter is, I think he is wrong. He thinks I am wrong. But I think his charts are very, very good reasons why, and these books are very good reasons why something has to be done. We cannot just keep frittering away our children's future and the future of our grandchildren. I know he shares that view with me, and I just wish we could do more together to protect their future. I am doing everything I can with this amendment.

Mr. BYRD. You are being honest about it, too——

Mr. HATCH. I am being honest.

Mr. BYRD. Saying it doesn't promise a balanced budget.

Mr. HATCH. I think it promises a balanced budget, I don't think it mandates one. It gives us the flexibility to do whatever we want to do, as long as we comply its requirements.

Mr. BYRD. To cook the estimates.

Mr. HATCH. No, no, it gives us the flexibility to do whatever we want to do, but we have to stand up and vote to do it by supermajority votes. If you want to increase the deficits, you have to stand up and vote by a supermajority to do it. If you want to increase taxes, you can do it, but you have to vote on a constitutional majority of both Houses, to do it. That is a considerably different situation from what we have today where there are no constraints and, in many cases, or some cases that are very important, at least over the last 21 years, no votes. It has been done in the dead of the night, to use a metaphor, a metaphor that is all too real. These budget volumes are real. These are not mirages. These volumes are actually real. They represent 28 years of unbalanced budgets, 8 years longer than I have been here, and I see many, many more in the future if we don't pass this balanced budget amendment.

Mr. BYRD. Mr. President, here is the mirage, right here. This is the mirage, this amendment to the Constitution. The Senator says that we should write two or three more supermajority requirements into the Constitution. It already requires eight, including the three amendments—five in the original Constitution and three amendments, 12, 14 and 25. Now we are going to write some more in. This is going to head us more and more in the direction of minority control—minority control. This is a republic, which uses democratic processes. This is a representative democracy, a republic for which it stands. A republic.

I just close by saying this amendment is a real gimmick—a real gimmick. It is not going to cause us to balance this budget any more than if we didn't have it; may even make it more difficult to balance the budget.

Moses struck the rock at Kadesh with his rod. He smote the rock twice and water gushed forth and the people's thirst and the thirst of the beasts of the people were quenched. This amendment is not the rock of Kadesh. You won't be able to smite that amendment. The waters of a balanced budget are not going to flow from that piece of junk. I say that with all due respect to my friend. But that will not work. That's the long and the short of it, and it is misleading the people. It is misleading the people. The amendment doesn't require us to balance the budget, it only requires us to balance the estimates. So there we go again. There is a wheel, and we seem to be on it, around and around. Balance the estimates. We have seen the estimates.

So we can see by looking at this chart where the estimates have been wrong—always wrong—in the past, and we should know by that lamp that they are going to be wrong in the future.

So what faith can we have in this kind of an amendment? The Senator says we would be under greater pressure to balance the budget. Why not start now? Why wait 5 years, at least 5 years, perhaps even longer under that amendment? Why wait for pressure? The pressure is just as great today and we will be even deeper into the hole by 2002 than we are now.

Mr. HATCH. Let me just say this, Moses also struck the rock at Meribah and gave water and was forbidden from entering the promised land after 40 years of traveling in the wilderness.

Mr. BYRD. Struck the rock at Horeb.

Mr. HATCH. That's right, Horeb. The fact of the matter is that he was following, in a sense, the same pattern, but without God's will. And I am tired of following the same pattern which I cannot believe is God's will. I am sorry that we have 28 years of unbalanced budgets in a row, and we are looking at 28 more because we are unwilling to do what is right.

Now, look, the balanced budget amendment moves us toward a balanced budget by requiring supermajority votes if we want to unbalance the budget or increase the taxes to balance it. It requires a balanced budget unless there are emergencies in which we need a three-fifths majority to waive balanced budget requirements.

In all due respect, my friend from West Virginia is actually arguing that one should oppose the balanced budget amendment because it doesn't require utopia, because we can rely on estimates. Well, utopia, means ''nowhere.'' But relying on good faith estimates, as the report does say, is ''somewhere,'' rather than ''nowhere.'' And it will lead us to balanced budgets.

The first Congress and the States ratified the Bill of Rights. If we took the Senator's line, one should have opposed them, let's say, the first amendment, for instance, free speech, because it did not define free speech or show how free speech was going to be enforced. But we all know that's ridiculous, and I believe it's ridiculous, but I believe we should be better equipped to deal with estimates of outlays and receipts with a balanced budget amendment in the Constitution that all of us are sworn to uphold.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. Sure.

Mr. BYRD. Senator DODD needs to speak on his amendment a bit more, so I am going to leave the floor for now.

Mr. HATCH. Well, I will miss my colleague.

Mr. BYRD. I beg your pardon.

Mr. HATCH. This has been a good colloquy. I will miss my colleague, and he teaches me a lot every time he comes to the floor.

Mr. BYRD. I would like to hear the distinguished Senator explain how the States balance their budgets and how they operate, not only on a budget that provides for the operating expenses of Government from day-to-day, but also on the capital budget, and why under this amendment the Federal Government will not be able to have a capital budget.

Why does not someone explain that the States operate on two budgets? Not only an operating budget, but also a capital budget. And then why do we continue to say that the Federal Government should balance its budget like the States do, without the explanation that there are capital budgets in States?

Mr. HATCH. I will not go into that very much right now, but I think the Senator makes a very good point.

One reason is the States do not print the money. No. 2 is some States cannot do much in the capital way because they do not have the money and they do not balance their budgets the way they should. No. 3 is that there are rating systems that make it possible for States to borrow on bonds, and they discipline the use of bonds by the States. There would be no similar system for the Federal Government. No. 4 is that, frankly, the Federal Government can create surpluses that should work. No. 5 is that the States, at least 44 of them, have balanced budget amendments. If they did not have their balanced budget amendments, many of them would not be balancing their budgets either, even with the capital budget. And they have done better than the Federal Government at restraining their borrowing.

So there is no real comparison between the Federal Government and the States. There is nobody to keep the Federal Government in line without a balanced budget amendment. I think that is what this balanced budget amendment is all about. I appreciate my colleague. We have had a good debate. He certainly always raises very interesting issues and very pertinent issues and I think adds to the quality of the debate around here every time

he comes on the floor. So I personally appreciate it.

With regard to capital budgets, let me say OMB, CBO and GAO, among others, have opined that debt-financed capital budgets are not a good idea for the Federal Government. All of them have said that. See, for example, President Clinton's fiscal 1998 proposed budget. The Analytical Perspectives volume, I think on page 136, there are some remarks on this.

The Clinton administration said, ''The rationale for borrowing to finance investment is not persuasive'' and that a ''capital budget is not a justification to relax current and proposed budget constraints.'' I agree.

Besides the fact that the U.S. Government does not need to borrow to finance its investment, it is not subject to the constraints that families, business and States face.

Families and businesses are disciplined by markets. States are disciplined by bond ratings. A Federal capital budget is bound to be abused. Future Congresses could redefine many kinds of spending as capital. It would be a monstrous loophole in the balanced budget amendment.

Let me just say that I do agree with OMB, CBO, the Office of Management and Budget, the Congressional Budget Office, the General Accounting Office, that a Federal capital budget is not a good idea. Especially, I think, in the context of a constitutional amendment. So that is all I will say about it today. But I hope that is enough because a capital budget is really not the way to go constitutionally. But this amendment, Senate Joint Resolution 1, is the right way to go. It will help us to make some dents in what has been going on for the last 28 years at least, or should I say 58 of the last 66 years where we have had unbalanced budgets.

Could I ask the Chair, how much time remains on both sides?

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Utah has 14 minutes, 25 seconds, the Senator from Connecticut has 1 minute, 32 seconds.

Mr. DODD. Can I get 6 or 7 minutes?

Mr. HATCH. Go ahead.

Mr. DOMENICI. Would the Senator yield some time? Two minutes?

Mr. HATCH. Could I yield to the budget——

Mr. DOMENICI. Go to him first.

Mr. DODD. I would like to make some concluding remarks on my pending amendment. So if the Senator from New Mexico wants to take a couple minutes to do that, and then I would like to wrap up on my amendment before the vote at 5:30.

Mr. HATCH. I yield such time as he needs.

Mr. DOMENICI. Two minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I might say to the distinguished senior Senator from West Virginia, Senator BYRD, I did not hear your entire argument with reference to estimates, but I would suggest that in due course—I have difficulty getting time on this floor because when there is time I cannot be here and then when I get here, eminent Senators are using all the time. I am not complaining.

But I would like tomorrow to explain a bit about estimating. I would just suggest that we need not use the estimating that has taken place to produce that chart. There is another way to estimate it. You can estimate right up close to the end of the period of time, and you get estimates that are pretty close.

I would also suggest that whether it is red or whether it is black——

Mr. BYRD. Will the Senator yield? But there, they are still estimates.

Mr. DOMENICI. That is correct.

I will talk about it tomorrow. And everything about us, the Government, is built on estimates. We rely on it very, very much.

Mr. BYRD. Will the Senator yield?

Mr. DOMENICI. Yes.

Mr. BYRD. We rely on it and the charts show how much we fall short.

Mr. DOMENICI. Half that red and half that black is not estimates at all. Half or more is based upon programs that cost more than you estimate. Frankly, that has nothing to do with economic estimates. It has to do with us not doing a good enough job figuring what programs are going to cost. That could be fixed. In fact, we are doing much better at it already in terms of that.

But my last observation has to do with a thought you had as you captured the notion that this would make this budget so unreliable that you called it all a gimmick.

Frankly, I want to make sure that everybody knows that the best use of the word gimmick for anything going on on this floor has to do with the gimmick that some on that side of the aisle are using when they speak of taking Social Security off budget so you will assure Social Security's solvency and the checks. That is a gimmick of the highest order. For you do that, and there is no assurance that Congress will not spend the trust fund surpluses for anything they want. It is no longer subject to any budget discipline. It is out there all by itself.

Second, there is no assurance that programs for senior citizens that are not Social Security would not be moved there, and that that trust fund becomes more vulnerable then when it is subject to the discipline of the give-and-take of a budget. And on that I am certain.

And last, some Senators today got up and said that the Congressional Research Service had given them all they needed because it had apparently said that you risked Social Security in the outyears. Well, that did not sound right to any of us. We called them up and they have issued a correction. It could not conceivably be what they said and what was implied from it. They are now saying—and I quote:

> We are not concluding that the Trust Funds surpluses could not be drawn down to pay beneficiaries. The [balanced budget amendment] would not require that result.

So it does not stand for the proposition that was used. They made a mistake in the translation, in the way they interpreted and we can debate that a little tomorrow. But I just thought we ought to make sure that we understood that.

Now, I know that my friend from West Virginia is a proponent of the Constitution. And when you speak of amending it, he stands on it. But let us face it, you cannot stand on it when you are talking about amending it. Because that would have meant none of the amendments that were added to it would be there. You would have held up the old Constitution when it was first drawn with no amendments and said, I stand on it.

Mr. BYRD. Oh, no, no, no, no.

Mr. DOMENICI. You could.

Mr. BYRD. No, no, no. The Senator was quite right he was not here to hear my statement.

Mr. DOMENICI. I do not have any additional time.

Mr. President, I ask unanimous consent that the memorandum from the Congressional Research Service be printed 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 12, 1997.

To: Hon. PETE V. DOMENICI; Attention: Jim Capretta.

From: American Law Division.

Subject: Treatment of Outlays from Social Security Surpluses under BBA.

This memorandum is in response to your inquiry with respect to the effect on the Social Security Trust Funds of the pending Balanced Budget Amendment (BBA). Under S.J. Res. 1 as it is now before the Senate §1 would mandate that ''[t]otal outlays for any fiscal year shall not exceed total receipts for the fiscal year. . . .'' Outlays and receipts are defined in §7 as practically all inclusive, with two exceptions that are irrelevant here.

At some point, the receipts into the Social Security Trust Funds will not balance the outlays from those Funds. Under present law, then, the surpluses being built up in the Funds, at least as an accounting practice, will be utilized to pay benefits to the extent receipts for each year do not equal the outlays in that year. Simply stated, the federal securities held by the Trust Funds will be drawn down to cover the Social Security deficit in that year, and the Treasury will have to make good on those securities with whatever moneys it has available.

However, §1 of the pending BBA requires that total outlays for any fiscal year not exceed total receipts for that fiscal year. Thus, the amount drawn from the Social Security Trust Funds could not be counted in the calculation of the balance between total federal outlays and receipts. We are not concluding that the Trust Funds surpluses could not be drawn down to pay beneficiaries. The BBA would not require that result. What it would mandate is that, inasmuch as the United States has a unified budget, other receipts into the Treasury would have to be counted to balance the outlays from the Trust Funds and those receipts would not be otherwise

available to the Government for that year. Only if no other receipts in any particular year could be found would the possibility of a limitation on drawing down the Trust Funds arise. Even in this eventuality, however, Congress would retain authority under the BBA to raise revenues or to reduce expenditures to obtain the necessary moneys to make good on the liquidation of securities from the Social Security Trust Funds.

JOHNNY H. KILLIAN,
Senior Specialist, American Constitutional Law.

Mr. DOMENICI. I yield back to the chairman. I will be glad to come down and discuss this in more detail.

Mr. BYRD. I will be happy to join the Senator.

Mr. DODD. I wanted to yield to my colleague from West Virginia, who wanted to make a comment on the pending amendment.

The PRESIDING OFFICER. The Senator from Utah has 9 minutes and 21 seconds remaining, and the Senator from Connecticut has 1 minute and 32 seconds.

Mr. HATCH. How much time does the Senator need?

Mr. BYRD. Three minutes.

Mr. HATCH. Mr. President, I yield 3 minutes of my time to the distinguished Senator from West Virginia, and then I have the Senator from Nebraska waiting to speak.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Utah for his courtesy in yielding time.

Mr. President, I commend the distinguished senior Senator from Connecticut for his amendment, and for his very thorough explanation of it. There is, as he has said, no higher duty than this body has than to safeguard the security and liberties of the American people. This is the height of pernicious legislative mischief to provide the ready and robust forces when the Nation faces a serious threat to our national security. Can we define the specific nature of such threats that might face us? Of course not. Do we need the flexibility to react in time, in advance, and with sufficient credibility so as to show down all such conceivable threats to our security? Of course, we should.

The Constitution should not be used as a straitjacket which has the effect of throwing into doubt our ability to perform this most basic of our duties. Thus, the Dodd amendment is a very useful one, as essential improvement to the constitutional proposal which is before the body. The definition of ''imminent and serious military threat to national security,'' as a test for waiving the requirements of the balanced budget, as proposed by the distinguished Senator from Connecticut is a valuable improvement to the amendment offered by the Senator from Utah, and I strongly encourage my colleagues to support it.

I again thank my friend from Utah, who is my friend, who is a fine Christian gentleman, who is always fair and courteous. I salute him for that, and I thank my colleague from Connecticut.

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. The Senator from Utah has 6 minutes and 42 seconds

Mr. HATCH. I yield 3 minutes to the Senator from Connecticut.

AMENDMENT NO. 4, AS MODIFIED

Mr. DODD. Pursuant to a discussion earlier, I ask unanimous consent to send to the desk a modification of my amendment along the lines we discussed earlier. I ask unanimous consent my amendment be allowed to be modified.

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

The amendment (No. 4), as modified, is as follows:

On page 3, line 7, strike beginning with ''is'' through line 11 and insert ''faces an imminent and serious military threat to national security as declared by a joint resolution,''. which becomes law.''

Mr. DODD. Mr. President, let me briefly sum up, if I can, this amendment. I think the handwriting is on the wall. It is one of those moments, the wave is moving here, and I deeply regret it.

I have the feeling my colleagues have just not read section 5 as carefully as we should. I emphasize again and draw their attention to this not based on the argument that I asked them to not support the constitutional amendment to balance the budget, but merely that we improve this section to reflect, I think, what ought to be the priorities of a nation; that is, to be able to respond to an imminent threat to our national security and be allowed to do that in a way that would permit us to waive the restrictions of this amendment. The priority of responding, I think, is a higher one than the issue of the constitutional amendment to balance the budget.

I draw the attention of my colleagues to some pivotal words in this section, ''a declaration of war,'' or the United States must be ''engaged in military conflict,'' particularly that latter one, Mr. President. It does not talk about imminent danger. We must actually be engaged.

It is ironic in many ways that we can have a declaration of war which can be reached by a simple majority here. A simple majority of Senators present and voting can declare war. You do not require that all Members be here to declare war. No vote we ever cast could ever be more profound than to commit our Nation to war. Yet, to waive the budget requirement of this amendment requires a special parliamentary proceeding which excludes the vote of the Vice President, and requires a majority of all Members regardless of who is present in order to waive the restrictions of this so we can respond to a conflict. How ironic that in the very same section you have a declaration of war that can be reached by a simple majority of Members present and voting, and yet to waive the restrictions of this amendment requires a ''super'' number, if you will, beyond that which is necessary to commit this Nation.

So I urge my colleagues to look at this amendment that will be at the desk when you come to vote in a few minutes. We replace this language by saying that the Nation faces an imminent and serious military threat to national security as declared by a joint resolution that is passed into law. We must vote that we are facing that imminent threat. If we vote accordingly, that we are facing an imminent threat, then it seems to me that to waive the restrictions here is the only sensible thing to do. To require today that we have a declaration of war, the perverse idea that a President and Congress, in a future time may declare war just to avoid the restrictions of this amendment, or to actually be engaged in a conflict and not allow our Nation to prepare for a likely conflict, concerns me deeply.

Mr. President, I urge my colleagues, and I thank my colleague from West Virginia for his support of this amendment, but I urge my colleagues to please read this amendment and read this section and realize what great harm and danger we could be creating for our Nation if we adopt this amendment with this section as written, which I think places this Nation in an unrealistic and dangerous straitjacket.

I thank my colleague from Utah for yielding the time.

Mr. HATCH. Let me take 1 minute of my remaining time, and that is to say that this amendment will have a loophole in the balanced budget amendment second to none, and a loophole for any kind of spending—not military spending, any kind of spending. It means more of the 28 years of unbalanced budgets. I hope my colleagues will vote down this amendment.

I yield back the balance of my time.

Mr. DODD. I yield back my time.

Mr. HATCH. I move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment, as modified, of the Senator from Connecticut.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

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

The result was announced— yeas 64, nays 36, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—64

Abraham	Chafee	Enzi
Allard	Coats	Faircloth
Ashcroft	Cochran	Frist
Baucus	Collins	Gorton
Bennett	Coverdell	Graham
Bond	Craig	Gramm
Brownback	D'Amato	Grams
Bryan	DeWine	Grassley
Burns	Domenici	Gregg
Campbell	Dorgan	Hagel

Hatch	McCain	Smith, Bob
Helms	McConnell	Smith, Gordon
Hollings	Moseley-Braun	Snowe
Hutchinson	Murkowski	Specter
Hutchison	Nickles	Stevens
Inhofe	Reid	Thomas
Jeffords	Robb	Thompson
Kempthorne	Roberts	Thurmond
Kyl	Roth	Warner
Lott	Santorum	Wyden
Lugar	Sessions	
Mack	Shelby	

NAYS—36

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

The motion to lay on the table the amendment (No. 4), as modified, was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

WELLSTONE AMENDMENT NO. 3

Mr. KOHL. Mr. President, yesterday the Senate voted on the first of several potential amendments to exempt certain programs from the balanced budget constitutional amendment. I greatly appreciate the comments made on the amendment by the Senator from Minnesota regarding the importance of programs that benefit our children. Senator WELLSTONE spoke passionately and I could not agree more that we must protect our children.

However, I disagree with the notion that we should exempt certain categories of programs from the strictures of the balanced budget amendment. I don't see balancing the budget and helping our children as two mutually exclusive goals. In fact, these are two of my highest priorities and they are critically linked.

I heard the compelling arguments about the difficult spending cuts that occurred during the last Congress. I agree that more should be done to balance the burden of spending reductions in the future. As a society and as a government, we must maximize our commitment to the well-being of our children or suffer the consequences in the world economy. But what's more important, if we fail our children, we fail as a people.

Mr. President, I am committed to the concept of the balanced budget amendment. I am committed to the idea that the financial security of this Nation rests on the ability of the Federal Government to curb the practice of spending beyond its means. And I am deeply committed to the belief that our Nation's future depends on the investment we place in our children. In reviewing the fiscal history of this Nation over the past 25 years, it has become clear to me that the will to exercise the necessary spending restraint does not exist within this body without a strict requirement. I believe that the balanced budget amendment provides such a framework, and that is why I support it.

The Wellstone amendment was certainly difficult to vote against. But I strongly believe that the very arguments made by the proponents of the amendment are exactly those that will help preserve critical children's programs from future budget cuts. Our children are already saddled with a tremendous debt burden created by past federal budget excess. It makes no fiscal sense to further hinder their ability to pay off that debt by short-changing their education or health. The very viability of our economy depends upon the opportunity of our children to flourish.

We clearly can not afford to ignore the needs of our children. But if we are serious about passing a meaningful balanced budget amendment, then we must reject efforts to dismantle that effort through piecemeal exclusions of programs, however worthy the particular program. I fear that such exemptions will lead to a cascade of further exemptions and ultimately leave little room to create a truly fair and balanced budget. That is exactly the scenario that has caused us to get to a 4 trillion dollar Federal debt.

I have sought to protect funding for child care resources, public health and education and will continue to do so in the context of a balanced budget. When it comes to the annual appropriations process, of which I am an active participant as a member of the Senate Appropriations Committee, I will remain front and center fighting to protect children's programs. But as a supporter of the balanced budget amendment, I must object to blanket exclusions.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, for the information of all Senators here and back now at their offices, there will be no further votes this evening. I understand there are——

Mr. FORD. Mr. President, may we have order, please.

The PRESIDING OFFICER. The Senator from Kentucky makes an excellent point. The Senate will come to order.

The majority leader is recognized.

Mr. LOTT. There will be no further votes this evening, but I do understand there are several requests for morning business in the morning. In light of those requests and the memorial service for Ambassador Pamela Harriman, I expect the Senate will be conducting morning business only until around 2 p.m. on Thursday.

Following morning business, there is a possibility for consideration of a resolution regarding milk prices, and there is the possibility of another resolution but we are trying to see if that resolution has been filed and, of course, we will need to clear it with the Democratic leader.

There are rollcall votes possible during tomorrow's session but we do not have an agreement on that yet.

Mr. President, I ask unanimous consent that when the Senate resumes consideration of Senate Joint Resolution 1, the balanced budget amendment, on Monday, February 24, the Senate resume consideration of Senator BYRD's amendment No. 6 beginning at 3:30 p.m.

I further ask that there be 2 additional hours of debate equally divided in the usual form prior to the vote on or in relation to the Byrd amendment and finally no amendments be in order to that amendment.

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

Mr. LOTT. Again, so that Senators will have this information, the agreement allows for a rollcall vote then on Senator BYRD's amendment at approximately 5:30 on Monday, February 24.

Mr. FORD. Mr. President, I know the majority leader loves to hear himself talk. The rest of us would like to hear him, too.

Will you have order in the Chamber.

Mr. LOTT. I am highly complimented and appreciative of the Senator's comments.

Mr. FORD. The reason I did that, Mr. President, is because the majority whip does not want to do that. He likes to hear me do it.

The PRESIDING OFFICER. The majority leader is recognized.

The Senate will come to order.

Mr. LOTT. Mr. President, there will be a vote then on Senator BYRD's amendment at approximately 5:30 on Monday, February 24, which is the date the Senate returns from the Presidents Day recess.

I have discussed these Monday afternoon votes with the Democratic leader. We are agreed we will have votes quite often on Monday afternoons. We will try to tell you as far in advance as we can. It does seem to get the Members back and ready for work. It allows us to get committee work done on Monday afternoons or certainly on Tuesday mornings. And also I should remind Senators that that week after we come back after the Presidents Day recess, in order to complete our work on the balanced budget amendment there is a good possibility we will have to stay in late on Tuesday, Wednesday, and Thursday. That is not definite yet. It will depend on how many amendments and time agreements. We will work with the leader on that. But we have been very aggressive in trying to keep our schedule reasonable. If we need to do some late nights that week to finish our work so that we can do other things that are pending, including nominations, then we would be prepared to do that. But we will advise you in advance when we are going to have to be in session at night.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

TRIBUTE TO COL. JOHN K. WILSON III

Mr. ROTH. Mr. President, I rise today to pay tribute to Col. John K. Wilson III as he retires after 26 years of distinguished service in the U.S. Air Force.

Colonel Wilson is retiring from his position as the executive director of operations, Secretary of the Air Force, Office of Legislative Liaison at the Pentagon. In addition to this position, he also served as Chief, Congressional Inquiries Division. In a previous legislative liaison tour, Colonel Wilson served as a Congressional Inquiries Officer as well as a Senate Liaison Officer. In these critical positions, Colonel Wilson not only served the Air Force well, but he also assisted the U.S. Congress.

During his tenure, he worked with hundreds of Members of Congress, responding to their constituent inquiries, lending his expertise in Air Force matters and handling a myriad of unique situations. Colonel Wilson's professionalism, diplomacy, and insight were essential to the flawless planning and execution of well over 100 Congressional worldwide fact-finding travels. His comprehensive knowledge of the legislative process and thorough understanding of Air Force issues made him the perfect liaison between the Pentagon and Capitol Hill.

Mr. President, I join with my colleagues who have directly benefited from the superb support Colonel Wilson has provided the Congress and executive branch, in congratulating him for a job extremely well done and wishing he and his lovely wife Andrea, the very best in the future. He will be a success in any pursuit he may endeavor to undertake. Colonel Wilson is a professional among professionals and has brought great credit upon himself and the U.S. Air Force.

TRIBUTE TO PAMELA HARRIMAN

Mr. KENNEDY. Mr. President, I was shocked and deeply saddened by Pamela Harriman's death last week in Paris. All of us in the Kennedy family cherished her friendship, and we will always have many warm memories of her close ties to our family.

In a very real sense, throughout the Reagan and Bush years, she was the First Lady of the Democratic Party. I especially admired her leadership, her extraordinary ability, and her abiding commitment to the best ideals of public service.

Pamela's friendship with the Kennedy family goes back more than half a century. It began in the difficult days of World War II in England during my father's service as Ambassador in London. Pamela became an especially close friend of my older sister Kathleen, and her friendship with our family continued ever since.

Her marriage to Averell Harriman in 1971 brought us even closer. Averell had been a great friend and key adviser to President Kennedy on foreign policy, and his wise counsel had been instrumental in the passage of the Limited Test Ban Treaty between the United States and the Soviet Union.

In one of her most extraordinary accomplishments, Pamela became one of the pillars of the Democratic Party during the 1980's. She never lost faith in the enduring principles of our party. She held those ideals high, and she inspired legions of others to do so as well. Her leadership was especially effective in revitalizing our party in all parts of the country during the Reagan and Bush years, and President Clinton's dramatic victory in 1992 was her victory too.

Pamela's unique qualities of leadership and ability earned her great additional renown during her recent service as Ambassador to France. On a host of challenging issues ranging from the war in Bosnia to disagreements over NATO and international trade, she served with her trademark combination of skill, grace, and sensitivity that made her so respected and beloved by all who knew her and by the entire diplomatic community.

All of us in the Kennedy family admired her leadership and her statesmanship, but most of all, we were grateful for her friendship. The Nation has lost a truly remarkable public servant, and we will miss her very much.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, February 11, the Federal debt stood at $5,305,463,575,595.03.

Five years ago, February 11, 1992, the Federal debt stood at $3,796,319,000,000.

Ten years ago, February 11, 1987, the Federal debt stood at $2,226,839,000,000.

Fifteen years ago, February 11, 1982, the Federal debt stood at $1,033,988,000,000.

Twenty-five years ago, February 11, 1972, the Federal debt stood at $424,352,000,000 which reflects a debt increase of more than $4 trillion ($4,881,111,575,595.03) during the past 25 years.

TAXPAYERS AT RISK FROM GOVERNMENT WASTE AND MISMANAGEMENT

Mr. THOMPSON. Mr. President, today the U.S. General Accounting Office [GAO] issues its high risk series which identifies those federal programs that are especially vulnerable to waste and mismanagement. The programs identified in these reports have cost taxpayers billions of dollars in unnecessary expenditures. Without adequate oversight from the Congress many more billions will be wasted before we are through. While the magnitude of the problems GAO has identified is shocking, I am optimistic that we have in place the tools to change Government for the better—but we must be willing to use them.

There is a tendency when we are debating how to balance the budget or when the crisis de jour erupts, for Government to ignore management issues—those which to some are tedious, time-consuming and best left to the bean-counters. While management issues sometimes tend to get swept under the carpet during high-minded policy debates, we ignore them at our peril. We cannot implement any of our policy solutions without effective public administration. In an era of static resources, if we are to balance the budget, replace aging weapon systems at the Department of Defense [DOD], or attack drug abuse, we must achieve significant savings. To find the money, we have to make Government better while cheaper and, to do that, we have to do things smarter.

GAO identifies 25 areas that we must focus on to avoid squandering billions of taxpayer dollars. For example, GAO reports that DOD wastes billions of dollars each year on unneeded and inefficient activities, is vulnerable to additional billions of dollars in waste by buying unnecessary supplies and risks overpaying contractors millions of dollars for services not rendered. It reports that the Internal Revenue Service's accounting is so poor that it cannot effectively manage the collection of the over $113 billion owed the U.S. Government in delinquent taxes. In addition, GAO again criticizes the management of the IRS' computer modernization effort. Just last week, certain IRS officials conceded that this ''modernization'' has already cost the taxpayers $4 billion and ''does not work in the real world''.

IRS is not the only Federal agency having a problem coming to grips with the electronic age. Over the last 6 years, the Federal Government has spent $145 billion on computers but continues to have, according to GAO, ''chronic problems harnessing the full potential of information technology to improve performance, cut costs, and/or enhance responsiveness to the public.'' The security of sensitive data on Government computers and how well the Government converts its old computers to run in the 2000 were also identified by GAO as areas that posed a risk to the Treasury.

Billions of dollars in waste, fraud, and abuse occur in Federal benefit programs. GAO reports, in the supplemental security income program alone, taxpayers are losing over $1 billion a year in overpayments. The $197 billion Medicare Program, according to GAO

''loses significant amounts due to persistent fraudulent and wasteful claims and abusive billings.''

The risk of losses from the $941 billion Federal loan portfolio is another source of taxpayer vulnerability. Currently, the Government has $44 billion of defaulted guaranteed loans on its books and has written off many billions more over the last few years. According to GAO, three loan programs (student, farm, and housing) are especially vulnerable due to poor agency management. GAO also calls for improving Federal contract management at several agencies that spend tens of billions of dollars each year on contractor support. Finally, the 2000 census was placed on the high risk list. The census has tremendous implications in the allocation of billions of dollars in Federal funding and for the apportionment of seats in the House of Representatives.

However, GAO was not all doom and gloom acknowledging that, ''after decades of seeing high risk problems and management weaknesses recur in agency after agency,'' Congress has moved to enact several Government-wide reforms to address the situation. GAO mentions five such laws as key to improving operations in the Federal Government: The Chief Financial Officers Act of 1990, the Government Performance and Results Act of 1993, the Federal Acquisition Streamlining Act of 1994, the Paperwork Reduction Act of 1995 and the Clinger-Cohen Act information management and procurement reforms of 1996. These laws are designed to get the Federal Government to operate in a sound, businesslike manner. It is up to Congress and the administration to ensure that these management reforms are implemented to improve Government performance and results.

I want to work with the administration and my colleagues in Congress to improve the Government's operations. As part of this process, I plan to invite before the Senate Governmental Affairs Committee the Director of OMB to address the problems identified by GAO. We have the legislative framework in place to eradicate these programs from GAO's high risk list. What we need is the vision and fortitude to implement these bipartisan management reforms and achieve a lasting solution to the management problems that torment the pocketbook of our citizens.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:40 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker appoints the following Members to the Board of Trustees of the Harry S. Truman Scholarship Foundation: Mr. EMERSON of Missouri and Mr. SKELTON of Missouri.

The message also announced that the Speaker appoints the following Member to the Board of Trustees of Gallaudet University: Mr. LAHOOD of Illinois.

