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## Senate

The Senate met at 11 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

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

Dear Father, before we press on with the demands of today, we need to open our minds to You. We say with the psalmist, "Truly my soul silently waits for God."—Psalm 62:1. So often we rush off in all directions before we know what You want us to be and do. Sometimes the communication lines with You get jammed by our flow of words to You without listening to what You have to say to us. Prayer becomes like a telephone conversation in which we hang up on You before You have a chance to respond to the questions and the needs that we have spread out before You. Today we want to keep the lines open and really listen to You. Give us the patience to wait for Your creative insight about how to solve problems and grasp the potentials You arrange for us. Through our Lord and Savior. Amen.

### RECOGNITION OF THE MAJORITY LEADER

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

Mr. LOTT. Thank you very much, Mr. President.

### SCHEDULE

Mr. LOTT. Today the Senate will be in a period of morning business until the hour of 3 p.m. this afternoon. This will accommodate a number of Senators who have requested time to speak on various matters.

Following morning business today, there will be a number of items that are possible for Senate consideration. Due to several scheduling conflicts, I am uncertain at this time exactly whether or not we will be able to make further progress on Senate Joint Resolution 1, the constitutional amendment

requiring a balanced budget. But it is my hope that at some time today the Democratic leader and I will reach an understanding as to the number of amendments that are expected to Senate Joint Resolution 1 as well as an indication as to when we might be able to complete action on this important constitutional amendment.

We have worked very hard at trying to accommodate all Senators' schedules, and, of course, this morning we have a funeral service for Ambassador Harriman and other problems in that area we tried to accommodate. We have taken up a few amendments and voted, but earlier my conversations with the Democratic leader were that he did not see—I believe this is a fair statement—any reason why we could not complete this work by the end of this month. So we have today and then 5 days when we come back after the Presidents' Day recess. I hope we can get a list that would have a reasonable amount of serious amendments and then get an agreement on a time to complete that action.

We want to make sure we have a full debate, everybody feels that they have been treated fairly, but there needs to be a limit on how long this goes on. We have been acting so far this year in good faith. We have been trying to accommodate each other's schedules, but when we come back we are going to have to move these amendments through the process and get a final vote because we do have other work we would like to bring to the floor.

I remind my colleagues that we have scheduled a rollcall vote on the pending amendment offered by Senator BYRD. That vote will occur at 5:30 p.m. on Monday, February 24, the day we come back. It is also possible the Senate will vote today on a resolution submitted by Senator SPECTER regarding milk prices. If an agreement can be reached, we will have a short period of debate on that resolution followed by a rollcall vote.

We are also still attempting to clear consideration of a resolution relating to the American Airlines strike which was submitted by Senator HUTCHISON. This is timely, obviously. We are looking at the possibility of a strike which could cripple that airline and impact jobs in the thousands all over the country. So I am hoping that we could pass a resolution expressing our concern and urging the President to use his powers to find a way to avoid this threatened strike.

Finally, there are a couple of nominations that were reported from committee yesterday. We may be able to clear those nominations for action. I am not sure that they would even require a vote, but we will have to work through it here in the next 3 or 4 hours. This is the last day of the session prior to the Presidents' Day recess, so I thank my colleagues for their cooperation as we try to finish business at a reasonable hour today. We will notify all the Senators when we may have actual rollcall votes. And, again, we have had good cooperation, but we have not had a lot of pressure in terms of schedule, and when we come back we really have to begin to make some progress on these amendments, and I hope we will be able to do that.

I yield the floor, Mr. President.

### MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROBERTS). Under the previous order, there will now be a period for the transaction of morning business until 3 p.m. The time between 11 and 12 noon shall be under the control of Senator THOMAS or his designee.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I believe we have special order time scheduled from 11 to 12 noon. I would designate the time allocated to Senator THOMAS to me.

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

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



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BALANCED BUDGET  
CONSTITUTIONAL AMENDMENT

Mr. ENZI. Mr. President, we will have several more of my colleagues here to discuss how the balanced budget amendment benefits children.

I will begin by saying that as a new Senator, I am in awe of these surroundings. Every day I reflect on the history that has taken place in this Chamber. I think of the people who have been here before me and hear them referred to in speeches on a daily basis.

Much of the history of this great Nation has been shaped in this Chamber. Every day we are in session history is being made. Right now we are debating the balanced budget constitutional amendment. That may be the most important piece of legislation to be debated during my lifetime because of the implications it has for the future of our country.

A new revolution may be taking place in this country. A few years ago, I was given a book by my pastor to read. It was a scholarly review of social cycles in the history of the United States. The baby boomers were one of those cycles. I am part of that. They were concerned primarily for themselves but also for others as long as there was something in it for them. It revealed how in the history of the United States there have been three recurring cycles. But following each period when we tried to be sure we took care of ourselves and instituted programs to make sure others were taken care of, provided we were included, that generation was followed by a reactionary generation, and the reactionary generation took away the "gifts" of the previous generation.

In last week's balanced budget debate, we heard a lot of comments about Social Security. I am mentioning this reactionary generation because I want to make sure we protect Social Security not just today but for the time to come. All of us here are concerned about Social Security, and to say otherwise is just political hogwash. But the only way to protect Social Security is to include it in the balanced budget constitutional amendment. That is why the President's budget proposal and every budget prior to that included Social Security in the budget. We cannot continue to ignore the interests of our children and grandchildren—members of that reactionary agenda.

What does the incredible debt that we have built up have to do with future generations? The Federal debt is \$5.3 trillion. None of us understand how much \$5.3 trillion is. But the reactionary generation that follows will learn, and they will learn all too soon. As they become saddled with tremendous debt, they will realize what the magnitude of how much \$5.3 trillion really is.

Already this reactionary generation says that they have a better chance of seeing an unidentified flying object

than they have of seeing \$1 of their Social Security money when they retire. They see no hope for the future, and they look forward to a lifetime of putting in 7.45 percent or more of their paycheck and having that matched by their employer with another 7.45 percent. That is 15 percent that could have been their earnings, that could have been money in their pockets or in their own retirement accounts. When they realize that they will not receive a dollar of that money, what do you suppose their reaction will be? Will they protect Social Security for those already in the program? Will they care? Will there be a legislative revolution?

As an accountant, I am fascinated with the budget discussion because we are talking about numbers, and that is exciting. We are talking about balancing budgets. We are talking about formats that will provide us with the most information possible, and we are doing it in the context of a real budget dealing with real people. We are doing it in the context of a history where we have only balanced the budget once in 40 years—and that was 28 years ago.

Some very valid accounting concerns have been raised here in debate by opponents of the balanced budget constitutional amendment. I have heard reference to the need for capital budgeting. I have heard reference to a need for Social Security to be off budget. I have heard reference to the need to take care of accounting problems that happen during recessions. As an accountant, I applaud this insight into the need for new accounting methods.

Not only am I an accountant but I used to be the mayor of Gillette, WY, as it went through a boom and increased in population about two and a half times. I know from having been through both kinds of economic cycles that growth presents many of the same problems that recession causes. Under both situations a capital budget is required. We really do need Federal capital budgets and cash-flow management budgets. We need to list all of the capital purchases, vehicles, buildings, etc., that this Government needs to buy for the next 1 year, 2 years, 5 years, 10 years, 50 years. I have found out that many agencies or departments have no idea how much capital they have. We need to have cash-flow budgets so that as the cash arrives the purchases can be made without extensive deficits. That is good business.

When I heard the Democratic leader speaking about capital budgets last week, I got excited. That is the kind of accounting that we should have already had. But, this kind of accounting has nothing to do with passing the balanced budget constitutional amendment. It is just good business. Whether we have a capital budget or not, we need a balanced budget amendment.

Last week I heard a lot of debate about the need to take Social Security off budget. Off budget is a fascinating accounting term. In fact in my accounting references I could not even

find that term. And I have to say from listening to the discussions that there does not seem to be a lot of consensus as to what off budget really means.

It looks like we found a catch word that scares senior citizens and makes everyone think this will save Social Security. As one who daily approaches being a senior, I want to see us get the rhetoric out of that term. We give the impression that Social Security has enough money at the moment. We talk about the surpluses going into Social Security and being used in the budget.

Accountants frown at the word "surplus" revenue. Surplus implies more than what is needed. That is not the case with the Social Security trust fund. We give the impression that money is being put aside in a special account for our seniors so that when they retire there will be money to be drawn out in their names. That is not even close to what actually happens.

In order for the money that people are paying into Social Security today to be available for them when they retire, the system must be actuarially sound. That means that the money going in now at the rate of investment allowed on that fund has to generate enough revenue so there will be a pay-out for the period of time promised. We have promised to pay out money for the remainder of a person's life at not only the rate that he or she is entitled to at the time they retire, but also with cost-of-living allowances.

We have already passed laws in this country that force businesses doing pension funds to make their funds actuarially sound. They have to build a fund that at the time of retirement will have enough money in it that can pay the benefits for that person for the promised amount of time which is usually the balance of his lifetime. That is the law. Businesses are in the process of meeting that at an extreme cost to themselves. If we force businesses to keep their promises, then why do we not fulfill our promise to the same people and keep our accounts sound?

At the present time Social Security is at least \$9.3 trillion away from being actuarially sound. Do we have a way to generate that money? No. We have to perpetuate the current system. That is why we cannot privatize the system. We would bankrupt the system immediately if we allowed younger generations to take their money and put it in their own fund instead of putting it in to be paid out to our seniors immediately.

We need to have a system where we can see how far in debt we are. And we need to do that not just for Social Security but for every single trust fund that we have. We either have to change the accounting system to account for the funds honestly and show how much of a deficit there is, or rename them so that they are not trust funds. Perhaps we should do both.

OK, we agreed to do a system of pay in and pay out trying to build up some surpluses to take care of the coming influx of people going into retirement.

But, when the baby boomers reach full retirement, the Social Security surplus will decline at a dramatic rate, eventually going broke by the year 2012.

Yes, we need a new accounting system for Social Security. Yes, we need that system now. No, it is not a part of the balanced budget constitutional amendment. It is a part of a good government proposition and we need to grapple with it and get it under control. The issue of what accounting system to use should not determine if we vote for or against a balanced budget amendment. A new accounting system is needed, but the balanced budget amendment is essential.

The only hope for Social Security is a balanced budget, then switch to an accounting system that will realistically deal with the actuarial needs of Social Security so that we can protect it for future generations. Otherwise we will have a revolution that will take away seniors' Social Security.

Last week I also saw many copies of the pocket Constitution of the United States being held up and explained. I too, carry my own copy of the Constitution of the United States. It was given to me some years ago by a district judge when I was in the State legislature.

When I was mayor, on Constitution Day, I used to give all members of the city council a copy of the Constitution and encourage them to read it. Sometimes we read it as a part of the proceedings of the city council meeting. This document is an astonishing document. The insight by our forefathers was incredible. But this debate has also raised some constitutional issues.

I have heard discussion that some people in this body consider this to be a draft. It fascinates me, that, with the exception of one single provision, the Founders of this Constitution considered it to be a draft. In article 5, instructions are given on how a change in the Constitution can be made. They made it difficult, but possible to change. The balanced budget constitutional amendment has to pass by a two-thirds vote in each House and then it must be ratified by three-fourths of the States.

I think those people who are opposing a balanced budget constitutional amendment know in their hearts that this time it will pass and will also have swift ratification by the States. If we did not believe it would be ratified by the States, this would be an easy debate. But we know the people of the States want it and the States will respond. If just those States with one or more Senators opposing the balanced budget constitutional amendment did not ratify the constitutional amendment, it would never become a constitutional amendment.

Why will there be swift ratification? First, most of the States already have a balanced budget requirement in their Constitution. They work under the requirement and know the requirement works. They know their limitations

and the types of challenges that develop from it. They understand that the challenges are not a detriment to the United States having a balanced budget constitutional amendment.

People understand from their own experience that you cannot spend more than you take in. Almost every school child above the third grade is able to explain to me that if you spend more money than you take in you go broke. It has been said that we can learn much from children. Children focus on problems in more simple terms. Congress has not yet learned what the children know. The voters want us to stop spending their money they have not even earned yet. Our children and grandchildren plead with us to balance the budget and quit cosigning on their behalf for this mountain of debt.

Another argument that I have heard in this debate is the need to adjust changes or, using a new term, glitches in the economy. \$5.3 trillion worth of debt has turned people into unbelievers about the paternal role of Government in our lives. We have already wrestled with the \$5.3 trillion worth of experiments that wound up with these glitches in the economy. Where has it taken us? What do we have to show for it? The people know the Government has little control over the economy.

I have heard the argument that families do not balance their budgets because they borrow for future such situations, and they do not pay the debt off each year. I agree, they do not. But I do hasten to point out that they at least pay off a little bit of the debt every year. Right now we should not only balance the budget, we should include in that balanced budget an enabling legislation provision to pay off the national debt.

If you went to your banker and said, "I want to borrow money to buy a house, but I don't want to have to pay anything but the interest for the rest of my life," would you get the loan? No, you would not. But that is what Government is doing. The Government is saying, we want you, the American people, to be our bankers, but all we want to do is pay the interest. I can foresee a time when the interest may amount to more than all of the other spending programs, so it will be tough to even pay the interest, and we still will not be paying a nickel on the national debt. Will the next generation be reactionary if they pay exorbitant taxes and cannot buy anything but interest?