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–1054. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of fourteen rules including one rule relative to Class E airspace, (RIN2120–AA64, AA66) received on February 11, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1055. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of two rules including one rule relative to Civil Monetary Penalty Inflation, (RIN2105-AC63, AC34) received on February 11, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1056. A communication from the Assistant Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report under the Safe Drinking Water Act Amendments; to the Committee on Environment and Public Works.

EC–1057. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules including one rule relative to National Emission Standards, (FRL–5669–3, 5682–9, 5683–4), received on February 10, 1997; to the Committee on Environment and Public Works.

EC–1058. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of one rule relative to Land Disposal Restrictions, (FRL–5681–4) received on February 3, 1997; to the Committee on Environment and Public Works.

EC–1059. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of three rules including one rule relative to approval and promulgation of implementation plans, (FRL–5680–5, 5685–7, 5685–1), received on February 4, 1997; to the Committee on Environment and Public Works.

EC–1060. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of one rule relative to Military Munitions, (FRL–5686–4) received on February 6, 1997; to the Committee on Environment and Public Works.

EC–1061. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of three rules including one rule relative to approval and promulgation of implementation plans, (FRL–5686–2, 5585–8, 5678–5), received on February 6, 1997; to the Committee on Environment and Public Works.

EC–1062. A communication from the Director of the Office of Regulations Management, transmitting, pursuant to law, two rules including a rule entitled ''Dependency and Income'' (RIN2900–AI47, AI36) received on February 4, 1997; to the Committee on Veterans' Affairs.

EC–1063. A communication from the Deputy Assistant Administration, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, two rules including a rule entitled ''Exemption from Import and Export Requirements for Personal Use'' (RIN1117–AA38, AA42); to the Committee on the Judiciary.

EC–1064. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, transmitting, pursuant to law, a rule entitled ''Interim Guidelines for the Examination of Claims'' (RIN0651–XX09) received on February 6, 1997; to the Committee on the Judiciary.

EC–1065. A communication from the Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule entitled ''Badlands National Park'' (RIN1024–AC30) received on February 8, 1997; to the Committee on Energy and Natural Resources.

EC–1066. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, an acquisition regulation (RIN1991–AB34) received on February 4, 1997; to the Committee on Energy and Natural Resources.

EC–1067. A communication from the Secretary of Energy, transmitting, pursuant to law, a report concerning process-oriented energy efficiency; to the Committee on Energy and Natural Resources.

EC–1068. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, Notice 97–15 received on February 10, 1997; to the Committee on Finance.

EC–1069. A communication from the Commissioner of Social Security, transmitting a report of accomplishments; to the Committee on Finance.

EC–1070. A communication from the Secretary of Veterans' Affairs, transmitting a draft of proposed legislation entitled ''The Veterans' Medicare Reimbursement Model Project Act of 1997''; to the Committee on Finance.

EC–1071. A communication from the Director of the Defense Security Assistance Agency, transmitting pursuant to law, a report containing an analysis and description of services for fiscal year 1996; to the Committee on Foreign Relations.

EC–1072. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Determination relative to the Republic of Yemen; to the Committee on Foreign Relations.

EC–1073. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a rule entitled ''Removal of Commercial Communications Satellites'' received on February 3, 1997; to the Committee on Foreign Relations.

EC 1074. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, a draft of proposed legislation to authorize payment of arrears to the United Nations; to the Committee on Foreign Relations.

EC 1075. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on U.S. Government assistance to and cooperative activities with the New Independent States of the former Soviet Union; to the Committee on Foreign Relations.

EC 1076. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a rule regarding the Operator Licensing Program (received on February 5, 1997); to the Committee on Environment and Public Works.

EC 1077. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule relative to final regulations, (RIN1820–AB12) received on February 4, 1997; to the Committee on Labor and Human Resources.

EC 1078. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled ''Investigational Device Exemptions,'' received on February 4, 1997; to the Committee on Labor and Human Resources.

EC 1079. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled ''Saccharin and its Salts,'' received on February 10, 1997; to the Committee on Labor and Human Resources.

EC 1080. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled ''Food Labeling: Health Claims,'' received on February 10, 1997; to the Committee on Labor and Human Resources.

EC 1081. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the National Practitioner Data Bank Malpractice Reporting Requirements; to the Committee on Labor and Human Resources.

EC 1082. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–458 adopted by the Council; to the Committee on Labor and Human Resources.

EC 1083. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–525 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC 1084. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–526 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC 1085. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–512 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC–1086. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a report entitled ''The Necessity and Costs of District of Columbia Services''; to the Committee on Governmental Affairs.

EC–1087. A communication from the Chair of the Foreign Claims Settlement Commission of the United States, Department of Justice, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC–1088. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of the statement of recommended accounting standards; to the Committee on Governmental Affairs.

EC–1089. A communication from the Executive Director of the Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions to the Procurement List received on February 4, 1997; to the Committee on Governmental Affairs.

EC–1090. A communication from the Corporation For Public Broadcasting, transmitting jointly, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–1091. A communication from the Administrator and Chief Executive Officer of the Bonneville Power Administration, Department of Energy, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

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

POM–31. A resolution adopted by the Senate of the Legislature of the State of New Hampshire; ordered to lie on the table.

RESOLUTION

Whereas, Paul E. Tsongas, former United States Senator, on January 18, 1997, succumbed to pneumonia after a courageous battle with health problems that had plagued him since he was diagnosed with cancer in 1983; and

Whereas, born on February 14, 1941 and brought up in Lowell, Massachusetts, he was viewed as one of Lowell's finest sons who used the values he learned on the streets of Lowell to eventually lead a bipartisan effort to encourage Congress to balance the federal budget; and

Whereas, his Lowell high school years, while working at the family dry-cleaning shop, were followed by graduation from Dartmouth College, Peace Corps in Ethiopia and the West Indies, Yale Law School, and a congressional internship; and

Whereas, he began his political career in 1968 when he was elected to the city council in Lowell, then ran for Middlesex County commissioner and won in 1972, and in 1974 at the age of 33, continued on to the United States Congress; and

Whereas, throughout his life, he practiced law and remained active in public affairs, speaking out on both local and national issues; and

Whereas, he shattered ideological stereotypes, favoring ''liberalism that works,'' as symbolized by the federally financed urban park that drew high-tech companies to the empty mills along the Merrimack River in his native city; and

Whereas, he won the 1992 New Hampshire primary and, although they frequently disagreed early in 1992, President Clinton eventually agreed with the former senator on many issues and adopted much of the Tsongas platform a year later in his State of the Union address; and

Whereas, in 1992, he joined former United States Senator Warren Rudman as a founding member of the Concord Coalition, a public interest group focusing attention on the nation's economic problems and pushing the need for balancing the nation's books to the forefront of public awareness; and

Whereas, although he was viewed as ''an outspoken man and a determined and successful politician who never shied away from tough political realities,'' he was also ''a good listener, a good coalition builder, and you knew he was always working for the public good'', now, therefore, be it

Resolved by the Senate:

That the members of the New Hampshire senate recognize the many accomplishments and contributions of former Senator Paul E. Tsongas; and

That condolences be extended to his wife, Niki, and three daughters, Ashley, Katina, and Molly; and

That copies of this resolution, signed by the president of the senate, be forwarded by the senate clerk to the Tsongas family, to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, to each member of the New Hampshire Congressional delegation, and to the state library.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WARNER, from the Committee on Rules and Administration, without amendment:

S. Res. 54. An original resolution authorizing biennial expenditures by committees of the Senate.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Janet L. Yellen, of California, to be a Member of the Council of Economic Advisers.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BOND, from the Committee on Small Business.

Aida Alvarez, of New York, to be Administrator of the Small Business Administration.

(The above nomination was reported with the recommendation that she be confirmed.)

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. DORGAN (for himself, Mr. ASHCROFT, Mr. NICKLES, Mr. FORD, Mr. ABRAHAM, Mr. ALLARD, Mr. BIDEN, Mr. BOND, Mr. BREAUX, Mr. BROWNBACK, Mr. BURNS, Mr. COATS, Mr. CRAIG, Mr. DEWINE, Mr. ENZI, Mr. FAIRCLOTH, Mr. GRASSLEY, Mr. GREGG, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. LIEBERMAN, Mr.

LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. SESSIONS, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, and Mr. THURMOND):

S. 304. A bill to clarify Federal law with respect to assisted suicide, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO (for himself, Ms. MOSELEY-BRAUN, Mr. CHAFEE, Mr. ROBB, Mr. REID, Mr. LIEBERMAN, Mr. SMITH of New Hampshire, Mr. DODD, Mr. BIDEN, Mr. CRAIG, Mr. ALLARD, Mr. MACK, Mr. GRASSLEY, Mr. KERREY, Mr. BOND, Mr. BURNS, Mr. HAGEL, Mr. LAUTENBERG, Mr. TORRICELLI, Mr. BRYAN, Mr. DOMENICI, Mr. SPECTER, Mr. REED, Mr. JOHNSON, Mr. BENNETT, Mr. KOHL, Mr. HATCH, Mr. ENZI, Mr. SANTORUM, Mr. MOYNIHAN, Mrs. MURRAY, Mr. CLELAND, Ms. LANDRIEU, Mr. KERRY, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. LOTT, Mr. GORTON, Mrs. FEINSTEIN, Mr. SESSIONS Mr. COVERDELL, Mr. BROWNBACK, Mr. GRAMS, Mr. LUGAR, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SHELBY, and Mr. THOMAS):

S. 305. A bill to authorize the President to award a gold medal on behalf of the Congress to Francis Albert ''Frank'' Sinatra in recognition of his outstanding and enduring contributions through his entertainment career and humanitarian activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FORD:

S. 306. A bill to amend the Internal Revenue Code of 1986 to provide a decrease in the maximum rate of tax on capital gains which is based on the length of time the taxpayer held the capital asset; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. HARKIN, Mr. MCCONNELL, AND Mr. LEAHY):

S. 307. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of assistance to impoverished families and individuals, and for other purposes; to the Committee on Governmental Affairs.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 308. A bill to require the Secretary of the Interior to conduct a study concerning grazing use of certain land within and adjacent to Grand Teton National Park, WY, and to extend temporarily certain grazing privileges; to the Committee on Energy and Natural Resources.

By Mr. AKAKA:

S. 309. A bill to amend title 38, United States Code, to prohibit the establishment or collection of parking fees by the Secretary of Veterans Affairs at any parking facility connected with a Department of Veterans Affairs medical facility operated under a health-care resources sharing agreement with the Department of Defense; to the Committee on Veterans Affairs.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 310. A bill to temporarily waive the enrollment composition rule under the medicaid program for certain health maintenance organizations; to the Committee on Finance.

By Mr. GRAHAM:

S. 311. A bill to amend title XVIII of the Social Security Act to improve preventive benefits under the medicare program; to the Committee on Finance.

By Mr. FORD:

S. 312. A bill to revise the boundary of the Abraham Lincoln Birthplace National Historic Site in Larue County, KY, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWNBACK (for himself and Mr. ROBERTS):

S. 313. A bill to repeal a provision of the International Air Transportation Competition Act of 1979 relating to air transportation from Love Field, TX; to the Committee on Commerce, Science, and Transportation.

By Mr. THOMAS (for himself, Mr. HAGEL, Mr. KYL, Mr. ENZI, Mr. BROWNBACK, and Mr. CRAIG):

S. 314. A bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HARKIN:

S. 315. A bill to amend the Internal Revenue Code of 1986 to reduce tax benefits for foreign corporations, and for other purposes; to the Committee on Finance.

By Mr. LEVIN:

S. 316. A bill to direct the Administrator of the Environmental Protection Agency to provide for a review of a decision concerning a construction grant for the Ypsilanti Wastewater Treatment Plant in Washtenaw County, MI; to the Committee on Environment and Public Works.

By Mr. CRAIG (for himself, Mr. BRYAN, Mr. COCHRAN, and Mr. BENNETT):

S. 317. A bill to reauthorize and amend the National Geologic Mapping Act of 1992; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO:

S. 318. A bill to amend the Truth in Lending Act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transition, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. MOSELEY-BRAUN:

S. 319. A bill to designate the national cemetery established at the former site of the Joliet Arsenal, IL, as the ''Abraham Lincoln National Cemetery.''; to the Committee on Veterans Affairs.

By Mr. ASHCROFT (for himself, Mr. THOMPSON, Mr. ABRAHAM, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BURNS, Mr. CAMPBELL, Ms. COLLINS, Mr. COVERDALL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. FRIST, Mr. GRAMM, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INOUYE, Mr. MACK, Mr. MURKOWSKI, Mr. SESSIONS, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, and Mr. THOMAS):

S.J. Res. 16. A joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WARNER:

S. Res. 54. An original resolution authorizing biennial expenditures by committees of the Senate; from the Committee on Rules and Administration; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself, Mr. ASHCROFT, Mr. NICKLES, Mr. FORD, Mr. ABRAHAM, Mr. ALLARD, Mr. BIDEN, Mr. BOND, Mr. BREAUX, Mr. BROWNBACK, Mr. BURNS, Mr. COATS, Mr. CRAIG, Mr. DEWINE, Mr. ENZI, Mr. FAIRCLOTH, Mr. GRASSLEY, Mr. GREGG, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. LIEBERMAN, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. SESSIONS, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, and Mr. THURMOND):

S. 304. A bill to clarify Federal law with respect to assisted suicide, and for other purposes; to the Committee on Finance.

THE ASSISTED SUICIDE FUNDING RESTRICTION ACT

Mr. DORGAN. Mr. President, I rise today to introduce legislation, along with Senator ASHCROFT and 28 of our colleagues from both sides of the aisle, that will prohibit Federal funds from being used to pay for the costs associated with assisted suicide.

I want to say right off that the Dorgan-Ashcroft bill does not attempt to address the broad and complex issue of whether there is a constitutional right to die. That job belongs to the Supreme Court, and as you all know, the High Court is expected to issue a decision later this year to answer this fundamental question.

It is the job of Congress, however, to determine how our Federal resources will be allocated. I do not believe Congress ever intended for Federal funding to be used for assisted suicide, and my bill will ensure that such funding does not occur.

I understand that the decisions that confront individuals and their families when a terminal illness strikes are among the most difficult a family will ever have to make. At times like this, each of us must rely on our own religious beliefs and conscience to guide us.

But regardless of one's personal views about assisted suicide, I feel strongly that Federal tax dollars should not be used for this controversial practice, and the vast majority of Americans agree with me. In fact, when asked in a poll in November of last year whether tax dollars should be spent for assisting suicide, 87 percent of Americans feel tax money should not be spent for this purpose.

The Assisted Suicide Funding Restriction Act prevents any Federal funding from being used for any item or service which is intended to cause, or assist in causing, the suicide, euthanasia, or mercy killing of any individual.

This bill does make some important exceptions. First, this bill explicitly provides that it does not limit the withholding or withdrawal of medical treatment or of nutrition or hydration from terminally ill patients who have decided that they do not want their lives sustained by medical technology. Most people and States recognize that there are ethical, moral, and legal distinctions between actively taking steps to end a patient's life and withholding or withdrawing treatment in order to allow a patient to die naturally. Every State now has a law in place governing a patient's right to lay out in advance, through an advanced directive, living will, or some other means, his or her

wishes related to medical care at the end of life. Again, this legislation would not interfere with the ability of patients and their families to make clear and carry out their wishes regarding the withholding or withdrawal of medical care that is prolonging the patient's life.

This bill also makes clear that it does not prevent Federal funding for any care or service that is intended to alleviate a patient's pain or discomfort, even if the use of this pain control ultimately hastens the patient's death. Large doses of medication are often needed to effectively reduce a terminally ill patient's pain, and this medication may increase the patient's risk of death. I think we all would agree that the utmost effort should be made to ensure that terminally ill patients do not spend their final days in pain and suffering.

Finally, while I think Federal dollars ought not be used to assist a suicide, this bill does not prohibit a State from using its own dollars for this purpose. However, I do not think taxpayers from other States, who have determined that physician-assisted suicide should be illegal, should be forced to pay for this practice through the use of Federal tax dollars.

I realize that the legality of assisted suicide has historically been a State issue. There are 35 States, including my State of North Dakota, which have laws prohibiting assisted suicide and at least 8 other States consider this practice to be illegal under common law. Only one State, Oregon, has a law legalizing assisted suicide.

However, two circumstances have changed that now make this an issue of Federal concern. First, the Supreme Court's decisions in Washington versus Glucksberg and Quill versus Vacco could have enormous consequences on our public policy regarding assisted suicide. In these two cases, the Federal Ninth Second Circuit Courts of Appeal have struck down Washington and New York State statutes outlawing assisted suicide. Although the circuit courts varied in their legal reasoning, both recognized a constitutional right to die.

Second, we are on the brink of a situation where Federal Medicaid dollars may soon be used to reimburse physicians who help their patients die. In another case, Lee versus Oregon, a Federal district court judge has ruled that Oregon's 1994 law allowing assisted suicide is unconstitutional and he has blocked its implementation. However, his decision has been appealed to the Ninth Circuit Court of Appeals, which has already recognized a constitutional right to die.

Once the legal challenges to Oregon's law have been resolved, the State's Medicaid director has already stated that Oregon will begin using its Federal Medicaid dollars to reimburse physicians for their costs associated with assisting in suicide. Should this occur, Congress will not have considered this issue. I do not think it was Congress' intention for Medicaid or other Federal dollars to be used to assist in suicide, and I hope we will take action soon to stop this practice before it starts.

It is important to point out that the Supreme Court decisions will not resolve the important issue of funding for assisted suicides. Even if the Supreme Court finds that there is not a constitutional right to assisted suicide, the ruling likely will not negate Oregon's statute permitting assisted suicide. As a result, the Ninth Circuit Court could well uphold the Oregon statute and Oregon could, in turn, bill Medicaid for the costs associated with assisted suicide. If Congress does not act to disallow Federal funding, a few States, or a few judges, may very well take this decision out of our hands.

The National Conference of Catholic Bishops and the National Right to Life Committee have endorsed this legislation. The American Medical Association and the American Nurses Association have issued position statements opposing assisted suicide, and President Clinton has also indicated his opposition to assisted suicide.

I hope you agree with me and the vast majority of Americans who oppose using scarce Federal dollars to pay for assisted suicide. I invite you to join me, Senator ASHCROFT and 28 of our colleagues in this effort by cosponsoring the Assisted Suicide Funding Restriction Act.

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. 304

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 ''Assisted Suicide Funding Restriction Act of 1997''.

SEC. 2. GENERAL PROHIBITION ON USE OF FEDERAL ASSISTANCE.

Notwithstanding any other provision of law, no funds appropriated by the Congress shall be used to provide, procure, furnish, fund, or support, or to compel any individual, institution, or government entity to provide, procure, furnish, fund, or support, any item, good, benefit, program, or service, the purpose of which is to cause, or to assist in causing, the suicide, euthanasia, or mercy killing of any individual.

SEC. 3. RULE OF CONSTRUCTION.

Nothing in this Act, or in an amendment made by this Act, shall be construed to create any limitation relating to—

(1) the withholding or withdrawing of medical treatment or medical care;

(2) the withholding or withdrawing of nutrition or hydration;

(3) abortion; or

(4) the use of an item, good, benefit, or service furnished for the purpose of alleviating pain or discomfort, even if such use may increase the risk of death, so long as such item, good, benefit, or service is not also furnished for the purpose of causing, or the purpose of assisting in causing, death, for any reason.

SEC. 4. PROHIBITION OF FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID FOR ASSISTED SUICIDE OR RELATED SERVICES.

(a) IN GENERAL.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking ''or'' at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting ''; or''; and

(3) by inserting after paragraph (15) the following:

''(16) with respect to any amount expended for any item or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

(b) TREATMENT OF ADVANCE DIRECTIVES.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended by adding at the end the following:

''(5) Nothing in this subsection shall be construed to create any requirement with respect to a portion of an advance directive that directs the purposeful causing, or the purposeful assisting in causing, of the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.

''(6) Nothing in this subsection shall be construed to require any provider or organization, or any employee of such a provider or organization, to inform or counsel any individual regarding any right to obtain an item or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of the individual, such as by assisted suicide, euthanasia, or mercy killing.''.

SEC. 5. RESTRICTING TREATMENT UNDER MEDICARE OF ASSISTED SUICIDE OR RELATED SERVICES.

(a) PROHIBITION OF EXPENDITURES.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) by striking ''or'' at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting ''; or''; and

(3) by inserting after paragraph (15) the following:

''(16) where such expenses are for any item or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

(b) TREATMENT OF ADVANCE DIRECTIVES.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended by adding at the end the following:

''(4) Nothing in this subsection shall be construed to create any requirement with respect to a portion of an advance directive that directs the purposeful causing, or the purposeful assisting in causing, of the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.

''(5) Nothing in this subsection shall be construed to require any provider of services or prepaid or eligible organization, or any employee of such a provider or organization, to inform or counsel any individual regarding any right to obtain an item or service, furnished for the purpose of causing, or the purpose of assisting in causing, the death of the individual, such as by assisted suicide, euthanasia, or mercy killing.''.

SEC. 6. PROHIBITION AGAINST USE OF BLOCK GRANTS TO STATES FOR SOCIAL SERVICES TO PROVIDE ITEMS OR SERVICES FOR THE PURPOSE OF INTENTIONALLY CAUSING DEATH.

Section 2005(a) of the Social Security Act (42 U.S.C. 1397d(a)) is amended—

(1) by striking ''or'' at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting ''; or''; and

(3) by adding at the end the following:

''(10) for the provision of any item or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

SEC. 7. INDIAN HEALTH CARE.

Section 201(b) of the Indian Health Care Improvement Act (25 U.S.C. 1621(b)) is amended by adding at the end the following:

''(3) Funds appropriated under the authority of this section may not be used for the provision of any item or service (including treatment or care) furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

SEC. 8. MILITARY HEALTH CARE SYSTEM.

(a) MEMBERS AND FORMER MEMBERS.—Section 1074 of title 10, United States Code, is amended by adding at the end the following:

''(d) Under joint regulations prescribed by the administering Secretaries, a person may not furnish any item or service under this chapter (including any form of medical care) for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

(b) PROHIBITED HEALTH CARE FOR DEPENDENTS.—Section 1077(b) of title 10, United States Code, is amended by adding at the end the following:

''(4) Items or services (including any form of medical care) furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

(c) PROHIBITED HEALTH CARE UNDER CHAMPUS.—

(1) SPOUSES AND CHILDREN OF MEMBERS.—Section 1079(a) of title 10, United States Code, is amended by adding at the end the following:

''(18) No contract for the provision of health-related services entered into by the Secretary may include coverage for any item or service (including any form of medical care) furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

(2) OTHER COVERED BENEFICIARIES.—Section 1086(a) of title 10, United States Code, is amended—

(A) by inserting ''(1)'' after ''(a)'' the first place it appears; and

(B) by adding at the end the following:

''(2) No contract for the provision of health-related services entered into by the Secretary may include coverage for any item or service (including any form of medical care) furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

SEC. 9. FEDERAL EMPLOYEES HEALTH BENEFIT PLANS.

Section 8902 of title 5, United States Code, is amended by adding at the end the following:

''(o) A contract may not be made or a plan approved which includes coverage for any benefit, item or service that is furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

SEC. 10. HEALTH CARE PROVIDED FOR PEACE CORPS VOLUNTEERS.

Section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)) is amended—

(1) by inserting ''(1)(A)'' after ''(e)'';

(2) by striking ''Subject to such'' and inserting the following:

''(2) Subject to such''; and

(3) by adding at the end of paragraph (1) (as so designated by paragraph (1)), the following:

''(B) Health care provided under this subsection to volunteers during their service to the Peace Corps shall not include any item or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

SEC. 11. MEDICAL SERVICES FOR FEDERAL PRISONERS.

Section 4005(a) of title 18, United States Code, is amended—

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

(2) by adding at the end the following:

''(2) Services provided under this subsection shall not include any item or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

SEC. 12. PROHIBITING USE OF ANNUAL FEDERAL PAYMENT TO DISTRICT OF COLUMBIA FOR ASSISTED SUICIDE OR RELATED SERVICES.

(a) IN GENERAL.—Title V of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end the following:

''BAN ON USE OF FUNDS FOR ASSISTED SUICIDE AND RELATED SERVICES

''SEC. 504. None of the funds appropriated to the District of Columbia pursuant to an authorization of appropriations under this title may be used to furnish any item or service for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

(b) CLERICAL AMENDMENT.—The table of sections of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end of the items relating to title V the following:

''Sec. 504. Ban on use of funds for assisted suicide and related services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments to the District of Columbia for fiscal years beginning with fiscal year 1998.

Mr. ASHCROFT. Mr. President, I am grateful for this opportunity to speak to my colleagues and to the American public about an item which is important and which demands our attention. It is an item of urgency. And because it is, I think it is important that we develop a sense of cooperation and that we act expeditiously.

A lot of comment is being heard these days about bipartisanship, the need to cooperate and to be partners and participants rather than being opponents and partisans. The measure about which I will speak today is one that has broad bipartisan support, and I think is something upon which cooperation is not only taking place, but one which will provide the basis for the ultimate passage of the legislation.

Members on both sides of the aisle agree that Federal health programs such as Medicare and Medicaid should provide a means to care for and to protect our citizens—not become vehicles for the destruction or impairment of our citizens.

The Declaration of Independence reads: ''We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.'' It is Congress' responsibility to defend the foremost of our inalienable rights—that of life.

In this spirit and understanding, I rise today to introduce with Senators DORGAN, NICKLES, FORD, and others, the Assisted Suicide Funding Restriction Act of 1997, a modest and a timely response to the threat that taxes paid by American citizens would be used to finance assisted suicide. What this bill simply says is that Federal tax dollars shall not be used to pay for and promote assisted suicide or euthanasia. We introduced such a bill in the 104th Congress, and have wide bipartisan support for this legislation, with 30 Members of the U.S. Senate as original cosponsors on the bill.

This bill is urgently needed to preserve the intent of our Founding Fathers and the integrity of Federal programs that serve the elderly and the seriously ill, programs which were intended to support and enhance human health and life, not to promote the destruction of human life.

Government's role in our culture should be to call us to our highest and best, to expand our capacity to take advantage of the opportunities of life, and to build our capacity for achievement. I do not believe that Government has a place in hastening Americans to their graves.

Our court system is, however, on the brink of allowing Federal-taxpayer-assisted suicide funding. This bill is intended to preempt and to prevent proactively such a morally contemptible practice as taking tax money from one American and using it to assist in the suicide of another American.

Let me be clear that this bill only affects Federal funding for actions whose direct purpose is to cause or to assist in causing suicide—actions that are clearly condemned as unethical by the American Medical Association and illegal in the vast majority of States. Again, this bill simply prohibits any Federal funding for medical actions that assist suicide.

Some might ask why we need such a law. It is because two Federal courts of appeals recently contradicted the positions of 49 States when they found that there is a Federal constitutional ''right'' to physician-assisted suicide. These cases involved New York and Washington State laws which prohibit physician-assisted suicide.

The State of Oregon recently passed Measure No. 16. That was the first law in the country that authorized the dispensing of lethal drugs to terminally ill patients to assist in suicide. Although a Federal court in Oregon struck down that law, the case has been to the ninth circuit, one of the appeals courts that has already signaled a strong indication that there is a constitutional right to assisted suicide.

Oregon's Medicaid director and the chairman of the Oregon Health Services Commission have both said that in the event that the ninth circuit would clear the way for Oregon's law to take effect, the federally funded Medicaid Program in Oregon would begin to pay for assisted suicide with public funds in that State. According to the Oregon authorities, the procedure would be listed on Medicaid reimbursement forms under the grotesque euphemism of ''comfort care.''

Unless we pass the Assisted Suicide Funding Restriction Act, Oregon could soon be drawing down Federal funds through its Medicaid Program to help pay for assisted suicides. Neither Medicaid, nor Medicare, nor any other Federal health program has explicit statutory language to prohibit the use of Federal funds to dispense lethal drugs for suicide primarily because no one in the history of these programs ever thought that they would be used to end the lives of individuals. We have always focused in these programs on seeking to extend rather than end the lives of Americans.

In fact, the Clinton administration's brief filed in the Supreme Court of the United States opposing physician-assisted suicide pointed out that:

> The Department of Veterans Affairs, which operates 173 medical centers, 126 nursing homes, and 55 inpatient hospices, has a policy manual that . . . forbids ''the active hastening of the moment of death.''

''The active hastening of the moment of death'' sounds a lot like assisted suicide to me.

Such guidelines also apply to the VA's hospice program, the military services, the Indian Health Service, and the National Institutes of Health.

Nonetheless, if the ninth circuit reinstates Oregon's Measure 16, Federal funds will be used for the so-called comfort care, also known as assisted suicide.

I believe we would be derelict in our duty if we were to ignore this problem and allow a few officials in one State to decide that the taxpayers of the other 49 States must help subsidize a practice that they have never authorized and that millions of Americans find to be morally abhorrent.

It is crystal clear that the American people do not want their tax dollars spent on assisting the suicide of individuals. Recently, a national Wirthlin poll showed that 87 percent of Americans oppose the use of public funds for this purpose. Even the voters of Oregon, who narrowly approved Measure 16 by a 51- to 49-percent margin, did not consider the question of public funding. The voters of two other west coast States, California and Washington, soundly defeated similar measures to authorize assisted suicide. Since November 1994, when Oregon passed its law, 15 other States have considered and rejected bills to legalize the practice. However, this bill does not talk about authorizing or prohibiting assisted suicide. It merely states that no Federal funds could be used to promote or assist suicide.

Let me just say a few words about the way the legislation is crafted. It is very limited. It is very modest, and I think that provides the basis for its bipartisan support.

It does not forbid a State to legalize assisted suicide, and it does not forbid using State funds for the practice. It merely prevents Federal funds and Federal programs from being drawn into promoting it.

The bill also does not attempt to resolve the constitutional issue that the Supreme Court considered last month when it heard the cases of Washington versus Glucksberg and Vacco versus Quill. These are right-to-suicide cases, and the bill does not attempt to answer this complex question. Nor would this legislation be affected by what the Supreme Court decides on the issue. Congress would still have the right to prevent Federal funding of such a practice even if the practice itself had the status of a constitutional ''right.''

As the bill's rule of construction clearly provides, this legislation does not affect any other life issue that some might have strong feelings about. The bill does not affect abortion, or complex issues such as the withholding or withdrawal of life-sustaining treatment, even of nutrition or hydration. Nor does it affect the dispersing of large doses of morphine or other drugs to ease the pain of terminal illness, even when this may carry the risk of hastening death as a side-effect—a practice that is legally accepted in all 50 States, and ethically accepted by the medical profession and even by pro-life and religious organizations. This bill is focused exclusively on prohibiting Federal funding for assisting suicide.

Finally, I am pleased to mention those organizations that have joined with us in endorsing this legislation. These include the American Medical Association, the Christian Coalition, the Family Research Council, Free Congress, the National Conference of Catholic Bishops, National Right to Life, and the Traditional Values Coalition. I ask unanimous consent to have printed in the RECORD a letter of support from the American Medical Association.

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

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, February 12, 1997.

Hon. JOHN ASHCROFT,
Washington, DC.

DEAR SENATOR ASHCROFT: The American Medical Association (AMA) is pleased to support the ''Assisted Suicide Funding Restriction Act of 1997'' which you are introducing in collaboration with Senator Dorgan. We believe that the prohibition of federal funding for any act that supports ''assisted suicide'' sends a strong message from our elected officials that such acts are not to be encouraged or condoned. The power to assist in intentionally taking the life of a patient is antithetical to the central mission of healing that guides physicians. While some patients today regrettably do not receive adequate treatment for pain or depression, the proper response is an increased effort to educate both physicians and their patients as to available palliative measures and multidisciplinary interventions. The AMA is currently designing just such a far-reaching, comprehensive effort in conjunction with the Robert Wood Johnson Foundation.

The AMA is particularly pleased to note that your bill acknowledges—in its ''Rules of Construction'' section—the appropriate role for physicians and other caregivers in end-of-life patient care. The Rules properly distinguish the passive intervention of withholding or withdrawing medical treatment or care (including nutrition and hydration) from the active role of providing the direct means to kill someone. Most important to the educational challenge cited above is the Rule of Construction which recognizes the medical principle of ''secondary effect,'' that is, the provision of adequate palliative treatment, even though the palliative agent may also foreseeably hasten death. This provision assures patients and physicians alike that legislation opposing assisted suicide will not chill appropriate palliative and end-of-life care. Such a chilling effect would, in fact, have the perverse result of increasing patients' perceived desire for a ''quick way out.''