This does not begin to mention who finances our debts. We are fiscally controlled to a limited degree by foreign interests because of the large increase in their securities holdings. This weakens our economy and independence because the money is taken out of the United States. The interest on the Federal debt increased from 9 percent of total outlays in fiscal year 1980 to 15 percent in fiscal year 1995.

The Federal Government has not been good about limiting or dis-

ciplining itself in any way. We understand how happy constituents get when we throw money at them and their wants. We also understand how disappointed and a little bit angry they sometimes get when they are not given things.

I was in the Wyoming Legislature for 10 years. Halfway through that time, I moved from the house to the senate. At that time the State senate imposed a new rule on itself. We have a very limited time for meeting in Wyoming. We meet for 20 days in a budget session, which is every other year, and 40 days in a regular session. Now we save 2 of those days each time in case the Governor were to veto something, we could call ourselves back into session and override it. So we spend 18 days one year and 38 days the next, and we avoid all special sessions.

In recent years one thing has happened that has helped, and that is a rule that we imposed on ourselves to limit the number of bills that any one Senator can introduce in a session. We said that in a budget year, a Senator could only introduce three bills, and in a regular session a Senator could only introduce seven bills. We spent a lot of hours talking about limiting our own right to submit bills. Those who spoke most vehemently against it were the ones who turned in the most bills. It was not unusual for anybody to turn in 30 bills in a regular session. We passed a rule in spite of the opposition. Today the biggest supporters of that rule are the ones who before the rule turned in the most bills.

Why the change? The ones who turned in the most bills discovered two things. First, their constituents were more pleased with the bill that passed than one that was merely introduced. Introducing and working a few bills resulted in a higher percentage of bills that passed. Second, maybe most importantly, it was much easier to say no to a constituent for a new bill if there was a prohibition against the number of bills allowed to be introduced.

How does that relate to a constitutional amendment for a balanced budget? I am suggesting that, if we limit ourselves by a balanced budget constitutional amendment, we will concentrate more on what we really do well, and the things that we choose to do we will do well. We can have the America of our dreams. We will have more people participating, we will have less people expecting Government to do things for them, we will have more care and concern for our elders, and we will have more concentration on our children's and our grandchildren's welfare.

We have an opportunity now to show that we can care for our parents and our grandparents and will provide for our children and our grandchildren. We can move to an honest system of accounting so we can end the deficits and pay down the debt to show that we really believe that the future of America is upon us now. We can preserve this as a land of opportunity for future

generations. The challenge is now. Do we have the courage or do we need a revolt from the reactionary generation? Please help me to pass the constitutional amendment to balance the budget. I will urge all Americans to write and call your Representatives and Senators and tell them to pass the balanced budget constitutional amendment. Passing it 5 years from now will not suffice. We need action now.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Thank you.

Mr. President, after listening to the Chaplain's prayer this morning, I was reminded of the old saying, "Everybody wants to go to Heaven, but not everybody wants to do what is necessary to get there."

In his State of the Union Message, the President said he wanted to balance the budget by the year 2002, but he then went on to express opposition to the balanced budget amendment. Without the discipline of a constitutional balanced budget amendment, neither Congress nor the President will ever have the courage to pass one.

The President has submitted a budget that is technically in balance by the year 2002. But let us look at it. If you check the fine print, you will find that 75 percent of the savings proposed by the President are postponed until the last 2 years of the 5-year plan, the years after President Clinton's term has ended. That is the problem.

Just to cite the statistics, Mr. President, the budget deficit this year is about \$107 billion. You would think if you are going to zero in the year 2002, and we are at \$107 billion this year, we would reduce it a little each year until we got to zero. But actually the budget deficit goes up in fiscal year 1997, and the President's policies would boost it another \$1.1 billion in fiscal year 1998 from where it would otherwise have been. In fact, in the last year—the year that we are supposed to be at zero—the savings required to achieve balance will be \$117 billion. So the Congress will have to do more in savings in the very last year of this 5-year plan than we would have had to do to wipe out the deficit in its entirety this year. So \$107 billion this year; we are going down to zero in the last year, and that last increment of savings is \$117 billion.

This is like the person who says, "I'm going to go on a diet. I've got to lose 30 pounds. And I'm going to give myself 6 months to do it. But I think I'll eat real high off the hog for the first 5 months and 2 weeks, maybe gain another 25 pounds or so, so that in the last 2 weeks I'll lose 55 pounds." That is what the President's budget is suggesting. It is precisely why we need a constitutional amendment, to force the President and the Congress to make the tough choices to balance the budget; otherwise, it is the same old thing, just put it off until later. We all want to lose the weight, but we do not want to make the tough choices to lose it.

Putting off tough choices for as long as possible is typical of just about every budget plan that we have had in the last several years, including the plan that Congress approved 1½ years ago. It is why the Gramm-Rudman-Hollings deficit reduction law failed in the 1980's.

After all the easy choices have been made in the first few years, progress toward a balanced budget stops dead in its tracks. No one wants to make the tough choices needed to achieve the larger savings scheduled down the road. So the deadline for the balance is always pushed off just a few more years.

President Clinton's budget postpones most of the savings, as I said.

Congress will no doubt come up with a budget that will do the same. That is what always happens. That is why the national debt continues to grow.

Mr. President, 2 years ago when the balanced budget amendment lost by one vote, the national debt was approaching \$4.9 trillion. Today, the debt is over \$5.3 trillion—an increase of about \$400 billion. That amounts to about \$1,600—\$1,600—for every man, woman and child in America. With that increase, each American's share of the national debt now totals about \$20,000. That is about what the average Arizonan earns in a year.

Two years ago opponents of the balanced budget amendment said a constitutional amendment is not necessary. All we need to do is muster the courage to do it ourselves. That is what our constituents sent us here to do, make these tough choices. But we do not make the tough choices. That is the way it always happens.

We actually did pass a balanced budget in the Congress of the United States in 1995. In that year it was the President who vetoed the balanced budget. So, Mr. President, it demonstrates that it is both the Congress and the President. When we muster the courage, the President is the one who apparently lacks it.

Since that time, 2 years ago, Congress has had to add tens of billions of dollars to the budget just to get the President to sign the funding bills into law and keep the Government operating. Just last September, Congress had to add \$6.5 billion that it would not have otherwise spent. And that is on top of an increase of about \$25 billion the Congress had already built into the year's spending legislation.

Desire and good intentions are not enough to ensure that balance will ever be achieved. Unless we are bound by the Constitution, Members of Congress and the President will always find some reason to spend more or to put off for another year the savings that are needed.

The former Democratic Senator from Massachusetts, the late Paul Tsongas, explained it this way in testimony before the Judiciary Committee 2 years ago: "There are a lot of votes in deficit spending. There are no votes in fiscal

discipline. What you have here is a sad case of pursuit of self as opposed to pursuit of what is in the national interest."

Senator Tsongas went on to say this: "The fact that our generation could have conceived of having a consumptive lifestyle in leaving all that debt behind can only happen if we do not go home at night and look at our kids and grandkids and feel something."

Mr. President, it seems to me that our departed colleague really hit the nail on the head. The balanced budget amendment is about our children and our grandchildren and what kind of country we are going to leave them.

For most of our Nation's history, each generation has worked hard and saved and invested so the next generation would be a little better off. Only in the last 40 years has that changed. Now Government cannot seem to live within its means no matter how much it collects in taxes. It has, quite literally, mortgaged the homes and businesses our children will not buy or build for decades to come.

My second granddaughter was born just about a year ago and she already owes, as her share of the national debt, \$20,000. In fact, she can expect to pay more than \$187,000 in taxes during her lifetime just to pay the interest on the debt. What will be left from her income to care for her children? How will the Government care for the needy of tomorrow when almost every dollar in individual income tax revenue is devoted just to interest on the national debt?

Mr. President, a balanced budgeted offers hope. Yes, it will require the Congress to prioritize spending so the most important programs are not jeopardized, and wasteful programs will have to be eliminated. Some of the luxuries will have to be postponed. A balanced budget will require heavy lifting, but offers hope and opportunity to Americans today and our children tomorrow.

The Congressional Budget Office predicts that a balanced budget would facilitate a reduction in long-term real interest rates of between 1 and 2 percent. That means that more Americans will have a chance to live the American dream—to own their own home. A 2-percent reduction on a typical 30-year mortgage of \$80,000 would save homeowners \$107 every month. That is \$1,284 a year, or over \$38,000 over the life of the mortgage. That is money in their pockets. A 2-percent reduction in interest rates on a typical \$15,000 car loan would save buyers \$676. The savings would accrue on student loans, and credit cards, and loans to businesses that want to expand or create new jobs. Reducing interest rates is probably one of the most important things that we can do to help people across this country.

I know there are those who have doubts. Some will say that balancing the budget may make sense in good economic times, but it is too rigid and will prevent us from responding to economic emergencies or other hardship when that occurs.

I think it is important first to point out that deficit spending is so ingrained in the Federal Government that we have been running deficits in good economic times as well as bad during the last 40 years. Deficits have not been run solely to rescue the economy from hardship. If they were, we would not be having this debate today.

Second, it is important to remember that the balanced budget amendment could be waived in times of true emergency. To ensure such waivers were not invoked routinely or without good cause, three-fifths of the House and Senate would have to agree. That should not be difficult in the case of real emergency.

For example, when Congress extended unemployment compensation in response to economic problems in 1975, 1980, 1982, and 1991, it usually did so by a three-fifths majority. So the amendment leaves enough flexibility to respond to real emergencies.

Mr. President, there is now general consensus that balancing the budget is the right thing to do. The President says he is for it, and the Republican majority in Congress says it is for it. We may be able to reach an agreement with the President and pass a plan this year to balance the budget by the year 2002. But without a balanced budget amendment, Congress or the President will no doubt find some reason to back-track from the plan, if not next year, then in the year 2000 or 2001, whenever the going gets tough.

If we are serious about balancing the budget, we must support the balanced budget constitutional amendment. For our children's sake, we must do it now.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I rise to make a few remarks on the balanced budget constitutional amendment being considered before us today. In the House of Representatives, I was fortunate enough to have been involved with the passage of this amendment during the 104th Congress and I am honored to be active once again in our efforts to pass this important amendment, and to help secure the American dream for future generations.

Now, proposing an amendment to our national charter is not something to be taken lightly. It should be undertaken only for the most important of causes. The Constitution has guaranteed and protected the freedom of the American people. But it can only continue to defend those freedoms if we give it the ability to defend them. An amendment to balance the budget will give our Constitution the strength it needs to continue protecting and defending the freedoms that so many Americans enjoy.

A balanced budget promises hope for the future, not fear as the naysayers will tell you. It promises to draw down interest rates, spur new investment decisions and increase our gross domestic product. It promises lower unemployment and more take home pay. And

very importantly it promises to help protect our Social Security system.

Without it our economic security is threatened. One of the most insidious aspects of our budget deficit is that it amounts to a hidden tax on our income, and on our children's future income. This hidden tax is felt by everyone who has taken a loan to pay for school, buy a car, or purchase a home. Higher interest rates are the taxes levied by a government that has not the courage to live responsibly or even honestly. We must balance the budget and thereby eliminate this hidden tax.

The Joint Economic Committee estimates, and you have heard the estimates before, but I think they bear repeating, that yearly savings on an \$80,000 home mortgage would amount to \$1,272 by balancing the budget and that a student fresh out of school paying back a student loan would save about \$180 per year because of the lower interest rates. These are not illusory effects or empty promises; they are rather the assurances of a responsible Government that balances its budget year after year and pays down the debt.

But the Keynesian apostles will tell you the economy will collapse in tough times with a balanced budget amendment because it could force Congress to take actions that could exacerbate a recession. They are wrong.

Opponents of the amendment before us argue that deficit spending is sometimes necessary to offset the negative effects of a recession, natural disaster, or war and to ease the flow of the business cycle. Now, they would argue that during tough times the Government should deficit spend and borrow against future prosperity. But this is simply the wrong approach. Future prosperity is our children's prosperity, and it should never be leveraged to provide for the consumptive desires of big Government.

This amendment would not force Congress to raise taxes during a recession.

Our fiscal policy over the last 40 years has hinged on the desire to deficit spend during times of both recession and expansion. So those who claim this amendment would place a strait-jacket on our Nation's fiscal policies are correct. It would place a strait-jacket on bad fiscal policies by placing emphasis on less Government spending rather than more.

Deficit spending exacerbates the Federal debt, crowds out private investment decisions that bolster the economy, and leverages the country out of future economic growth and prosperity.

We must balance the budget by cutting taxes, the right taxes, and Government spending, cutting that.

So why are the opponents of this measure trying to stop the balanced budget amendment?

Because, as a matter of economic policy this amendment means an end to the tax and spend economics that

has given us our bloated, centralized Federal Government. What it boils down to is this: This amendment will help us put our fiscal house in order by ending faulty Keynesian policy and freeing up private enterprise and encouraging entrepreneurship. What works in America is the individual creativity and ingenuity of our people. This amendment will give us the tool to help realize that truth.

Unfortunately, the fear-mongering attempts by the administration have been focused on transforming this debate from a debate about hope and future prosperity to a debate about an imagined fiscal doomsday. They want to continue following the failed Keynesian policies that have produced the most massive peacetime debt in our Nation's history and they know that this amendment will not allow them to do that.

Now, I have a chart of what has happened to our Nation's debt over the course of our country's short history. I think it is pretty interesting and telling. You can tell that in earlier times we would hold a major debt during times of war, such as during the Revolutionary War, when we had a high debt in this country. During the Civil War, we had a high debt. Certainly, during World War I and World War II, we had a high debt in this country. But then when you look at between the times of war, we virtually didn't have any debt at all, or we pushed it down—up until the past 30 years. Instead, during this period of time, we have increased our debt into the massive debt that we have today.

Mr. President, there is no reason for this debt that exists today. It has been fiscally irresponsible, morally irresponsible. It is a debt, a burden, a mortgage on America that our children will have to pay off. It is morally wrong of us to do that. This balanced budget amendment will keep this from happening in the future, so that future generations, future children coming into this country, won't be burdened with this tax on them, a tax which they never even voted on.

Yesterday morning, when I walked into my office, the national debt was \$5,325,298,771,668.63. This morning, when I walked into the office, the national debt was calculated at \$5,325,967,417,901.67. Now, that means that, while America worked yesterday, its commitment to paying off the debt increased by almost \$670 million.

Mr. President, that was actually a cheap day for what we are running here lately. Every day that the Senate debates this issue, the average increase in our debt has been a \$694 million. So we actually had a good day yesterday. But it's still a \$694 million increase per day. Every day we debate this issue, the debt of our Federal Government grows.

Wait, let's talk about it in real terms, per person. Statistics compiled by the Tax Foundation indicate that the median dual-income family pays a

little over \$15,000 in Federal taxes each year. That means that over 46,000 families will have to work the entire year just to pay for the time we spend debating this amendment today alone. That is money that could have been spent to send a child to college, or to make a downpayment on a home.

I want to talk about it in more personal terms, about Bud Hentzen of Wichita, KS, and his family and what they are going to owe for interest on the national debt. Bud is a proud family man. He has 10 children. He also has 30 grandchildren. He did a calculation, and he was a little nervous about this. He is proud of his children and grandchildren, as well. He wants to leave them a better and brighter future. He has worked hard all his life to provide for his children and for their future. He wants his country to be strong for them in the future. While he personally has been responsible for providing for those children and educating them, he looks at his Federal Government and calculates that his 10 children collectively owe over \$700,000, and his 30 grandchildren collectively owe over \$4.8 million for a total of over \$5.5 million just to pay the interest on the debt for the Bud Hentzen family.

That is not right. That is not what we are sent here to do. That is certainly not what Bud Hentzen would want us to do. He told me that the only thing he could tell them about the national debt was, "I am sorry we left you this debt." Well, so am I. We ought to be more than sorry—we should be ashamed.

This story makes it clear that this debate is about our children and their future. And it is about the immorality of our present system and whether or not we have the courage to change it for the better.

Yet, opponents also claim that Congress does not need a balanced budget constitutional amendment in order to achieve balance. It simply needs courage. Well, our recent history proves that this claim is false. This argument is dubious because it admits that opponents of this amendment are motivated by political expediency, not true reform. For should the importance of a balanced budget disappear from the mind of America, the pressure to balance the budget would likely disappear from the minds of Members of Congress and the Senate. We are here to debate an issue of national importance that the march of time cannot and should not erode. This debate is not about the political whim of the day, it is about the economic future of our country. Let us then bind ourselves not by the political culture of the day, but by the resolve to complete the work we have started.

The time to act is now. We must not betray our duty to our children and grandchildren, to Bud Hentzen's children and grandchildren, by failing to act on an issue that is so important.

It is a moral imperative that we balance the budget and that we further

give ourselves the tools we will need. How will future generations judge us if we have not the strength to end this practice of spending our children's inheritance for the sake of big Government? No doubt, when the pages of history have spoken, the debate we are herein engaged will be remembered not by the shrillness of the rhetoric, but by the consequences of our action. May those consequences enrich our Constitution, defend our freedoms, and protect our children.

Thank you, Mr. President.

The PRESIDING OFFICER. Who seeks time?

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I rise today to, again, voice my strong support for Senate Joint Resolution 1, the balanced budget amendment. I might add that there are many "Bud Hentzens" in Nebraska, just as my distinguished colleague from Kansas so eloquently stated. The numbers are real. I would like to pick up on my distinguished colleagues' remarks with the following statement:

During this debate, we have heard a number of arguments from both sides on the effects of a balanced budget amendment. I believe this debate comes down to one question: Is the balanced budget amendment in the best interest of our children, their children, and the future of America? My answer is "yes."

Balancing our Federal budget is critical to ensuring that the American dream lives for our future generations. The real issue behind balancing the budget is our national debt. Mr. President, our national debt has risen to proportions that are virtually unimaginable to most of us. Numbers like \$5.3 trillion in present debt, or \$7 trillion in debt by the year 2002 are so far beyond the range of the daily lives of most persons that these numbers are easily dismissed. But these numbers cannot be dismissed. These are not just numbers. Each and every dime of our debt represents a burden we are placing squarely on the shoulders of our children. It is our children—our children—whose incomes will be taxed to pay off this debt. It is our children who will have to deal with a limited-growth-in-job-opportunity world because the debt has so constricted this economy that opportunities and possibilities will be severely limited for our children. It is our children who may never be able to purchase their own homes, or send their children to college, because their incomes will be consumed with high taxes to pay for an oppressive Government and make payments on the enormous debt that we have run up for them.

The balanced budget amendment is no cure-all. Passing it will not save us from the hard choices required to balance this budget. But it will help us get there. It will force Congress to deal with the budget honestly. It will force

Congress down a different path than the one it has traveled for 36 of the last 37 years. It will force Congress to balance the budget. Most importantly, it will force Congress to keep the balanced budget—to keep the balanced budget. It will give our future generations the hope and opportunities so that they can determine their own futures and the futures of their children, rather than being held hostage by an undisciplined Congress and an undisciplined Government deciding their futures for them by mortgaging their futures.

Creating the kinds of opportunities for our children that we have enjoyed will require the kind of economic growth that should be America's legacy for the 21st century. It will require bold, strong, and imaginative leadership. To get there, we must cut Government spending, cut taxes, and cut regulations. We need to cut the size and scope of Government and allow private and personal initiative to soar. We must bring Government back to the people, where it is accountable. Balancing the budget is critical to this effort.

Our children deserve better than a balanced budget based on "ifs," "buts," "maybes," conditional tax cuts, and conditional spending cuts. They deserve the security of knowing Congress is required to balance the budget every year. They deserve to know that Congress will not continue to add to the national debt. They deserve to know that we are not playing shell games and numbers games and word games with their futures.

Either we are going to balance the budget or we are not. Let us be honest. Let us be honest with our children and our grandchildren. Let us be honest with this country. Our children deserve better than the hocus-pocus that we have been giving them. Where is our leadership? Where is the leadership in this Congress? Where is the leadership in this body? Where is the courage in this body? And where is the outrage? Where is the outrage in the U.S. Congress for what we are doing and what we have done to the children of this country?

We must get control of the Federal budget and America's fiscal policy. We must enforce lasting fiscal discipline on the Congress of the United States. A balanced budget amendment ensures that we will balance the budget for years to come. Regardless of who is President, regardless of which party controls the Congress, the balanced budget amendment would be a non-partisan enforcer of controlled Federal spending and responsible fiscal policy.

We owe our children no less. We owe our children more than flimsy promises and optimistic assumptions. We owe it to them to make a lasting commitment to balance the budget of the United States for years to come. They deserve no less than the same opportunities that were afforded each of us. In fact,

Mr. President, they deserve greater opportunities to succeed just as our opportunities exceeded those of our parents. That has been the legacy of every American generation. That is the magic of America. That is the greatness of America.

The only way to ensure this commitment to our children, the only way to make sure our promises are not undone, is to pass the balanced budget amendment to the Constitution.

Mr. President, thank you, and I yield my time.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, thank you,

Mr. President, I have been watching this debate over the last few days, and I heard some of the opponents to a balanced budget amendment talk in a very eloquent way, as I have heard throughout the years. It seems like the arguments never change. So what I have done is picked up a few of these, and I would like to respond to some of these arguments.

The other day one of the Members who has argued against a balanced budget amendment to the Constitution for as long as I can remember made the comment that proponents want to treat children like children, hiding the hard truth from them, and then went on to elaborate about all of the things that are going to happen if we don't fully disclose what is going on with the proposition of a balanced budget amendment to the Constitution.

I can remember so well back when my No. 2 child was learning to ride a bicycle back in Oklahoma. I can remember when he got on. He was wobbling. Maybe, Mr. President, you have gone through the same thing. I finally got him so that he was able to go in a straight, narrow line. Then he made his first trip around the neighborhood. He is a hand surgeon today. He came back, and he said something to me that is very profound. He said, "You know, daddy, I wish the whole world were downhill."

I think what we need to do is be fully honest with everyone and let them know that it is not going to be easy if we pass a balanced budget amendment to the Constitution because, in fact, the whole world is not downhill. It is going to take some sacrifices. We have demonstrated very clearly what is going to happen if we do not do it.

I heard the other day opponents saying they are tired of Washington telling people what to do and the Washington-knows-best mentality, that the balanced budget amendment is the ultimate Washington mandate. I suggest to you that just the reverse is true. We can talk about this all we want, but what we are saying to the American people when we deny them the opportunity to have ultimately a balanced budget is we want to keep control of all of these things in Washington.

Reference was made yesterday to the Governors who are talking about how

they are cutting taxes in their States and the successes that they have had and suggested that the budget balancing amendment, if passed, would force the States to have massive tax increases. Let me tell you. That just isn't true. The problem that we have right now is there is a mentality that I think prevails in both bodies of Congress, or did at least up until 1994, and certainly does today in the White House; that is this direct relationship between taxation and the deficit.

I can remember when this President was sworn into office and he appointed Laura Tyson to be the chief financial adviser to the administration. She said—and this is a direct quote—in direct contradiction to 12 years of Republican ideology, "There is no relationship between the level of taxes a nation pays and its economic performance." To me this is really the key to the whole thing—somebody who actually believed that. If you carry it on to its logical conclusion, you would say that all you have to do is have a taxation level of 100 percent, and everyone is going to be motivated the same and our revenues would go up. We know, obviously, that is not true. There are many Democrats who knew that wasn't true back when President Kennedy was President. He came out and said that we have to raise revenues, that we have needs, and that the best way to raise revenues is to reduce taxes. He did, and it happened. Of course, we look throughout history and we see it has happened over and over again.

In the case of all those who are critical of the administration and say that back during the 10 years or the decade of the Republican administrations in the White House, the tax increases, or the deficit increases, came they say as a result of the tax decreases when in fact the total revenues that came into the Federal Government in 1980 was \$517 billion. In 1990 it was \$1.031 trillion, exactly doubled. That happened during a decade of the greatest tax reduction in the history of this country.

Mr. President, I know that we are coming up toward the end of the time. But I would like to respond to just two more of the statements that have been made.

First of all, they said that the balanced budget amendment will give politicians the "license to cut and slash needed programs."

The Heritage Foundation not too long ago came out—and they have updated it since then—with a study that came to the conclusion that if we took all of the Federal programs and had a built-in increase of 1 percent, or 1.5 percent, or 2 percent, you could actually balance the budget, that you could eliminate the deficit without cutting one Federal program. The problem is that programs come in—and we have seen it happen over the years—historically, they will come in and say this is going to meet a problem that we have, the problem goes away, and the program stays on.

I am always reminded of one of the great speeches made in our time called a "rendezvous with destiny" when Ronald Reagan made that speech long before he was in public office. He said, "There is nothing closer to immortality on the face of this Earth than a government program once formed." That is what we have seen over and over again. This has been going on for a long time.

I can remember when there was a very prominent Senator from Nebraska, Carl Curtis. Carl Curtis back in 1975 had a bright idea. He said, "We are going to have to do something about this debt." I think the whole debt was less than \$400 billion at that time. He said, "In order to do something about this, we are going to have to show that the States want it and that the people want it." So he decided to come and ratify an amendment to the Constitution in advance. I remember when he came to Oklahoma. I happened to be in the State senate at that time and introduced a preratification resolution where we ratified it in advance. Then all of the rest of the States came in.

I would suggest to you that there is a great groundswell out there of people who want this to happen, and they recognize that it is not going to happen otherwise. We listen to people stand on the floor. I have not heard one person stand up here and say, "We want larger deficits. We want to increase the debt." They don't say that. They say, "We will do the responsible thing. We need to make the hard decisions."

The problem is that for the last 40 years we have not made the right decisions, and we have not made the tough decisions. Now that we have an opportunity, a rare opportunity, one that is realistic, it could actually happen, because we only missed it by one vote a year ago.

Let me finally conclude by saying that one Senator stood on the floor the other day. This is a quote. He said, "The budget balancing amendment is nothing more than a vague and empty promise. Most Senators who support it will not even be here in the year 2002 when it will take effect."

Let me suggest to you that as a result of the vote, it is very likely that there will be a lot of Senators who will not be here. I will make a statement that sounds a little bit extreme. But I have to make it.