The AMA continues to stand by its ethical principle that physician-assisted suicide is fundamentally incompatible with the physician's role as healer, and that physicians must, instead, aggressively respond to the needs of patients at the end of life. We are pleased to support this carefully crafted legislative effort, and offer our continuing assistance in educating patients, physicians and elected officials alike as to the alternatives available at the end of life.

Sincerely,

P. JOHN SEWARD, MD.

Mr. ASHCROFT. President Jefferson wrote in words that are now inscribed in the Jefferson Memorial here in Washington that the ''care and protection of human life, and not its destruction,'' are the only legitimate objectives of good government. Thomas Jefferson believed that our rights are God given and that life is an inalienable right. With this understanding and belief, I urge the Congress and the President to support this bill. It is a modest but necessary effort to uphold our basic principles by forbidding the Federal funding of assisted suicide.

Mr. President, I thank my colleague from North Dakota for his excellent work, his cooperation in this respect, and his emphasis on what this bill does and what it does not do. There is a narrow focus in this measure. We do not seek to preempt the ability of States to make decisions regarding their own laws, or individuals to make their own decisions. We are merely making reference to the fact that the Federal Government should not be financing assisted suicides.

I thank him for his outstanding work and for his excellent effort in developing this legislation, to narrowly focus it and target it in such a way that makes it possible for us to work together. I commend him.

Mr. ABRAHAM. Mr. President, I rise to express my strong support for the Assisted Suicide Funding Restriction Act. In so doing I side with the 87 percent of Americans who oppose the use

of tax dollars to pay for the cost of assisting suicide or euthanasia.

I find it deeply distressing, Mr. President, that we are in the throes of a legal and public policy debate over whether physicians should be given the power to end the lives of their patients. This controversy raises many troublesome questions concerning the duties of a physician, the nature of the doctor-patient relationship, the possibility of coerced suicide, and the very sanctity of life.

Some may find these questions difficult or even impossible to answer. But of one thing I am certain: the government has no right to use public moneys, the tax dollars paid by the American people, to support physician assisted suicide. Whatever their views on the rectitude of allowing doctors to assist their patients in ending their lives, I hope my colleagues will join with me in saying that such a controversial practice, which so many Americans find morally troubling, should not be the object of Federal largesse.

I congratulate my friends the Senator from North Dakota and the Senator from Missouri on their courage and conviction in submitting this bill, and urge my colleagues to join them in its support.

Mr. BURNS. Mr. President, as an original cosponsor of the Assisted Suicide Funding Restriction Act of 1997, I rise in strong support of this bill.

Mr. President, this bill simply prohibits Federal tax funds from being used to pay for or promote assisted suicide or euthanasia. Specifically, the bill will prevent Federal funding for items or services ''the purpose of which is to cause, or assist in causing, the suicide, euthanasia, or mercy killing of any individual.'' The prohibition will encompass Medicare, Medicaid, the Federal Employees Health Program, medical services for prisoners, and the military health care system.

This bill does not create any limitation with regard to the withholding or withdrawing of medical treatment or of nutrition or hydration, or affect funding for abortion or for alleviating pain or discomfort for patients.

The American people oppose taxpayer funding of assisted suicide by an overwhelming margin. In addition, the American Medical Association has endorsed this bill. Yet States are free to legalize assisted suicide, as Oregon has by referendum, and this raises the prospect of Federal Medicaid dollars being used to facilitate suicide. The Federal Government must not be in the business of promoting death. Let's listen to the American people and settle the question of publicly funding assisted suicide once and for all. I urge my colleague to join us in supporting the Assisted Suicide Funding Restriction Act of 1997.

● Mr. HUTCHINSON. Mr. President, I am pleased to express my support of the Assisted Suicide Funding Restriction Act of which I am a cosponsor. This bill would ensure that no Federal tax dollars are used to pay for or promote assisted suicide or euthanasia. In addition, it identifies those Federal programs which may not be sued to pay for assisted suicide. These programs include Medicare, Medicaid, Federal Employees Health Benefits plans, medical services for Federal prisoners, and the military health care system.

This bill also makes clear that Federal law will not require health care facilities, in States where assisted suicide has been legalized, to advise patients at the time of admission about their ''right'' to get lethal drugs for suicide.

This legislation is needed due to recent Federal court rulings which have declared a constitutional right to assisted suicide. The U.S. Supreme Court heard oral arguments in two cases on January 8 of this year to determine the constitutionality of those rulings. In addition, some States, such as Oregon, have legalized assisted suicide by referendum. These States may be tempted to consider using Federal funds and facilities to pay for these procedures. For this reason, we must send a clear message. The American people do not want their tax dollars used to pay for assisted suicides. In fact, a majority of Americans are strongly opposed to the very notion of assisted suicide. Counted among those in opposition are the American Medical Association whose physician members would be asked to play the role of moral arbitrator in the decision to end one's life.

The purpose of this bill and its guidelines are concise and clear. No limitations will be placed on the withholding or withdrawing of medical treatment. In addition, it does not affect funding for alleviating patient pain or discomfort.

An overwhelming majority of the American people believe their taxes should not be used to pay for assisted suicide or euthanasia. A national Wirthlin poll taken in November 1996 found that 87 percent of Americans did not believe their tax dollars should be used to pay for these procedures.

I ask my colleagues to join me in supporting this bill which guarantees every American that their tax dollars will not be used to pay for or promote assisted suicide or euthanasia.●

Mr. NICKLES. Mr. President, I rise today, and begin with these words: ''We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.''

These profound words are possibly the most known words from our Declaration of Independence. They state a principle that is fundamental to who we are as a nation; life itself is a gift from our Creator, and it is a right that can not be taken away. We are a nation whose core philosophy is to care for its people.

As public servants, we deal with issues that affect the lives of people every day. Caring for people is the underlying aspect of almost every piece of legislation dealt with in the Senate, and nearly every issue we confront as a country.

But while we work to build up America, something is at work in the country, eating away at fundamentals we used to take for granted: in this case, the sanctity of life. It is no secret that I place a high value on life at its conception. But a disturbing trend has developed over the past few years, a devaluation of life as it nears its end.

Two years ago, I offered legislation banning the use of Medicaid and Medicare funds for assisted suicide in the 1995 balanced budget act. Unfortunately the President vetoed this legislation.

Today, I am proud to be a cosponsor of the legislation offered by Senators ASHCROFT and DORGAN, which prohibits any Federal funds from being used for assisted suicide, euthanasia or mercy killing. This means that hospitals, medical institutions, or health care providers are not required to participate in procedures they morally or ethically oppose.

The large majority of people oppose assisted suicide. In a Wirthlin poll taken November 5, 1996, 87 percent of the people asked said tax dollars should not be spent to pay for the cost of assisting suicide or euthanasia. A recent study by the Dana-Farber Cancer Institute in Boston, found that seriously ill cancer patients in severe pain are unlikely to ''approve of, or desire'' euthanasia or physician-assisted suicide, instead they desire ''only relief from their pain''.

Even the medical profession is opposed to assisted suicide. An amicus brief filed by the American Medical Association to the Supreme Court on November 12, 1996, contends assisted suicide ''will create profound danger for many ill persons with undiagnosed depression and inadequately treat pain, for whom assisted suicide rather than good palliative care could become the norm. At greatest risk would be those with the least access to palliative care—the poor, the elderly and members of minority groups.'' The brief concludes, ''Although, for some patients it might appear compassionate to hasten death, institutionalizing physician-assisted suicide as a medical treatment would put many more patients at serious risk for unwanted and unnecessary death.''

Dr. Joanne Lynn, board member of the American Geriatrics Society and director of the Center to Improve Care of the Dying at George Washington University said—Health Line, Jan. 8, 1997—''No one needs to be alone or in pain or beg a doctor to put an end to misery. Good care is possible.''

As Tracy Miller, former head of the New York Task Force on Life and Law said, ''It is far easier to assist patients in killing themselves than it is to care for them at life's end.''

The bill before us today is a major step in continuing to provide the care our elderly, poor, and seriously ill need and deserve. The bill would assure that the programs designed to support human life and health would not be transformed into implements of death. I commend the work of Senator ASHCROFT and Senator DORGAN in writing this legislation, compliment them upon its introduction today, and pledge to work with them to see it to passage in the 105th Congress. Our country deserves no less.

By Mr. D'AMATO (for himself, Ms. MOSELEY-BRAUN, Mr. CHAFEE, Mr. ROBB, Mr. REID, Mr. LIEBERMAN, Mr. SMITH of New Hampshire, Mr. DODD, Mr. BIDEN, Mr. CRAIG, Mr. ALLARD, Mr. MACK, Mr. GRASSLEY, Mr. KERREY, Mr. BOND, Mr. BURNS, Mr. HAGEL, Mr. LAUTENBERG, Mr. TORRICELLI, Mr. BRYAN, Mr. DOMENICI, Mr. SPECTER, Mr. REED, Mr. JOHNSON, Mr. BENNETT, Mr. KOHL, Mr. HATCH, Mr. ENZI, Mr. SANTORUM, Mr. MOYNIHAN, Mrs. MURRAY, Mr. CLELAND, Ms. LANDRIEU, Mr. KERRY, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. LOTT, Mr. GORTON, Mrs. FEINSTEIN, Mr. SESSIONS, Mr. COVERDELL, Mr. BROWNBACK, Mr. GRAMS, Mr. LUGAR, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SHELBY, and Mr. THOMAS):

S. 305. A bill to authorize the President to award a gold medal on behalf of the Congress to Francis Albert ''Frank'' Sinatra in recognition of his outstanding and enduring contributions through his entertainment career and humanitarian activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

GOLD MEDAL LEGISLATION

Mr. D'AMATO. Mr. President, I rise this morning to introduce legislation on behalf of 48 Senators. I know and feel very strongly that when all of my colleagues are informed of the legislation that it will be unanimous and that all will join to authorize a congressional gold medal for Frank Sinatra. The time has come for Congress to acknowledge this great American and his contributions to the world of entertainment and society as a whole.

It is fitting that we honor this man in the autumn of his years, as we have honored Bob Hope, John Wayne, Marian Anderson and other great performers, not only for the fact of their entertainment and the wonderful gift that God bestowed upon them, but for so many other aspects in terms of their bond with America, its people, and their contributions.

Mr. President, this bill would authorize the U.S. Mint to commemorate the humanitarian and professional accomplishments of Frank Sinatra with a gold medal to be presented by the President on behalf of the Congress. In addition, bronze replicas of the original gold medal will be available to the general public for their private collection.

It is estimated that not only will we be doing great honor to Frank Sinatra, but, in addition, it will result in a very substantial profit to the Treasury because many will buy these replicas, and indeed millions of dollars can and will be raised by our Government.

Mr. President, Frank Sinatra has become one of the most, if not the most, recognizable vocalists in America and in the world. This talented man has singularly defined America's love affair with popular music for over five generations and has remained to this day a man of the people, a man who has brought pleasure to countless persons.

The tremendous, positive impact Frank Sinatra has on people throughout the world is truly phenomenal. His songs have become a standard for young and old alike. Indeed, this impact goes beyond song and it goes beyond adversity. Frank Sinatra knew adversity and he overcame it in his own career rising to great heights. He overcame the trials and tribulations during his life and became a great humanitarian.

Many people who adore Frank Sinatra and his music are not aware of that other side of the man—his generosity. Truly he could be called Mr. Anonymous because, Mr. President, unlike many who trumpet their generosity, who trumpet their gift giving, Mr. Sinatra did not do this. Indeed, he has raised literally hundreds of millions of dollars—not tens of millions—hundreds of millions of dollars for children, in particular, throughout the world, for those who were in need of help, whether it be for cancer, for AIDS, for retinitis pigmentosa—just name the charity and you will see that Francis Albert Sinatra most likely has been there, quietly giving of his time and his energy in caring for his fellow human being, giving back to the people of this country, throughout the length and breadth, establishing scholarships for young people, going back to his hometown and to his old high school to give of his time and his money. He took his wonderful gift of song and used it as a vehicle of benevolence.

Let me just touch on one of these as an example. Mr. Sinatra has raised $9 million for just one institution, a great cancer center, Sloan-Kettering, by holding five concerts. I do not know how many know that. He did not ask his publicist to go out and speak to that. The money raised by Frank Sinatra began programs whereby those who are in need of treatment and do not have the financial wherewithal will not be turned away. This is because of the generosity of Frank Sinatra.

Indeed, New Jersey can be rightfully proud of him, born in Hoboken in 1915 to parents of modest means. I am pleased that both of the Senators from New Jersey have joined in cosponsoring this legislation. Those of us in New York are so proud, and we also claim him as a son of New York. He has given us the gift of his great performances, and we particularly love his rendition of ''New York, New York.'' But look throughout the country, the great Windy City of Chicago, and how fitting that the senior Senator from Illinois has also joined in this tribute which is long overdue.

Mr. President, it cannot be denied that Frank Sinatra has had a remarkable career. Not long after reaching adolescence, he developed a keen love of music and the desire to perform. In high school he was responsible for screening and scheduling dance bands for Demarest High School's Wednesday night dances. In exchange for hiring musicians, he was permitted to sing a few songs with the different bands.

A dream was growing in the young Frank Sinatra—his dream of becoming a successful entertainer. By the age of 21, Frank Sinatra was a professional singer. His first group was the Three Flashes, a singing and dancing trio which later became the Hoboken Four. A few years later, Frank Sinatra's investment in vocal lessons would prove to be invaluable as his singing career propelled him into stardom.

In 1939, Frank Sinatra was hired by Harry James who had recently formed an orchestra of his own. The earliest performance reviews were not favorable, but Frank Sinatra persevered. Seven months later, he was hired away to join Tommy Dorsey's orchestra where he would formulate the essence of his signature singing style.

After a successful, 2-year tour with Tommy Dorsey, Frank Sinatra made the move to go out on his own in 1942. He recorded the first of numerous hit singles titled ''Night and Day.'' A year later he made his motion picture debut and had appeared in several movies by 1950. But, as quickly as Frank Sinatra found himself ''king of the hill, at the top of the heap,'' he found the constant demand on his time and talent contributing to a decline in his vocal quality.

By the end of 1952, he had lost his agent and his film and recording contracts. The ''voice'' was nearly lost as well. Frank Sinatra was once eloquently quoted saying: ''You have to scrape bottom to appreciate life and start living again.''

This personally and professionally trying time ended in 1953 with Frank Sinatra's award winning performance playing the role of Maggio in the production ''From Here to Eternity.'' The rebirth of his career was finally at hand. Frank Sinatra's new stardom quickly surpassed that which he had realized in the 1940's.

Beginning in the 1960's, Frank Sinatra's flourishing acclaim as a preeminent performer earned him the title ''Chairman of the Board.'' He established his own recording company, Reprise, and began recording again, this time with more conviction than ever before. Frank Sinatra orchestrated television specials which featured little-known musical talents, performed live for huge, adoring audiences and began

to evolve as a legend. By 1984, his singing repertoire included well over 50 albums and record sales in the hundreds of millions of dollars.

Throughout his entertainment career and rise to fame, Frank Sinatra worked tirelessly and steadfastly to cure some of the ills of society. In one of the most outstanding examples of his generosity, Frank Sinatra personally, and entirely, I might add, financed and donated his talent and superstardom along with other renowned performers for a world tour benefitting children's hospitals, orphanages, and schools in six countries. This whirlwind jaunt included 30 concerts in 10 weeks. And never once did Frank Sinatra seek glory from this feat through publicity or any other means.

Frank Sinatra's generosity has touched the lives of the underprivileged, the terminally and chronically ill, children, minorities and students not only in this country, but in Latin America, Israel, Europe, and Mexico. His works of goodwill have financed entire wings in hospitals, numerous scholarships, educational programs, and student centers. He has selflessly served as chairman on numerous boards for charities and councils borne out of sincerity, humility, and the goal of equality. If I could stand here and recite all of the things Frank Sinatra has done from his heart for his fellow man and woman, poor, old, young, sick and the like, and recited all of the awards this giant among us has received, I would be here all day.

Mr. President, since 1945 Frank Sinatra's national and international humanitarian activities have been recognized. Just as a small sampling, he has been awarded with the Lifetime Achievement Award from the NAACP, the Achievement Award from the Screen Actors Guild, the New York City Columbus Citizens Committee Humanitarian Award, the Kennedy Center Honors, the Scopus Award from the American Friends of Hebrew University, the Philadelphia Freedom Medal and the highest civilian honor in out country, the Medal of Freedom given to him by another American hero, President Ronald Reagan.

Mr. President, I ask unanimous consent that the text of the bill and a selection of charities Mr. Sinatra graciously donated to and honors he received be printed in the RECORD.

Mr. President, I must say to you that the idea and the driving force behind Congressional recognition of Francis Albert Sinatra in the autumn of his life came from a Congressman born in Puerto Rico. This Congressman recently told me the touching and true story of how he learned English at the age of five from Frank Sinatra. That Congressman is Congressman JOSE SERRANO. His father, a World War II veteran, came home from the war with a group of 78 RPM records. On those records was the melodic voice of Frank Sinatra. Congressman SERRANO said to me, ''Senator, I learned to speak English. I didn't know any English. When my father came home, as a youngster, I would play these records. Frank Sinatra has been my idol.'' Mr. Sinatra's voice filled the Serrano household then as it does today. I thank my colleague for his diligence in working to have Frank Sinatra placed in a league with other deserving performers and philanthropists.

Mr. President, let me conclude my remarks by citing a great song that Frank Sinatra popularized, ''My Way.'' I am not going to attempt the lyrics. I have sung on the Senate floor before and I promised Senator FORD I would not do so again, after his admonition. He was about to rise up and object. My mother cautioned me against attempting to sing again. But let me say when Frank Sinatra sings ''My Way,'' those words embody the spirit of this country, the spirit of giving people having the opportunity to do it their way, to rise, to climb to the heights that only America ensures.

My true hope is that before this legislation is enacted, we will have 100 cosponsors honoring a talented American, a gifted American, who has given so generously of himself not only in his performances but in terms of making this a better country and a better world for so many who are less fortunate.

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

S. 305

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) Francis Albert ''Frank'' Sinatra has touched the lives of millions around the world and across generations through his outstanding career in entertainment, which has spanned more than 5 decades;

(2) Frank Sinatra has significantly contributed to the entertainment industry through his endeavors as a producer, director, actor, and gifted vocalist;

(3) the humanitarian contributions of Frank Sinatra have been recognized in the forms of a Lifetime Achievement Award from the NAACP, the Jean Hersholt Humanitarian Award from the Academy of Motion Picture Arts and Sciences, the Presidential Medal of Freedom Award, and the George Foster Peabody Award; and

(4) the entertainment accomplishments of Frank Sinatra, including the release of more than 50 albums and appearances in more than 60 films, have been recognized in the forms of the Screen Actors Guild Award, the Kennedy Center Honors, 8 Grammy Awards from the National Academy of Recording Arts and Science, 2 Academy Awards from the Academy of Motion Picture Arts and Sciences, and an Emmy Award.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Francis Albert ''Frank'' Sinatra in recognition of his outstanding and enduring contributions through his entertainment career and numerous humanitarian activities.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be charged against the Numismatic Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medal authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sales of duplicate bronze medals under section 3 shall be deposited in the Numismatic Public Enterprise Fund.

Selection of general international awards for humanitarian and philanthropic contributions: Italian Star of Solidarity, Government of Italy '62, Commandeur De La Sante Publique, France '65 Medallion of Valor, State of Israel '72, Jerusalem Medal, City of Jerusalem, Israel '76, Primum Vivere (life first) Award, World Mercy Fund '79, Grand Ufficiale Dell' Ordine al Merito Della Repubblica Italiana, Italy '79 (presented by President Charles DeGaulle) Humanitarian Award, Variety Clubs International '80, Order of the Leopard, President of Bophuthatswana '81 (first white person to receive), and Knight of the Grand Cross, Knights of Malta, Sovereign Order of the Hospitaller of St. John of Jerusalem '85.

Selection of awards for national humanitarian and philanthropic contributions: American Unity Award for advancing the cause of better Americans '45, Commendation by Bureau of Inter-Cultural Education '45, Commendation by National Conference of Christians and Jews '45, Democratic America Award, Courageous Fight On Behalf Of All Minorities '46, Jefferson Award, Council Against Intolerance in America '46, Hollizer Memorial Award, LA Jewish Community '49, Distinguished Service Award, LA '71, Humanitarian Award, Friar's Club '72, Splendid American Award, Thomas A. Dooley Foundation '73, Man of the Year Award, March of Dimes '73, Man of the Year Award, Las Vegas '74, Certificate of Appreciation, NYC '76, Honorary Doctor of Humane Letters, University of Nevada '76, Freedom Medal, Independence Hall, PA '77, International Man of the Year Award, President Ford '79, Humanitarian Award, Columbus Citizens Committee, NY '79, First Member, Simon Weisenthal Center Fellows Society '80, Multiple Sclerosis Special Award, National Hope Chest Campaign '82, Kennedy Center Honors Award for Lifetime Achievement, '83, Boy Scouts of America Distinguished American Award, '84, Medal of Freedom, President Reagan '85, Lifetime of Achievement Award, National Italian-American Foundation '85, Coachella Valley Humanitarian Award, '86, and Lifetime Achievement Award, NAACP '87.

Selection of Charities and Foundations: Frank Sinatra Wing, Atlantic City Medical Center, New Jersey, Frank Sinatra Fund for outpatients with inadequate or exhausted medical insurance coverage, Sloan-Kettering

Cancer Center, New York Martin Anthony Sinatra Medical Education Center Desert Hospital, California, Frank Sinatra Child Care Unit, St. Jude's Children's Research Center, Tennessee, Sinatra Family Children's Unit for the Chronically Ill, Seattle Children's Orthopedic Hospital, Frank Sinatra Student Scholarship Fund, Hoboken, New Jersey, Frank Sinatra In School Scouting Program, Grape Street Elementary, Los Angeles, Frank Sinatra International Student Center, Hebrew University, Jerusalem, Frank Sinatra Youth Center for Christians, Moslems and Jews, Israel, San Diego State University Aztec Athletic Foundation, Variety Club International, World Mercy Fund, and National Multiple Sclerosis Campaign.

Mr. MOYNIHAN. Mr. President, I rise to join my colleague and friend, Senator D'AMATO, as a cosponsor of his bill to award a Congressional Gold Medal to Francis Albert Sinatra. Frank Sinatra is one of the most famous singers in the history of popular music. He is known as ''The Voice,'' ''Old Blue Eyes,'' and ''The Chairman of the Board.'' These nicknames attest as clearly as anything to his talent, his popular appeal, and his impact on American music.

Mr. Sinatra began his career with local bands in New Jersey. He joined Harry James' band in 1939, but began to achieve his great popularity touring with Tommy Dorsey from 1940 to 1942. His solo career began in 1943 and never ceased.

After conquering the musical world Mr. Sinatra began a film career that quickly earned him an academy award, in 1953, for his supporting role in ''From Here to Eternity.'' He went on to appear in some 50 movies.

Mr. President, New York has no official State song. For six decades now Frank Sinatra has entertained New Yorkers in music and film. His impact has been tremendous. But more than anything else his version of ''New York, New York'' has given us cheer, enjoyment, and pride. It is certainly the unofficial song for millions. Therefore, I am delighted to cosponsor this bill to award a Congressional Gold Medal to Frank Sinatra. I encourage my colleagues to join us.

By Mr. FORD:

S. 306. A bill to amend the Internal Revenue Code of 1986 to provide a decrease in the maximum rate of tax on capital gains which is based on the length of time the taxpayer held the capital asset; to the Committee on Finance.

CAPITAL GAINS LEGISLATION

Mr. FORD. Mr. President, today I am introducing capital gains legislation which I believe has the possibility of breaking through the impasse we have had on this issue for the last several years. My proposal is based not on political rhetoric, but on conversations I have had with constituents who support a commonsense approach on this issue.

My legislation would provide a sliding scale for capital gains relief, lowering the rate at which capital gains are taxed, based on how long the assets have been held. For every year an asset has been held, the applicable rate would be reduced by 2 percentage points. Assets held for more than 1 year would be taxed at no higher than the current 28 percent. Assets held for 2 years would be taxed at no higher than 26 percent. And so on, down to a rate of 14 percent. Assets held for more than 8 years would be taxed at a maximum rate of 14 percent.

I am introducing the legislation with three objectives in mind. First, I believe our efforts should be directed toward helping family farms and small family businesses. We do not need additional proposals to assist real estate speculators or those who specialize in putting Wall Street deals together. Most capital gains proposals we have considered in recent years provide a disproportionate benefit to those making six-figure salaries and above. It should be clear by now that we cannot pass a capital gains proposal that primarily benefits the wealthy. In my experience, those middle-class families that should be the focus of the debate get lost in the shuffle.

Second, using this proposal, I intend to work with others interested in the issue to attempt to develop a bipartisan coalition with middle class families in mind. There are few lasting legislative changes that have not been developed in a bipartisan way. This is particularly true in the area of tax policy. Capital gains reform has been a hot button campaign issue for several years, often being used in an attempt to secure partisan advantage. I think it is time to move beyond this stage. There are plenty of Members on both sides of the aisle interested in providing capital gains relief. I think we should attempt to find middle ground that takes into account the views of both Democrats and Republicans interested in this issue.

Third, we must face budget realities. It appears likely that any capital gains proposal which can pass this Congress must be included in an overall balanced budget package as part of a reasonable level of tax relief. Some of the capital gains proposals considered during the last Congress were estimated by the Congressional Budget Office to result in more than $40 billion being added to the Federal deficit over 7 years, requiring enormous offsets. Even the modified proposal included in the reconciliation package vetoed by the President was scored by CBO at more than $35 billion. I believe this is more than we can afford in the context of balancing the budget. It also seems to be far more than what is needed to target relief to middle-class families, and especially farmers and small businesses.

I am also aware of the criticism by some on the other side of the aisle that certain Democratic capital gains proposals are picking and choosing among certain types of assets, and therefore picking and choosing winners and losers. My proposal avoids that criticism. It would apply to all types of assets that are covered under current law. It is nondiscriminatory. However, because of the sliding-scale benefit based on the holding period, I believe the impact will be to provide the greatest benefit to middle-class families like those farm families and small businesses I have in mind.

So, Mr. President, it is my hope that this concept will be taken seriously in the spirit of reaching a bipartisan compromise on this issue. Mr. President, I ask unanimous consent to have printed in the RECORD a chart which demonstrates the operation of this capital gains proposal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 306

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

SECTION 1. DECREASE IN MAXIMUM CAPITAL GAINS RATE BASED ON TAXPAYER'S HOLDING PERIOD.

(a) IN GENERAL.—Section 1(h) of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended to read as follows:

''(h) MAXIMUM CAPITAL GAINS RATE.—

''(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

''(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

''(i) taxable income reduced by the amount of the net capital gain, or

''(ii) the 15-percent bracket amount, plus

''(B) a tax equal to the sum of the amounts determined by applying the applicable percentage to long-term capital gain taken into account in computing net capital gain.

''(2) 15-PERCENT BRACKET AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—The term '15-percent bracket amount' means the amount of taxable income taxed at a rate below 28 percent, determined without taking into account long-term capital gain attributable to a capital asset for which the taxpayers' holding period exceeds 8 years.

''(B) LIFO ORDERING RULE.—For purposes of applying paragraph (1)(B), the determination as to which long-term capital gain (if any) was taken into account in determining the 15-percent bracket amount shall be made on the basis of the holding period of the capital assets to which such gain is attributable, beginning with assets with the shortest holding period.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'applicable percentage' means, with respect to any long-term capital gain, 28 percent reduced (but not below 14 percent) by 2 percentage points for each year (or fraction thereof) by which the taxpayer's holding period for the capital asset to which the gain is attributable exceeds 2 years.

''(B) LIMITATION ON GAIN TO WHICH PERCENTAGE APPLIES.—Subparagraph (A) shall not apply to long-term capital gain on any sale or exchange to the extent the gain exceeds the excess (if any) of—

''(i) net capital gain for the taxable year, over

''(ii) the sum of—

''(I) that portion of the 15-percent bracket amount which is attributable to net capital gain, plus

''(II) other long-term capital gain to which paragraph (1)(B) applies and which is attributable to capital assets for which the taxpayer's holding period is longer.

''(C) APPLICATION TO CLASSES OF GAIN.—Subject to such rules as the Secretary may prescribe, all long-term capital gain from the sale or exchange of capital assets with the same holding period (determined on the basis of the number of years or fractions thereof) shall be treated as gain from the sale or exchange of a single capital asset.

''(4) INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

FORD SLIDING SCALE CAPITAL GAINS PROPOSAL

Assets held for the following period	Would be subject to the lower of the current law capital gains rate or the rate listed below (in percent)
More than:	
1 year	28
2 years	26
3 years	24
4 years	22
5 years	20
6 years	18
7 years	16
8 years	14

By Mr. LUGAR (for himself, Mr. HARKIN, Mr. MCCONNELL, and Mr. LEAHY):

S. 307. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of assistance to impoverished families and individuals, and for other purposes; to the Committee on Governmental Affairs.

THE FEDERAL SURPLUS PROPERTY DONATION ACT

• Mr. LUGAR. Mr. President, I use today to introduce the Federal Surplus Property Donations Act. This bill corrects an oversight by allowing nonprofit charitable organizations that primarily serve low-income people, to be eligible to receive Federal surplus personal property.

Under current law, Federal surplus property can be donated to State and local governments, schools, hospitals, and nonprofit organizations that serve the homeless. My bill would expand the eligibility to food banks, construction oriented charities, building material recycling warehouses, and similar nonprofit tax-exempt organizations that serve the poor. The bill does not give preference to these organizations, but simply adds them to the list of eligible recipients.

Charities that provide food and shelter assistance are major contributors to the safety net for the poor. As we look to charities to provide these important services to our Nation's low-income population, it is reasonable that we include them as eligible to receive surplus property. Excess property can be used creatively by these groups to lower expenses, thereby allowing charities to become more efficient. These nonprofit charitable organizations serving the poor are in great need of materials and equipment to build and repair homes, store food items, and deliver goods and services to those in need. We have already acknowledged that nonprofit charities serving the homeless should be eligible to receive these goods. This bill would recognize those charitable institutions which are providing shelter, food, and services to low-income Americans who may not be homeless.

Mr. President, this legislation would provide donated equipment and goods at lower costs than alternative approaches such as grants to charities. Furthermore, it is a wise use of moneys either paid in taxes or donated by generous citizens. Domestic charities will make good use of Federal surplus and invest moneys saved in expanded efforts to further help those in need.

The bill has bipartisan support. Cosponsoring the bill with me today are the ranking member of the Senate Agriculture, Nutrition and Forestry Committee, Senator TOM HARKIN, as well as the chairman and ranking member of the Nutrition Subcommittee, Senator MCCONNELL and Senator LEAHY. In addition, I am pleased to say that my Indiana colleague in the House, Congressman LEE HAMILTON, is introducing the same bill today.

Mr. President, I have personally supported various food banks in Indiana over the years. I am now proud to introduce a bill that will assist them in their continued efforts of serving the poor.

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. 307

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

SECTION 1. TRANSFER OF SURPLUS PERSONAL PROPERTY FOR DONATION TO PROVIDERS OF ASSISTANCE TO IMPOVERISHED FAMILIES AND INDIVIDUALS.

Section 203(j)(3)(B) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)(3)(B)) is amended by inserting after ''homeless individuals'' the following: '', providers of assistance to families or individuals with annual income below the poverty line (as defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902)),''.•

By Mr. THOMAS (for himself and Mr. ENZI):

S. 308. A bill to require the Secretary of the Interior to conduct a study concerning grazing use of certain land within and adjacent to Grand Teton National Park, WY, and to extend temporarily certain grazing privileges; to the Committee on Energy and Natural Resources.

THE GRAND TETON NATIONAL PARK ACT OF 1997

• Mr. THOMAS. Mr. President, today I introduce legislation designed to protect open space near and around Grand Teton National Park. Currently, open space near the park, with its majestic, signature vistas and abundant wildlife, continues to decline. As the population grows in Teton County, WY, undeveloped land near the park becomes more scarce. This loss of open space negatively impacts wildlife migration routes in the area and diminishes the experience of visitors to the region. The repercussions due to the loss of open space can be felt throughout the entire area. As stewards, we must act now to preserve the view and make such a value a component of our environmental agenda.

A few working ranches make up Teton Valley's remaining open space. These ranches depend on grazing in Grand Teton National Park for summer range to maintain their operations. The original act creating the park allowed several permittees to continue grazing in the area for the life of a designated heir in the family. Unfortunately, the last remaining heirs have died and their family's grazing privileges are going to be terminated. As a result, the open space around the park, which remains available due to the viability of these ranch operations, will most likely be subdivided and developed.

The legislation I am introducing today is designed to help continue to protect open space in Teton Valley. In order to develop the best solution to protect open space near Teton Park, my legislation directs the National Park Service to conduct a 3-year study of grazing in the area and its impact on open space in the region. This report should develop workable solutions that are fiscally responsible and conscious of the preservation of open space. The study will be conducted by the National Park Service with input from citizens, local government officials, and the landowners in the area.

With the approach of the spring and summer grazing season, it is vital for the Congress to act on this legislation as quickly as possible. I look forward to working with the National Park Service on this important matter to preserve and protect open space in Teton Valley. Grand Teton National Park is truly one of the treasures of our Nation and this legislation will help preserve this wonderful area for many years to come.•

By Mr. AKAKA:

S. 309. A bill to amend title 38, United States Code, to prohibit the establishment or collection of parking fees by the Secretary of Veterans Affairs at any parking facility connected with a Department of Veterans Affairs medical facility operated under a health-

care resources sharing agreement with the Department of Defense; to the Committee on Veterans' Affairs.

DEPARTMENT OF VETERANS AFFAIRS LEGISLATION

• Mr. AKAKA. Mr. President, I offer a bill to allow the Department of Veterans Affairs [VA] to waive fees at joint parking facilities with the Department of Defense [DOD].

Currently, the VA is required to charge its users and employees to park at facilities built with special revolving funds. There is no exemption to this fee requirement for joint VA/DOD facilities, which results in an administrative nightmare for a parking facility in Hawaii.

The VA parking structure at Tripler Army Medical Hospital will be shared by VA and DOD. While the law currently requires VA visitors and medical staff to pay for parking, DOD visitors and personnel are exempt from such a charge.

Determining who is a VA or DOD visitor to the facility will be difficult to administer without creating a bureaucratic ordeal. Under the current situation, only VA medical employees at Tripler will be required to pay for parking. Visitors, DOD personnel, and VA regional employees would not be charged for parking.

In addition, any VA medical employee who is also a DOD retiree would be exempt from the parking charge, because DOD retirees receive free parking at DOD facilities.

Thus, only VA medical personnel who are not DOD retirees will be required to pay for parking. The cost to administer this parking fee will far outweigh the revenues received. Since parking fees are determined by surrounding area facilities and since Tripler is located in a residential area, parking fees for the Tripler facility would be nominal. Therefore, I am submitting legislation which will allow joint VA/DOD parking facilities to be exempt from the current statute.•

By Mr. FORD:

S. 312. A bill to revise the boundary of the Abraham Lincoln Birthplace National Historic Site in Larue County, KY, and for other purposes; to the Committee on Energy and Natural Resources.

KNOB CREEK FARM LEGISLATION

Mr. FORD. Mr. President, on this the 188th anniversary of the birth of Abraham Lincoln, 16th President of the United States of America and one of Kentucky's greatest native sons, I am introducing legislation to expand the boundaries of the Abraham Lincoln Birthplace National Historic Site to include Knob Creek Farm, Lincoln's boyhood home from the ages of 2 to nearly 8. Located in Larue County near Hodgenville, KY, Knob Creek Farm is where President Lincoln learned some of his earliest lessons of life; lessons which helped mold the man who would go on to lead our Nation through one of the most important and trying periods in American history. I feel it is appropriate to honor the legacy of this great leader by including Knob Creek Farm in the National Historic Site.

Under this legislation, the cost of acquiring Knob Creek Farm would not fall to the American taxpayer, but would instead be borne by the private sector. The National Park Trust, a private land conservancy dedicated to protecting America's natural and historical treasures, has been raising private funds and is currently negotiating to purchase the 228-acre family-owned farm, located approximately 10 miles from the existing Historic Site. After acquiring the farm, which is listed on the National Register of Historic Places, the trust would donate the land to the Park Service.

Thomas Jefferson once wrote, ''A morsel of genuine history is a thing so rare as to be always valuable.'' Well, Mr. President, I think Knob Creek Farm represents just such a morsel, and including it in the Abraham Lincoln Birthplace National Historic Site will allow current and future generations of Americans to share in the rare educational value of this historical property.

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. 312

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

SECTION 1. REVISION OF BOUNDARY OF ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORIC SITE.

(a) IN GENERAL.—On acquisition of the land known as Knob Creek Farm pursuant to subsection (b), the boundary of the Abraham Lincoln Birthplace National Historic Site, established by the Act of July 17, 1916 (39 Stat. 385, chapter 247; 16 U.S.C. 211 et seq.), is revised to include the land.

(b) ACQUISITION OF KNOB CREEK FARM.—The Secretary of the Interior may acquire, by donation only, the approximately 228 acres of land known as Knob Creek Farm in Larue County, Kentucky.

SEC. 2. STUDY OF SURROUNDING RESOURCES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall study the area between and surrounding the Abraham Lincoln Birthplace National Historic Site and the Knob Creek Farm in Larue County, Kentucky.

(b) PURPOSE.—The purpose of the study shall be to—

(1) protect the resources of the Knob Creek Farm from incompatible adjacent land uses; and

(2) identify significant resources associated with the early boyhood of Abraham Lincoln.

(c) CONSIDERATIONS OF AREA STUDIED.—In examining the area under study, the Secretary shall consider—

(1) whether the area—

(A) possesses nationally significant natural, cultural, or recreational resources;

(B) represents an important example of a particular resource type in the country;

(C) is a suitable and feasible addition to the National Park System; and

(D) is appropriate to ensure long-term resource protection and visitor use;

(2) the public use potential of the area;

(3) the potential outdoor recreational opportunity provided by the area;

(4) the interpretive and educational potential of the area;

(5) costs associated with the acquisition, development, and operation of the area;

(6) the socioeconomic impacts of a designation of the area as part of the Abraham Lincoln Birthplace National Historic Site; and

(7) the level of local and general public support for designating the area as part of the Abraham Lincoln Birthplace National Historic Site.

(d) RESOURCES OF AREA STUDIED.—In examining a resource of the area under study, the Secretary shall consider—

(1) the rarity and integrity of the resource;

(2) the threats to the resource, and

(3) whether similar resources are already protected in the National Park System or in other Federal, State, or private ownership.

(e) MANAGEMENT.—

(1) IN GENERAL.—The study shall consider whether direct National Park Service management or alternative protection by other agencies or the private sector is appropriate for the area under study.

(2) IDENTIFICATION OF ALTERNATIVES.—The study shall identify which alternative or combination of alternatives would be most effective and efficient in protecting significant resources and providing for public enjoyment.

(f) SUBMISSION.—The Secretary shall submit the study to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the State.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. BROWNBACK (for himself and Mr. ROBERTS):

S. 313. A bill to repeal a provision of the International Air Transportation Competition Act of 1979 relating to air transportation from Love Field, TX; to the Committee on Commerce, Science, and Transportation.

THE WRIGHT AMENDMENT REPEAL ACT OF 1997

Mr. BROWNBACK. Mr. President, the distinguished Senator from Kansas [Mr. ROBERTS] joins with me today in offering this bill to address an injustice that has developed out of current law.

Under current law, commercial air carriers are prohibited from providing service between Dallas' Love Field and points located outside of Texas or its four surrounding States. This effectively limits travel into and out of this airport to destinations only in Texas, Louisiana, Oklahoma, Arkansas, and New Mexico. Flights originating from any other State must fly into the Dallas-Fort Worth Airport in order to have access to the highly traveled Dallas area.

The original intent of the Wright amendment was to protect the then relatively new Dallas-Fort Worth Airport. It is now the third busiest airport in the country and no longer needs to be protected from competition. The amendment distorts the free market and condones anticompetitive law; it also limits travel and forces passengers to pay artificially and unreasonably high airfare. Furthermore, it causes unnecessary delay and inconvenience

for passengers, especially the disabled, elderly, and those traveling with small children. Finally, Dallas is the top destination for passengers flying from Wichita and this restriction denies Kansas lower fares.

This restriction not based on any standards appropriate for the airline industry. It is not based on mileage flown, size of the city serviced, or noise generated by the aircraft. Instead, it is an outdated restriction based on political boundaries which were in place before the advent of airplanes.

As a law that is based on political concerns rather than practical realities, this is a prime example of unwarranted and unnecessary government regulation. It is a prime example of a lack of common sense and it is a prime example of why so many Americans have lost confidence in their Government.

The Wright amendment is wrong for America, and I urge my colleagues to join me in correcting this biased situation.

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. 313

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

SECTION 1. REPEAL OF PROVISION RELATING TO LOVE FIELD, TEXAS.

Section 29 of the International Air Transportation Competition Act of 1979 (94 Stat. 48) is repealed.

By Mr. THOMAS (for himself, Mr. HAGEL, Mr. KYL, Mr. ENZI, Mr. BROWNBACK, and Mr. CRAIG):

S. 314. A bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes; to the Committee on Governmental Affairs.

THE FREEDOM FROM GOVERNMENT COMPETITION ACT OF 1997

Mr. THOMAS. Mr. President, I rise to introduce a bill that is one of my top priorities for this Congress. It is called the Freedom from Government Competition Act. It is I think a common sense, good Government reform bill. I am joined in the effort by Senators HAGEL, KYL, ENZI, BROWNBACK, and CRAIG.

This legislation has the potential to open up a $30 billion market for the Nation's small and large businesses. It is designed to level the playing field for thousands of businesses that span the economic spectrum of this country from the mundane to the high tech. It will also provide a more efficient Government, one that works better and costs less.

Government competition with the private sector is a growing problem. Over the last 40 years, it has been the Federal policy of saying let us do those things that are commercial in the private sector, but it has not worked. We have not moved toward that goal. The bureaucracy has not found ways and means to procure goods and services from the private sector. For example, CBO has estimated that 1.4 million employees work in areas that are commercial in nature. We need a statutory provision to correct this problem.

In order to reach the goal of a balanced budget, we need to rely, I believe, on the private sector for many of the Federal Government's needs. Various studies indicate that we can save up to $30 billion annually doing this. This competition, of course, not only wastes taxpayers' money but it stunts job growth in the private sector, stifles economic growth, erodes the tax base and hurts small businesses. And it has been one of the top priorities in the three meetings of the White House Conference on Small Business.

The bill basically codifies the 40-year-old Federal policy and that is to use the private sector. There are exceptions to this policy laid out in the bill: those functions that are inherently governmental, those goods and services that are in the interest of national security, goods or services that the Federal Government can provide better at a better value than the private sector, and goods and services, of course, that the private sector cannot provide.

This bill establishes a system where OMB can identify those functions to properly stay within the Federal establishment and those that can better be done by the private sector. This legislation establishes an office of commercial activities within OMB to do that. No longer is the agency that is charged with doing the contracting the one that makes decisions of whether it will be contracted or not.

Certainly we are all sensitive to Federal employees' concerns should they be impacted. For those who are displaced, we have included provisions that facilitate transition to the private sector if they choose to follow that path.

The intention of the legislation is to get agencies to focus on their core missions. This focus will ensure a better value to American taxpayers. I do not wish to abolish all Government functions. But I am saying that there is private sector expertise waiting to be utilized.

Congressman DUNCAN in the House has introduced a companion bill. It also was introduced today.

The U.S. Senate is already on record as supporting this concept. Last year you may recall the Senate voted 59 to 39 in favor of an amendment I offered on the Treasury-Postal appropriations bill that would have prevented unfair Government competition with the private sector. However, it was dropped from the omnibus spending package. This comprehensive legislation builds on that success.

Also, last year the Senate Governmental Affairs Committee held a hearing on this bill. We received some good input and have made some changes in the bill based on it. I look forward to working with my colleagues on both sides of the aisle on this legislation. I think the political climate is right for enacting this concept.

Finally, it is a fairly simple bill. It says that we still believe in the philosophy of having the private sector do those things that are commercial in nature. This legislation lays out a system for doing that, identifying those things that are inherently governmental and those goods and services that can be done in the private sector. It's an idea this Congress really ought to consider. It would be a money saver. It is philosophically right, it will help the private sector a great deal and give taxpayers a bigger bang for their buck.

I ask unanimous consent that the following materials be printed in the RECORD: A copy of the bill, a section-by-section analysis, a list of groups endorsing the bill, a letter of endorsement from the U.S. Chamber of Commerce, and a letter of endorsement from the Business Coalition for Fair Competition.

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

S. 314

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 ''Freedom From Government Competition Act of 1997''.

SEC. 2. FINDINGS.

Congress finds and declares that—

(1) private sector business concerns, which are free to respond to the private or public demands of the marketplace, constitute the strength of the American economic system;

(2) competitive private sector enterprises are the most productive, efficient, and effective sources of goods and services;

(3) government competition with the private sector of the economy is detrimental to all businesses and the American economic system;

(4) government competition with the private sector of the economy is at an unacceptably high level, both in scope and in dollar volume;

(5) when a government engages in entrepreneurial activities that are beyond its core mission and compete with the private sector—

(A) the focus and attention of the government are diverted from executing the basic mission and work of that government; and

(B) those activities constitute unfair government competition with the private sector;

(6) current laws and policies have failed to address adequately the problem of government competition with the private sector of the economy;

(7) the level of government competition with the private sector, especially with small businesses, has been a priority issue of each White House Conference on Small Business;

(8) reliance on the private sector is consistent with the goals of the Government Performance and Results Act of 1993 (Public Law 103–62);

(9) reliance on the private sector is necessary and desirable for proper implementation of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226);

(10) it is in the public interest that the Federal Government establish a consistent policy to rely on the private sector of the economy to provide goods and services that are necessary for or beneficial to the operation and management of Federal Government agencies and to avoid Federal Government competition with the private sector of the economy; and

(11) it is in the public interest for the private sector to utilize employees who are adversely affected by conversions to use of private sector entities for providing goods and services on behalf of the Federal Government.

SEC. 3. RELIANCE ON THE PRIVATE SECTOR.

(a) GENERAL POLICY.—Notwithstanding any other provision of law, except as provided in subsection (c), each agency shall procure from sources in the private sector all goods and services that are necessary for or beneficial to the accomplishment of authorized functions of the agency.

(b) PROHIBITIONS REGARDING TRANSACTIONS IN GOODS AND SERVICES.—

(1) PROVISION BY GOVERNMENT GENERALLY.—No agency may begin or carry out any activity to provide any products or services that can be provided by the private sector.

(2) TRANSACTIONS BETWEEN GOVERNMENTAL ENTITIES.—No agency may obtain any goods or services from or provide any goods or services to any other governmental entity.

(c) EXCEPTIONS.—Subsections (a) and (b) do not apply to goods or services necessary for or beneficial to the accomplishment of authorized functions of an agency under the following conditions:

(1) Either—

(A) the goods or services are inherently governmental in nature within the meaning of section 6(b); or

(B) the Director of the Office of Management and Budget determines that the provision of the goods or services is otherwise an inherently governmental function.

(2) The head of the agency determines that the goods or services should be produced, provided, or manufactured by the Federal Government for reasons of national security.

(3) The Federal Government is determined to be the best value source of the goods or services in accordance with regulations prescribed pursuant to section 4(a)(2)(C).

(4) The private sector sources of the goods or services, or the practices of such sources, are not adequate to satisfy the agency's requirements.

SEC. 4. ADMINISTRATIVE PROVISIONS.

(a) REGULATIONS.—

(1) OMB RESPONSIBILITY.—The Director of the Office of Management and Budget shall prescribe regulations to carry out this Act.

(2) CONTENT.—

(A) PRIVATE SECTOR PREFERENCE.—Consistent with the policy and prohibitions set forth in section 3, the regulations shall emphasize a preference for the provision of goods and services by private sector sources.

(B) FAIRNESS FOR FEDERAL EMPLOYEES..—In order to ensure the fair treatment of Federal Government employees, the regulations—

(i) shall not contravene any law or regulation regarding Federal Government employees; and

(ii) shall provide for the Director of the Office of Management and Budget, in consultation with the Director of the Office of Personnel Management, to furnish information on relevant available benefits and assistance to Federal Government employees adversely affected by conversions to use of private sector entities for providing goods and services.

(C) BEST VALUE SOURCES.—

(i) STANDARDS AND PROCEDURES.—The regulations shall include standards and procedures for determining whether it is a private sector source or an agency that provides certain goods or services for the best value.

(ii) FACTORS CONSIDERED.—The standards and procedures shall include requirements for consideration of analyses of all direct and indirect costs (performed in a manner consistent with generally accepted cost-accounting principles), the qualifications of sources, the past performance of sources, and any other technical and noncost factors that are relevant.

(iii) CONSULTATION REQUIREMENT.—The Director shall consult with persons from the private sector and persons from the public sector in developing the standards and procedures.

(D) APPROPRIATE GOVERNMENTAL ACTIVITIES.—The regulations shall include a methodology for determining what types of activities performed by an agency should continue to be performed by the agency or any other agency.

(b) COMPLIANCE AND IMPLEMENTATION ASSISTANCE.—

(1) OMB CENTER FOR COMMERCIAL ACTIVITIES.—The Director of the Office of Management and Budget shall establish a Center for Commercial Activities within the Office of Management and Budget.

(2) RESPONSIBILITIES.—The Center—

(A) shall be responsible for the implementation of and compliance with the policies, standards, and procedures that are set forth in this Act or are prescribed to carry out this Act; and

(B) shall provide agencies and private sector entities with guidance, information, and other assistance appropriate for facilitating conversions to use of private sector entities for providing goods and services on behalf of the Federal Government.

SEC. 5. STUDY AND REPORT ON COMMERCIAL ACTIVITIES OF THE GOVERNMENT.

(a) ANNUAL PERFORMANCE PLAN.—Section 1115(a) of title 31, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(3) by adding at the end the following:

''(7) include—

''(A) the identity of each program activity that is performed for the agency by a private sector entity in accordance with the Freedom From Government Competition Act of 1997; and

''(B) the identity of each program activity that is not subject to the Freedom From Government Competition Act of 1997 by reason of an exception set forth in that Act, together with a discussion specifying why the activity is determined to be covered by the exception.''.

(b) ANNUAL PERFORMANCE REPORT.—Section 1116(d)(3) of title 31, United States Code, is amended—

(1) by striking ''explain and describe,'' in the matter preceding subparagraph (A);

(2) in subparagraph (A), by inserting ''explain and describe'' after ''(A)'';

(3) in subparagraph (B)—

(A) by inserting ''explain and describe'' after ''(B)''; and

(B) by striking ''and'' at the end;

(4) in subparagraph (C)—

(A) by inserting ''explain and describe'' after ''infeasible,''; and

(B) by inserting ''and'' at the end; and

(5) by adding at the end the following:

''(D) in the case of an activity not performed by a private sector entity—

''(i) explain and describe whether the activity could be performed for the Federal Government by a private sector entity in accordance with the Freedom From Government Competition Act of 1997; and

''(ii) if the activity could be performed by a private sector entity, set forth a schedule for converting to performance of the activity by a private sector entity;''.

SEC. 6. DEFINITIONS.

(a) AGENCY.—As used in this Act, the term ''agency'' means the following:

(1) EXECUTIVE DEPARTMENT.—An executive department as defined by section 101 of title 5, United States Code.

(2) MILITARY DEPARTMENT.—A military department as defined by section 102 of such title.

(3) INDEPENDENT ESTABLISHMENT.—An independent establishment as defined by section 104(1) of such title.

(b) INHERENTLY GOVERNMENTAL GOODS AND SERVICES.—

(1) PERFORMANCE OF INHERENTLY GOVERNMENTAL FUNCTIONS.—For the purposes of section 3(c)(1)(A), goods or services are inherently governmental in nature if the providing of such goods or services is an inherently governmental function.

(2) INHERENTLY GOVERNMENTAL FUNCTIONS DESCRIBED.—

(A) FUNCTIONS INCLUDED.—For the purposes of paragraph (1), a function shall be considered an inherently governmental function if the function is so intimately related to the public interest as to mandate performance by Federal Government employees. Such functions include activities that require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as to—

(i) bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(ii) determine, protect, and advance its economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(iii) significantly affect the life, liberty, or property of private persons;

(iv) commission, appoint, direct, or control officers or employees of the United States; or

(v) exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the control or disbursement of appropriated and other Federal funds.

(B) FUNCTIONS EXCLUDED.—For the purposes of paragraph (1), inherently governmental functions do not normally include—

(i) gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials;

(ii) any function that is primarily ministerial or internal in nature (such as building security, mail operations, operation of cafeterias, laundry and housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management and operations, or other routine electrical or mechanical services); or

(iii) any good or service which is currently or could reasonably be produced or performed, respectively, by an entity in the private sector.

FREEDOM FROM GOVERNMENT COMPETITION ACT—SECTION-BY-SECTION ANALYSIS

Sec. 1. Bill entitled ''Freedom from Government Competition Act.''

Sec. 2. Establishes findings and declarations, including—The private sector constitutes the strength of the American economy; Private sector is the most efficient provider of goods and services; Government

competition is harmful to the private sector, including small business and has been identified as such by the three sessions of the White House Conference on Small Business (1980, 1986, 1994); Entrepreneurial government diverts agencies from their core missions and results in unfair government competition with the private sector; Current laws and policies have failed to address the problem; Reliance on the private sector is consistent with recently enacted government reform legislation, including the Government Performance and Results Act and Federal Workforce Restructuring Act; and It is in the public interest to rely on the private sector for commercially available goods and services and to assist those government employees adversely affected by conversions of government activities to the private sector.

Sec. 3. Establishes a general policy of reliance on the private sector.

Provides that the government should rely on the private sector for goods and services except under certain conditions (listed below). The government may not obtain goods and services from or provide goods and services to any other governmental entity.

Provide exceptions to this general policy for—Goods or services that are ''inherently governmental'' in nature as defined in the bill or as determined by OMB; Goods or services that must be provided by the government for reasons of national security; Goods or services for which the Federal government is the ''best value'' source; and Goods or services for which private sector capabilities or practices are not adequate to satisfy the government's requirements.

Sec. 4. Provides administrative provisions to implement the Act.—Authorizes OMB to prescribe regulations to implement the Act; Requires regulations to be consistent with the policy of preference for the private sector as established in section 3; Establishes regulations to preserve existing Federal employee benefits and requires OMB consultation with OPM on providing information to Federal employees on relevant benefits and assistance for those affected by a conversion of an activity from government to private sector performance; Requires OMB regulations to create level playing field for determination of the ''best value'' (see Sec. 3 above), including all direct and indirect costs (in accordance with accepted cost-accounting principles), qualifications, past performance and other technical and non-cost factors, developed in consultation with the public and private sector; Requires OMB to establish a process for determining activities that should continue to be performed by the government; and Establishes a ''Center for Commercial Activities'' in OMB to implement the Act, assure proper compliance, and provide guidance, information and assistance to agencies and the private sector on converting activities from the government to the private sector.

Sec. 5. Requires studies and reports on implementation of the Act.—Rather than creating new reporting requirements, the bill amends the Government Performance and Results Act to include annual reports on agency activities converted to contract and those maintained in-house by the agency. Also requires establishment of a schedule for converting to the private sector those activities that can be performed by the private sector.

Sec. 6. Provides definitions of terms used in the Act.—Defines ''agency'' consistent with existing law; and Defines ''inherently governmental'' consistent with the existing Office of Federal Procurement Policy definition. (OFPP Letter 92–1).

GROUPS SUPPORTING THE ''FREEDOM FROM GOVERNMENT COMPETITION ACT''

National Federation of Independent Businesses (NFIB), U.S. Chamber of Commerce, American Consulting Engineers Council (ACEC), ACIL (Formerly the American Council of Independent Laboratories), Business Coalition for Fair Competition (BCFC), Business Executives for National Security (BENS), Contract Services Association, Design Professionals Coalition, Management Association for Private Photogrammetric Surveyors (MAPPS), Procurement Roundtable, Professional Services Council (PSC), and Small Business Legislative Council.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, February 5, 1997.

Members of the United States Senate:

The ''Freedom from Government Competition Act of 1997'' (FFGCA), to be introduced by Senator Thomas, is a common sense bill that requires federal agencies and departments to procure goods and services from the private sector whenever possible. The bill precludes federal offices from starting or carrying on any activity if that product or service can be provided by a commercial source. The U.S. Chamber of Commerce strongly urges you to co-sponsor this legislation.

A balanced federal budget is a bipartisan goal that is the Chamber's top priority. Reducing government infrastructure and overhead is a necessary step in reaching a balanced budget, yet federal agencies and departments continue to perform countless services and functions that could be performed more efficiently and cost effectively by competitive private sector enterprises, saving billions of dollars annually. Additionally, government competition with the private sector is at an unacceptably high level, both in scope and in dollar volume.

The Freedom from Government Competition Act establishes a consistent government policy that relies upon the private sector to provide goods and services necessary for the operation and management of federal agencies and departments. This policy will serve as an important tool to ensure the reduction of unnecessary infrastructure and overhead that is critical to balanced budget initiatives.

The FFGCA provides exceptions to the bill, however, for goods or services that are inherently governmental, necessary for national security, or are so unique or of such a nature that they must be performed by the government. The bill requires equal cost comparison of public and private functions and exempts goods and services performed by the government if the production or manufacture by a government source represents the best overall value.

The U.S. Chamber believes broad Congressional support for legislation such as the Freedom from Government Competition Act is vital to achieving a balanced budget and urges your co-sponsorship of this bill as an important indication of your support of small business. For further information please contact Chris Jahn of Senator Thomas' staff at 224–6441 or Jody Olmer of the U.S. Chamber at (202) 463–5522.

Sincerely,

R. BRUCE JOSTEN.

BUSINESS COALITION FOR
FAIR COMPETITION,
Annandale, VA, February 12, 1997.

Hon. CRAIG THOMAS,
Washington, DC.

SENATOR THOMAS: We write to support the Freedom From Government Competition Act of 1997.

When the delegates to the White House Conference on Small Business (June 1995) made unfair competition by governments and nonprofits one of their top issues they had in mind the dramatic way in which the U.S. government competes unfairly with small businesses.

Of 434 issues, the following recommendation by 1,800 elected and appointed delegates was one of their top fifteen:

Government and Nonprofit Competition.—Support fair competition: Congress should enact legislation that would prohibit agencies, tax-exempt and antitrust-exempt organizations from engaging in commercial activities in direct competition with small businesses. (Foundation for a New Century: A Report to the President and Congress, by the White House Conference on Small Business, September 1995.)

This recommendation originated at the state level where delegates complained that a major competitor for many small businesses is the Federal government.

FREEDOM FROM GOVERNMENT COMPETITION ACT

Currently, hundreds of thousands of Federal employees are producing billions of dollars worth of products and services.

This bill establishes as new national policy full and uncompromised reliance on the private sector for goods and services.

This historic and precedent-setting legislation would for the first time eliminate government competition as a matter of national policy.

The Business Coalition for Fair Competition, a coalition of national associations, supports the Freedom From Government Competition Act which states that government may conduct only operations that are so ''inherently governmental'' that the public interest requires production or performance by a Government employee. For example, the definition of ''inherently'' would only apply to such narrowly defined areas as specific parts of law enforcement and armed forces missions. The bill allows the government to do the work if ''there is no private source capable of providing the good or service.'' In the case of commercial activities, private industry can do almost everything any government needs done.

EXECUTIVE BRANCH PROPOSALS

In 1993, Vice President Gore stated: ''Every federal agency needs support services—accounting, property management, payroll processing, legal advice, and so on. Currently, most managers have little choice about where to get them; they must use what's available in house. But no manager should be confined to an agency monopoly.''

The Administration then created new authorities and opportunities for the Executive Branch to do commercial work by issuing a ''Revised Supplemental Handbook on Performance of Commercial Activities, Circular No. A–76.'' We warned the Administration December 15, 1995 that their revisions would not meet with support from the delegates to the White House Conference on Small Business.

The OMB revisions do not provide any encouragement to small businesses. For example, the revisions:

1. Allow any work that can be done by ten or fewer Federal employees to be kept in-house.
2. Encourage agencies to keep ''core'' teams intact so the agency always has the capability of doing bigger things when more funding is available.
3. Discourage any small business from proposing to do a government job.
4. Discourage agencies from giving serious consideration to any proposal from a small business.
5. Allow government agencies to spend up to 10 percent more than the private sector for the same work.

6. Encourage government agencies to do more contracting with each other.

Many agencies complained to OMB in December 1995 that the A–76 system is awkward and cumbersome, inhibiting rather than empowering.

In fact, the whole A–76 system is built around ''cost comparisons'' which exceed the depth and length of a Ph.D dissertation. The system advocated by the Executive Branch is fatally flawed.

On the one hand the Supplemental Handbook attempts to make the cost comparison system more rigorous. But, on the other hand, the Supplemental Handbook implements a recommendation of the National Performance Review helping agencies market themselves to other agencies, thus bypassing the need to rely on the private sector.

Supporting an amendment you offered in the 104th Congress, the Senate voted 59–39 to request restrictions on the unchecked proliferation of ''Interservice Support Agreements.'' Despite the Senate vote, the Administration has done nothing to restrain the growth of such agreements.

Today some Federal agencies provide business services to state and local governments and to private entities. This activity has neither been authorized by Congress nor is it regulated by A–76.

PRIVATE SECTOR RELIANCE WORKS

Can Federal managers be more effective outsourcing contracts than supervising thousands of Federal employees doing commercial work? Outsourcing works for private industry where managers are doing more outsourcing than ever. DOD says it works for them. NASA outsources almost the entire space program using thousands of private sector contracts.

By getting the government out of business, as proposed by the Freedom From Government Competition Act, Congress can return agencies to their core functions such as establishing safety rules. To achieve this change, public administrators will need more training and supervision in the management of outsourcing. Passage of this bill will result in a dramatic and long-overdue change in the way the government operates.

FREEDOM FROM GOVERNMENT COMPETITION ACT: SAVES MONEY AND TIME

We need a fresh start on this problem. This bill is that fresh start. Whereas DOD did many cost comparisons in the 1980s, they do few today. If the A–76 system has failed at DOD, why does the Administration continue to impose the system on the whole government? The Freedom From Government Competition Act is a far better approach.

In comparison to the OMB's expensive 36-month cost-study approach, the bill's approach is far preferable; the costs and time wasted in thousands of studies need not occur. Under this legislation, the Federal policy would be to rely on the private sector. The government would get out of certain businesses. Federal employees would manage but not perform various contracts awarded to the private sector.

Agency employees would shift from being direct service providers to managers of service contracts. Federal personnel management training would shift from supervision of extensive commercial activities to management of contracts. These changes have already begun to work for the DOD and NASA. It can work for the whole Executive Branch.

DEPARTMENT OF DEFENSE

During the U.S. military operations in Bosnia, the Department used private firms to provide health care, payroll, accounting, data management, supply management, logistics, transportation, security, maintenance and modernization of weapons, and management of military bases.

The Washington Post reported ''The Defense Department has said it can save billions of dollars by contracting out, or 'outsourcing' a wide range of military functions. . . . That way, the Pentagon reasons, it will have more money for its combat and humanitarian duties.''

On the other hand the Army Corps of Engineers is extensively in the campground business. The Army plans a hotel on Ft. Myer to complete with the 9,110 hotel rooms already available from commercial companies in Arlington, Virginia. And the Air Force proposes to repair the jet engines of commercial airlines.

On the one hand, the Chairman of the Joint Chiefs of Staff, General John M. Shalikashivili told the Senate Armed Services Committee: ''We must continue to push with all energy acquisition reforms, commercial off-the-shelf opportunities, privatization, outsourcing of non-core activities, and further reductions of our infrastructure.''