If you look back at the voting behavior of those U.S. Senators who do not want a balanced budget amendment to the Constitution, you will find that those are the ones who are the liberals. By "liberals," I am talking about individuals who vote for greater tax increases, who want more Government involvement in our lives. I have a chart here that shows that. Those who voted against the balanced budget amendment last year—and there were 33 of them—of those 33, all of them, 100 percent of them, voted for the largest—this is called the tax stimulus program—the largest tax increase that we



had in 1994. And all of them have either a D or an F rating by the National Taxpayers Union.

A lot of people forget that we don't have to guess how people perform up here because there are all kinds of organizations that are giving us ratings. How is that going to affect some of the other elections? If you look back and you look at the Members of Congress that were defeated or retired in 1994, in the Senate there are 11, and 8 of them fell into this same spending class. In other words, those individuals who are getting defeated now in the polls are individuals who are big spenders and individuals who are for tax increases as opposed to cutting the size of Government.

So I think there are some very real ramifications to this that are political ramifications. I suggest to you, Mr. President, that there are a lot of Members in here who, if they vote against our effort—it is a genuine effort for a balanced budget amendment to the Constitution—will have to pay the political price for that.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Rhode Island is recognized for 30 minutes.

Mr. REED. Thank you, Mr. President.

#### OUR EDUCATIONAL IMPERATIVE

Mr. REED. I rise today to speak about an issue that is critical to our country and critical to our future, and that issue is education.

Education has always been crucial to our country. Indeed, one of the greatest triumphs of our Nation has been the creation of public education through high school and in the postwar years the expansion of access to higher education.

Our ancestors grasped a fundamental truth. Education is the engine that powers our economy, and it is the force that sustains our over 200-year experiment in democracy. "Yankee ingenuity," groomed in the schoolrooms of New England and transported across the continent, spurred an era of invention that catapulted America to economic leadership. But education is more than just economic progress. Education has allowed us to keep faith with the basic tenet of our country. At the core of American experience is the commitment to equal opportunity, and education is the greatest source of opportunity in a free society. It can transcend the circumstances of income, region, race, and gender to reaffirm the enduring belief that an individual through effort can achieve his or her fullest potential in America.

Throughout our history, education has always been an important part of the American experience. Today, it is rapidly becoming the essential component of our national life. The combination of extraordinary progress in technology, particularly information technology, and the unprecedented growth of international commerce has made

education the key to our leadership in the world and our prosperity here at home.

As we pass from the industrial age to the information age, the work of the future demands skills which only can be obtained through lifetime learning. And as we move into an era of global competition, we find ourselves pitted against workers and students around the world. What might have been adequate for America in the age of the Model T in a more insular world is plainly inadequate in the age of the Pentium processor and in a world in which the boundaries of business seldom conform to the boundaries of nations.

As Norman Augustine, vice chairman and CEO of Lockheed-Martin, said, "More and more, we see that competition in the international market place is in reality a battle of the classrooms."

The American people recognize that we can and we must do much more to improve the quality of education. Studies comparing American students with their foreign contemporaries in the "battle of the classrooms," as referred to by Mr. Augustine, show that American students are not first in the world. In fact, they are only about average. The third international mathematics and science study, TIMSS for short, the largest international science and math study ever undertaken, was released last fall.

The study found that U.S. eighth graders scored barely above the world average in science and below the world average in mathematics. Being "average" will not sustain the United States in a world where technology and trade demand excellence.

Just last month, Education Week, in collaboration with the Pew Charitable Trust, released a report card on the condition of public schools in the 50 States. The report characterized public education in the United States as "riddled with excellence but rife with mediocrity." With respect to the bottom line, student performance, the conclusion of the report is sobering. "We did not give States a letter grade. If we had, all would have failed. Nationally, only 28 percent of 4th graders tested in 1994 were able to read at or above the proficient level and only 21 percent of 8th graders tested in 1992 were proficient or better in math."

The American people recognize these shortcomings and the compelling need to enhance education in the United States. They also want the Federal Government to play an appropriate role in this process of educational reform. Last month, a survey was released by the Coalition for America's Children, and it found that 76 percent of those polled favored increases in Federal spending for education.

However, spending alone will not reinvigorate education in the United States. At every level of Government—Federal, State, and local—calling on parents, teachers, business and commu-

nity leaders, the great civic core of America, we must all work together to make education come alive in the lives of our children. Our task is twofold: To improve the quality of public education and to enhance access to higher education.

Now, when we consider elementary and secondary education, we immediately must recognize the central role played by the States. Historically, States have been the leaders in public education from grades K through 12. And when we boast of the extraordinary success of public education in the United States throughout our history, we are paying tribute to the foresight and wisdom of State and local leaders who invested in education. But it is not without some irony that today, as we talk about devolution of more and more social programs and policies to the States, we at the same time point to the disturbing signs of educational malaise. The "devolutionists" frequently prescribe the States as the all-purpose remedy for every social problem, forgetting that the States like the Feds are political institutions awash in conflicting interests and afflicted with lapses of political will. That is not to suggest that the role of education in the States has been overtaken. It should suggest, however, that States alone have not and cannot cut through the tangle of financial difficulties, political interests and emerging problems that beset public education as we approach the next century. There is a real opportunity and need for Federal leadership as a catalyst for reform.

In confronting the challenge of public education, we cannot confine ourselves to just the schools. We must reach out beyond the schools to the children. The first goal of Goals 2000 is that all children will start school ready to learn. And as we discover more and more about childhood development, this goal becomes increasingly more important. It also becomes increasingly more obvious that our efforts must encompass the youngest children as well as those children just ready to enter school. Scientific evidence points to the critical years from birth to age 3 in the development of intellectual and emotional abilities. As such, child care is an essential part of any strategy for the long-term improvement of education. Good prenatal care, pediatric health care, and quality day care are all components of educational reform. In fact, an emphasis on early intervention may save scarce educational dollars in the long run. Research indicates that children who attend quality child care programs are less likely to be placed in special education or to be retained in grade.

It is here in the area of child care that the Federal Government has long played an important roll. With the creation of the Head Start program in 1965, the Federal Government embarked on an ambitious attempt to reach low-income children. Over the



past several decades, Head Start has gained widespread and bipartisan support. But despite this support, the program still only serves one out of three eligible children. More must be done to reach a larger population of eligible children. Moreover, we must consciously develop programs that involve very young children.

If we are serious about having all children ready to learn when they enter school, then we must commit ourselves to ensuring that every child has affordable access to quality health care and day care. We cannot and should not usurp the role of parents. As such, our strategies should be just as much about enabling parents to be better parents, with the time and income to do their part, as it is to reach out and teach the children.

While we summon the will and the resources to prepare children for school, we cannot ignore the urgent need to reform our schools. The recent study by Education Week revealed that on average less than one-third of fourth graders were proficient in reading and less than one-third of eighth graders were proficient in math. In a comparison of cut-off points on employer tests to student scores on national standardized exams, researchers, Richard Murnane and Frank Levy, found that "close to half of all 17-year-olds cannot read or do math at the level needed to get a job in a modern automobile plant." And consistent with these findings, the TIMSS report revealed that American students were not leading the world but were about average in a world economy that increasingly demands excellence, not mediocrity.

In evaluating this lackluster performance, the TIMSS report surprisingly did not blame the usual suspects—too much TV, not enough class time, not enough homework. It turns out that American eighth graders spend more hours per year in math and science classes than their Japanese and German counterparts. American teachers assign more homework and spend more class time discussing it than teachers in Germany and Japan. And, it turns out that heavy TV watching is as common among Japanese eighth graders as it is among American eighth graders. What then is the problem? The TIMSS report strongly suggests that American students receive a "less-advanced curriculum, which is also less focused." At the heart of this disappointing performance is the content and rigor of what is taught and the techniques used to teach it. In short, content and instructional standards are not adequate.

We will not materially improve public education in the United States until we adopt challenging standards, assess the performance of children with regard to these standards, and hold schools accountable for these standards. Standards, assessment, accountability: the keys to reinvigorating public education.

A few years back, there was a popular book entitled *All I Really Need to*

*Know I Learned in Kindergarten*. I guess I was a little slow because I'm tempted to say I learned a great deal in the Army and that was many years after kindergarten. One of the great lessons of my Army experience is the transforming power of high quality standards, realistic assessments, and accountability. In the wake of the Vietnam war, a demoralized and publicly scorned military began to reinvent itself and, over the last 2 decades, has become one of the most effective institutions in the country. Many factors can be cited: the development of an all volunteer force, the leadership of an extraordinary group of professionals who served in Vietnam and went on to senior positions in the Pentagon. But, a critical, and sometimes overlooked, factor was the development of training doctrine that rested on detailed standards and realistic assessments.

As a company grade officer, I saw the transition from unimaginative field manuals couched in general terms to materials that broke down missions into constituent tasks, stressed the mastery of these tasks, and, then, the careful merging of individual tasks into group effort. At every stage, clear standards of performance were identified and evaluated. Complementing these doctrinal changes was a renewed emphasis on "training the trainer". Professional development was stressed not only for officers but throughout the ranks, particularly non-commissioned officers who are the backbone of the military. Finally, accountability, always a hallmark of the military service, could be refocused from the mundane, "did the troops look good", to the critical, could the unit accomplish its mission in the most realistic circumstances. American education, today, seems to be at a similar crossroads as the post-Vietnam military. And, the lesson of standards, assessments, and accountability seems equally compelling, for education today.

American students are graded from the moment they enter school. They repeatedly take tests. But, seldom are they measured against agreed upon content standards. As such, school is less about understanding a core body of knowledge and using that knowledge than it is about attendance. For too many students, the only "standard" that counts is showing up frequently enough to get a high school diploma. Thus, it is no surprise that half of high school graduates would have a difficult time getting a job in a modern automobile plant.

In a recent survey by a national non-profit group, Public Agenda, reported in the Washington Post, high school students expressed their criticism of school. At the top of their list was the observation that their classes are not challenging enough. A typical response from a student is revealing. "I didn't do one piece of homework last year in math" he said. "I just took the tests. I'd get A's on the tests, not do the homework, and I got a B in class. There's just lots of ways to get around

it." This subering comment was found throughout this discussion in the report, but, the researchers were encouraged to find "strong support among students for having tougher standards in class. Three-fourths of them said they believed they would learn more, and school would seem more meaningful, if they were pushed harder by better teachers." As Deborah Wadsworth, the executive director of Public Agenda, declared, "The students seem to be crying out for the adults in their lives to take a stand and inspire them to do more."

Standards are about excellence, but they are also about equality of opportunity. Diane Ravitch, a professor at Columbia and a former official in President Bush's education department, wrote,

"[n]ations that establish national standards do so to insure equality of education as well as higher achievement . . . they make explicit what they expect children to learn to insure that all children have access to the same educational opportunities." Until we establish effective standards and evaluate children according to those standards, we will continue to ignore disparities in the educational experience of children throughout the United States.

In keeping with the critical role of standards as benchmarks for excellence and equality of opportunity, it is exciting to note President Clinton's proposal to develop voluntary national assessments for reading at the fourth grade and math at the eighth grade. These assessments could truly be the bridge between standards and accountability; the bridge to a renewal of public education, in the United States.

Recognizing the critical role that standards can play in the reformation of public education, Congress in 1994 adopted the Goals 2000: Educate America Act. Goals 2000 sought to place voluntary national standards at the center of national debate about educational reform.

As a member of the Education and Labor Committee in the other body, I was an active participant in the drafting of Goals 2000. I vigorously pressed to ensure that standards were a key component of the strategy for educational reform, and that there would be accountability for these standards. One of the persistent failures of educational reform is the failure to follow through. We all are aware of repeated studies that chronicle the problems of public education and propose credible reforms, but never seemed to go anyplace. All of these studies seem to languish, gathering dust on the shelves. Even if the diagnosis is right, no mechanism is put in place to translate plans into results.

As such, I thought that, along with standards, the Goals 2000 process should require the state and local educational authorities to answer a fundamental question: what will you do when a school or a school system fails to meet the standards established for

its students? Failure to answer this question and to act accordingly will doom meaningful educational reform.

I was pleased that a provision encompassing this question was included as a requirement of the state plan pursuant to Goals 2000. In the spirit of the voluntary nature of Goals 2000, the Federal Government did not mandate any particular approach to failing schools, but, in the process of developing standards-based reform, it would prompt states to ask this fundamental question. This provision is still on the books. However, the overall importance of the state plan has been diminished. Tucked into the budget signed by President Clinton in April of 1996 is language that removes the requirement for these State plans to be submitted to the Secretary of Education.

This unraveling of the minimal requirements of Goals 2000 does not bode well for ultimately tackling the tough issues of reform at the local level. Without the "seriousness" engendered by preparing a submission for Secretarial review, these plans might become another specimen on the dusty shelf of accumulated plans for educational reform. Moreover, despite the protests of many local elected leaders, many local educational leaders will concede that requirements in Washington frequently help them to cut through the tangle of local interests that impede effective local reform.

Nevertheless, Goals 2000 is a milestone in emphasizing voluntary national standards and hopefully will continue to serve as a springboard for educational reform. Standards are critical, but without good teaching these standards will also languish.

#### IMPROVED TEACHING

Challenging content standards must be matched by effective teachers. Continuous professional development is no longer a luxury and can no longer be incidental to teaching. The exponential growth in knowledge and constantly changing insights on teaching techniques require continual reeducation of teachers. Regrettably, such constant professional development is the exception today. Resources for professional development at the local, State, and Federal levels are constrained. But, more than resources are necessary. There must be a renewed commitment by all concerned parties. In particular, teachers and their unions must be at the forefront of this effort for professional development.

Teacher unions are powerful forces. They must become powerful forces to raise the capability and expertise of their members. Too often, teacher unions are perceived as interested only in the benefits of their members and not the improvement of education. I do not believe this to be the case, but this perception is widely held and must be reversed. Teacher unions should be seen as champions for raising the quality of teaching in the United States. That means challenging their members to be better teachers, helping them to

meet that important challenge and, in the small number of cases where individual teachers are not up to the challenge, working with local authorities to remove that teacher from the classroom. It also means being full partners in local reform efforts and viewing this reform effort in terms of what it adds to the quality of education rather than what it may subtract from the current status quo. This mission should not be viewed as something extra that the union does as a courtesy to the public. It must be at the very core of their activities and increasingly the dominant rationale for their existence.

At the Federal level, we must encourage this renewal of teaching. I am delighted with President Clinton's efforts to support enhanced teaching. Under the President's budget, 100,000 more teachers will be able to seek certification from the National Board for Professional Teaching Standards. The National Board has worked hard to establish nationally accepted credentials for excellence in teachers. Their certification of "master teacher," akin to the board certification of physician specialist, raises the standards for teachers and creates a pool of mentors who can assist other teachers to excel. President Clinton has increased funding for other professional development programs like the Eisenhower Professional Development Program and the National Science Foundation's Teacher Enhancement Program. The President has proposed a series of technology initiatives which will also assist teachers. The President's Technology Challenge Grant Program supports private-public sector partnerships to develop models for using technology in education, such as providing electronic field trips for new teachers to learn from expert teachers and mentors around the country. The President's technology literacy challenge Fund will leverage public funds to target school districts and schools committed to helping teachers integrate technology into the classroom. Finally, the administration's 21st century teachers initiative will recruit thousands of technologically literate teachers to upgrade their knowledge and help at least five of their colleagues to master the use of technology in the classroom.

We have talked about elementary and secondary education. But, frankly, excellent public education at the elementary and secondary grades today is simply a prelude to lifetime learning. As we work to provide students with the skills necessary to achieve and compete in this information age, it is essential that we also expand access to postsecondary education.

Indeed, according to the National Bureau of Labor Statistics, 60 percent of all new jobs created between 1992 and the year 2005 will require education beyond high school. A college education is also the key to higher wages, as college graduates, on average, earn 50 percent more than high school graduates.

For too many families, however, a college education for their children is

growing increasingly out of reach. College costs rose by 126 percent between 1980 and 1990, while family income increased by only 73 percent. This situation has been coupled with a shift in the source of Federal aid also. In 1975, 80 percent of student aid came in the form of grants and 20 percent in the form of loans. Now the opposite is true. As a result, students and families are going deeper into debt as they attempt to pay for the costs of a college education. The average student loan debt burden is expected to reach \$21,000 by next year.

Steps must be taken to make college more accessible and affordable in order to address these trends. I am pleased by the President's many proposals in this area. His call to provide assistance to middle-class families in the form of a \$1,500 tax credit for the first 2 years of college will cover the costs of most community colleges and provide a significant downpayment for a 4-year college. It would certainly be a tremendous development in our history if for the first time we can guarantee at least 2 years of postsecondary education as we now guarantee 12 years of elementary and secondary education.

Families would also be able to choose a \$10,000 tax deduction for college, for graduate school, community college, and certified training programs. These proposals are a common sense approach to help students enter and remain in college, lessen their reliance on loans, and provide an avenue for lifelong learning.

Our efforts to increase access to college cannot include tax relief alone. We must also provide a boost to the Pell grants created and named after my predecessor, Senator Claiborne Pell. The Pell grant is the foundation of student financial aid for low- to moderate-income families.

Over the past 20 years, however, we have witnessed the steady decline of the purchasing power of the maximum Pell grant. According to a 1996 college board report, the Pell grant covers only one-third of the cost at public universities, down from one-half in the mid-1980's, and about 10 percent of the cost at private institutions, down from about 20 percent in the mid-1980's.

The task before us is to restore the purchasing power of the Pell grant. The President has recognized this fact by seeking to increase the maximum Pell grant from \$2,700 to \$3,000. This is a good start. But I believe more should be done so we can fulfill the Pell grant's promise of providing a substantial and consistent grant to low-income students.

America's future is being forged today in America's classrooms. It is our task to ensure that this great work of education is built on the solid foundation of challenging standards, realistic assessments, and thorough accountability. It is also our task to ensure that education is a life-long process and that affordable higher education must be available to all.

Our economy demands educated workers. Our democracy requires informed and responsible citizens. As we renew public education and open the doors to higher education, we will propel America into the next century powered by knowledge, tempered by experience, and committed to justice. We can do no less.

I yield back my time.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that I may speak as in morning business for up to 15 minutes.

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

#### CONGRATULATING SENATOR REED

Mr. FEINGOLD. Mr. President, before the Senator from Rhode Island leaves, I want to be the first proud Senator to congratulate him on his first speech in the Senate. It is very appropriate that the speech was about a topic that he knows a great deal about, education, and, of course, in so doing he follows in the footsteps of his predecessor, Senator Claiborne Pell. I just want to say on behalf of my colleagues how delighted we are that he has joined us here. I look forward to learning from him and working with him, particularly on the subject of education, Mr. President.

Mr. REED. I thank the distinguished Senator, Mr. President.

#### BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. FEINGOLD. Mr. President, I rise today to use the morning business time to further the debate on the balanced budget amendment and to indicate that I oppose the proposed amendment to our Constitution.

During the 103d Congress, Mr. President, this body wisely rejected the proposed amendment. It did so again during the 104th Congress, a Congress which, perhaps unlike any other in our recent history, seemed intent on finding different ways to amend the U.S. Constitution, actually voting on more amendments to the Constitution than any of its recent predecessors.

Mr. President, some of us believe there are many reasons to oppose this constitutional amendment, and we have been hearing a lot of them. A number of respected authorities have raised several significant points of concern, including problems related to the role of the courts and the power it might confer on unelected judges to set our national budget policies and priorities.

Another serious concern that we have heard a lot about and we will hear even more about is the damage this proposal could do to the Social Security Program. There may also be unintended changes to Presidential impoundment authority arising out of the constitutional amendment.

I believe that the constitutional amendment, in addition, will lead to unnecessary and possibly dislocating restrictions on our ability to establish capital or investment budgets, to even have the kind of flexibility that States have or municipalities have when they happen to have a balanced budget requirement.

Finally, Mr. President, I think the balanced budget amendment leads to an effective prohibition on developing a fiscally responsible budget structure that could include a surplus fund, a rainy day fund, a fund that could be tapped for emergencies, such as national disasters or military conflicts. The way it is drafted, we would not be able to plan for or project even a small surplus that could actually be used to solve an emergency.

Mr. President, during the next several days as we consider the amendment, I, along with many others, will comment on some of those concerns in more detail as we debate amendments designed to address those defects that I have just listed. For now, Mr. President, I want to focus on the underlying assumption behind the proposed amendment, namely that without making this change to our Constitution, the Congress and the President will not balance the budget, that it just will not happen. It is a fair issue, it is a fair question, a fair premise for this whole debate.

Mr. President, the assumption that that job will not be done by this Congress and this President is not necessarily right. We have brought the unified budget deficit down since 1992 by about 60 percent. Yet, all the rhetoric on the floor has not changed one bit. It has not changed one iota to reflect the fact that real and significant progress has been made in the past 4 years. All of the naysaying about "it can't be done, it will never be done, Congress and the President will never get together and do this," has at least got to be questioned a little bit by the advocates of the balanced budget amendment when they look at the record of the last 4 years. We have seen several plans offered by both sides that will bring the unified budget into balance by the year 2002. We have seen that from Democrats, we have seen it from Republicans, and we have seen it in a bipartisan package.

Mr. President, I recall when some of the Republican Members were pushing for a 7-year balanced budget by the year 2002 using CBO numbers, and the President was not sure he wanted to go with that. But, I agreed with the Republicans. I felt they were right, that we needed to have that timeframe and have a clear commitment. I still stand by that. Today we have a President and a Congress in agreement that the date we should be going for is the year 2002.

In fact, nearly every Member of this body voted for a unified budget plan that reached balance by 2002 at some time during the 104th Congress, and I really think working together this

year, understanding that neither party is running the whole show here, that we can come together in a bipartisan package that will, in fact, finish the good work we have done and balance the budget by the year 2002.

Mr. President, all the budget plans I mentioned, all the votes we took, all the progress we have made in the past 4 years, was done without a constitutional mandate. In fact, it was done without a constitutional amendment floating out among the States, while we wonder whether the States will ratify it or by when they will ratify it. In fact, Mr. President, I firmly believe that if we had adopted a constitutional amendment in 1993, 1994, or 1995, and sent it to the States for ratification, that many of those balanced budget plans would not have been forthcoming in this Congress, that they would not have even been proposed, because people in both Houses would have been looking to a future date when the hammer would come down, instead of believing that the hammer is coming down now, where we here have been elected to do the job now and not wait for the States to decide whether to ratify a constitutional amendment.

Mr. President, without the ability to hide behind a lengthy ratification process, Congress in the last few years has been forced to live up to its rhetoric at least in part. A Member cannot go back home and say, "Listen, I am very eager to cut spending in Washington. I don't know exactly what we ought to cut, but once we get that balanced budget amendment ratified, then we will get back to work on it." That excuse is not available now. People in an audience for such a Senator or Member of Congress would say back to that person, "Why don't you just do the job now? You were elected to do it now." That is, in fact, what we were elected to do.

Mr. President, I do not think the American public realizes that even if Congress approves the proposed amendment, it could be another 9 years—9 years—before the balanced budget mandate begins to bite. If the proposal languishes with State legislatures, we might not be forced to reach balance in 2002, but until the year 2006. The States get 7 years to ratify, and the provision calls for the amendment to really take its effect, to have its bite, 2 years after that. So it could be the year 2006 if we wait for a constitutional amendment.

Mr. President, there is strong reason to believe the States will not act quickly. We have already heard some loud second thoughts from many State policymakers about the impact of the proposed amendment on their State and local budgets. This proposal may not, in effect, Mr. President, then be the so-called slam-dunk ratification that some people claim it will be.

Ironically, some who voiced their support for a constitutional amendment may not really care. I do not think this is true of everyone, by any means. Some do care. Some are genuinely frustrated and turn only to this

constitutional amendment alternative as a last resort. I can think of a great example, the previous Senator from Illinois, Senator Simon, who I know only turned to this alternative, I am sure, out of sheer frustration with the process. He turned to that alternative prior to the progress we made in 1992 through 1996.

I am afraid for others who pushed this amendment, the agenda is not so much a balanced budget but some political advantage. During the debate, we will have an opportunity to see who really wants to reduce the deficit and who is a little more interested in political posturing. I am going to offer an amendment, for example, that would reduce the time for ratification from 7 years to 3 years to prevent unnecessary delay by the States and ensuring Congress does not hide behind a protracted ratification process during which Members could say, "Well, we are going to get to this balancing of the budget later, after the States get done doing their job."

Mr. President, if this amendment is more than just a political exercise, my proposal, my modification of going from 7 years to 3 years for ratification should sail through the U.S. Senate.

I have to say I have some doubts about it because the proposed amendment to our Constitution is, at its core, really political. We should not be shocked by that. Congress, by its nature, is a political beast. What is disturbing, though, is the growing willingness on the part of some to place in jeopardy our Constitution in this manner to get some momentary political advantage.

Sadly, using our Constitution as a political foil is becoming increasingly popular. The so-called balanced budget amendment is only one of many proposed changes to our Constitution. During the last Congress alone, over 130 changes were proposed to the U.S. Constitution. Many of them, I am afraid, were offered for political ends. Many of them are entirely unnecessary. In fact, I say virtually all of them are entirely unnecessary to solve the problems at which they are directed.

One of them, an amendment to require a supermajority to raise taxes, was brought to the other body's floor solely because it was tax day, April 15, so the proponents could stand up on tax day and make some speeches about it. I am troubled by that use of the constitutional amendment process. The thought that an amendment to our Constitution could be offered because it presents the opportunity for a really timely sound bite is indefensible. Many of the advocates of a balanced budget amendment may be sincere in their support for the proposal, but their sincerity does not address the practical problems with the amendment with a fundamental flaw underlying a constitutional approach.

The Constitution, Mr. President, will not solve our budget problems. That says it all. The Constitution cannot

solve our year-to-year and day-to-day budgeting problems. It will not give us the courage or the answers we need to balance our books.

As President Clinton said in his State of the Union Address, all that is needed to balance the budget is our vote and his signature. The President's budget is a good starting place. I look forward to working with my colleagues on the Budget Committee to build on the President's budget and move beyond to reach balance, without using the Social Security surplus. We don't have to amend the Constitution to do that.

As I noted on the Senate floor last year, for over 200 years, the Constitution has served this Nation very, very well. It is essential to the continuing development of our young Nation that the Constitution remains a statement of general principles, not a budgeting document.

In charting a different course, one which allows the Constitution to serve as a method of addressing each difficult challenge we face in this Nation, inevitably, Mr. President, we will sacrifice the integrity of the most fundamental document of our Nation. This process will sacrifice the integrity of our Constitution.