On the other hand, a war could have come and gone by the time DOD does a cost comparison. In its recommendations to the Office of Management and Budget, the Department reported it needs not 36 months but 48 months to conduct cost studies before contracting out. Studies of this length are excessive and underscore the impracticability of the Administration's position.

THE U.S. FOREST SERVICE: HEAD-TO-HEAD COMPETITION

A small campground business was forced out of business by the Federal government in 1996. When the U.S. Forest Service began a new campground in Payson, Arizona, at the Tonto National Forest, they went into business right across the highway from a for-profit small campground business. Using $3 million of taxpayers money, they went directly ''in your face,'' despite admonishment from the Forest Service Policy Manual which discourages competition with the private sector. While the Business Coalition for Fair Competition and the National Association of RV Parks and Campgrounds (ARVC) have opposed this new campground. The Forest Service plunged ahead. The private campground was forced to close.

This is an example of why A–76 does not work: the Forest Service argues that they don't have to adhere to OMB Circular A–76 except in the selection of vendors. The build-or-not-build decision is unaffected by the Circular. Establishing a government-owned campground is a policy matter not a procurement or acquisition matter, in the eye of the Federal government. There is no Federal policy or regulation forcing the Forest Service to study the impact of their construction on small business. Nor is there any Federal rule that requires the Forest Service to listen to the appeal of any small businessperson who appeals or makes a counter proposal.

SURVEYING AND MAPPING: $1 BILLION FEDERAL BUSINESS

The Federal Government spends $1 billion annually on surveying and mapping in some 39 agencies, employing nearly 7,000 Federal workers. Less than 10% of the $1 billion of Federal expenditure is contracted to the private sector for these services. A private sector comprised of more than 6,000 surveying and 250 mapping firms have capabilities to meet and exceed those of the government agencies.

MILITARY EXCHANGES: TAKING OVER RETAIL MARKETS

Members of the North American Retail Dealers Association document direct competition from military exchanges in the sale of consumer electronics products and other items. Military exchanges are among top 10 retailers in the US measured by sales volume. They compete unfairly because they do not collect sales taxes, do not pay for land and are not subject to federal antitrust laws.

CONTRACT SERVICES: PRIVATE SECTOR OFFERS THE BEST VALUE

Members of the Contract Services Association of America who provide services of every conceivable type, from low to high technologies, point to studies and analyses which show that outsourcing of commercial activities will result in substantially reduced costs to the government with at least equal quality, but more often, improve quality of service. The outsourcing of commercial activities must be seen not only as a matter of logic and fairness to the private sector, but also as a guarantor of the American taxpayer obtaining the best value for his or her tax dollar.

LAUNDRY SERVICES: VA BIDS FOR PRIVATE SECTOR WORK

A laundry in Sioux Falls, South Dakota, found that the Department of Veteran Affairs bid against him on a contract to provide laundry services to a children's home. When he questioned the VA about competing directly with the private sector, he was told that VA needed to increase its revenues.

HEARING AIDS: GOVERNMENT COMPETITION

The International Hearing Society, whose members dispense the majority of hearing aids in the United States, report that government competition erodes the client base of taxpaying hearing aid specialists. Unfettered government competition with hearing aid specialists and other taxpaying small business men and women undermines the free market. IHS urges swift enactment of this legislation, which will help to level the competitive playing field and generate increased opportunity for private sector business concerns, including hearing aid specialists.

EXECUTIVE ORDER INSPIRING THE ENTREPRENEURIAL DRIVE

When we investigated why so many Federal agencies are increasing their competition with the private sector, it became clear that Executive Orders from the White House and directions from the National Performance Review are inspiring Federal workers toward being more entrepreneurial. Agencies are justifying their new commercial drive by referring to the new Administration policy.

In contrast to the work of the Congress in downsizing government, this new entrepreneurial spirit is a loophole giving Federal employees an alternative for saving their job: if their agency can win a contract for providing a service to another agency or with someone in the private sector, work will continue. In this way, the will of the Congress to reduce government will be thwarted.

In a meeting with the White House, we were told the Administration urges agencies such as all the Federal labs to (1) save themselves despite Congressional budget reductions (2) seek business from agencies and the private sector and (3) do as much work as possible in-house (vs. outsourcing).

The Administration's position drives us to conclude that only the Freedom From Government Competition Act will work.

DEFENSE RELIANCE ON THE PRIVATE SECTOR

Thanks to the 104th Congress and an initiative by Congressman John Duncan of Tennessee the Defense Authorization bill called on the Defense Department to promptly provide information on the government's commercial activities: a solid step in the right

direction. Section 357 of Public Law 104–106 stated: ''The Secretary shall identify activities of the Department . . . that are carried out by employees of the Department to provide commercial-type products or services for the Department. . . .''

The passage of this measure caused the Department of Defense to issue a report titled ''Improving the Combat Edge Through Outsourcing'' (March 1996) which shows that leaders in DOD want the extensive savings they can achieve through outsourcing.

PRIVATIZATION TASK FORCE

Narrowed from a list of a dozen recommendations submitted by President Clinton, the 104th Congress passed legislation to privatize the U.S. Enrichment Corporation, the Naval Petroleum Reserve, the Alaska Power Marketing Administration and the National Helium Reserve. The sale of these Federal assets will (1) generate to the US Treasury several billion dollars and (2) save annual costs of staffing, maintenance and operations.

Congress has also authorized the outsourcing of forecasting functions of the National Weather Service, commercial real estate brokerage at the General Services Administration, debt collection at the Internal Revenue Service, and experimental privatization of several airports.

DEFENSE SCIENCES BOARD AND THE HERITAGE FOUNDATION RECOMMEND CONTRACTING OUT AND PRIVATIZATION

At the beginning of the 104th Congress, the Heritage Foundation issued two reports: Showing that Congress could cut Federal spending by $9 billion per year by contracting out routine support services to the private sector. Showing that Congress could save $11 billion in a single year by privatizing nine Federal activities and by eliminating various barriers to privatization established by Congress.

In late 1996, the Defense Science Board Task Force released its report ''Outsourcing and Privatization'' to the Office of the Under Secretary of Defense for Acquisition and Technology.

The Task Force included military, private sector and academic participants and was chaired by Philip A. Odeen, President and CEO, BDM International, Inc.

The Task Force predicts that the Department of Defense can save 30–40% of costs ''by outsourcing services for their own use. Local commanders that achieve an aggressive DoD outsourcing initiative could generate annual savings of $7 to $12 billion by FY 02. . . . Local commanders that achieve outsourcing objectives should be rewarded with promotions and desirable assignments.''

The report concludes by stating ''DoD is left with only one practical alternative to meet its future modernization requirements: sharply reduce DoD support costs, and apply the savings to the procurement account. The Task Force firmly believes that extensive savings can be achieved—if DoD is willing to abandon its traditional reliance on in-house support organizations in favor of a new support paradigm that capitalizes upon the efficiency and creativity of the private sector.''

The report estimates ''the number of DoD personnel actually engaged in commercial-type activities greatly exceeds the 640,000 total . . . contractors could perform most of the work currently executed by these civilian employees.''

The Task Force was opposed to the current system of reliance on OMB Circular A–76. ''A–76 public/private competitions are extremely time-consuming, biased in favor of the government entity, and concentrated in narrow, labor-intensive support functions involving relatively small numbers of government employees.''

The Task Force said A–76 competitions ''fail to fully consider other important factors such as the bidder's capability to improve the quality and responsiveness of service delivery. . . . By outsourcing broad business areas, DoD can provide vendors with greater opportunity to reengineer processes—and greater potential to achieve major improvements in service quality and cost.''

Despite its shortcomings, the A–76 system has saved DoD $1.5 billion per year. ''A more aggressive DoD initiative will yield proportionally greater benefits,'' the report states.

The Task Force summarized data from private enterprise indicating that companies save 10–15 percent when outsourcing $100 billion worth of functions. Ninety percent of company executives report that outsourcing is successful, according the Outsourcing Institute's ''Purchasing Dynamics, Expectations, and Outcomes, 1995.''

GENERAL ACCOUNTING OFFICE SUPPORTED CONGRESSIONAL ACTION AS LONG AGO AS 1981

''Although it has been the executive branch's general policy since 1955 to rely on contractors for these commercial goods and services, agency compliance with this policy has been inconsistent and relatively ineffective,'' the GAO reported to Congress June 19, 1981.

Little has changed. Agency compliance with this policy continues to be lax. Much of what GAO wrote about this subject in the last two decades still applies.

Here is what GAO said in 1981: ''Circular A–76 provides that it is the executive branch's general policy to rely on the private sector for goods and services unless it is more economical to provide them in-house. Federal purchases of goods and services from the private sector cost about $117 billion in fiscal year 1980. Although this policy to rely on the private sector has existed for over 25 years, OMB information shows that as many as 400,000 Federal employees are currently operating more than 11,000 commercial or industrial activities at almost $19 billion annually. These employees represent almost one-fourth of the total executive branch civilian work force.''

In 1981, GAO advised Congress as follows: ''We believe the Congress should act on our earlier recommendation to legislate a national policy of reliance on the private sector for goods and services.''

GAO's advice in 1981 is still appropriate today. Therefore, the only recourse is for adoption by Congress of a new national policy of reliance on the private sector as proposed by the Freedom From Government Competition Act.

KENTON PATTIE,
Executive Director.

BUSINESS COALITION FOR FAIR COMPETITION
1997

ACIL (Formerly the American Council of Independent Laboratories)
American Bus Association
American Society of Travel Agents
Colorado Coalition for Fair Competition
Helicopter Association International
IHRSA (The International Health, Racquet and Sportsclub Association)
International Association of Environmental Testing Laboratories
International Hearing Society
Management Association for Private Photogrammetric Surveyors
National Association of RV Parks and Campgrounds
National Association of Women Business Owners
National Burglar and Fire Alarm Association
National Child Care Association
National Community Pharmacists Association
National Tour Association
Professional Services Council
Small Business Legislative Council
Society of Travel Agents in Government
Textile Rental Services Association
United Motorcoach Association

By Mr. HARKIN:

S. 315. A bill to amend the Internal Revenue Code of 1986 to reduce tax benefits for foreign corporations, and for other purposes; to the Committee on Finance.

THE CORPORATE WELFARE REDUCTION ACT

● Mr. HARKIN. Mr. President, there's a story that's told about the film actor and comedian W.C. Fields. He was hardly religious, but on his deathbed a friend discovered him reading the Bible. So he asked Fields what we he was doing—and the actor responded with characteristic dry wit, ''I'm looking for loopholes.''

For too long, many multinational firms and foreign corporations operating in this country have done the same thing with the United States Tax Code. They have searched out tax laws for loopholes—and carved out special-interest breaks to avoid paying their fair share. And they've done it with great success. Today, for example, over seventy percent of foreign-based corporations in the United States pay no Federal income tax. Meanwhile working families who play by the rules struggle just to make ends meet. This is simply wrong and as a matter of basic fairness, it must end.

So today, Mr. President, I rise to introduce the Corporate Welfare Reduction Act of 1997 which will save taxpayers over $20 billion over the next 6 years. Companion legislation has been introduced in the other body by my friend and colleague Representative LANE EVANS. Now is the time to act on this measure.

In the coming days, we will take up a constitutional amendment to balance the Government's budget. I will vote for it. I believe we must get our financial house in order if we are to pass on to future generations a legacy of hope, and not a legacy of debt.

But if we are going to balance our Government's budget—and keep it balanced in the years to come—every taxpayer will have to do their part. There's no doubt that working families and small businesses on Main Street already are contributing significantly. But foreign-based and multinational corporations simply have not paid their fair share.

One of the central goals of Government policy—particularly tax policy—ought to be promoting investment in our people and in our businesses here at home. For too long, though, our tax policies have had it backwards—rewarding U.S. companies that move overseas and granting unfair tax giveaways to foreign subsidiaries in this country.

American businesses shouldn't be forced to compete against foreign subsidiaries here that don't pay their fair

share of taxes. And American workers shouldn't be left out in the cold because our tax laws encouraged companies to ship jobs away and ship products back.

That is why I am introducing the Corporate Welfare Reduction Act. This legislation contains six main provisions.

First, it ends the use of transfer pricing rules by multinational corporations to lower their U.S. tax liability. Multinational companies often sell a product to their subsidiaries at a discounted price—effectively increasing a company's income while decreasing its U.S. tax liability. This bill would restrict a company's interagency pricing policies and, instead, tax the sale of products at their fair market value.

Second, the bill disallows the practice of ''sourcing'' income from the sale of inventory property. In many cases, multinational corporations pass the title of sale to a foreign-owned subsidiary in order to avoid paying U.S. taxes even though the sale is completed in the United States.

Third, it limits the excessive use of tax credits taken by multinational corporations on foreign oil and gas extraction income [FOGEI] and foreign oil related income [FORI]. U.S. tax credits should only be applied against foreign taxes, not the fees and royalties assessed by foreign nations.

Fourth, it narrows section 911 of the tax code that exempts the first $70,000 of earned income from U.S. taxes for American citizens living and working abroad. However, this bill would allow those persons who work for non-profit organizations to still claim this exemption and would allow all U.S. citizens working abroad to deduct their children's education expenses up through high school.

Fifth, it ends the tax-exempt status of foreign investors who buy private-issued debt by requiring these persons to pay a 30-percent withholding tax on the interest they earned on the bonds.

Finally, this legislation would end the exemption of foreign individuals from capital gains taxes on the sale of stock in a U.S. corporation—unless they spend more than half the year in the United States.

The revenue raised in this legislation from closing these loopholes will go solely to deficit reduction. As I said, in a time when we are trying to reach a balanced budget, everyone must pay their fair share.

Mr. President, this is a common sense bill that will provide some fairness to working families and integrity to our Tax Code. I urge my colleagues to join me in supporting this common sense measure.●

By Mr. CRAIG (for himself, Mr. BRYAN, Mr. COCHRAN, and Mr. BENNETT):

S. 317. A bill to reauthorize and amend the National Geologic Mapping Act of 1992; to the Committee on Energy and Natural Resources.

THE NATIONAL GEOLOGIC MAPPING REAUTHORIZATION ACT OF 1997

● Mr. CRAIG. Mr. President, I am today introducing on behalf of myself and my cosponsors Senators BRYAN, COCHRAN, and BENNETT, a bill to reauthorize the highly successful National Geologic Mapping Act of 1992. The act established a cooperative geologic mapping program among the U.S. Geological Survey, State geological surveys, and geological programs at institutions of higher education in the United States. The goal of this program is to accelerate and improve the efficiency of detailed geologic mapping of critical areas in the Nation by coordinating and using the combined talents of the three participating groups.

Detailed geologic mapping is an indispensable source of information for a broad range of societal activities and benefits, including the delineation and protection of sources of safe drinking water; assessments of coal, petroleum, natural gas, construction materials, metals, and other natural resources; understanding the physical and biological interactions that define ecosystems, and that control, and are a measure of environmental health; identification and mitigation of natural hazards such as earthquakes, volcanic eruptions, landslides, subsidence, and other ground failures; and many other resource and land-use planning requirements.

Only about 20 percent of the Nation is mapped at a scale adequate to meet these critical needs. Additional high-priority areas for detailed geologic mapping have been identified at State level by State-map advisory committees, and include Federal, State, and local needs and priorities.

Funding for the program has been incorporated in the budget of the U.S. Geological Survey. State geological surveys and university participants receive funding from the program through a competitive proposal process that requires 1:1 matching funds from the applicant.

Mr. Chair, I urge my colleagues to join me to ensure the continued efficient collection and availability of this fundamental earth-science information.●

By Mr. D'AMATO:

S. 318. A bill to amend the Truth in Lending Act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE HOMEOWNERS' PROTECTION ACT OF 1997

● Mr. D'AMATO. Mr. President, I introduce legislation that seeks to protect our Nation's homeowners, particularly low-income and first-time home buyers, from having to pay for unnecessary and costly private mortgage insurance. Thousands of hard working Americans who strive every day to afford a house of their own are unfairly paying for private mortgage insurance which is not required and is no longer necessary. We must not have current and future homeowners paying up to hundreds of millions of dollars a year for insurance that serves no useful purpose. This is a practice which must be stopped. Today, it is unethical. Tomorrow, after this bill becomes law, it will be illegal. This legislation is intended to stop this injustice, while still providing lenders with fair protection against default.

In 1995, almost 6 million Americans bought homes. Approximately 2 million of those homeowners also purchased private mortgage insurance. Today, over 40 percent of new homeowners purchase private mortgage insurance. Thousands of American homeowners—perhaps as many as 20 percent of homeowners who have private mortgage insurance—are overinsuring their homes simply because they are not informed of whether they have the right to cancel private mortgage insurance.

Many homeowners are being forced to make payments for private mortgage insurance even after they have accumulated substantial equity in their homes; they continue to pay for private mortgage insurance long after the loan-to-value ratio is sufficient to protect lenders against default. Private mortgage insurance rates average between $20 and $100 per month, depending on the home purchase price, the amount of downpayment and other factors. These consumers are unknowingly paying from $240 a year to $1,200 a year for absolutely no reason—no potential benefit can accrue to the homeowner who is unnecessarily paying for this insurance. When the legitimate need for private mortgage insurance ends, the payments should stop immediately.

My legislation, the Homeowners' Protection Act, would ensure that this unfair practice is discontinued by giving future homeowners the right to cancel private mortgage insurance when it is no longer needed to protect the homeowner—in most cases, when they accumulate equity equal to 20 percent of their original loan value. With respect to existing mortgages, the Homeowners' Protection Act would mandate disclosure of cancellation rights to the homeowner on an annual basis. This important legislation potentially could save current and future homeowners millions of dollars.

Now let me make one thing clear—private mortgage insurance does serve a purpose. Typically, lenders require home buyers to purchase private mortgage insurance if the borrower makes a downpayment of less than 20 percent of the purchase price. The purpose of the insurance is to provide lenders, and subsequent purchasers of the mortgage, with protection in the event of default on the mortgage. It is in the best interest of all Americans that lenders have fair protection against default, so as to

ensure their continued safety and soundness. Together, we can encourage the pursuit of the American dream of home ownership without allowing the fleecing of homeowners in the process.

I strongly encourage my colleagues to join me in support in this legislation which will help to make sure that money for unnecessary insurance premiums stays where it belongs—in homeowners' pockets.

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. 318

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 ''Homeowners Protection Act of 1997''.

SEC. 2. NOTIFICATION OF CANCELLATION RIGHTS FOR PRIVATE MORTGAGE INSURANCE.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 125 the following:

''SEC. 126. CANCELLATION RIGHTS FOR PRIVATE MORTGAGE INSURANCE.

''(a) INSURANCE RATIO STANDARD.—

''(1) IN GENERAL.—No consumer, in connection with a residential mortgage transaction, shall be required by the creditor to obtain or maintain private mortgage insurance if that consumer has, or will have at the time that the transaction is consummated, equity in the property that is the subject of the transaction in excess of the private mortgage insurance ratio.

''(2) REGULATORY REQUIREMENT.—The Board—

''(A) shall issue rules to implement paragraph (1); and

''(B) may issue rules exempting certain classes of transactions from the provisions of paragraph (1) if the Board finds that such exemption is necessary—

''(i) to ensure sound underwriting standards; or

''(ii) to further the availability of credit to persons who might otherwise be denied credit if paragraph (1) was applied to residential mortgage transactions involving such persons.

''(b) NOTICE OF RIGHT OR LACK OF RIGHT TO CANCEL.—If a consumer is required to obtain and maintain private mortgage insurance as a condition for entering into a residential mortgage transaction, the creditor shall disclose to the consumer the current private mortgage insurance ratio for the subject property, in writing, at the time that the transaction is entered into.

''(c) INFORMATION REQUIRED TO BE DISCLOSED.—With respect to each residential mortgage transaction, the creditor shall disclose to the consumer, in writing, the following information at the time the transaction is entered into:

''(1) IDENTIFYING INFORMATION.—Such information as may be necessary to permit the consumer to communicate with the creditor or any subsequent servicer of the mortgage, concerning the private mortgage insurance of that consumer.

''(2) CANCELLATION PROCEDURES.—The procedures required to be followed by the consumer in canceling the private mortgage insurance.

''(d) INFORMATION REQUIRED TO BE DISCLOSED WITH EACH PERIODIC STATEMENT.—If a consumer is required to obtain and maintain private mortgage insurance as a condition for entering into a residential mortgage transaction, the person servicing the mortgage shall include in or with each written statement of account provided to the consumer, beginning with the first such statement following the date of enactment of the Homeowners Protection Act of 1997, while such insurance is in effect, but not less than annually—

''(1) the information required to be disclosed under subsections (b) and (c); or

''(2) a clear and conspicuous written statement containing—

''(A) a statement that the consumer may cancel the private mortgage insurance and a description of the circumstances under which such a cancellation may be made; and

''(B) an address and telephone number that the consumer may use to contact the creditor or the person servicing the mortgage.

''(e) NOTICES FURNISHED WITHOUT COST TO THE CONSUMER.—

''(1) IN GENERAL.—No fee or other cost may be imposed on any consumer with respect to the provision of any notice or information to the consumer pursuant to this section.

''(2) REIMBURSEMENT.—A creditor or subsequent servicer of the mortgage may seek reimbursement from the issuer of the private mortgage insurance, with respect to any cost incurred by that creditor or subsequent servicer in providing any notice or information to the consumer pursuant to this section.

''(f) EXISTING MORTGAGES.—If a consumer was required to obtain and maintain private mortgage insurance as a condition for entering into a residential mortgage transaction occurring before the date of enactment of the Homeowners Protection Act of 1997—

''(1) not later than 180 days after that date of enactment, the creditor shall disclose, in writing, to each such consumer—

''(A) the information described in paragraphs (1) and (2) of subsection (c); and

''(B) that the private mortgage insurance may, under certain circumstances, be canceled by the consumer at any time while the mortgage is outstanding; and

''(2) the person servicing the mortgage shall include in or with each written statement of account provided to the consumer, beginning with the first such statement following the date of enactment of that Act, while such insurance is in effect, but not less than annually—

''(A) the information required to be disclosed under subsection (c); or

''(B) a clear and conspicuous written statement containing—

''(i) a statement that the consumer may be able to cancel the private mortgage insurance (if such is the case); and

''(ii) an address and telephone number that the consumer may use to contact the creditor or the person servicing the mortgage to determine whether the consumer has the right to cancel the private mortgage insurance and, if so, the conditions and procedures for canceling such insurance.

''(g) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) MORTGAGE INSURANCE.—The term 'mortgage insurance' means insurance, including any mortgage guaranty insurance, against the nonpayment of, or default on, a mortgage or loan involved in a residential mortgage transaction.

''(2) 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.

''(3) PRIVATE MORTGAGE INSURANCE RATIO.—The term 'private mortgage insurance ratio' means a principal balance outstanding on a residential mortgage equal to less than 80 percent of the original value (at the time at which the consumer entered into the original residential mortgage transaction) of the property securing the loan.

''(h) APPLICABILITY.—This section, other than as provided in subsection (d), shall apply with respect to residential mortgage transactions entered into beginning 90 days after the date of enactment of the Homeowners Protection Act of 1997.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by striking the item relating to section 126 and inserting the following:

''126. Cancellation rights for private mortgage insurance.''.●

By Ms. MOSELEY-BRAUN:

S. 319. A bill to designate the national cemetery established at the former site of the Joliet Arsenal, IL, as the ''Abraham Lincoln National Cemetery''; to the Committee on Veterans' Affairs.

THE ABRAHAM LINCOLN NATIONAL CEMETERY ACT

Ms. MOSELEY-BRAUN. Mr. President, I rise today, on the 188th anniversary of the birth of Abraham Lincoln, our Nation's 16th and 1st Republican President, to introduce the Abraham Lincoln National Cemetery bill. Congressman JERRY WELLER, in whose district the newest national veterans cemetery is located, will introduce an identical bill in the House of Representatives today.

The National Cemetery System was established by President Lincoln in 1862 to provide for the proper burial and registration of graves of soldiers who died in the Civil War. Since its inception, the National Cemetery System has grown to include 130 military burial grounds and provides places of private meditation and reflection for all who visit its hallowed grounds. None of these cemeteries, however, including the six in Illinois, are named after President Lincoln.

As you know, President Lincoln had great affection for ''him who [had] borne the battle''. Perhaps Lincoln's admiration for our Nation's veterans is rooted in the fact that Lincoln—a man of peace—had his Presidency marked by the scourge of war. He knew all too well the sacrifices and hardships that the defenders of our Nation's freedom had to bear and the ''cause for which they [may be called to give their] last full measure of devotion.'' President Lincoln demonstrated his deep affection for our Nation's veterans in many ways. During the Civil War, he often visited the sick and wounded stationed in and around Washington, DC. His administration created what is now the Department of Veterans Affairs and the VA hospital system. Perhaps the greatest demonstration of his love for our Nation's veterans was his strong leadership and unwavering support for the creation of the National Cemetery System, which not only provides dignified final resting places for our Nation's soldiers but also ensures that

neither the Nation nor its citizens will forget those who served in our Armed Forces.

Last year, Congress approved of the transfer of 982 acres of the former Joliet Army Ammunition Plant from the Department of the Army to the Department of Veterans Affairs for the development of a new national veterans cemetery. The President's budget included $19.9 million for the construction of the first phase of the cemetery, which is scheduled to open in late 1998 or early 1999.

Mr. President, this legislation to name our Nation's newest national cemetery after President Lincoln deserves strong bipartisan support. By naming the new veterans national cemetery in honor of President Lincoln, we not only acknowledge the pivotal role he played in the development of one of our national treasures—the national veterans cemetery system—we also honor the memory of the millions of courageous men and women who served in war and peacetime to preserve our Nation's democracy, freedom, and national values. Men and women, who like my grandfather, father, and uncle, who fought in World War I and World War II, notwithstanding the fact that the full promise of America was denied them because of the color of their skin. Their patriotism grew out of an abiding respect for American values, and out of the hope for our country. We can do no less in peacetime than to honor not only their sacrifice, but the reasons for it. Naming a national cemetery after President Lincoln is in recognition that that faith and hope abide with us still.

Illinois is now—and will always be the Land of Lincoln. His legacy is a living testament to the values—honesty, hard work and perseverance in the face of adversity—that characterize residents of America's heartland. No place has a greater claim to the Lincoln heritage than his beloved Springfield, IL, but his memory and what he stood for belong to all of us in the Land of Lincoln and across these United States. As Secretary of War Edward M. Stanton prophetically put it while keeping vigil at Lincoln's deathbed, ''Now he belongs to the ages.''

As such, I can think of no more fitting gift or more appropriate way to celebrate the birthday of our Nation's greatest President, than to support and pass this legislation to name our newest and second-largest national veterans cemetery, in the State he so dearly loved, after him. In Lincoln's immortal words, ''it is altogether fitting and proper that we do this.''

His guidance that a house divided cannot stand is as valid today as it was when given. We leave partisan differences aside when we are called upon to respond to today's challenges as Americans. This legislation is a bipartisan effort to bring all of us together in honor of one of the greatest Americans ever to have lived. As we honor him, and his leadership, we honor the true legacy of his service to our country.

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. 319

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

SECTION 1. DESIGNATION OF NATIONAL CEMETERY.

(a) DESIGNATION.—The national cemetery established at the former site of the Joliet Arsenal, Illinois, shall be known and designated as the ''Abraham Lincoln National Cemetery''.

(b) REFERENCES.—Any reference in a law, map, regulation, paper, or other record of the United States to the national cemetery referred to in subsection (a) shall be deemed to be a reference to the ''Abraham Lincoln National Cemetery''.

By Mr. ASHCROFT (for himself, Mr. THOMPSON, Mr. ABRAHAM, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BURNS, Mr. CAMPBELL, Ms. COLLINS, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. FRIST, Mr. GRAMM, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INOUYE, Mr. MACK, Mr. MURKOWSKI, Mr. SESSIONS, MR. SMITH of New Hampshire, Mr. SMITH of Oregon, and Mr. THOMAS):

S.J. Res. 16. A joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

TERM LIMITS CONSTITUTIONAL AMENDMENT

Mr. ASHCROFT. Mr. President, the document that emerged from the Philadelphia convention has become the longest lived national constitution in the world. It was the product of a sense of urgency, of mission, of common purpose. And years from now, after we have long since passed, it will endure, standing unchallenged by the varied crises of human affairs.

The Philadelphia delegates crafted this document on what they believed to be fundamental principles: Majority rule, dual sovereignty, one man, one vote. The Framers also recognized, however, that a lasting government would have to be not only durable and stable, but flexible enough to evolve with the emerging Nation. For this reason, they included an article for amendment that would allow the document to be changed over time.

Since 1787, more than 10,600 constitutional amendments have been introduced. Only 27 have been adopted. Many of the proposed amendments have bordered on the ridiculous. One called for the creation of four regional Presidents. Others have called for the legalization of dueling, or changing the Nation's name to the United States of the World.

The amendment I introduce today, however, is neither ridiculous nor unimportant. In fact, I would suggest that is one of the defining issues which this Congress will face. For it cuts to the very heart of who we are as a party, as a polity, as a people. It is a term-limits constitutional amendment. If enacted, the resolution would limit Members of Congress to three terms in the U.S. House of Representatives and two terms in the U.S. Senate.

Mr. President, term limits are a tried and tested reform that the American people have seen operate firsthand: For the President since 1951, for 41 Governors, for 20 State legislatures, and for hundreds of local officials nationwide. Indeed, this is at least one reason why congressional term limits enjoy such widespread support: Voters have witnessed their ameliorative effects and want them extended to the national legislature.

Some will undoubtedly argue that the 1996 election and the notable increase in new Members weakens the case for term limits. Nothing could be further from the truth. Ninety-four percent of all the Members who sought reelection last year were returned to Washington. The turnover that did occur was largely the result of voluntary departures, not competitive elections.

Why do reelection rates continue at all-time highs? Because incumbency is, and always has been, the single greatest perk in politics. Committee assignments translate into campaign contributions. Bills mean bucks. The simple fact remains, the average incumbent spends more of the taxpayers' money on franked mail than the average challenger spends on his entire campaign.

Reapportionment's role in ensuring long-term incumbency must also be considered. Many State officials are acutely aware of the benefits derived from high reelection rates. Consequently, they manipulate districts in a way which maximizes the potential for incumbents to return to Washington. This is not only an argument for limited tenure, it is an argument for adopting House limits of less than 10 years.

As with all good ideas, this reform has occasioned some controversy. Primarily, opposition has come from careerists in the Congress whose livelihood is at stake. These self-proclaimed keepers of the public faith worry aloud about the impact of lost legislative wisdom. And, in the cloakrooms and Capitol corridors, they whisper about ''protecting the people from themselves.''

Opponents seem to believe that only seasoned legislators in a professional Congress can effectively deal with the issues of the day. Mr. President, it is the height of arrogance and elitism to suggest that any one Senator is essential to our Government. The strength of American democracy is that the people are the source of Government's legitimacy. Because, as Alexander Hamilton aptly noted more than two centuries ago, ''Here, Sir, the people govern.''

These assertions also stand at odds with the great triumph of individualism that is America. For they are based on the flawed supposition that only a limited number of citizens are

qualified to serve. Richard Henry Lee put it best. ''I would not urge the principle of rotation,'' said Lee, ''if I believed the consequence would be a uniformed Federal legislature; but I have no apprehension of this in this enlightened country.'' Indeed, no more than a cursory look at the writings of Adams, Jefferson, Mason, and Paine reveals the healthy respect they had for the average citizen.

Mr. President, I share the Founders' belief that there is wisdom in the people. The resolution I bring before the body today is a commonsense reform that the citizenry undeniably wants, a remedy our Republic desperately needs, a reform whose time has come.

Rotation in office has worked for the President, scores of Governors, and countless others across this great land. Let us extend its therapeutic effects to the Halls of the U.S. Congress. I beg this proposal's adoption.

Mr. THOMPSON. Mr. President, today, I am introducing a constitutional amendment to limit congressional service to 6 years in the House and 12 years in the Senate. This proposal is identical to the one introduced in the 104th Congress. On May 22, 1995, the U.S. Supreme Court invalidated the term limits that 23 different States had imposed on congressional service. The Court further declared that Congress lacks the constitutional authority to enact term limits by statute. Therefore, enacting this reform, which polls consistently show that more than 70 percent of the American people support, will require passing a constitutional amendment.