We must guard against the U.S. Constitution becoming what James Madison feared would be, in his words, "little more than a list of special privileges."

Mr. President, the Constitution remains the cornerstone of our freedom. Its power is its brilliant simplicity. The spate of constitutional amendments offered over the past few years are at odds with the fundamental notion that our Constitution establishes the framework or great outlines of our society. By seeking to use that document to address specific problems, no matter how severe, the Constitution will become something much less than it was intended to be and that it has been.

Although our Nation faces many problems—and I think the issue of balancing the budget may be our most important problem—no problem can really be attributed purely to a constitutional deficiency. We should quell our desire to amend this great document and, instead, address the problems that confront this Nation.

Mr. President, I suggest, after the process of the balanced budget amendment debate is over, that we get, as fast as we can, to the real work of balancing the budget and leave the Constitution alone.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the time between 12 and 1 p.m. is divided between the Senator from Rhode Island and the Senator from Massachusetts.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. I thank the Chair. As I understand it, the time reverts, at 1

o'clock, back to the proponents of the amendment, am I correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I ask unanimous consent to be able to proceed until 1 o'clock.

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

#### SOCIAL SECURITY

Mr. KENNEDY. The Social Security program is America's time-honored commitment to our senior citizens that we will care for them in their golden years. It says to our seniors that you have worked hard and faithfully paid into Social Security for all those years of labor, and when you finally retire, Social Security will be there for you. It will help you pay the rent, buy your groceries, and maintain a reasonable standard of living throughout your retirement.

But under the proposed balanced budget constitutional amendment, the Social Security contract with America's senior citizens is broken. If this amendment is added to our Constitution, then no one can assure you of a Social Security check every month.

The Rock of Gibraltar, on which our Nation's senior citizens have depended for the past 62 years would be reduced to shifting sand.

The Reid amendment, which will be considered later this month, prevents this unacceptable outcome by protecting Social Security from the proposed constitutional amendment.

The Reid amendment is needed because millions of the Nation's retired citizens live from check to check. They need that check to arrive on time at the beginning of each month to pay their bills.

Martha McSteen, who headed the Social Security Administration during the Reagan administration, and now is president of the National Committee to Preserve Social Security and Medicare, said recently,

Keeping Social Security safe from budget tampering is frankly a matter of life and death for millions of Americans. For 10 million Social Security beneficiaries age 65 and older, their monthly Social Security check amounts to 90 percent or more of their income. Those checks keep 40 percent of America's seniors out of poverty.

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

If the balanced budget constitutional amendment is enacted, senior citizens may well find that the check is not in the mail after all.

Three months ago, in November 1996, the House sponsors of the balanced budget constitutional amendment agreed that this could happen. As Congressman DAN SCHAEFER and Congressman CHARLES STENHOLM said, under the proposed constitutional amendment "the President would be bound,

at the point at which the Government runs out of money, to stop issuing checks."

And now we learned just this week that this unwise constitutional amendment could deny the Social Security program access to the trust funds in the future. American workers have contributed their payroll taxes to build up the trust so that when the baby boomers retire, there will be enough money there to pay for their Social Security. But now we learn from the experts in the Congressional Research Service that the proposed constitutional amendment could place the trust fund off limits. The money will be sitting there, and the Social Security program will need it to write Social Security checks. But if the balanced budget amendment is adopted, the Constitution will just say no.

Here is what the Congressional Research Service concluded in an analysis provided to Senator DASCHLE on February 5:

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

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

There are those on the other side who don't want America's seniors to know that this proposed constitutional amendment puts Social Security on the budget chopping block. They say that our concern about Social Security is a scare tactic.

But economists say there is a 50-50 chance in any given year that the budget projections will be wrong and that under this constitutional amendment, the Government will run out of money. Economic forecasting is not an exact science. The projections of budget experts could be off by only 1 percent. But under this constitutional amendment, that is enough to throw the budget out of balance and put Social Security checks at risk.

Senator HATCH, the chairman of the Judiciary Committee, agrees. When the committee was debating this constitutional amendment on January 30, he said that under the proposed constitutional amendment, "Social Security would have to fight its way, just like every other program."

Senator HATCH went on to say that he believes Social Security "has the easiest of all arguments to fight its way."

I don't believe we should take that gamble when the future of the Social Security program is at stake.

There is nothing—nothing—to assure our seniors that their Social Security checks will survive the budget battles that lie ahead.

Senior citizens deserve more than speeches of good will by supporters of the constitutional amendment. If those who support this unwise constitutional amendment are committed to pro-

tecting Social Security, they should write that protection into their proposal and adopt the Reid amendment.

President Clinton wrote to the Senate Democratic leader on January 28 about the risk to Social Security. He said to Senator DASCHLE:

I am very concerned that Senate Joint Resolution 1, the constitutional amendment to balance the budget, could pose grave risks to the Social Security System. In the event of an impasse in which the budget requirements can neither be waived nor met, disbursements or unelected judges could reduce benefits to comply with this constitutional mandate. No subsequent implementing legislation could protect Social Security with certainty because a constitutional amendment overrides statutory law.

In the State of the Union Address, President Clinton added:

I believe it is both unnecessary and unwise to adopt a balanced budget amendment that could cripple our country in time of economic crisis and force unwanted results such as judges halting Social Security checks or increasing taxes.

But supporters of the balanced budget amendment are ready to cast Social Security to the winds. They say to the Nation's senior citizens, "We are going to toss your retirement, your safety net into the rough seas of Federal budgeting and see if it can stay afloat."

We cannot let that happen.

The balanced budget constitutional amendment turns its back on almost a decade and a half of bipartisan progress in protecting Social Security.

In 1983, the Greenspan Commission recommended that we should place Social Security outside the Federal budget. The Commission said we need to build up a sufficient surplus in the trust funds to have enough money to provide checks to baby boomers when they begin to retire. And we can't do that if Social Security is subjected to the same ups and downs as the rest of the Federal budget.

Both Democrats and Republicans supported this proposal. The Commission's recommendations were introduced as bill S. 1 sponsored by Senator Dole and Senator MOYNIHAN. That bill required Social Security to be placed off-budget within 10 years. A bipartisan 58-to-14 vote, including 32 Republicans and 26 Democrats adopted the conference report.

In 1985, Congress accelerated the process of placing Social Security outside the rest of the Federal budget. The Deficit Control Act of 1985—the so-called Gramm-Rudman-Hollings law—exempted Social Security from across-the-board cuts or sequestration.

Even more important, the Gramm-Rudman-Hollings law said Social Security could no longer be included in the unified budget of the U.S. Government.

As Senator GRAMM of Texas emphasized during the Senate debate on the Gramm-Rudman-Hollings proposal:

This bill takes Social Security off budget. So if you want to debate Social Security, go to the museum, because that debate is over. . . . The President cannot submit a budget

that says anything about Social Security. It is not in order for the Budget Committee to bring a budget to the floor that does anything to Social Security. Social Security is off-budget and is a free-standing trust fund.

From that point on, when Congress has adopted the annual Federal budget resolutions, Social Security is not included. The last time the Congress of the United States voted on a budget that included Social Security was 1985.

Congress supported this change by wide bipartisan majorities. The Gramm-Rudman-Hollings law was approved by a 61-31 vote in the Senate and a 271 to 154 vote in the House of Representatives.

In 1990, some Members of Congress proposed to put Social Security back into the Federal budget. But Senator HOLLINGS and Senator Heinz rejected this unwise suggestion. They insisted that Social Security remain off budget, and the Senate approved an amendment to protect Social Security by a 98 to 2 vote. In fact, the final Budget Enforcement Act of 1990 speaks forcefully of Congress's intentions to continue to protect Social Security. In section 13301 of that act, the title reads, "Exclusion of Social Security From All Budgets." It says plainly that Social Security,

. . . shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

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

Again in 1995, section 22 of the congressional budget resolution amended the budget act even further to protect Social Security. In a provision entitled the "Social Security Fire Wall Point of Order," it said that any effort to include changes in Social Security in the Federal budget were subject to a 60-vote point of order in the Senate.

The proposed balanced budget constitutional amendment would reverse these years of progress in protecting Social Security. These efforts to protect Social Security and insulate it from the annual battles over the Federal budget were started by the Greenspan Commission. Senator Dole sponsored the bill in 1983 that got us started. And Democrats and Republicans alike rallied to preserve the Nation's Social Security system.

But now, supporters of the balanced budget amendment are prepared to turn their backs on this important history.

For almost 15 years, they joined Democrats in arguing that Social Security should be protected. But now they have decided that Social Security should be left to its own in the budget battles that lie ahead.

Some argue that if we fail to include Social Security in the proposed constitutional amendment, it will cause even steeper cuts than necessary in other programs like education or health care or highways. They say that even President Clinton's balanced

budget—while holding Social Security outside the overall Federal budget—still counts the Social Security surplus to bring the overall Federal budget into balance.

But under current law, Social Security is protected, whereas under a constitutional amendment it is not.

Under current law, even when the President counts Social Security in calculating whether the budget is balanced, neither he nor Congress nor the courts can use the budget process to change Social Security. Even if Republicans tried to use the Federal budget to cut Social Security, they could not under current law.

A balanced budget constitutional amendment would end these protections. Including the Social Security trust funds on the Government's balance sheet may be a useful way to reach a balanced budget today. But what about the year 2020 or 2030, when baby boomers retire and trust funds decline? If Social Security is not off-budget, we would have only three choices. First, we could cut Social Security benefits. Second, we could raise taxes. Or third, we could cut billions of dollars from education, health, national defense, and other priorities to keep the Social Security checks flowing.

We must—and we will—balance the budget. We must—and we will—take steps to ensure the solvency of Social Security well into the future. But it makes no sense to jeopardize Social Security by subjecting it to the requirements of this blunderbuss constitutional amendment.

I urge my colleagues to protect Social Security by supporting the Reid amendment.

So, Mr. President, I am going to look forward, in the next few days—certainly before the end of the month—to join with my colleague and friend, Senator REID, and other Members of the Senate, in urging support for the amendment that Senator REID will propose, which will effectively remove the Social Security trust funds from the balanced budget amendment.

I offered that amendment in the Judiciary Committee. We ended up with a tie vote, 9 to 9. We had the support of a Republican on that amendment. But the Judiciary Committee was virtually evenly divided on that issue, virtually evenly divided.

What we hear from our friends and colleagues in the House of Representatives is there is increasing recognition of the importance of separating the Social Security trust funds from the consideration of the balanced budget amendment. I think that is wise. I believe, hopefully, that the Senate will reach that conclusion.

Mr. President, we can ask ourselves, is the Social Security trust fund of such special importance that we ought to consider it separately from the overall budget considerations? I suggest that it is, and not just because it is a lifeline for our senior citizens, and has

been depended on for over 60 years by those who reach their golden years to be able to live in peace, dignity, and security. I think that would be a compelling enough reason to separate out the Social Security.

But, Mr. President, for another very important reason, which has been understood by Republicans and Democrats alike, since the report of the Greenspan Commission in 1983 where, virtually unanimously, the members of that commission recommended that Social Security be separated from various budget considerations, and it was only a year or so after that that a bipartisan leadership amendment was offered and supported overwhelmingly by Republicans and Democrats alike, that they would put this off budget for a period of some 10 years. Later, in 1985, under Gramm-Rudman measures, Republicans and Democrats—if you read the history of that debate, one of the prime reasons that that particular proposal was passed was because Social Security would be removed from the considerations of the budget, and that was, again, the position that was accepted in the U.S. Senate by a vote of 98 to 2 back in 1990. So we have the recommendations of the Social Security Commission, you have the action that has been taken by the Senate, and in a bipartisan way, in 1984–85, and repeated in 1990.

Now, why do the Members of this body believe that that fund ought to be different? Well, I say that it is a very different fund, for a number of reasons. The most powerful one is because, as I mentioned before, of that contract that will be out there and exists between the seniors and the Federal Government, when it was established that there would be a guarantee that those funds would be there as long as people paid in. That was the contract. People understood it. The elderly understood it.

But, now, under the balanced budget amendment, by including the Social Security trust funds in that—and if that amendment were to pass and be ratified by the States—that would be at risk like all the other spending would be at risk, because of the language of the balanced budget amendment. And that is recognized by the floor manager of the bill, Senator HATCH. It was recognized by those that were the principal spokesmen. Mr. Miller, formerly of OMB, recognized that that would be part of the spending limitation. Now we receive assurances from those that propose the balanced budget amendment, “well, that is going to be OK because there will be more support for Social Security, so we really don’t have to worry about it.”

Well, Mr. President, all we have to do is look at the assaults on Social Security in the last Congress by many of our good Republican friends. Look at the period of the 1980’s. I was here on the floor of the Senate when there were other assaults on Social Security. I am not one that is prepared to say, well,

we are going to just let the dice roll and see whether this continues to remain in the balanced budget amendment and the trigger is pulled on the balanced budget amendment, that Social Security will be out there trying to do the best it can in terms of the spending limitations. Look at what happened in the last Congress—increased funding for defense over what was recommended by the Joint Chiefs of Staff, and assaults in terms of the Social Security trust system. That was the record, Mr. President.

I don’t think the seniors ought to have to be put in the position where their futures, their livelihoods, their whole security is going to be put at risk, based upon what action is going to be taken here. I don’t believe that should be the case for a very important reason, Mr. President, which is that unlike other spending proposals in the budget, the fact is that this is the one aspect of the budget where people pay in, with the agreement that they will be able to receive.