Although this proposal is not about denigrating the institution of Congress or those who have ably served lengthy tenures, public confidence in elected officials does remain abysmally low. Given the many scandals involving public officials, the myriad of negative campaign commercials, and the inability of Congress to solve major national problems like the budget deficit, I can hardly blame the American people for being cynical. Nothing could be farther from the basic tenets of democracy than a professional ruling class, yet despite the supposedly high turnover in the last three congressional elections, that is essentially what Congress has become.

Each of the last three Congresses has had unusually large freshman classes, but the percentage of those returned to Congress still exceeds the typical return rate prior to 1941. I acknowledge that altering the way we elect Members of Congress is a task not to be undertaken lightly, and people are justified in asking, what has changed since the ratification of the Constitution that necessitates this proposal? To them, I answer simply: The trend toward careerism in Congress. Although the system has worked relatively well for 200 years, the Founding Fathers viewed service in Congress not as a permanent career but as an interruption to a career. For the first 150 years of the Republic, in keeping with this notion, those who served in public office typically stepped down after only a few years. While incumbents were still almost always re-elected when they chose to run, a turnover rate of 50 percent every 2 years in the House was common throughout the 19th century. In fact, only 24 percent of the Members of the House in 1841 were sworn in again 2 years later. George Washington voluntarily stepped down after two terms as President because he understood the value of returning to private life and giving someone else the chance to serve. Over the last few decades, however, Members of Congress have become much less likely to step down voluntarily, so the average length of service in Congress has steadily increased. Because of this trend toward careerism, Congress now more closely resembles a professional ruling class than the citizen legislature our Founding Fathers envisioned.

This is significant because a Congress full of career legislators behaves differently than a citizen legislature. Over time, after years of inside-the-beltway thinking, elected officials tend to lose touch with the long-term best interests of the Nation. Instead, they become slaves to short-term public opinion in their never-ending quest for re-election. Last year's Medicare debate is a good example of how constant elections, and the lure of short-term political advantage, make it harder to make the tough decisions. The constant flow of pork-barrel projects back home, the practice of effectively buying our constituents' votes with funds from the U.S. Treasury, is another example of how what may be beneficial to politicians at the next election is not necessarily in the best interests of the Nation. When Congress is not a career for its Members, their career will not be on the line every time they cast a vote, so I believe that term limits would more likely produce individuals who would take on the tough challenges that lie ahead.

To act in the long-term national interest, elected officials also need to live under the laws they pass, which is why we enacted the Congressional Accountability Act in the last Congress. Similarly, it is important that elected officials return home after their term expires and live with the consequences of the decisions they made while in Congress. Just as the Congressional Accountability Act makes elected officials more cognizant of how laws affect average Americans in the long run, term limits, by requiring Members of Congress to return to private life, would encourage Members to consider the long-term effects of their decisions instead of just the short-term political consequences.

Moreover, little doubt exists that power exercises a gradual, corruptive influence over those who have it. The Founding Fathers recognized this and used a system of checks and balances to limit the power of any one individual. When elected officials are up here for decades at a time, their accumulating power and growing disregard for the national interest often cause them to become arrogant in office. Term limits, by further dispersing power among more individuals, I believe, would lead to a more honest breed of politicians.

Term limits will also make elections more competitive which will, in turn, lead to better representation. One only needs to look at the 1996 elections to see that most competitive elections are for open seats. Twelve-year limits on Senate service would guarantee every State an open-seat election at least once every 12 years unless a challenger dislodges an incumbent. Furthermore, term-limited officeholders will be more likely to seek a higher office. A Member of the House who is term limited will be more likely to run for the Senate than a Congressman who is not term limited and can easily win re-election to the House for many years to come. A term-limited Senator will be more likely to run for Governor or another office instead of seeking easy re-election to the Senate.

Opponents of term limits make many arguments against the proposal, confident that they know better than more than 70 percent of the American people. Perhaps the most prevalent argument against term limits is that Congress will lose many good people. While this is true, as I have already pointed out, we will be gaining many good people as well. More to the point though, we should not be so arrogant as to think that we are the only ones who can do this job. I do not believe that the 535 people who currently serve in Congress are the only 535 people out there who can do the job. Two hundred years ago, people wondered how the Nation could ever survive without the leadership of George Washington, but President Washington knew that the system was stronger than any one man, and that many people were fit to be President. Not only do I think that many people besides us can do the job, but the argument that only the 535 currently serving in Congress possess the ability to solve the Nation's problems assumes that we are doing a good job now. A $5 trillion debt, Medicare and Social Security on unsustainable courses, an out-of-control campaign finance system, and unacceptably high levels of crime make this assumption dubious. A corollary of this argument is that term limits will result in Congress having little institutional memory. However, if the legislative process and the bills that come out of this place are so complicated as to require more than 12 years of experience to understand, then Congress is doing too much. The average citizen, with the additional focus of full-time attention to the issues with which Congress concerns itself, should be more than capable of doing the job.

The other main argument against term limits is that we already have

term limits in the form of elections. However, this reasoning has two problems. First, incumbents enjoy a tremendous advantage in elections. The ability to raise money, greater name recognition, a staff already in place, constituent service, and simple voter inertia help incumbents win their races more than 90 percent of the time. Second, the American people, just as they have a right to elect their representatives in Congress, have every right to place qualifications on whom they may elect. Opponents of term limits say that the voters ought to be able to elect whomever they want, but when the American people ratified the Constitution, they agreed not to elect anyone to the Senate who is younger than 30 years of age or not a resident of the State he or she seeks to represent. If the voters choose, and more than 70 percent of them do, they can also declare that people who have already served 12 years in the Senate may not be elected to the Senate again.

It is my hope that we will move quickly to debate this measure. Perhaps no other proposal as popular with the American people has received so little attention from Congress. In fact, Congress has been so reticent with respect to this issue that some term-limits advocates are now asking the States to call a constitutional convention. The debate in the last Congress was the first serious discussion of this issue in Congress in the history of the Nation. Speaker GINGRICH has already said that term limits will be the first item of business this year in the other body. Finally, other tough decisions are imminent including balancing the budget, saving Medicare, and putting Social Security on a permanently sustainable course. The single most important thing we can do to cultivate an environment where Congress can effectively address these long-term problems is to enact term limits immediately. Therefore, I urge my colleagues' support.●

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 12

At the request of Mr. DASCHLE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 12, a bill to improve education for the 21st Century.

S. 19

At the request of Mr. DASCHLE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 19, a bill to provide funds for child care for low-income working families, and for other purposes.

S. 28

At the request of Mr. THURMOND, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 104

At the request of Mr. MURKOWSKI, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 104, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 112

At the request of Mr. MOYNIHAN, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from California [Mrs. FEINSTEIN], the Senator from Michigan [Mr. LEVIN], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 112, a bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of ammunition capable of piercing police body armor.

S. 183

At the request of Mr. DODD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 183, a bill to amend the Family and Medical Leave Act of 1993 to apply the act to a greater percentage of the United States workforce, and for other purposes.

S. 206

At the request of Mr. REID, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 206, a bill to prohibit the application of the Religious Freedom Restoration Act of 1993, or any amendment made by such act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility, and for other purposes.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 294

At the request of Mrs. HUTCHISON, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 294, a bill to amend chapter 51 of title 18, United States Code, to establish Federal penalties for the killing or attempted killing of a law enforcement officer of the District of Columbia, and for other purposes.

SENATE RESOLUTION 50

At the request of Mr. ROTH, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from New Hampshire [Mr. GREGG], the Senator from Oklahoma [Mr. NICKLES], the Senator from Mississippi [Mr. COCHRAN], the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. CONRAD], the Senator from Florida [Mr. GRAHAM], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of Senate Resolution 50, a resolution to express the sense of the Senate regarding the correction of cost-of-living adjustments.

SENATE RESOLUTION 53

At the request of Mrs. HUTCHISON, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Resolution 53, a resolution to express the sense of the Senate concerning actions that the President of the United States should take to resolve the dispute between the Allied Pilots Association and American Airlines.

SENATE RESOLUTION 54—ORIGINAL RESOLUTION AUTHORIZING BIENNIAL EXPENDITURES BY COMMITTEES OF THE SENATE

Mr. WARNER, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 54

Resolved,

SHORT TITLE

SECTION 1. This resolution may be cited as the ''Omnibus Committee Funding Resolution for 1997 and 1998''.

AGGREGATE AUTHORIZATION

SEC. 2. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, and under the appropriate authorizing resolutions of the Senate, there is authorized for the period March 1, 1997, through September 30, 1998, in the aggregate of $50,569,779 and for the period March 1, 1998, through February 28, 1999, in the aggregate of $51,903,888 in accordance with the provisions of this resolution, for all Standing Committees of the Senate, for the Committee on Indian Affairs, the Special Committee on Aging, and the Select Committee on Intelligence.

(b) Each committee referred to in subsection (a) shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

(c) Any expenses of a committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees of the committee who are paid at an annual rate, (2) for the payment of telecommunications expenses provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, Department of Telecommunications, (3) for the payment of stationery supplies purchased through the Keeper of Stationery, United States Senate, (4) for payments to the Postmaster, United States Senate, (5) for the payment of metered charges on copying equipment provided

by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

(d) There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committees from March 1, 1997, through September 30, 1998, and March 1, 1998, through February 28, 1999, to be paid from the appropriations account for ''Expenses of Inquiries and Investigations'' of the Senate.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 3. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $1,747,544, of which amount (1) not to exceed $4,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $1,792,747, of which amount (1) not to exceed $4,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON APPROPRIATIONS

SEC. 4. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on Appropriations is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $4,953,132, of which amount (1) not to exceed $175,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $5,082,521, of which amount (1) not to exceed $175,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON ARMED SERVICES

SEC. 5. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $2,704,397.

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $2,776,389.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

SEC. 6. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing and Urban Affairs is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $2,853,725, of which amount (1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $850, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $2,928,278, of which amount (1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $850, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON THE BUDGET

SEC. 7. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $3,105,190, of which amount (1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $3,188,897, of which amount (1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

SEC. 8. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science and Transportation is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $3,448,034, of which amount (1) not to exceed $14,572, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $15,600, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $3,539,226,

of which amount (1) not to exceed $14,572, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $15,600, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SEC. 9. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $2,637,966.

(c) For the period of March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $2,707,696.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 10. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $2,431,871, of which amount (1) not to exceed $8,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $2,494,014, of which amount (1) not to exceed $8,000, be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON FINANCE

SEC. 11. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $3,028,328, of which amount (1) not to exceed $30,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $3,106,591, of which amount (1) not to exceed $30,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON FOREIGN RELATIONS

SEC. 12. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $2,710,573, of which amount (1) not to exceed $45,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $2,782,749, of which amount not to exceed $45,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON GOVERNMENTAL AFFAIRS

SEC. 13. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $4,533,600, of which amount (1) not to exceed $375,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,470, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $4,653,386, of which amount (1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,470, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(d)(1) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relationships or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activities which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study

and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly —mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental –relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate–statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and –other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs: *Provided*, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(2) Nothing contained in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(3) For the purposes of this subsection, the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1997, through February 28, 1999, is authorized, in its, his, or their discretion (A) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (B) to hold hearings, (C) to sit and act at any time or place during the session, recess, and adjournment periods of the Senate, (D) to administer oaths, and (E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) All subpoenas and related legal processes of the committee and its subcommittees authorized under S. Res. 73 of the One Hundred Fourth Congress, second session, are authorized to continue.

COMMITTEE ON THE JUDICIARY

SEC. 14. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $4,362,646, of which amount (1) not to exceed $40,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $4,480,028, of which amount (1) not to exceed $40,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON LABOR AND HUMAN RESOURCES

SEC. 15. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Labor and Human Resources is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $4,113,888, of which amount not to exceed $22,500, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $4,223,533, of which amount not to exceed $22,500, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

COMMITTEE ON RULES AND ADMINISTRATION

SEC. 16. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $1,339,106, of which amount (1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $1,375,472, of which amount (1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON SMALL BUSINESS

SEC. 17. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services

of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $1,084,471, of which amount (1) not to exceed $10,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $1,112,732, of which amount (1) not to exceed $10,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON VETERANS' AFFAIRS

SEC. 18.(a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $1,123,430, of which amount (1) not to exceed $250,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended); and (2)not to exceed $3,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202 (j) of the Legislative Reorganization Act of 1946, as amended).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $1,153,263, of which amount (1) not to exceed $50,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended); and (2) not to exceed $3,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202 (j) of the Legislative Reorganization Act of 1946, as amended).

SPECIAL COMMITTEE ON AGING

SEC. 19. (a) In carrying out the duties and functions imposed by section 104 of S. Res. 4, agreed to February 4, 1977, (Ninety-fifth Congress), and in exercising the authority conferred on it by such section, the Special Committee on Aging is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $1,133,674 of which amount not to exceed $15,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $1,162,865 of which amount not to exceed $15,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SELECT COMMITTEE ON INTELLIGENCE

SEC. 20. (a) In carrying out its powers, duties, and functions under S. Res. 400, agreed to May 19, 1976 (94th Congress), in accordance with its jurisdiction under section 3(a) of such resolution, including holding hearings, reporting such hearings, and making investigations as authorized by section 5 of such resolution, the Select Committee on Intelligence is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $2,114,489, of which amount not to exceed $30,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $2,171,507, of which amount not to exceed $30,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

COMMITTEE ON INDIAN AFFAIRS

SEC. 21. (a) In carrying out the duties and functions imposed by section 105 of S. Res. 4, agreed to February 4, 1977 (Ninety-fifth Congress), and in exercising the authority conferred on it by such section, the Committee on Indian Affairs is authorized from March 1, 1997, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1997, through September 30, 1998, under this section shall not exceed $1,143,715.

(c) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this section shall not exceed $1,171,994.

SPECIAL RESERVES

SEC. 22. (a) Of the funds authorized for the Senate committees listed in sections 3 through 21 by Senate Resolution 73, agreed to February 13, 1995 (104th Congress), for the funding period ending on the last day of February 1997, any unexpended balances remaining shall be transferred to a special reserve which shall, on the basis of a special need and at the request of a Chairman and Ranking Member of any such committee, and with the approval of the Chairman and Ranking Member of the Committee on Rules and Administration, be available to any committee for the purposes provided in subsection (b). During March 1997, obligations incurred but not paid by February 28, 1997, shall be paid from the unexpended balances of committees before transfer to the special reserves and any obligations so paid shall be deducted from the unexpended balances of committees before transferred to the special reserves.

(b) The reserves established in subsection (a) shall be available for the period commencing March 1, 1997, and ending with the close of September 30, 1997, for the purpose of (1) meeting any unpaid obligations incurred during the funding period ending on the last day of February 1997, and which were not deducted from the unexpended balances under subsection (a), and (2) meeting expenses incurred after such last day and prior to the close of September 30, 1997.

SPACE ASSIGNMENTS

SEC. 23. The space assigned to the respective committees of the Senate covered by this resolution shall be reduced commensurate with the staff reductions funded herein and under S.Res. 73, 104th Congress. The Committee on Rules and Administration is expected to recover such space for the purpose of equalizing Senators offices to the extent possible, and to consolidate the space for Senate committees in order to reduce the cost of support equipment, office furniture, and office accessories.

AMENDMENTS SUBMITTED

THE ASSISTED SUICIDE FUNDING RESTRICTION ACT

DORGAN (AND ASHCROFT) AMENDMENT NO. 5

(Ordered referred to the Committee on Finance.)

Mr. DORGAN (for himself and Mr. ASHCROFT) submitted an amendment intended to be proposed by them to the bill (S. 304) to clarify Federal law with respect to assisted suicide, and for other purposes; as follows:

At the end of the bill, insert the following:

SEC. ___. AMENDMENTS TO ACTS REGARDING INDIVIDUALS WITH DISABILITIES.

(a) AMENDMENTS TO DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT.—

(1) STATE PLANS REGARDING DEVELOPMENTAL DISABILITIES COUNCILS.—Section 122(c)(5)(A) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6022(c)(5)(A)) is amended—

(A) in clause (vi), by striking ''and'' after the semicolon at the end;

(B) in clause (vii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following clause:

''(viii) such funds will not be used to support any program or service that has a purpose of assisting in procuring any item or service the purpose of which is to cause, or to assist in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

(2) LEGAL ACTIONS BY PROTECTION AND ADVOCACY SYSTEMS.—Section 142(h)(1) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042(h)(1)) is amended by inserting before the period the following: '', except that no such system may use assistance provided under this chapter to bring suit or provide any other form of legal assistance for the purpose of—

''(A) securing or funding any item, benefit, program, or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing;

''(B) compelling any individual, institution, government, or governmental body to provide, fund, or legalize any item, benefit, program, or service for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing; or

''(C) asserting or advocating a legal right to cause, or to assist in causing, or to receive assistance in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

(3) PROHIBITED ACTIVITIES REGARDING GRANTS TO UNIVERSITY AFFILIATED PROGRAMS.—Section 152(b)(5) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6062(b)(5)) is amended by inserting before the period the following: '', or for any program or service which has a purpose of assisting in procuring any item or service, the purpose of which is to cause, or to assist in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing''.

(4) REQUIREMENTS REGARDING GRANTS FOR PROJECTS OF NATIONAL SIGNIFICANCE.—Section 162(c) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6082(c)) is amended—

(A) in paragraph (4), by striking ''and'' after the semicolon at the end;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following paragraph:

''(6) the applicant provides assurances that the grant will not be used to support or fund any program or service which has a purpose of assisting in the procuring of any item, benefit, or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

(b) AMENDMENT TO PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS ACT OF 1986; SYSTEM REQUIREMENTS.—Section 105(a) of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10805(a)) is amended—

(1) in paragraph (8), by striking ''and'' at the end thereof;

(2) in paragraph (9), by striking the period and inserting ''; and''; and

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

''(10) not use allotments provided to a system to assist in—

''(A) procuring or funding any item, benefit, or service for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing;

''(B) compelling any individual, institution, government, or governmental body to provide any item, benefit, or service for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing; or

''(C) asserting or advocating a legal right to cause, or to assist in causing, or to receive assistance in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

(c) AMENDMENT TO REHABILITATION ACT OF 1973; REQUIREMENTS FOR ASSISTANCE FOR PROTECTION AND ADVOCACY SYSTEMS.—Section 509(f) of the Rehabilitation Act of 1973 (29 U.S.C. 794e(f)) is amended—

(1) in paragraph (6), by striking ''and'' after the semicolon at the end;

(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and

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

''(8) not use allotments provided under this section to support or fund any program or service which has the purpose of assisting in—

''(A) procuring or funding any item, benefit, or service for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing;

''(B) compelling any individual, institution, government, or governmental body to provide any item, benefit, or service for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing; or

''(C) asserting or advocating a legal right to cause, or to assist in causing, or to receive assistance in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

SEC. ___. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Title II of the Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

''SEC. 246. BAN ON USE OF FUNDS FOR ASSISTED SUICIDE AND RELATED SERVICES.

''Appropriations for carrying out the purposes of this Act shall not be used or made available to provide any item or service, furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

SEC. ___. AMENDMENT TO OLDER AMERICANS ACT.

Section 712 of the Older Americans Act of 1965 (42 U.S.C. 3058g) is amended by adding at the end thereof the following new subsection:

''(k) ASSISTED SUICIDE.—No State or local ombudsman program, entity, or representative shall, with funds allotted under this section, provide any assistance or service to assist in—

''(1) securing or funding any item, benefit, or service for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing;

''(2) compelling any individual, institution, government, or governmental body to provide any item, benefit, or service for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing; or

''(3) asserting or advocating a legal right to cause, or to assist in causing, or to receive assistance in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

SEC. ___. LEGAL SERVICES.

Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)) is amended—

(1) by striking ''or'' at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ''; or''; and

(3) by adding after paragraph (10) the following:

''(11) to provide legal assistance for the purpose of—

''(A) securing or funding any item, benefit, program, or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing;

''(B) compelling any individual, institution, government, or governmental body to provide, fund, or legalize any item, benefit, program, or service for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing; or

''(C) asserting or advocating a legal right to cause, or to assist in causing, or to receive assistance in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.''.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

BYRD AMENDMENT NO. 6

Mr. BYRD proposed an amendment to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States to require a balanced budget; as follows:

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

''SECTION 6. The Congress shall implement this article by appropriate legislation.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Energy and Natural Resources Committee to consider the President's fiscal year 1998 budget.

The committee will hear testimony from the Department of the Interior and the Forest Service on Tuesday, February 25, 1997.

The hearing will begin at 9:30 a.m., and will take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Mike Poling, counsel (202) 224–8276 or James Beirne, senior counsel at (202) 224–2564.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Energy and Natural Resources Committee to consider the President's fiscal year 1998 budget.

The committee will hear testimony from the Department of Energy and FERC on Tuesday, March 11, 1997.

The hearing will begin at 10 a.m., and take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Karen Hunsicker, counsel (202) 224–3543 or Betty Nevitt, staff assistant at (202) 224–0765.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a series of three workshops have been scheduled before the Committee on Energy and Natural Resources to exchange ideas and information on the issue of ''Competitive Change in the Electric Power Industry.''

The first workshop will take place on Thursday, March 6, beginning at 9:30 a.m. in room 216 of the Hart Senate Office Building. The topic of discussion will be: What are the issues involved in competition?

The second workshop will take place on Thursday, March 13, beginning at 9:30 a.m. in room SDG–50 of the Dirksen Senate Office Building. The topic of discussion will be: What is the role of public power in a competitive market?

The third workshop will take place on Thursday, March 20, beginning at 9:30 a.m. in room 216 of the Hart Senate Office Building. The topic of discussion will be: Is federal legislation necessary? Participation is by invitation. For further information please write to the Senate Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

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

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2:45 p.m. on Wednesday, February 12, 1997, in open session, to receive testimony on the defense authorization request for the fiscal year 1998 and the future years defense program.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, February 12, 1997, to conduct a markup of the following nominee: Janet Louise Yellen, of California, to be a member, council of economic advisors.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. SNOWE. 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 Wednesday, February 12, 1997, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. SNOWE. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Wednesday, February 12, at 9:30 a.m., Hearing Room (SD–406), to receive testimony from Carol M. Browner, Administrator, EPA, on the ozone and particulate matter standards proposed by EPA.

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

COMMITTEE ON FINANCE

Ms. SNOWE. Mr. President, I ask unanimous consent that the full Committee on Finance be permitted to meet to conduct a hearing on Wednesday, February 12, 1997, beginning at 10 a.m. in room 215–Dirksen.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Ms. SNOWE. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Wednesday, February 12, at 9:30 a.m. for a hearing on The Future of Nuclear Deterrence.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Teamwork for Employees and Managers, during the session of the Senate on Wednesday, February 12, 1997, at 9:30 a.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session on Wednesday, February 12, 1997 at 9:30 a.m. in SR–301 to mark-up the recurring budgets contained in the omnibus committee funding resolution for 1997 and 1998; and any other legislative or administrative matters that are ready for consideration.

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

COMMITTEE ON SMALL BUSINESS

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing entitled ''Nomination of Aida Alvarez to be Administrator of the United States Small Business Administration'' on Wednesday, February 12, 1997. The hearing will begin at 9:30 a.m. in room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. WIthout objection, it is so ordered.

SUBCOMMITTEE ON HEALTH CARE

Ms. SNOWE. Mr. President, I ask unanimous consent that the Subcommittee on Health Care be permitted to meet to conduct a hearing on Wednesday, February 12, 1997, beginning at 2 p.m. in room 215–Dirksen.

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

ADDITIONAL STATEMENTS

TRIBUTE TO FATHER JAROSLAW KUPCZAK ON SERVING THE CATHOLIC COMMUNITY AND RECEIVING HIS DOCTORATE FROM THE JOHN PAUL II INSTITUTE

● Mr. BOB SMITH. Mr. President, I rise today to pay tribute to a great American, Father Jaroslaw Kupczak. Father Jaroslaw is a Dominican priest from Bilgoraj, Poland who, for the past 4 years, has been a doctoral student at the John Paul II Institute in the District of Columbia.

During his tenure in the United States, Father Jaroslaw did much more than study at one of the most respected institutes of higher learning. He became part of the community.

Father Jaroslaw unselfishly dedicated his time and energy to needy citizens in a number of area communities. Every 2 weeks, he celebrated Mass at the Missionaries of Charities in Anacostia. The mission is run by a group of sisters who take in single, pregnant women and house them during their pregnancy and after. His compassion and counsel brought the spirit of God into the lives of these women in need.

As would be expected, Father Jaroslaw was a pillar in the Polish community. He was a frequent celebrant, confessor, and counselor to the parishioners of Our Lady Queen of Poland parish in Silver Spring, MD. He often celebrated Sunday Mass, as well as masses on holy days and Polish holidays. He even traveled as far as Norfolk, VA to celebrate Mass and provide spiritual guidance to a Polish community that was without a parish.

Mr. President, our Nation has been blessed with Father Jaroslaw's tenure in the United States for the past 4 years. Many Catholics and Polish Americans have been touched by his generosity and time and his devotion to area residents has been an inspiration to all of us.

I would further like to congratulate him on his graduation from the John Paul II Institute and on receiving his degree doctor sacrae thelolgiae summa cum laude. We wish him continued health and happiness as he returns to his assignment in Krakow, Poland, to touch the lives of the citizens there.●

EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE PUBLIC STATEMENT ON TURKEY

● Mr. LEAHY. Mr. President, I recently learned about a public statement by the European Committee for the Prevention of Torture [CPT], concerning the problem of torture in Turkey. The CPT is a respected international organization established in

1989, which visits prisons in countries that have ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. All countries that have ratified the Convention agree to permit these visits, and presumably to pay attention to the Committee's recommendations.

The CPT publishes public statements only when states party to the Convention refuse to follow its recommendations. The group has only issued public statements on two occasions in its 8 years of existence. Both of these statements, the most recent of which was issued in December, discuss the ongoing problem of torture in Turkey.

The CPT acknowledges the serious threat of terrorism that Turkey faces and the security and humanitarian crises that have resulted, especially in the southeastern part of the country. The CPT also recognizes that the Government of Turkey has expressed concern about the use of torture and has responded by circulating memoranda and designing human rights programs for its law enforcement officials. However, the CPT concludes that in practice these measures, along with the legal framework to protect detainees from torture and ill-treatment and to discipline those who have used torture, are inadequate and ignored by Turkish authorities. A recent example is the decision by the Turkish Government to reduce to 4 days the length of time a suspect can be held incommunicado, without access to a lawyer. There is ample evidence that torture routinely occurs immediately following arrest. Any period of incommunicado detention is an invitation for these kinds of abuses to continue.

The facts contained in the CPT's December public statement are very troubling. In a September 1996 visit to prisons in Turkey, the CPT reported:

A considerable number of persons examined by the delegation's three forensic doctors displayed marks or conditions consistent with their allegations of recent ill-treatment by the police, and in particular of beating of the soles of the feet, blows to the palms of the hands and suspension by the arms. The cases of seven persons . . . must rank among the most flagrant examples of torture encountered by CPT delegations in Turkey.

As in October 1994, the CPT again found ''material evidence of resort to ill-treatment, in particular, an instrument adapted in a way which would facilitate the infliction of electric shocks and equipment which could be used to suspend a person by the arms.''

Mr. President, this report shows that despite the Turkish Government's efforts in recent years, the practice of torture continues unabated. The latest State Department Country Reports on Human Rights, which was released on January 30, confirms this. It illustrates, once again, that good intentions and training programs, while important, are no substitute for holding people accountable. Only when people who engage in this abhorrent conduct believe they will be punished, will it stop.

This should concern us all, because Turkey is a valued NATO ally with which we have many shared interests. Turkey is going through a difficult period in its history, and I for one want to see our relationship strengthen. I raise these concerns because I believe that Turkey, and relations between our two countries, would benefit greatly if it were clear that vigorous, effective action were being taken to eradicate this curse.

I urge the administration and Members of Congress to raise the issue of torture at the highest levels of the Turkish Government, and to work with Turkish officials to pursue aggressively the necessary measures to end the practice of torture and the impunity that persist in Turkey today.●

TRIBUTE TO BERLIN MYERS

● Mr. HOLLINGS. Mr. President, Berlin George Myers is dedicated to his hometown of Summerville, SC. His life has revolved around an eight-square block area in the heart of this town also known as Flowertown in the Pines. In this small area, he grew up and raised his own children and today, continues to run his business and govern the town.

Mayor Myers' first public office was membership on town council in 1965. His vote returns were the highest ever achieved by a town official and as a result, he became Mayor pro tem. History repeated itself in the following elections and Mayor Myers is further distinguished by having served on every town committee.

Under Councilman Myers, many civic improvements were made: a new town hall and a new fire station were built, an extensive paving program enacted, town clean-up was given a high priority and annexation began in earnest.

In June 1972, the incumbent Mayor Luke died and Berlin Myers stepped in to fill the remainder of his term. Four months later, he won his own election and every one since with a large majority of the vote. During Mayor Myers' tenure, Summerville's population has grown from 3,700 to approximately 25,000.

Under Mayor Myers, Summerville's Public Safety Department has combined police and fire departments, telecommunications—including an enhanced 911 system—and municipal court in a single headquarters building complex. He helped plan and proudly presided over the ribbon cutting for a perimeter road around Summerville—named the Berlin G. Myers Parkway by an act of the South Carolina legislature. In 1994, under his direction, the 27-year-old townhall was renovated and expanded. His tireless, around-the-clock leadership during 1989's Hurricane Hugo put Summerville back in operation quickly and smoothly.

The order and organization for which Summerville is renowned founded his business, the Berlin G. Myers Lumber Co., which in 1989 celebrated its 50th year. There's neither a piece of lumber nor a piece of paperwork out of place in this operation. He began working in his Uncle Allen's sawmill and small retail outlet after school and weekends when he was 10 years old. After graduating from high school in 1939, he took over the latter. Mayor Myers is past president of the Carolinas Tennessee Building Materials Association and has served on committees on both the regional and national chapters.

In 1989, Mayor Myers was awarded the Order of the Palmetto, the highest civilian accolade the State of South Carolina can bestow. He keeps the same rigorous schedule he has all of his adult life, arriving first at the lumber yard every morning, holding regular townhall work hours, talking with school children about the town's history, and actively participating in Summerville Baptist Church. Mayor Berlin Myers is a devoted husband and is the father of four children and three grandchildren.

In this, his 80th year, his mayoral tenure has reached a quarter of a century, the longest in Summerville's history. His postion is unpaid and he says that he sees politics as service to his town, ''It's a way to give back to my community which has given me so much.'' Summerville's sesquicentennial takes place this year, 1997, and you can believe that Mayor Berlin Myers will be leading the parade.●

COMMEMORATING THE LIFE OF CARLTON GOODLETT

● Mrs. BOXER. Mr. President, I rise today to celebrate the life of Dr. Carlton Goodlett. Dr. Goodlett recently passed from this life, leaving it richer and more decent for his presence. The challenge of his voice, conscience, and healing hand is the legacy of a singular man.

To say that Carlton Goodlett was multitalented is to understate his genuinely remarkable energy and versatility. He was a medical doctor, held a doctorate in psychology and published a newspaper for nearly 50 years. He was local president of the NAACP and worked side by side with many of the giants of the civil rights era. Born in a time and place where discrimination and violence were commonplace, he remained passionately concerned about peace and equality throughout his entire life.

Although his contributions reasonate most clearly in San Francisco's African-American neighborhoods, Dr. Goodlett's example and spirit were in inspiration to many young Americans, irrespective of race. When he acted or spoke, his message was meant for anyone with an open heart and mind. He embraced people with great warmth and ideas with great facility. He was a leader in the truest sense.

At the Sun-Reporter, he nurtured numerous fledgling writers, giving them

the opportunity to develop their professional talents while simultaneously providing readers with invaluable insight into a vibrant community at play, at work, in worship, and in struggle. As a physician, he helped guide young men and women into medicine. As a civil rights leader and advocate for peace, he appealed to conscience of leaders and citizens alike.