Nobody battles stronger than I do in terms of trying to make education more accessible and available. No one will struggle more in terms of fighting and helping and assisting academic accomplishments or teacher training in the schools in my State of Massachusetts or in the country. The fact of the matter is that those students didn’t pay into this fund. They didn’t contribute to this fund. We recognize, as a matter of national policy, the importance of enhancing education opportunity and access for the young people of this country, because it is vitally important for our Nation to be able to compete in the world, and it is vitally important in terms of our social responsibilities to the young people of this country, in terms of their future.

But, Mr. President, they didn’t contribute. But Social Security did. Social Security did. The beneficiaries of the NIH research didn’t contribute either. I am all for NIH and for investing in that research. But Social Security recipients paid in. Big difference. Major difference. Major difference. Why are we going to treat both of the different groups the same? That is wrong. It is wrong on the face of it. Most important, it is a basic and fundamental potential violation of a very fundamental contract made between the President of the United States, the Congress of the United States, and the American people. That was a contract, not just between two individuals; it was made by a Nation, establishing that system that said if you pay in during your working years, you are at least going to be able to live out of poverty during the time of your retirement. That is a solemn commitment that we have made year after year after year. And, yet, those who are promoting the balanced budget amendment are saying, “well, that is all fine and all well and good, but we want to make sure we put Social Security on because, if we do



not, maybe our economy is going to deteriorate, and it will threaten somehow the Social Security recipients."

The problem for our economy is not our senior citizens. Sure we have to deal with what is going to happen after the year 2029 in terms of Social Security. Although the fact remains that for the next 40 years after that, three-quarters of the benefits could be paid without any changes in it, I want to make sure those recipients are going to get the full benefits. So I am going to work to try to make sure that we are going to do that.

But the problem in terms of 2003, 2004, and 2005, during that period of time, is not Social Security. It may be another factor. But why hold our Social Security recipients hostage to that factor? Why hold them hostage? That is basically the issue that is included in this amendment. I believe that the American people wisely are understanding the significance and the importance of this effort by Senator REID and other sponsors, the importance of this debate and this discussion.

Now we will hear from our colleagues on the other side. "Well, it is very nice of you to point that out, Senator KENNEDY, but look at what the President has done. The President has put Social Security into his budget when he makes that recommendation, and, therefore, don't you think that we ought to do that?"

Well, Mr. President, it is an entirely different system. We have what we call the walls that exist under the Federal budget that have been put there since 1990. So you cannot violate the funding of the Social Security system. Those walls exist, and they exist by statute. But you pass a constitutional amendment and, as every Member of this body understands, a constitutional amendment supersedes those statutes. They are off. It is an entirely different situation.

So, Mr. President, I have listened over the period of the last days to those—Senator REID, Senator DORGAN, and others—who have taken the floor and supported this. I have listened to the responses and find them woefully inadequate in terms of the power of this particular argument.

I think both in terms of fairness, in terms of justice, in terms of decency, and in terms of our commitment to our seniors that this amendment, which is going to remove the Social Security trust funds from the balanced budget amendment, is absolutely essential if we are going to maintain our commitment to our senior citizens. And I am going to welcome the opportunity to be a part of this debate that will take place in these next several days and toward the latter part of February because I think this is really one of the very, very most important, if not the most important, amendments that we will have on the balanced budget amendment.

Mr. President, I see my time is almost up.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, I ask unanimous consent that I may proceed in morning business for a period of up to 10 minutes.

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

#### THE NOMINATION OF ANTHONY LAKE

Mr. SPECTER. Mr. President, there has been considerable discussion in the public media and otherwise about the pending nomination of the Director of the CIA with the President having submitted the name of National Security Adviser Anthony Lake.

Last year the Senate Intelligence Committee did an extensive inquiry into a matter involving the sale of Iranian arms to Bosnia which involved Mr. Lake. I have written a "Dear Colleague" letter which I would like to read into the RECORD, and I ask unanimous consent that, at the conclusion of my statement, the Intelligence Committee report, a bipartisan report although there were some dissents, be printed in the RECORD.

We are checking to see how much of that may be printed in the RECORD under the rules.

The "Dear Colleague" letter which I am submitting today is as follows:

DEAR COLLEAGUE: Since the media is filled with commentary about National Security Adviser Anthony Lake's nomination to be CIA Director and a pro-Lake "Dear Colleague" letter has been circulated, I consider it important to give my fellow senators and others my thinking from last year's Intelligence Committee hearings, which I chaired, on his activities in connection with the sale of Iranian arms to Bosnia.

In my opinion, an indispensable qualification to be CIA Director is a mindset to keep Congress fully and currently informed on intelligence matters. Mr. Lake acknowledges he was a part of a plan by officials of the State Department and National Security Council to conceal from Congress and other key Executive Branch officials a new Administration policy to give a "green light" on the sale of Iranian arms to Bosnia when a U.S. and UN embargo prohibited it.

Secretary of Defense William J. Perry, Chairman of the Joint Chiefs of Staff John M. Shalikashvili and CIA Director R. James Woolsey told the Senate Intelligence Committee they knew nothing about that "green light" or the change in U.S. policy.

In concluding that Congress should have been informed about this matter, the bipartisan Intelligence Committee report stated:

"By keeping from Congress the full truth about U.S. policy, the Executive branch ef-

fectively limited Congress's ability to responsibly debate and legislate on the Bosnia issue."

Rejecting the argument that the matter involved traditional diplomatic activity, the bipartisan Intelligence Committee report stated:

"But it was not traditional diplomatic activity to: (1) give a response to a foreign head of state which effectively contradicted stated U.S. policy on isolating a country, in this case Iran, against which U.S. law imposed sanctions; (2) implicitly turn a blind eye to activity that violated a United Nations Security Council resolution which the United States had supported and was obligated to obey; and (3) direct a U.S. Ambassador not to make a written report of a conversation with a foreign head of state."

Even though I heard Mr. Lake's version during the Intelligence Committee's proceedings and have talked to him in a private meeting since his nomination, I believe he is entitled to be heard at his confirmation hearing before a final judgment is made on his nomination.

I strongly disagree with the practice of abandoning nominees like Lani Guinier, Douglas Ginsburg and Zoe Baird or reaching a conclusion on their nominations until they have had their day in court. If we are to persuade able people to come into government, nominees are entitled to state their case in Senate hearings so that the charges will not stand alone without an appropriate opportunity to respond.

It is beside the point that the Department of Justice concluded Mr. Lake did not commit perjury or obstruction of justice in the inquiries on the sale of Iranian arms to Bosnia. There never was any basis, in my opinion, for the referral by the House Committee on those issues.

Nor am I concerned about the ancient history of Mr. Lake's so-called leftist activities which have drawn considerable attention. I had thought the stock sale issue was of lesser importance until he agreed to pay a \$5,000 fine, so that issue calls for an inquiry; and it may be that other questions merit investigation such as the recent report that a member of his staff engaged in fundraising.

There is no doubt that Mr. Lake is a man of considerable ability, and I do not question the sincerity of his motives in acting in what he considered to be in the national interest on the Bosnia issue. But the critical question remains as to whether Mr. Lake can be counted upon to keep the Congress currently and fully informed.

The Congress must have positive assurance on that issue in the light of a half century's experience with the CIA including the Iran Contra affair.

And this "Dear Colleague" letter is signed by me and circulated to my colleagues.

In order to have a complete understanding of this issue, which as I say I consider to be central to whether Mr. Lake ought to be confirmed as Director of the CIA, it is necessary to review in some detail and in some depth the bipartisan report filed by the Intelligence Committee. I advise my colleagues that the report is available from the Intelligence Committee, and encourage all Senators to read it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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



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

The Senator from Alaska is recognized to speak for up to 10 minutes.

Mr. MURKOWSKI. Mr. President, I have several things I want to discuss this morning. I have some charts, and I want to proceed as the charts are put up.

#### TRIBUTE TO U.S. COAST GUARDSMEN

Mr. MURKOWSKI. Mr. President, I believe I have the unique distinction of being the only current Member of this body who has served in the U.S. Coast Guard, so as a consequence I rise today to pay tribute to three brave young men who perished early yesterday off the coast of Washington State.

Petty Officer 2d Class David Bosley of Coronado, CA; Petty Officer 3d Class Matthew Schlimme of Whitewater, MO; and Seaman Clinton Miniken of Snohomish, WA, were serving aboard a 44-foot motor lifeboat stationed on the Pacific Ocean coast of Washington State's Olympic Peninsula.

Early yesterday morning they took their vessel out to answer a distress call from two people aboard a sailboat in trouble in heavy seas. Tragically, the 44-footer capsized and three brave men died. Only one crewman, Seaman Apprentice Benjamin Wingo of Bremerton, WA, survived to reach the rocky shoreline and safety.

Some of my colleagues have heard me address this body in the past to give tribute to successful rescues made by Coast Guard personnel in dangerous situations where they themselves were placed in serious jeopardy by their effort to save others. Most such rescues end happily. This one—tragically—did not.

We pay formal tribute to those members of the military who fall in the line of duty while fighting our Nation's enemies. I hope the Members of this body will take just a moment to reflect on the sacrifice of these three young Coast Guardsmen. They, too, perished in the line of duty, fighting to protect human life.

The Coast Guard motto, "Semper Paratus," means "Always Prepared." Sometimes, it means being prepared to make the ultimate sacrifice.

#### INTERIM STORAGE OF RADIOACTIVE WASTE

Mr. MURKOWSKI. Mr. President, a very serious situation exists in our Nation that I would like to discuss with my colleagues today. It concerns the storage of nuclear waste that has been generated in conjunction with the operation of nuclear reactors that provide this Nation with about 22 percent of the power generation that we currently enjoy. Without this contribution from the nuclear industry, we would have to depend on some other form of generation to contribute that 22 percent. We would probably use more coal,

perhaps more natural gas. The potential for developing more hydro is somewhat limited, based on the costs and the fact that most of the potential hydro sites have already been developed. I happen to be chairman of the Energy and Natural Resources Committee, which has the obligation to oversee our country's electricity industry. It is an industry that most Americans take for granted. We are used to plugging in the iron, plugging in the coffee pot, and having them work. We do not recognize and we do not really reflect on what is behind it—the people, the men and women working in the power generating business, the business of transmitting the electric energy, distributing it and making sure it works.

In any event, in connection with the tremendous dependence we have on nuclear energy in this country—I might add, we are the largest consumers of nuclear generated energy of any nation in the world—I was staggered to read that the Senate-White House meeting which was held yesterday resulted in agreement on some issues, but no agreement to address the question of what to do with the nuclear waste generated by our power reactors.

I think a headline should have read, "The Clinton Administration Simply Wants to Keep the Status Quo." Keeping nuclear waste in the neighborhoods of our country, and the consequences of that, deserve some examination. This examination could start in your town, in your State, in your neighborhood. That is where it is being stored. High-level radioactive materials are piling up in 80 locations in 41 of our States. Onsite storage is filling up, and the States which control the ability of utilities to store nuclear waste on the reactor sites will have to address whether they want to increase onsite storage at the nuclear reactors, or whether they will give in to pressure to simply not allow any further storage beyond the limited amount of existing storage.

Some see this as a way to shut down the nuclear industry in this country. By objecting to any increase in authority to store onsite, the reactors can be forced to shut down because there is no place to put the spent fuel.

I have a chart which I am going to spend a few minutes on, because it shows the crucial nature of the problem. When the administration says, "We will just leave it where it is," I suggest to you, Mr. President, that this is an unrealistic and unworkable alternative. By 1998, 23 reactors in 14 States will run out of storage space. What we have here are plants with adequate storage, and they are indicated in the light blue. You can see most of them are on the eastern seaboard. But in purple are plants requiring additional storage by the year 2010. These States all have plants in purple: California, Arizona, Florida, Georgia, North and South Carolina, and all up and down the east coast. These plants do not

have adequate storage to hold waste within the areas immediately adjacent to the reactors, and are going to have to petition the States to increase the authorization for nuclear energy waste allowed to be stored at those sites. In the green are plants requiring additional storage by the year 2015. They are primarily on the eastern seaboard and the Midwestern States, such as Illinois.

So the point of this chart is to highlight that additional nuclear waste storage is needed in this country now. The bill we have introduced in our committee, S. 104, would provide a real solution to this crisis that is coming down the track. It is a train wreck that is coming. We have this material at 80 locations in 41 States. The Federal Government entered into a contractual commitment with America's ratepayers who depend on nuclear energy and the nuclear generation industry. In return for over \$12 billion ratepayer dollars, the Government committed to take this waste by the year 1998. This is less than 1 year away; it is about 10 months away. The Federal Government has no place to put this waste and will default on its contractual commitment in 1998, when it is obligated to take the waste.

There has been an effort to provide this Nation with a permanent repository. The government has a study program under way at Yucca Mountain, NV. We have spent \$6 billion on this effort, but that facility will not be ready for 15 years, at the earliest. Secretary O'Leary said it may be 20 years. It may be longer. But the point is, we are looking at somewhere in the area of 2015 or thereabouts, and where in the world are we going to be able to accommodate this waste? Because we are not going to have a permanent repository then. We may never have a permanent repository, and I will talk about that a little later.