Dr. Goodlett considered life and community to be sacred. Though his time has come and gone, his message of hope and fairness endures. For all he did for others, he will forever be treasured and missed.●

TRIBUTE TO KENT DAVIS ON HIS RETIREMENT FROM THE MANCHESTER, NH, VETERAN AFFAIRS REGIONAL OFFICE

● Mr. BOB SMITH. Mr. President, I rise today to honor Kent Davis for his diligent work over the years on behalf of New Hampshire's veterans. My staff and I have worked with Kent on important veterans issues and we have always admired his hard work and dedication to his job. He will be sorely missed by many. As a fellow veteran, I congratulate him on his service to the Manchester Veteran Affairs regional office.

Kent has been the head of the adjudication office at the Manchester Veteran Affairs regional office for the past 12 years, and has served as our congressional liaison. We have come to rely on him for information and guidance on matters of concern to New Hampshire veterans. He has provided outstanding service, and we were always confident that Kent provided the veterans of New Hampshire every consideration for benefits and services.

In 1989, Kent was given an award for the outstanding adjudication division, and he received numerous commendations and excellent evaluations.

Kent was always willing to go the extra mile to help a veteran. When any problem arose, he was quick to find a resolution or provide an answer. His valuable expertise, knowledge, and experience helped my New Hampshire congressional offices to be responsive and serve New Hampshire veterans expeditiously.

Kent graduated from Chico State College in Chico, CA, with a bachelor's degree in sociology in 1966. He achieved his master's degree in public administration at the University of New Mexico in Albuquerque in 1971.

Kent is not only a professional, but also displays a good sense of humor which always made it a pleasure to work with him. On behalf of myself, the veterans in New Hampshire and my staff, we wish Kent every happiness and continued success in the years to come.●

LAWRENCE M. GRESSETTE, JR.: EXCELLENCE IN PUBLIC SERVICE

● Mr. HOLLINGS. Mr. President, Lawrence Gressette, Jr., is well known to all of us in South Carolina and we salute him as he retires on February 28 as chairman of the board and chief executive officer of SCANA Corp., in Columbia, SC.

Excellence is a Gressette family tradition. Lawrence Gressette learned much at the knee of his father, Marion, the esteemed attorney and South Carolina State senator. He once told Lawrence, ''Things must not only be right but should also look right.'' Lawrence Gressette has long adhered to his father's sage advice. In college, he not only played football for Clemson University, he earned a football scholarship. He was so liked and respected by his classmates that they elected him student body president. At the University of South Carolina Law School, he finished first in his class. Upon graduation, he joined in his father's practice and earned a reputation as a solid litigator.

It was in working alongside his father that Lawrence Gressette became involved with utility regulatory work. The powers that were at South Carolina Electric and Gas were so impressed with his talents that they persuaded him to become a senior vice president in 1983 and executive vice president the following year. In 1990, John Warren retired as CEO of SCE&G's parent company, SCANA, and the board of directors tapped Lawrence to fill the top spot. Through vision and consistent leadership, he has guided SCANA into a successful, cohesive commercial force—a goliath of energy-related and communications businesses. Fortunately for all of us, he has shared his talents with his community as well. Some of his achievements include: chairman of the board of trustees for Clemson University, trustee of the Educational Television Endowment of South Carolina, member of the steering committee of the South Carolina Governor's School of the Arts, and chairman of the United Way of the Midlands. Through it all, he has been blessed with the love and support of his wife, Felicia, and their three children. Although Lawrence will be sorely missed at SCANA, I am confident that he will continue in his role of excellent public service and will hand down this Gressette legacy to his four grandchildren.●

PROHIBITION OF INCENTIVES FOR RELOCATION ACT

Mr. KOHL. Mr. President, I would like to take just a few moments to comment on the Prohibition of Incentives for Relocation Act, introduced yesterday by my colleague from Wisconsin, Senator FEINGOLD. I strongly support and am an original cosponsor of this legislation, the passage of which is of great importance to workers in Wisconsin and all across the country.

For the third consecutive Congress, we have introduced this legislation to amend the Housing and Community Development Act to prohibit the use of Federal funds, directly or indirectly, for business relocation activities that encourage States and communities to steal jobs from one another.

My background is in business. I know well that in today's tough economic environment, it is commonplace for businesses to relocate or downsize their operations in order to maintain a competitive edge. In so doing, some choose to leave one location in favor of another location in a different State. However painful, mobility and adaptability have become important business survival tactics. But there's a catch: in some instances, relocation activities have been partially subsidized or underwritten by Federal funds. In other words, while it appeared that Federal moneys were fueling job creation in one community, the flip side of the coin revealed that those moneys were fueling job losses elsewhere.

Mr. President, that is just plain wrong; wrong in terms of fairness; wrong because it violates the spirit of the law. And it's public policy without vision: if States start fighting each other for jobs, instead of creating employment opportunities from the ground up, any regional or national economic cooperation will be lost.

This issue was first brought to our attention in 1994 when Briggs & Stratton Corporation announced plans to relocate 2,000 jobs from Milwaukee to other locations, including two that had used Federal community development funds to expand their operations. We introduced this legislation then, and in 1995 a version of the bill was adopted as an amendment to an appropriations bill. Although our amendment was dropped in conference, the final bill did include language requesting that the Department of Housing and Urban Development [HUD] report to Congress on the costs and benefits of maintaining an information database on this issue.

We are still waiting for HUD's report, but the need to act is no less significant today than it was in 1994. In fact, in December 1996, the Wisconsin State Journal reported that the communications director for the Michigan Jobs Commission had stated, and I quote, ''we will aggressively pursue Wisconsin companies for relocation into Michigan.''

Mr. President, we were disheartened by Michigan's attitude to say the least, and we contacted then-HUD Secretary Cisneros, Assistant Secretary Singerman at the Economic Development Administration [EDA] and Administrator Lader at the Small Business Administration [SBA] to urge all three to be vigilant when distributing Federal funds. We wanted to be sure that their agencies were not inadvertently encouraging Michigan to steal jobs from Wisconsin. I am pleased to report that Assistant Secretary Singerman responded by affirming EDA's sensitivity to the issue and want to add that both EDA and SBA are already governed by antijob piracy provisions. We are simply proposing that these types of provisions govern HUD programs as well.

Our attention to this matter is imperative. Community development for all Americans is best achieved by promoting new growth, rather than promoting job raids between hard-pressed communities. I urge my colleagues to take this issue seriously by acting upon this legislation as soon as possible.●

RULES FOR SPECIAL COMMITTEE ON AGING

● Mr. GRASSLEY. Mr. President, pursuant to the standing rule 26, I submit the rules for the Special Committee on Aging to be printed in the CONGRESSIONAL RECORD. These rules were adopted by the committee during its business meeting on January 29, 1997.

The rules follow:

JURISDICTION AND AUTHORITY

S. RES. 4, § 104, 95TH CONG., 1ST SESS. (1977) [1]

(a)(1) There is established a special Committee on Aging (hereafter in this section referred to as the ''special committee'') which shall consist of nineteen Members. The Members and chairman of the special committee shall be appointed in the same manner and at the same time as the Members and chairman of a standing committee of the Senate. After the date on which the majority and minority Members of the special committee are initially appointed on or after the effective date of title I of the Committee System Reorganization Amendments of 1977, each time a vacancy occurs in the Membership of the special committee, the number of Members of the special committee shall be reduced by one until the number of Members of the special committee consists of nine Senators.

(2) For purposes of paragraph 1 of rule XXV; paragraphs 1, 7(a)(1)–(2) 9, and 10(a) of rule XXVI; and paragraphs 1(a)–(d), and 2 (a) and (d) of rule XXVII of the Standing Rules of the Senate; and for purposes of section 202(i) and (j) of the Legislative Reorganization Act of 1946, the special committee shall be treated as a standing committee of the Senate.

(b)(1) It shall be the duty of the special committee to conduct a continuing study of any and all matters pertaining to problems and opportunities of older people, including, but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and when necessary, of obtaining care or assistance. No proposed legislation shall be referred to such committee, and such committee shall not have power to report by bill, or otherwise have legislative jurisdiction.

(2) The special committee shall, from time to time (but not less often than once each year), report to the Senate the results of the study conducted pursuant to paragraph (1), together with such recommendation as it considers appropriate.

(c)(1) For the purposes of this section, the special committee is authorized, in its discretion, (A) to make investigations into any matter within its jurisdiction, (B) to make expenditures from the contingent fund of the Senate, (C) to employ personnel, (D) to hold hearings, (E) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (F) to require by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (G) to take depositions and other testimony, (H) to procure the service of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) and (I) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(2) The chairman of the special committee or any Member thereof may administer oaths to witnesses.

(3) Subpoenas authorized by the special committee may be issued over the signature of the chairman, or any Member of the special committee designated by the chairman, and may be served by any person designated by the chairman or the Member signing the subpoena.

(d) All records and papers of the temporary Special Committee on Aging established by Senate Resolution 33, Eighty-seventh Congress, are transferred to the special committee.

RULES OF PROCEDURE

141 CONG. REC. S3293 (DAILY ED. FEB. 28, 1995)

I. Convening of meetings and hearings

1. MEETINGS. The Committee shall meet to conduct Committee business at the call of the Chairman.

2. SPECIAL MEETINGS. The Members of the Committee may call additional meetings as provided in Senate Rule XXVI (3).

3. NOTICE AND AGENDA:

(a) HEARINGS. The Committee shall make public announcement of the date, place, and subject matter of any hearing at least one week before its commencement.

(b) MEETINGS. The Chairman shall give the Members written notice of any Committee meeting, accompanied by an agenda enumerating the items of business to be considered, at least 5 days in advance of such meeting.

(c) SHORTENED NOTICE. A hearing or meeting may be called on not less than 24 hours notice if the Chairman, with the concurrence of the Ranking Minority Member, determines that there is good cause to begin the hearing or meeting on shortened notice. An agenda will be furnished prior to such a meeting.

4. PRESIDING OFFICER. The Chairman shall preside when present. If the Chairman is not present at any meeting or hearing, the Ranking Majority Member present shall preside. Any Member of the Committee may preside over the conduct of a hearing.

II. Closed sessions and confidential materials

1. PROCEDURE. All meetings and hearing shall be open to the public unless closed. To close a meeting or hearing or portion thereof, a motion shall be made and seconded to go into closed discussion of whether the meeting or hearing will concern the matters enumerated in Rule II.3. Immediately after such discussion, the meeting or hearing may be closed by a vote in open session of a majority of the Members of the Committee present.

2. WITNESS REQUEST. Any witness called for hearing may submit a written request to the Chairman no later than twenty-four hours in advance for his examination to be in closed or open session. The Chairman shall inform the Committee of any such request.

3. CLOSED SESSION SUBJECTS. A meeting or hearing or portion thereof may be closed if the matters to be discussed concern: (1) national security; (2) Committee staff personnel or internal staff management or procedures; (3) matters tending to reflect adversely on the character or reputation or to invade the privacy of the individuals; (4) Committee investigations; (5) other matters enumerated in Senate Rule XXVI (5)(b).

4. CONFIDENTIAL MATTER. No record made of a closed session, or material declared confidential by a majority of the Committee, or report of the proceedings of a closed session, shall be made public, in whole or in part or by way of summary, unless specifically authorized by the Chairman and Ranking Minority Member.

5. BROADCASTING:

(a) CONTROL. Any meeting or hearing open to the public may be covered by television, radio, or still photography. Such coverage must be conducted in an orderly and unobtrusive manner, and the Chairman may for good cause terminate such coverage in whole or in part, or take such other action to control it as the circumstances may warrant.

(b) REQUEST. A witness may request of the Chairman, on grounds of distraction, harassment, personal safety, or physical discomfort, that during his testimony cameras, media microphones, and lights shall not be directed at him.

III. Quorums and voting

1. REPORTING. A majority shall constitute a quorum for reporting a resolution, recommendation or report to the Senate.

2. COMMITTEE BUSINESS. A third shall constitute a quorum for the conduct of Committee business, other than a final vote on reporting, providing a minority Member is present. One Member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony at hearings.

3. POLLING:

(a) SUBJECTS. The Committee may poll (1) internal Committee matters including those concerning the Committee's staff, records, and budget; (2) other Committee business which has been designated for polling at a meeting.

(b) PROCEDURE. The Chairman shall circulate polling sheets to each Member specifying the matter being poled and the time limit for completion of the poll. If any Member so requests in advance of the meeting, the matter shall be held for meeting rather than being polled. The clerk shall keep a record of polls, if the Chairman determines that the polled matter is one of the areas enumerated in Rule II.3, the record of the poll shall be confidential. Any Member may move at the Committee meeting following a poll for a vote on the polled decision.

IV. Investigations

1. AUTHORIZATION FOR INVESTIGATIONS. All investigations shall be conducted on a bipartisan basis by Committee staff. Investigations may be initiated by the Committee staff upon the approval of the Chairman and the Ranking Minority Member. Staff shall keep the Committee fully informed of the progress of continuing investigations, except where the Chairman and the Ranking Minority Member agree that there exists temporary cause for more limited knowledge.

2. SUBPOENAS. Subpoenas for the attendance of witnesses or the production of memoranda, documents, records, or any other materials shall be issued by the Chairman, or by any other Member of the Committee designated by him. Prior to the issuance of each subpoena, the Ranking Minority Member, and any other Member so requesting, shall be notified regarding the identity of the person to whom the subpoena will be issued and the nature of the information sought, and its relationship to the investigation.

3. INVESTIGATIVE REPORTS. All reports containing findings or recommendations stemming from Committee investigations shall be printed only with the approval of a majority of the Members of the Committee.

[1] As amended by S. Res. 78, 95th Cong., 1st Sess. (1977), S. Res. 376, 95th Cong., 2d Sess. (1978), S. Res. 274, 96th Cong., 1st Sess. (1979), S. Res. 389, 96th Cong., 2d Sess. (1980).

V. Hearings

1. NOTICE. Witnesses called before the Committee shall be given, absent extraordinary circumstances, at least forty-eight hours notice, and all witnesses called shall be furnished with a copy of these rules upon request.

2. OATH. All witnesses who testify to matters of fact shall be sworn unless the Committee waives the oath. The Chairman, or any member, may request and administer the oath.

3. STATEMENT. Any witness desiring to make an introductory statement shall file 50 copies of such statement with the Chairman or clerk of the Committee 24 hours in advance of his appearance, unless the Chairman and Ranking Minority Member determine that there is good cause for a witness's failure to do so. A witness shall be allowed no more than ten minutes to orally summarize his prepared statement.

4. COUNSEL:

(a) A witness's counsel shall be permitted to be present during his testimony at any public or closed hearing or depositions or staff interview to advise such witness of his rights, provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Chairman may rule that representation by counsel from the government, corporation, or association creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation, or association.

(b) A witness is unable for economic reasons to obtain counsel may inform the Committee at least 48 hours prior to the witness's appearance, and it will endeavor to obtain volunteer counsel for the witness. Such counsel shall be subject solely to the control of the witness and not the Committee. Failure to obtain counsel will not excuse the witness from appearing and testifying.

5. TRANSCRIPT. An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. Any witness shall be afforded, upon request, the right to review that portion of such record, and for this purpose, a copy of a witness's testimony in public or closed session shall be provided to the witness. Upon inspecting his transcript, within a time limit set by the committee clerk, a witness may request changes in testimony to correct errors of transcription, grammatical errors, and obvious errors of fact, the Chairman or a staff officer designated by him shall rule on such request.

6. IMPUGNED PERSONS. Any person who believes that evidence presented, or comment made by a Member or staff, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his character or adversely affect his reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record;

(b) request the opportunity to appear personally before the Committee to testify in his own behalf; and

(c) submit questions in writing which he requests be used for the cross-examination of other witnesses called by the Committee. The Chairman shall inform the Committee of such requests for appearance or cross-examination. If the Committee so decides; the requested questions, or paraphrased versions or portions of them, shall be put to the other witness by a Member or by staff.

7. MINORITY WITNESSES. Whenever any hearing is conducted by the Committee, the minority on the Committee shall be entitled, upon request made by a majority of the minority Members to the Chairman, to call witnesses selected by the minority to testify or produce documents with respect to the measure or matter under consideration during at least one day of the hearing. Such request must be made before the completion of the hearing or, if subpoenas are required to call the minority witnesses, no later than three days before the completion of the hearing.

8. CONDUCT OF WITNESSES, COUNSEL AND MEMBERS OF THE AUDIENCE. If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing the Chairman or presiding Member of the Committee present during such hearing may request the Sergeant at Arms of the Senate, his representative or any law enforcement official to eject said person from the hearing room.

VI. Depositions and commissions

1. NOTICE. Notices for the taking of depositions in an investigation authorized by the Committee shall be authorized and issued by the Chairman or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear unless the deposition notice was accompanied by a Committee subpoena.

2. COUNSEL. Witnesses may be accompanied at a deposition by counsel to advise them of their rights, subject to the provisions of Rule V.4.

3. PROCEDURE. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee staff. Objections by the witnesses as to the form of questions shall be noted by the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Committee staff may proceed with the deposition, or may at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from a Member of the Committee. If the Member overrules the objection, he may refer the matter to the Committee or he may order and direct the witness to answer the question, but the Committee shall not initiate the procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been ordered and directed to answer by a Member of the Committee.

4. FILING. The Committee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review. No later than five days thereafter, the witness shall return a signed copy, and the staff shall enter the changes, if any, requested by the witness in accordance with Rule V.6. If the witness fails to return a signed copy, the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record to the testimony, and the transcript shall then be filed with the Committee clerk. Committee staff may stipulate with the witness to changes in this procedure; deviations from the procedure which do not substantially impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

5. COMMISSIONS. The Committee may authorize the staff by issuance of commissions, to fill in prepared subpoenas, conduct field hearings, inspect locations, facilities, or systems of records, or otherwise act on behalf of the Committee. Commissions shall be accompanied by instructions from the Committee regulating their use.

VII. Subcommittees

1. ESTABLISHMENT. The Committee will operate as a Committee of the Whole, reserving to itself the right to establish temporary subcommittees at any time by majority vote. The Chairman of the full Committee and the Ranking Minority Member shall be ex officio Members of all subcommittees.

2. JURISDICTION. Within its jurisdiction as described in the Standing Rules of the Senate, each subcommittee is authorized to conduct investigations, including use of subpoenas, depositions, and commissions.

3. RULES. A subcommittee shall be governed by the Committee rules, except that its quorum for all business shall be one-third of the subcommittee Membership, and for hearings shall be one Member.

VIII. Reports

Committee reports incorporating Committee findings and recommendations shall be printed only with the prior approval of the Committee, after an adequate period for review and comment. The printing, as Committee documents, of materials prepared by staff for informational purposes, or the printing of materials not originating with the Committee or staff, shall require prior consultation with the minority staff; these publications shall have the following language printed on the cover of the document: ''Note: This document has been printed for informational purposes. It does not represent either findings or recommendations formally adopted by the Committee.''

IX. Amendment of rules

The rules of the Committee may be amended or revised at any time, provided that not less than a majority of the Committee present so determine at a Committee meeting preceded by at least 3 days notice of the amendments or revisions proposed.●

RULES OF THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

● Mr. D'AMATO. Mr. President, in accordance with rule XXVI, paragraph 2, of the Standing Rule of the Senate, I hereby submit for publication in the CONGRESSIONAL RECORD, the rules of the Committee on Banking, Housing, and Urban Affairs.

The rules follow:

RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

(Adopted in executive session, January 28, 1997)

RULE 1.—REGULAR MEETING DATE FOR COMMITTEE

The regular meeting day for the Committee to transact its business shall be the last Tuesday in each month that the Senate is in Session; except that if the Committee has met at any time during the month prior to the last Tuesday of the month, the regular meeting of the Committee may be canceled at the discretion of the Chairman.

RULE 2.—COMMITTEE

(a) Investigations.—No investigation shall be initiated by the Committee unless the Senate, or the full Committee, or the Chairman and Ranking Minority Member have specifically authorized such investigation.

(b) Hearing.—No hearing of the Committee shall be scheduled outside the District of Columbia except by agreement between the

Chairman of the Committee and the Ranking Minority Member of the Committee or by a majority vote of the Committee.

(c) Confidential testimony.—No confidential testimony taken or confidential material presented at an executive session of the Committee or any report of the proceedings of such executive session shall be made public either in whole or in part by way of summary, unless specifically authorized by the Chairman of the Committee and the Ranking Minority Member of the Committee or by a majority vote of the Committee.

(d) Interrogation of witnesses.—Committee interrogation of a witness shall be conducted only by members of the Committee or such professional staff as is authorized by the Chairman or the Ranking Minority Member of the Committee.

(e) Prior notice of markup sessions.—No session of the Committee or a Subcommittee for marking up any measure shall be held unless (1) each member of the Committee or the Subcommittee, as the case may be, has been notified in writing of the date, time, and place of such session and has been furnished a copy of the measure to be considered at least 3 business days prior to the commencement of such session, or (2) the Chairman of the Committee or Subcommittee determines that exigent circumstances exist requiring that the session be held sooner.

(f) Prior notice of first degree amendments.—It shall not be in order for the Committee or a Subcommittee to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless (1) fifty written copies of such amendment have been delivered to the office of the Committee at least 2 business days prior to the meeting, or (2) with respect to multiple first degree amendments, each of which would strike a single section of the measure under consideration, fifty copies of a single written notice listing such specific sections have been delivered to the Committee at least 2 business days prior to the meeting. An amendment to strike a section of the measure under consideration by the Committee or Subcommittee shall not be amendable in the second degree by the Senator offering the amendment to strike. This subsection may be waived by a majority of the members of the Committee or Subcommittee voting, or by agreement of the Chairman and Ranking Minority Member. This subsection shall apply only when at least 3 business days written notice of a session to markup a measure is required to be given under subsection (e) of this rule.

(g) Cordon rule.—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or Subcommittee, from initial consideration in hearings through 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 repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added. In addition, whenever a member of the Committee or Subcommittee offers an amendment to a bill or joint resolution under consideration, those amendments shall be presented to the Committee or Subcommittee in a like form, showing by typographical devices the effect of the proposed amendment on existing law. The requirements of this subsection may be waived when, in the opinion of the Committee or Subcommittee Chairman, it is necessary to expedite the business of the Committee or Subcommittee.

RULE 3.—SUBCOMMITTEES

(a) Authorization for.—A Subcommittee of the Committee may be authorized only by the action of a majority of the Committee.

(b) Membership.—No member may be a member of more than three Subcommittees and no member may chair more than one Subcommittee. No member will receive assignment to a second Subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one Subcommittee, and no member shall receive assignment to a third Subcommittee until, in order of seniority, all members have chosen assignments to two Subcommittees.

(c) Investigations.—No investigation shall be initiated by a Subcommittee unless the Senate or the full Committee has specifically authorized such investigation.

(d) Hearings.—No hearing of a Subcommittee shall be scheduled outside the District of Columbia without prior consultation with the Chairman and then only by agreement between the Chairman of the Subcommittee and the Ranking Minority Member of the Subcommittee or by a majority vote of the Subcommittee.

(e) Confidential testimony.—No confidential testimony taken or confidential material presented at an executive session of the Subcommittee or any report of the proceedings of such executive session shall be made public, either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Subcommittee and the Ranking Minority Member of the Subcommittee, or by a majority vote of the Subcommittee.

(f) Interrogation of witnesses.—Subcommittee interrogation of a witness shall be conducted only by members of the Subcommittee or such professional staff as is authorized by the Chairman or the Ranking Minority Member of the Subcommittee.

(g) Special meetings.—If at least three members of a Subcommittee desire that a special meeting of the Subcommittee be called by the Chairman of the Subcommittee, those members may file in the offices of the Committee their written request to the Chairman of the Subcommittee for that special meeting. Immediately upon the filing of the request, the Clerk of the Committee shall notify the Chairman of the Subcommittee of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairman of the Subcommittee does not call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the members of the Subcommittee may file in the offices of the Committee their written notice that a special meeting of the Subcommittee will be held, specifying the date and hour of that special meeting. The Subcommittee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all members of the Subcommittee that such special meeting will be held and inform them of its date and hour. If the Chairman of the Subcommittee is not present at any regular or special meeting of the Subcommittee, the Ranking Member of the majority party on the Subcommittee who is present shall preside at the meeting.

(h) Voting.—No measure or matter shall be recommended from a Subcommittee to the Committee unless a majority of the Subcommittee are actually present. The vote of the Subcommittee to recommend a measure or matter to the Committee shall require the concurrence of a majority of the members of the Subcommittee voting. On Subcommittee matters other than a vote to recommend a measure or matter to the Committee no record vote shall be taken unless a majority of the Subcommittee is actually present. Any absent member of a Subcommittee may affirmatively request that his or her vote to recommend a measure or matter to the Committee or his vote on any such other matters on which a record vote is taken, be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter and to inform the Subcommittee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman of the Subcommittee any time before the record vote on the measure or matter concerned is taken, the member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee.

RULE 4.—WITNESSES

(a) Filing of statements.—Any witness appearing before the Committee or Subcommittee (including any witness representing a Government agency) must file with the Committee or Subcommittee (24 hours preceding his or her appearance) 120 copies of his statement to the Committee or Subcommittee, and the statement must include a brief summary of the testimony. In the event that the witness fails to file a written statement and brief summary in accordance with this rule, the Chairman of the Committee or Subcommittee has the discretion to deny the witness the privilege of testifying before the Committee or Subcommittee until the witness has properly complied with the rule.

(b) Length of statements.—Written statements properly filed with the Committee or Subcommittee may be as lengthy as the witness desires and may contain such documents or other addenda as the witness feels is necessary to present properly his or her views to the Committee or Subcommittee. The brief summary included in the statement must be no more than 3 pages long. It shall be left to the discretion of the Chairman of the Committee or Subcommittee as to what portion of the documents presented to the Committee or Subcommittee shall be published in the printed transcript of the hearings.

(c) Ten-minute duration.—Oral statements of witnesses shall be based upon their filed statements but shall be limited to 10 minutes duration. This period may be limited or extended at the discretion of the Chairman presiding at the hearings.

(d) Subpoena of witnesses.—Witnesses may be subpoenaed by the Chairman of the Committee or a Subcommittee with the agreement of the Ranking Minority Member of the Committee or Subcommittee or by a majority vote of the Committee or Subcommittee.

(e) Counsel permitted.—Any witness subpoenaed by the Committee or Subcommittee to a public or executive hearing may be accompanied by counsel of his or her own choosing who shall be permitted, while the witness is testifying, to advise him or her of his or her legal rights.

(f) Expenses of witnesses.—No witness shall be reimbursed for his or her appearance at a public or executive hearing before the Committee or Subcommittee unless such reimbursement is agreed to by the Chairman and Ranking Minority Member of the Committee.

(g) Limits of questions.—Questioning of a witness by members shall be limited to 5 minutes duration when 5 or more members are present and 10 minutes duration when less than 5 members are present, except that if a member is unable to finish his or her questioning in this period, he or she may be permitted further questions of the witness after all members have been given an opportunity to question the witness.

Additional opportunity to question a witness shall be limited to a duration of 5 minutes until all members have been given the opportunity of questioning the witness for a second time. This 5-minute period per member will be continued until all members have exhausted their questions of the witness.

RULE 5.—VOTING

(a) Vote to report a measure or matter.—No measure or matter shall be reported from the Committee unless a majority of the Committee is actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his or her vote to report a matter be cast by proxy. The proxy shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the rollcall vote of the members present and voting, as an official record of the vote on the measure or matter.

(b) Vote on matters other than to report a measure or matter.—On Committee matters other than a vote to report a measure or matter, no record vote shall be taken unless a majority of the Committee are actually present. On any such other matter, a member of the Committee may request that his or her vote may be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman any time before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

RULE 6.—QUORUM

No executive session of the Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the swearing in of witnesses, and the taking of testimony.

RULE 7.—STAFF PRESENT ON DAIS

Only members and the Clerk of the Committee shall be permitted on the dais during public or executive hearings, except that a member may have one staff person accompany him or her during such public or executive hearing on the dais. If a member desires a second staff person to accompany him or her on the dais he or she must make a request to the Chairman for that purpose.

RULE 8.—COINAGE LEGISLATION

At least 40 Senators must cosponsor any gold medal or commemorative coin bill or resolution before consideration by the Committee.

EXTRACTS 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:

* * * * *

(d)(1) Committee on Banking, Housing, and Urban Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Banks, banking, and financial institutions.
2. Control of prices of commodities, rents, and services.
3. Deposit insurance.
4. Economic stabilization and defense production.
5. Export and foreign trade promotion.
6. Export controls.
7. Federal monetary policy, including Federal Reserve System.
8. Financial aid to commerce and industry.
9. Issuance and redemption of notes.
10. Money and credit, including currency and coinage.
11. Nursing home construction.
12. Public and private housing (including veterans' housing).
13. Renegotiation of Government contracts.
14. Urban development and urban mass transit.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to international economic policy as it affects United States monetary affairs, credit, and financial institutions; economic growth, urban affairs, and credit, and report thereon from time to time.

COMMITTEE PROCEDURES FOR PRESIDENTIAL NOMINEES

Procedures formally adopted by the U.S. Senate Committee on Banking, Housing, and Urban Affairs, February 4, 1981, establish a uniform questionnaire for all Presidential nominees whose confirmation hearings come before this Committee.

In addition, the procedures establish that:

(1) A confirmation hearing shall normally be held at least 5 days after receipt of the completed questionnaire by the Committee unless waived by a majority vote of the Committee.

(2) The Committee shall vote on the confirmation not less than 24 hours after the Committee has received transcripts of the hearing unless waived by unanimous consent.

(3) All nominees routinely shall testify under oath at their confirmation hearings.

This questionnaire shall be made a part of the public record except for financial information, which shall be kept confidential.

Nominees are requested to answer all questions, and to add additional pages where necessary.●

ORDER OF BUSINESS

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

(The remarks of Mr. THOMAS pertaining to the introduction of S. 314 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. THOMAS. Mr. President, I thank you for the time. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT AND SOCIAL SECURITY TRUST FUNDS

Mr. REID. Mr. President, hopefully the week we get back, we will be able to start a serious debate on the most important issue relating to the balanced budget amendment, namely whether or not Social Security trust fund moneys should be counted in the constitutional amendment to balance the budget.

There will be an amendment offered, of course, that the Social Security trust fund moneys should be excluded from that. It seems each day that goes by we get added support for our amendment. We have received support over the months from various individuals, and just yesterday we received an opinion from the Congressional Research Service of the Library of Congress that was very important.

There has been some talk in the Chamber today that they have changed their opinion. Nothing could be further from the truth. And that certainly can come from reading the transmission from the American Law Division of the Congressional Research Service today. My friend, the Senator from North Dakota, will discuss this when I complete my remarks. But, Mr. President, all you need to do is read this new document that they put out where it says:

Only if no other receipts in any particular year could be found would the possibility of a limitation on drawing down the Trust Funds arise. Even in this eventuality, however, Congress would retain the authority, under the [balanced budget amendment] to raise revenues—

Of course, if you can get a supermajority.

or to reduce expenditures—

That's very true, you could continue to cut.

to obtain the necessary moneys to make good on the liquidation of securities from the Social Security Trust Funds.

Mr. President, this is certainly the same opinion that they rendered yesterday. The Social Security Trust Fund is the largest money out there, this year, $80 billion. This is being applied toward the deficit to make it look smaller. And that is all they are saying, that is, in effect, when it comes time to balance the budget, they will look to Social Security. The way the balanced budget amendment is written, if there are not surpluses over and above the Social Security Trust Fund moneys, people simply would not be able to draw their checks.

I will yield the floor——

Mr. DORGAN. I wonder if the Senator will yield?

Mr. REID. I will be happy to.

Mr. DORGAN. Mr. President, I wanted to make an observation and make a point. The Congressional Research Service has sent a second letter. I wanted to make the point the Senator from Nevada made. The second letter says the same as the first letter on the question of whether surpluses in the Social Security Trust Fund can be used in the outyears to be spent for Social Security needs. The answer is, in the first letter from CRS and in the second, the answer is no, unless there is a corresponding tax increase in the same fiscal year, or corresponding spending cuts, equal to those surpluses. And that is the very point we were making.

The second letter from the Congressional Research Service simply says the same thing that they said earlier with slightly different wording. We

want to make that point, that this is not a change in position for them at all.

In the outyears, the way the constitutional amendment to balance the budget is worded, the Government would be prevented from using the surpluses accrued in the Social Security Trust Fund that were saved for the specific purpose of being used later when they were needed. It would be prevented from using those unless in those years it also increased taxes sufficient to cover them or cut spending sufficient to cover them. This, despite the fact that they were accrued as surpluses, above other needs in the Social Security system now, in order to meet the needs in the future.

I know this is confusing. We just wanted to leave the message that the Congressional Research Service is saying the same thing. This is not a change in message from them at all, and this is about a $3 trillion issue. It is of great significance, and I hope Members will take account of it as we consider these issues.

Mr. REID. I say to my friend from North Dakota, also, we will discuss this at great length right after the break. But it is interesting that we are talking about trust fund moneys like it is some fungible commodity that can be used for any purpose. The fact of the matter is, Social Security Trust Fund moneys are put, supposedly, into a trust fund to be used for people's retirement, not to make the deficit look smaller.

Mr. DORGAN. If the Senator will yield for 1 additional minute, that is exactly the point of this debate. It is not an attempt in any way to create more diversion, or any diversion, on the issue of a constitutional amendment to balance the budget.

The question is, Shall the Constitution be altered? But we are raising the question of, if an alteration of the Constitution is made, how will that affect, in the outyears, the opportunity to spend the surpluses that we are accruing each year now because we need it when the baby boomers retire?

And the answer is, according to the Congressional Research Service, it will have a profound and enormous effect on the Government's ability to do that. That is what we want our colleagues to understand.

The PRESIDING OFFICER. The Chair will inform the Senators, under the previous order we were in morning business for up to 5 minutes each, and I must notify the Senators that time has elapsed.

The Senator from Utah.

Mr. HATCH. Mr. President, I would like to take this time to briefly respond to my friend from North Dakota and others. In their press conference that was held this morning, as I understand it—I was not there, but Senators CONRAD, DORGAN and REID were—at that event a one-page memorandum from the Congressional Research Service, which was inaccurately termed a ''study,'' was characterized as proof that passage and ratification of the balanced budget amendment will harm Social Security.

The problem is that the CRS memorandum did not conclude that at all. All the CRS memorandum concluded was that the Social Security existing surpluses after 2019—the year the program no longer produces surpluses because of the retirement of the baby boomers—cannot be used to fund the program unless such expenditures were offset by revenue or budget cuts.

Of course, this is technically true. That is what a balanced budget does. It balances outlays and receipts, and expenditure of any part of the budget is an outlay.

But these critics of the balanced budget fail to mention a few things. They fail to mention that CRS, in the memorandum, also concluded that the present day surpluses are ''an accounting practice.'' Past CRS studies clearly demonstrate that the Social Security trust funds are, indeed, an accounting measure. There is no separate Federal vault where Social Security receipts are stored. Social Security taxes—called FICA taxes—are simply deposited with all other Federal revenues. The moneys attributed to Social Security are tracked as bookkeeping entries so that we can determine how well the program operates. As soon as the amounts attributed to FICA taxes are entered on the books, Federal interest-bearing bonds are electronically entered as being purchased. That is the safest investment that exists in the world today.

This country has a unified budget. This means that the proceeds from Social Security taxes are part of the Treasury—of general revenue. CRS has recognized this.

Moreover, I might add, without including the present day surpluses, the budget cannot be balanced. That is why President Clinton has included Social Security funds in every one of his budgets.

Do Senators DORGAN, CONRAD, and REID oppose that? If they do, they have a right to, but the President includes them because he has to.

I recognize that Social Security is in danger. But the problem is not the inclusion of Social Security funds in the budget. The problem is that, with the retirement of the baby boomers and that generation, there will not be enough FICA taxes to fund their retirement. CRS, in a study, concluded that the present day surpluses would not be sufficient to resolve this problem. CRS concluded that the Social Security program needs to be fixed.

Finally, not including Social Security in the budget would harm the program. Congress could rename social programs—as they have done before—as Social Security and use the FICA taxes to fund those programs to the detriment of senior citizens; that is, if we do not handle this matter the way the balanced budget amendment requires us to do.

My colleagues' problem, in reality, is not with the balanced budget amendment but with the problems the Social Security program faces and will face in the future. We need to fix that. Adopting the balanced budget amendment is a good start. If we do not do that and if they take these matters so they are not part of the unified budget, then I submit every senior in this country is going to be hurt some time in the future because there will not be the will to get matters under control and spending under control.

We saw the charts of the distinguished Senator from West Virginia all afternoon, which I think make my case, and so do these 28 years of unbalanced budgets. The only way we are going to face up to the needs of Social Security and the needs of our seniors is if it is part of the unified budget.

Frankly, the CRS is right, this is an accounting process. The way to do it right is to have a balanced budget amendment passed that works.

Mr. President, I ask unanimous consent that the Congressional Research Service, Library of Congress, February 12, 1997, letter to the Honorable PETE V. DOMENICI, attention Jim Capretta, from the American Law Division, on the subject of ''Treatment of Outlays from Social Security Surpluses under BBA,'' signed by Johnny H. Killian, Senior Specialist, American Constitutional Law, be printed in the RECORD at this point.

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 12, 1997.

To: Honorable Pete V. Domenici, Attention: Jim Capretta.

From: American Law Division.

Subject: Treatment of Outlays from Social Security Surpluses under BBA.

This memorandum is in response to your inquiry with respect to the effect on the Social Security Trust Funds of the pending Balanced Budget Amendment (BBA). Under S.J. Res. 1 as it is now before the Senate, §1 would mandate that ''[t]otal outlays for any fiscal year shall not exceed total receipts for that fiscal year. . . .'' Outlays and receipts are defined in §7 as practically all inclusive, with two exceptions that are irrelevant here.

At some point, the receipts into the Social Security Trust Funds will not balance the outlays from those Funds. Under present law, then, the surpluses being built up in the Funds, at least as an accounting practice, will be utilized to pay benefits to the extent receipts for each year do not equal the outlays in that year. Simply stated, the federal securities held by the Trust Funds will be drawn down to cover the Social Security deficit in that year, and the Treasury will have to make good on those securities with whatever moneys it has available.

However, §1 of the pending BBA requires that total outlays for any fiscal year not exceed total receipts for that fiscal year. Thus, the amount drawn from the Social Security Trust Funds could not be counted in the calculation of the balance between total federal outlays and receipts. We are not concluding that the Trust Funds surpluses could not be drawn down to pay beneficiaries. The BBA would not require that result. What it would

mandate is that, inasmuch as the United States has a unified budget, other receipts into the Treasury would have to be counted to balance the outlays from the Trust Funds and those receipts would not be otherwise available to the Government for that year. Only if no other receipts in any particular year could be found would the possibility of a limitation on drawing down the Trust Funds arise. Even in this eventuality, however, Congress would retain authority under the BBA to raise revenues or to reduce expenditures to obtain the necessary moneys to make good on the liquidation of securities from the Social Security Trust Funds.

JOHNNY H. KILLIAN,
Senior Specialist,
American Constitutional Law.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we will likely have a longer debate about this, and I shall not lengthen it today, but the Senator from Utah always makes a strong case for his position.

In the circumstances this evening, he, once again, has made a strong case, but on a couple of points, in my judgment, he is factually in error, and I want to point that out.

In one respect he is not in error, he is absolutely correct. President Reagan, President Bush, and President Clinton have all sent budgets since 1983 to this Congress—1983 is the period in which we began to decide we were going to accumulate substantial surpluses in Social Security to save for a later time when they are needed—all Presidents have sent budgets to this Congress that use the Social Security trust funds as part of the unified budget. I think 2 days ago on the floor of this Senate, I pointed out the President did that in his budget, and his budget that he says is in balance is not in balance. I pointed that out about this President. I made the same point about President Bush and President Reagan when they did it as well.

But, having said that, the Senator from Utah says the Social Security trust funds that are derived from Social Security taxes taken from paychecks of workers all across this country and from the employers, is a technical issue, and they simply go into all other funds and they are commingled. This technical resolution of all these moneys means that there really is not a dedicated Social Security fund, and so on and so forth.

I would be happy to go for a drive with the Senator from Utah to Parkersburg, WV, where the Social Security trust fund securities are held under armed guard. I might even be able to bring him a copy of one of those securities so we could show him that those securities exist. They are held under armed guard. I can tell him where they are held, and it is not merely technical. It is much, much more important than that.

If it is purely technical, then I say to the tens of millions of workers out there, ''The next time you get your paycheck stub and you see that little portion where they take some tax away from you and they say, 'We're doing this to put it in the Social Security account and it's a dedicated tax to go into a dedicated trust fund to be used for only one purpose,' you deserve a tax break; you ought not be paying that if it is not going to where it is indicated it is going, to a trust fund to save for the future.'' If this is just like other money, commingled with other funds, let's stop calling it a trust fund, let's stop calling it a dedicated tax and call it an income tax, and a regressive one because everybody pays the same amount.

In fact, it is the case that most Americans pay more in this payroll tax than they do in taxes, regrettably, but they do so because they believe it goes into a trust fund. I reject the notion somehow that there is no difference between all this money. I think the trust funds are dedicated funds that we promised workers would be saved for their future.

The Congressional Research Service says nothing in the second letter they did not say in the first. They say—and you can say it two ways—the Government with this constitutional amendment to balance the budget, the way it is worded, would be prevented from using the Social Security trust funds in the outyears, when we are going to use that surplus because it is needed, unless a corresponding tax increase or corresponding spending cut equal to those trust funds is enacted by Congress. That is one way of saying it.

The other way of saying it, which they now have in this paper, says the Congress, in the outyears, can use the Social Security trust funds, but only if there is a corresponding tax increase or spending cut. It is another way of saying exactly the same thing. Why use two pieces of paper when you can use one? It doesn't matter much to me. It is probably a waste of paper, but it says exactly the same thing.

I want to make one final point. The reason I have taken issue with President Bush, President Reagan, and, yes, President Clinton on this issue, and taken issue with the Senator from Utah, is embodied in the debt clock that the Senator brought to his hearing. I hope we will have this discussion at some point soon. The Senator will I think agree that the clock showing the amount of public debt that is owed in this country will not stop with the passage of this balanced budget amendment and the passage of a budget that complies with this amendment.

I ask the Senator from Utah, is it not true that if the Congress passes this constitutional amendment to balance the budget and then passes a budget in compliance with that, in the very year in which that budget is so-called balanced, is it not true that the Federal debt will increase $130 billion in that year? And if it is, and I believe the Senator from Utah would admit that it is, if it is true that in the year in which it is represented to the American people that the budget is balanced, then why does the Federal debt rise by another $130 billion? Somehow that doesn't pass any standard of common sense in my hometown.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Thank you, Mr. President. It is interesting to see what has transpired in this past year. It seems there is a new tact now to get the constitutional balanced budget amendment passed, and that is to trash Social Security—''it is going broke; its program is bad; the baby boomers aren't going to get any money''—to do what we can to make Social Security look bad.

Mr. President, Social Security is the most successful social program in the history of the world. It is a good program, and people who want to say Social Security is in deep trouble, it is going out of business soon, simply are wrong. Even the 13-member bipartisan commission which reported back on Social Security acknowledged that until the year 2029, Social Security is going to pay out all the benefits as it now pays out. In fact, in the year 2029, if we did nothing else, benefits would still be paid out at about 80 percent. We have to do some adjustment to Social Security in the outyears. There are many ways we can do that.

Social Security is not in trouble of going broke unless this balanced budget amendment passes, and then there is going to be some real trouble. The trouble is that the surpluses have been and will continue to be used to balance the budget. The fact that there has been a procedure used in years gone by that is wrong does not mean we should enshrine that in the Constitution.

So I suggest that the argument that Social Security is going broke is about as valid as the argument that is used on a continual basis that States balance their budget. The State of Nevada balances its budget, but capital improvements are off budget.

So, Mr. President, I believe we should have a constitutional amendment to balance the budget. I am willing to go for that. I voted for all the motions to table. But I believe we should exclude Social Security trust fund moneys from the numbers that allow the false way of obtaining a balanced budget.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I say to my dear friend and colleague, that would be one of the most tragic errors we could make. To me, that would be almost fiscal insanity.

I am not saying anything is purely technical. What I am saying is that the money, not the securities, the money from FICA is commingled with all Treasury funds. Everybody knows that. That is No. 1.

No. 2, as to the outyear issue, CRS says in various studies that the present surplus is not enough to fund the needs of the system when the baby boomers retire. That is a reality.

No. 3, not including Social Security within the purview of the balanced budget amendment will ultimately hurt that program, because there will not be the same force to reform the program and make sure it works when the baby boomers come on that there may be now, that is included in the unified budget.

I might also add, Mr. President, this is very important. This is the highest item in the Federal budget. How can we take it out of the unified Federal budget and not consider it? Yes, we have surpluses for a few years, but then all of a sudden, it goes into deep deficit. Both sides need to be in the full balanced budget if we are going to meet our realities and meet our necessities.

The question of the Senator from North Dakota, Senator DORGAN, ''If the balanced budget amendment would truly require a balanced budget, then why will the debt increase,'' is, with all due respect, a bit of sophistry. The balanced budget amendment will require a balanced budget. Outlays must not exceed receipts under section 1 of Senate Joint Resolution 1.

It is true that gross debt may still increase even if the budget is balanced. That is because the Government's exchange of interest-bearing securities for the present Social Security surplus is counted in the gross debt. It is merely an accounting or bookkeeping notation of what one agency of Government owes another agency. It is analogous to a corporation buying back its stock or debentures. Such stocks and bonds are considered retired obligations that, once retired, have no economic or fiscal significance.

Moreover, the Defense and Energy Departments list billions of dollars of environmental and nuclear cleanups as liabilities. All in all, gross debt, which includes all debt, is simply an overall indicator of Federal Government obligations. This sets the floor on increasing debt that has a direct, current effect on the overall economy, as the administration agrees. This is very different from obligations owed by the Federal Government to the public. This type of debt termed ''net debt'' or debt held by the public is legally enforceable and is what is economically significant.

If net debt zooms because of interest payments of debt, which last year amounted to $250 billion, budget deficits balloon with all the dire economic consequences. To assure that budgets will be balanced unless extraordinary situations arise, debt held by the public cannot be increased unless three-fifths of the whole number of each House concur.

It is true that a balanced budget amendment does not by itself reduce the $5.3 going to $5.4 trillion national debt. But what it does do is straighten out our national fiscal house. Passage of Senate Joint Resolution 1 will increase economic growth. Almost everybody agrees to that on Wall Street. It will increase economic growth. It will allow us to run surpluses. With this, our national debt may be decreased if Congress desires to do so in the interest of national security, stability, and prosperity.

Without Senate Joint Resolution 1, as we saw from the charts of the distinguished Senator from West Virginia all afternoon long today, without Senate Joint Resolution 1, this will be an impossibility. We will just continue the same darn programs producing deficits producing the 28 years of unbalanced budgets, unbalanced budgets that will just continue on ad infinitum. Ultimately our kids are going to have pay these debts, and it will be a doggone big debt for them. We just cannot do it to them.

I just suggest to my colleagues, as sincere as they are, the worst thing they can do for our senior citizens is to try to exclude Social Security from the budget because then all these big spenders around Congress are going to find everything to be a Social Security expenditure. Ultimately, it will impinge on the Social Security program and ruin the program, which Senator REID this evening has rightly called one of the greatest programs in the history of the world. He called it the greatest. I will certainly say it is one of the greatest in the history of the world.

If we want it to continue, it seems to me we have to treat it, since it is a high item in our budget, as a budgetary item. These accounting approaches are going to go on no matter what happens. So I think if we pass the balanced budget amendment, a balanced budget will ultimately become a reality. We are going to have to face reform of Social Security in the best interests of our senior citizens.

If we keep going where we are going, there will not be any moneys for Social Security and a lot of people are going to get hurt. To exclude Social Security from the budget is penny wise and pound foolish and it is a fiscal gimmick to try to take the largest item in the Federal budget out of the Federal budget without reforming the program to keep it solvent. Passage of the balanced budget amendment will pressure Congress to fix Social Security. Passage of the balanced budget amendment will help increase revenues and economic growth that will aid Social Security.

I yield the floor.

Mr. DORGAN. Mr. President, I wonder if I might—I will not belabor this because there will be another time when we can have a lengthier discussion. I hope we can have some questions back and forth.

The Senator used the word ''sophistry.'' I was recalling when in high school I worked at a service station and learned how to juggle three balls. I remember how difficult it was when I started trying to learn to juggle three balls at once, but how easy it became once I learned how. And I marvel sometimes at how those who really know how to juggle do it with total ease. It seems effortless.

The juggling that I just saw was interesting. The Senator said there may be an increase in gross debt even when the budget is in balance. It is not ''may.'' The Congressional Budget Office says there ''will'' be an increase in gross debt by $130 billion the very year in which people claim there is a balanced budget. So it is not ''may''; it is ''will.''

The question I was asking was, does that matter? Is it not a paradox or contradiction that when we say we have balanced the budget, my young daughter will inherit a higher national debt? And the Senator from Utah, I think, said, yeah, but that is just technical. He said the gross debt is different than the net debt.

In fact, the only reason we keep track of the gross debt, as I heard him say it, is because it has an impact on the economy. But if it has an impact on the economy, I did not understand the second position of why it does not count. It seems to me that the circumstances of the gross debt are that if you increase the indebtedness of the Federal Government, this cannot simply be on cellophane paper someplace. It represents securities that my daughter and sons and all others in the country will have to repay. I would be happy to yield for a question.

Mr. HATCH. Let me just say I never did learn how to juggle things. I think that is one reason why I strongly believe in balanced budgeting, is because I am tired of all the juggling that has gone on around here. But under the exemption proposal of the distinguished Senator from North Dakota, the debt will increase much faster because there is nothing being done about it. His proposal does not change that one bit.

Our proposal says we are tired of this. We are tired of 28 straight years of unbalanced budgets, and we want to face the music of budget deficits and do it within the realm of fiscal restraint. And, if we do not keep all items together, then there are going to be loopholes that literally will blow this country apart. We will have the regular budget and a separate Social Security budget. One will be required to be balanced under the constitutional amendment and the other will be an exempted Social Security budget that can run deficits because under the proposal it will be excluded from the constitutional amendment. Congress will transfer costly programs to the exempted budget. These costly programs will be funded out of Social Security revenues. This will ruin and hurt every senior citizen in this country. Exempting Social Security is just a fiscal gimmick.

Mr. DORGAN addressed the Chair.

Mr. HATCH. We also know it is accounting.

Mr. DORGAN. Reclaiming my time, I was yielding for a question. I guess the question that often comes up for us is: Isn't our balanced budget amendment a

gimmick? Isn't yours real, the one offered by the Senator from Utah? The answer, I would say to the Senator from Utah, is, it is now 6:27. If at 6:28 we pass and all the States ratify your proposal, at 6:29 will there have been one penny difference in the Federal debt or the Federal deficit? The answer is ''No.''

Mr. HATCH. Of course not. Of course not. But passage of the balanced budget amendment is the first and only real step toward a balanced budget and fiscal sanity.

Mr. DORGAN. I say this. My proposal is a proposal to similarly require a balanced budget. I think there is merit in that discipline. But I would say this. When we alter the Constitution to require a balanced budget, I want to do it in a way that really requires that this debt clock that you brought to your hearing that day stop, dead stop; not a slow creep, but a dead stop. No more debt for your kids, my kids, no more debts for this country, so we can start paying down the debt rather than continue to increase the debt.

I do not want to create a shell game here where we say, let us have a giant feast because we have balanced the budget, and then have someone, some little kid point up to that debt clock and say, ''Gee, Daddy, why is the debt clock still increasing, because Senator HATCH or Senator so and so said we balanced the budget?''

I say you and I do not have a disagreement about what we ought to be doing. We ought to balance the budget. Nor do we have a disagreement about whether there is merit to have put it in the Constitution.

We have a very big disagreement about the $3 trillion in the next 20 years or so in Social Security surpluses, deciding that we ought to take those out of reach and save them for the purpose we said we are going to save them for. We have great disagreement about whether or not that is a gimmick or whether that is important for the future of this country. That is where we disagree.

Mr. HATCH. I think that is true. Let me just say, so I clarify, I did not say that the distinguished Senator from North Dakota is a sophist, though I think he would make a good one. I did say that I think his arguments are—

Mr. DORGAN. I did not say the Senator from Utah could juggle, although I think it looks to me like he has that talent.

Mr. HATCH. I admitted I could not.

Mr. DORGAN. I think he has the talent, the potential.

Mr. HATCH. Let me say this. I think there is a good argument the gross debt increase does not matter in this context. Why? Because it is just evidence of what one agency in the Government owes another agency. What is of economic consequence is net debt—net debt; that is debt held by the public which is legally enforceable.

Now, I have to say that the Senator's proposal does not stop the debt from growing, and under his proposal, if this balanced budget amendment goes down, if his amendment was added—and it will go down and everybody knows that—the gross debt will grow at least as fast. So his solution is not a solution.

We all know that the only balanced budget amendment we have a chance of passing is the underlying amendment that includes everything on the budget. We also all know, in all fairness, that Social Security should be included because it is more than capable of competing with other programs, and it ought to have to compete. Let me tell you this, if it is not on there, I think it is a risky gimmick to take it out.

When somebody says our balanced budget amendment is a gimmick, I agree with the Senator from Maine, OLYMPIA SNOWE, who said today, if it was a gimmick, we would have passed it long ago. The fact is that it is why it is being fought so hard against. It will put fiscal restraints and discipline on all items of the budget that has been long overdue. I think that has to be done.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have been listening to this debate with a great deal of interest. I was especially interested that the Senator from Utah described as a fiscal gimmick separating out the Social Security trust fund from the rest of the Federal budget, because, if I am not mistaken, the Senator from Utah himself voted for that very proposition in 1990. In fact, we had a vote right on the floor of the U.S. Senate on the specific question of whether or not we were going to count the Social Security trust fund as part of the overall budget or not.

I believe separating out the Social Security trust fund received 97 or 98 votes. I believe the Senator from Utah was recorded in favor of the proposition that he now describes as a gimmick. I do not believe that he felt it was a gimmick then, and I do not believe that anybody who voted for it believed it was a gimmick then. It was a move to try to stop the nefarious practice of using Social Security trust fund surpluses to mask the true size of the operating deficit in this country.

Now what they are seeking to do is put that flawed principle in the Constitution of the United States. I just note that back in 1990 when we had that vote, passed by a vote, as I recall, of 20 to 1 in the Senate Budget Committee.

Mr. HATCH. Will the Senator yield?

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

Mr. HATCH. That is quite a bit different from what I am saying. We did not include Social Security in the budget in Gramm–Rudman-Hollings solely so as to not give the President the right to sequester Social Security funds. But this exclusion was not from the budget itself. But we should not lock the exemption into the Constitution. We can always change statutes. It is much harder to amend the Constitution. We should not lock into the Constitution the largest item in the Federal budget, which is outside the purview of the constitutional amendment. If you start doing that, that is risky.

You do not know how that will affect senior citizens. It is likely to hurt the senior citizens, and it is better to keep things on budget. I suspect that there is no question in anybody's mind that Social Security is more than capable of fending for itself and of getting another 98-to-2 vote in the Senate and an equivalent vote in the House that you cannot tamper with it.

Frankly, I am one of those that would make sure to vote that you do not tamper with Social Security, to lock the exemption in the Constitution forever. Such a budgetary practice, is risky. That could have a terribly bad effect on senior citizens. I think senior citizens are starting to wake up to that. They know this issue has been used blatantly and politically and demogogically for years now. I think they are getting tired of it.

Mr. CONRAD. Mr. President, let me say I find this argument very interesting because the principle is identical.

In 1990, we had a vote on the floor of the U.S. Senate to separate out the Social Security trust fund from the rest of the Federal budget. The Senator from Utah voted in favor of separating out the Social Security trust fund.

Today, he says we ought to enshrine in the Constitution the reverse principle, that we ought to put them together, that the Social Security trust fund ought to be married to the rest of the Federal budget.

What is wrong with that principle is what was wrong with it in 1990, and what I believe 98 Senators said, that we are not going to merge the two, we will not count the Social Security trust fund with the rest of the budget, because it is a risky financial move to put the two together. It masks the size of the deficits in the early years, and in the later years creates a whole series of other problems.

Mr. HATCH. Will the Senator yield?

Mr. CONRAD. If I could finish the thought, we are in a circumstance now where the Senator from Utah is advocating when he says locking into the Constitution is a risky matter, that is precisely what he is advocating.

In 1990, he voted to keep Social Security separate from the rest of the budget. Now he is advocating a constitutional amendment that would force the two together.

Mr. President, I think the Senator from Utah was right in 1990 when he cast that vote. I think he is simply mistaken in offering this constitutional amendment that puts the two together.

What is the difference between the Social Security trust fund and other parts of the Federal budget? Mr. President, the primary difference is a dedicated revenue source. We withhold in

the payroll of employees and employers specific amounts every month to go into a fund on the predicate they will then receive, when they retire, their Social Security benefit. Frankly, this proposal puts all of that at risk.

Mr. HATCH. I will end with this. The 1990 Budget Act basically stated in one section to take Social Security out of budget. It said in another section to leave it in. This is confusing. But both Congress and the President have construed the Budget Act of 1990 to allow Social Security to be included within the unitary budget.

Second, Social Security is not a pay-go system under the 1990 act. I want to add that once you make that decision to take the largest item out of the budget, you have provided a loophole where people can impinge on Social Security and hurt senior citizens. Anybody who does not believe in those loopholes better look at these stacks. They are filled with loopholes like that. We are trying to stop those loopholes.

I might also mention this, because I think it is pretty important. All constitutional scholars who testified before our committee, those for the balanced budget amendment and those against the balanced budget amendment, Senate Joint Resolution 1, testified that exempting Social Security in the Constitution was constitutionally risky. It is a risky gimmick to do that. No one knows how that will hurt the seniors, but we know it will. It would subject Social Security and the Constitution to a gaming approach. They could game the process. They could game Social Security. They could game the Constitution. That would be a disaster for our country.

Alan Morrison, one of the leading constitutional lawyers in this country, who disagreed about the wisdom of the balanced budget amendment, said: ''Given the size of Social Security, to allow it to run at a deficit would undermine the whole concept of a balanced budget. Moreover, there is no definition of Social Security in the Constitution and it would be extremely unwise and productive of litigation and political maneuvering to try to write one. If there is to be a balanced budget constitutional amendment, there should be no exceptions.''

In conclusion, the biggest threat to Social Security is our growing debt and the concomitant interest payments. That related inflation hits hardest on those on fixed incomes, and the Government's use of capital to fund debt slows productivity and income growth and siphons off needed money for worthwhile programs. The way to protect Social Security benefits is to pass Senate Joint Resolution 1, the balanced budget constitutional amendment.

The proposal to exempt Social Security would not only destroy the balanced budget amendment—the only one that can pass, a bipartisan amendment, a bicameral amendment, bipartisan in both parties—but, in all probability, would very badly hurt Social Security and every recipient of Social Security, and would definitely guarantee that the baby boomers would not have any Social Security in the future. They will come to the realization that it is going to hurt Social Security, too. The best thing we can do is keep everything in the budget and start being budget people who work, and who do what's right, and get rid of these 28 years of unbalanced budgets that have just about wrecked the country. And it could very well wreck Social Security.

I yield the floor.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, as amended by Public Law 99–7, appoints the Senator from New York [Mr. D'AMATO] as Chairman of the Commission on Security and Cooperation in Europe.

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, as modified by the order of February 10, 1997, appoints the Senator from Tennessee [Mr. FRIST] to read Washington's Farewell Address on Monday, February 24, 1997.

ORDERS FOR THURSDAY, FEBRUARY 13, 1997

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Thursday, February 13. I further ask that immediately following the prayer, the routine requests for the morning hour be granted and the Senate then proceed to a period of morning business until the hour of 3 p.m., with Senators to speak during the designated times:

Senator THOMAS, or his designee, in control of the time from 11 to 12 noon; Senator REED of Rhode Island and Senator KENNEDY for up to 30 minutes each, between 12 and 1 o'clock; the time from 1 o'clock until 2 o'clock divided among the following Senators: Senator GRAMS for 20 minutes, Senator DOMENICI for 10 minutes, Senator MURKOWSKI for 10 minutes, Senator COATS for 10 minutes, Senator FAIRCLOTH for 5 minutes; the time between 2 o'clock to 3 o'clock divided in the following fashion: Senator GRAHAM of Florida, 10 minutes; Senator KOHL, 10 minutes; and Senator HOLLINGS, 45 minutes.

The PRESIDING OFFICER. Without objection——

Mr. FORD. Mr. President, reserving the right to object, and I probably will not. I would like to ask the distinguished Senator from Utah, the acting floor leader, this. We have more Senators that would like to have an opportunity to speak tomorrow as it relates to morning business. I see that you are cutting it off. And you have done a pretty good job there. You have 65 minutes assigned to an hour.

Mr. HATCH. Hopefully, by 2 o'clock tomorrow, the majority leader should be able to let us know what will be done thereafter. We can't extend morning business past 3 o'clock tomorrow.

Mr. FORD. Well, maybe we want to object to all of it, then, if we can't——

Mr. HATCH. I think we just have to work it out.

Mr. FORD. I understand you will work it out if you work it out your way. I just want us to have an opportunity to get involved in this. How do you intend to work it out?

Mr. HATCH. These are the only requests I have.

Mr. FORD. We have a list, a bushel basketful, just like you have, and these Senators want time. They have been told they could get time, and we expect to get them time.

Mr. HATCH. I am informed by the leadership office that we will be able to update the Senate about 2 o'clock tomorrow. Hopefully, these matters can be resolved. The majority leader may want to proceed to other business. I don't know. But my understanding is that there is going to be an effort to try to accommodate people. I think the two leaders will have to work that out. But we can't do it until 2 o'clock tomorrow.

Mr. FORD. Why can't the leader be asked tonight? We can suggest the absence of a quorum and see if we can get an answer tonight.

Mr. HATCH. Well, I think the Senator knows the problems of leadership. The things we are trying to do tomorrow can't be cleared tonight. So until we get to 2 o'clock, we can't resolve this.

Mr. FORD. Do I have the Senator's word that, at 2 o'clock tomorrow, this side will be notified as to the time available for us to allow our colleagues to have time in morning business—and it won't be 5 minutes; some will want more than 5 minutes. Some will want 15. I see on here that of the 1 hour you have, you have 65 minutes assigned. So you stretched it a little bit here. If you could do that on all the hours, maybe we can get more business done.

Mr. HATCH. I will certainly take the Senator's request to the majority leader and ask him to consider it.

Mr. FORD. I expect, at 2 o'clock, for us to be informed tomorrow as to how much time will be available to us and how many of my colleagues will be able to speak.

Mr. HATCH. I will take that request to the majority leader. I will certainly do that.

Mr. FORD. As long as it is a matter of record and you understand where I am coming from.

Mr. HATCH. I do. I know you are protecting your side, as you should.

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

PROGRAM

Mr. HATCH. Mr. President, for the information of all Senators, tomorrow, the Senate will be in a period of morning business to accommodate a large number of requests. It is still possible that the Senate will consider a resolution regarding milk prices during Thursday's session. Rollcall votes are, therefore, possible tomorrow. The Senate may also be asked to turn to the consideration of any other legislative or executive items that can be cleared.

ORDER FOR ADJOURNMENT

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of Senator MOSELEY-BRAUN.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent to proceed as if in morning business.

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

(The remarks of Ms. MOSELEY-BRAUN pertaining to the introduction of S. 319 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. MOSELEY-BRAUN. Mr. President, I yield the floor.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 11 a.m. Thursday, February 13, 1997.

Thereupon, the Senate, at 6:54, adjourned until Thursday, February 13, 1997, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate February 12, 1997:

THE JUDICIARY

ALAN S. GOLD, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA, VICE JOSE A. GONZALES, JR., RETIRED.

ANTHONY W. ISHII, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA, VICE ROBERT E. COYLE, RETIRED.

LYNNE R. LASRY, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA, VICE JOHN S. RHOADES, SR., RETIRED.

IVAN L. R. LEMELLE, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA, VICE VERONICA D. WICKER, DECEASED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID L. VESELY, 0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. LAWRENCE P. FARRELL, JR., 0000.