S. 104 is a bill that got 63 votes in this body last year. The bill would provide for construction of a temporary storage facility, either at the Nevada test site or another site chosen by the President and Congress, until such time as we have a permanent repository constructed.

Why the Nevada test site? The geologists tell us it is the best site that has been identified for a permanent repository. Furthermore, it is a site where for over 50 years we have tested our nuclear weapons. It is a site that is monitored and secured. It is a site that is well known. And it is the most appropriate site that has been identified.

Now, the bottom line with this whole issue, Mr. President, is nobody wants nuclear waste. But you cannot throw it up in the air. It will come down somewhere. So the question is, what do you do with it? Again, last year, 63 Members of this body indicated that they approved of the construction of a temporary repository at the Nevada test site because it would allow us to proceed with the permanent repository,

and when the permanent repository was done and certified and licensed, the waste could go in there.

The point is, next year the Government has to take the waste or face liability and the damages associated with the failure to meet its obligation. Mr. President, this is the most important environmental bill before this Congress.

This administration has said, "Leave it where it is." When this issue was brought up at Tuesday's meeting, it is my understanding the Vice President said, "Look, we're going to talk about the things we can agree on. We can't agree on the issue of nuclear waste." Whether that is a fair characterization, I can only depend on the news reports. But the administration's position seems to be to leave the nuclear waste where it is until we have a permanent place to put it.

Let me tell you a little bit about the possibility of a permanent repository at Yucca Mountain. We do not know whether Yucca Mountain may ever be ready. We have spent \$6 billion already. It is estimated that it will cost a total of \$30 billion by the time we are through with it. The Department of Energy says it has a 50-50 chance of actually being licensed.

The theory here is that the scientists have to go through this process to determine whether Yucca can contain nuclear waste for thousands of years.

Mr. President, if I may have another 6 or 7 minutes, I would appreciate it, and I ask unanimous consent.

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

Mr. MURKOWSKI. I thank the Chair.

Mr. President, the difficulty we have here with Yucca Mountain is not knowing whether we will ever get it licensed because it has to withstand a scientific analysis regarding any possible source of exposure—earthquake, volcanic activity, any leeching into the ground—for approximately 10,000 years. We do not know whether science can come up with that kind of certification.

But, in any event, in order to try to make this case we have to proceed with the tunneling, and spend the money. However, we simply do not know whether it will ever be a permanent repository. But the idea of moving this waste from 41 States, 80 sites, to a place where we have had extensively studied certainly seems to make sense. If Yucca Mountain is determined to be permanent, we will have the waste there and ready to put in a permanent repository. If Yucca Mountain is not the permanent repository site, it will be dozens of years before another permanent repository site can be located and studied, and a central interim storage facility will still be needed.

It is my understanding that the Vice President apparently was saying two things. The administration no longer supports any form of centralized interim storage. In the meantime, we can only conclude that their policy is, "Leave it where it is." Leave it where

it is. Ignore the problem. Put off the decision. Act like an ostrich—put your head in the sand. Let nuclear waste build up in 41 States, near the homes, near the schools. This is the administration's irresponsible and dangerous policy on nuclear waste storage.

As I said, the Federal Government has a 1998 deadline. Taxpayers have paid billions of dollars only to have the Vice President say, "Leave it where it is."

I have another chart that I will refer to very briefly. These are the States where ratepayers have paid into the Federal Government's nuclear waste fund to provide for nuclear waste storage. The Federal Government did not hold this money in escrow. They put it in the general fund. They have spent it.

The point is, there is \$12 billion that has been paid in by the ratepayers for the Federal Government to take this waste in 1998. Virtually every State has bought nuclear power and paid into the fund. That is where the Government's contractual commitments really lay.

Why is the administration simply saying no to any form of interim storage when Yucca Mountain has only a 50-50 chance of opening? Some who are on the fringes of the environmental movement think that this sort of foot dragging may help them close down the entire nuclear industry. Those people apparently have no responsibility for replacing that 22 percent of our power that we will lose. Twenty-two percent of our electricity, Mr. President, is generated by nuclear power. Even if all of the reactors shut down, we would be stuck with the utility waste and the defense waste still. We would not have an answer for what to do with it. If they shut down the industry, we still have the waste to dispose of.

Mr. President, we won the cold war with the help of our nuclear deterrent. Now we have an obligation to clean up the mess. We can win the war on nuclear waste. Leaving it where it is is not an option, and 41 States are watching us.

In addition to the nuclear waste of our power generators, we have nuclear waste that resulted from nuclear weapons development. I was at Hanford 2 weeks ago and went through the old plants that developed the plutonium to make the Hiroshima bomb, and those that made advanced nuclear devices. One must seriously consider what those facilities contributed to humanity and the burden they left. It is a responsibility that we must bear. Nuclear weapons brought the Second World War to an early close. There were lives lost; there were lives saved. The same thing is true regarding the collapse of the Soviet Union.

No matter what your opinion regarding these matters, we have a legacy of nuclear waste. We have to address it. The responsible way to address it is to meet head on the obligations we have made. Under a contractual commitment, we have collected \$12 billion from ratepayers and are committed to take that waste by 1998.

The Government is not prepared to take the waste. This case is going to be litigated, and it will become a full employment act for the lawyers beginning in 1998. We have proposed in S. 104 to address it now by providing for the siting of an interim storage site, in the Nevada desert, or somewhere else the President and Congress may choose, until we have a permanent repository.

Mr. President, we have to have a temporary central storage facility in this country. There is absolutely no question about it. But this administration chooses to ignore it. They want this problem to go away. They do not want to address it on their watch. I suggest, Mr. President, that this is irresponsible. I thank the President and wish him a good day and yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized to speak for up to 20 minutes.

Mr. GRAMS. Thank you very much, Mr. President. I appreciate that.

(The remarks of Mr. GRAMS, Mr. KOHL, and Mr. FEINGOLD pertaining to the introduction of S. 322 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

(The remarks of Mr. SHELBY pertaining to the introduction of S. 323 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana [Mr. COATS] is recognized to speak for up to 10 minutes.

#### COMPUTER PORNOGRAPHY

Mr. COATS. Mr. President, I come before my colleagues today to discuss an issue which is not pleasant. It is tragically controversial, and it is an unsavory topic. The issue is computer pornography.

I have a copy of the February 10, 1997 U.S. News & World Report magazine. The cover story indicates, America is by far the world's leading producer of porn, churning out hard core videos at the astonishing rate of about 150 new titles per week. The magazine provides an inside look at the industry.

Within this U.S. News & World Report edition is a lengthy article discussing the porn industry in the United States, shamefully pronouncing the United States as the world's leading producer of pornography. There is much in this article to shock, to disappoint, and to be ashamed of. But I am going to limit my remarks specifically to the issue of computer pornography.

As a backdrop, let me quote from the article just to give us an idea of the scope of the problem. "Last year," the article states, "Americans spent more

than \$8 billion on hard-core videos, peep shows, live sex acts, adult cable programming, sexual devices, computer porn, and sex magazines—an amount larger than Hollywood's domestic box office receipts and larger than all of the revenues generated by rock and country music recordings. Americans now spend more money at strip clubs than at Broadway, off-Broadway, regional, and nonprofit theaters; at the opera, the ballet, and jazz and classical music performances . . . combined."

That is the scope of the problem. It is a staggering statistic, one that ought to shock us all.

The article also discusses the role of the Internet and the role of computer pornography in driving the technology that we have all become so aware of in just the last year or so. Let me again quote from the magazine:

In much the same way that hard-core films on videocassette were largely responsible for the rapid introduction of the VCR, porn CD-ROM and on the Internet has hastened the acceptance of these new technologies. Interactive adult CD-ROMs, such as Virtual Valerie and the Penthouse Photo Shoot, create interest in multimedia equipment among male computer buyers.

According to the article. It goes on to say, and I quote:

The availability of sexually explicit material through computer bulletin board systems has drawn many users to the Internet. Porn companies have established elaborate web sites to lure customers.

For instance, "Playboy's web site, which offers free glimpses of its Playmates, now averages about 5 million hits a day." Five million times someone is logging into the Playboy web site every day.

The article then goes on to quote a seeming cult figure of the anything goes set in America, Larry Flynt:

Larry Flynt imagines a future in which the TV and the personal computer have merged. Americans will lie in bed, cruising the Internet with their remote controls and ordering hard-core films at the punch of a button. The Internet promises to combine the video store's diversity of choices with the secrecy of purchases through the mail.

Why do I bring this up, Mr. President? Because in the last Congress, the 104th Congress, this Senate adopted the Exon-Coats amendment, known as the Communications Decency Act, as part of the telecommunications reform legislation. I bring this up not to point out what Americans should or should not do in the privacy of their bedroom. I bring this up to ask the question as to whether or not we have a responsibility to protect our children from the negative impact of pornography. The Communications Decency Act simply extends the same protections that are currently in place, for children from pornography, that exists in every other means of communication but has not caught up with computer communication. The Internet has exploded on the scene and, yet, the same restrictions and protections for children, regarding the distribution of pornography that

we have built into telephone technology, television technology, VCR technology, and others, has not been extended to computer technology, until the Communications Decency Act.

As U.S. News reports, "The Nation's obscenity laws and the Communications Decency Act are the greatest impediments to Flynt's brave new world of porn." The article said that, "Even he [Larry Flynt] is shocked by some of the material he has obtained through the Internet."

Let me quote him. "Some of the stuff on there, I mean, I wouldn't even publish it."

Anybody familiar with Mr. Flynt's record in terms of extending the boundaries of publication of pornographic material have to be stunned by this statement. Basically what he is saying is that some of the material that is available on the Internet without any protections for children, is so shocking even he wouldn't publish it in his magazines, which are only sold to adults, or are only supposed to be sold to adults.

Opponents of the Communications Decency Act, companies like America On-Line, the ACLU, the American Library Association, have argued that there should be no role for government in protecting children, that the Internet can regulate itself. The primary solution that they have offered is a system called PICs, Platform for Internet Content Selection. It is a type of self-rating system. This would allow the publisher of the material, the pornographer, to rate his own home page on the Web, and browsers, the tools that are used to search the Internet, would then respond to these ratings.

Mr. President, I suggest that it is a ludicrous proposition to allow the pornographer to rate their own material. There is no incentive for compliance.

PC Week magazine, a prominent voice in the computer industry recently published an editorial entitled "Web Site Ratings—Shame on Most of Us." The column discusses the lack of voluntary compliance by content providers. The article states,

We and many others in the computer industry and press have decried the Communications Decency Act and other government attempts to regulate the content of the Web. Instead, we've all argued, the government should let the Web rate and regulate its own content. Page ratings and browsers that respond to those ratings, not legislation, are the answers we've offered.

But then the article goes on to say:

The argument has been effective. With the CDA still wrapped up in the Courts, the general feeling seems to be that we, the good guys, carried the day on this one.

"Too bad we left the field before the game was over," the article says. "We who work around the Web have done little to rate our content." The article goes on to say that, in search of the Web, they found "few rated sites." And even those rated sites were an "exception to the rule." In other words, the PICs don't work. Of course they don't work. They don't work because you are

asking the producer who is trying to sell the material to rate the material in a way that it will not be accessed as many people as it otherwise would. There is no incentive for pornographers to comply.

So what are the ramifications to our children? A member of my staff went on Lexis/Nexis and searched for articles containing the words: Computer and pornography and Internet and looked for articles dated after the first of the year. And we came up with 139 separate stories. "Internet pornography at library concerns parents", "Parents want BPL (Boston Public Library) to block porn on Internet", articles entitled, "Kids see porn via the Internet." "Mother sues America On-Line over cyber porn," and on and on.

At a time when the President and the Vice President are calling for every classroom in America to be wired to the Internet, when Larry Flynt is shocked by some of the material he finds there, the ACLU and congressional opponents of the Communications Decency Act claim that the Government has no right to protect our children from this pornographic material. Fortunately, the Senate spoke on a vote of 84 to 16, and the Congress as a whole spoke overwhelmingly in favor of the CDA.

Mr. President, the Supreme Court will soon hear arguments on the constitutionality of the CDA. I have a copy of the amicus brief, filed on behalf of Members of Congress, which reaffirms the voice of Congress on this important issue. I thank my colleagues who took a stand with me in this brief and ask unanimous consent that the content of the cover of the brief be printed and referenced in the RECORD.

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

[In the Supreme Court of the United States, October Term, 1996]  
JANET RENO, ATTORNEY GENERAL OF THE UNITED STATES, ET AL., APPELLANTS v. AMERICAN CIVIL LIBERTIES UNION, ET AL., APPELLEES  
On Appeal from the United States District Court for the Eastern District of Pennsylvania

BRIEF OF MEMBERS OF CONGRESS  
Senators DAN COATS, JAMES EXON, JESSE HELMS, CHARLES GRASSLEY, CHRISTOPHER BOND, JAMES INHOFE, RICK SANTORUM, ROD GRAMS; and

Representatives HENRY J. HYDE, BOB GOODLATTE, F. JAMES SENSENBRENNER, JR., STEVEN SCHIFF, WILLIAM L. JENKINS, ASA HUTCHINSON, CHRIS SMITH, DUNCAN HUNTER, ROSCOE BARTLETT, WALTER B. JONES, JR., SHERWOOD BOEHLERT, MARK SOUDER, STEVE LARGENT, JIM RYUN, TONY HALL, DAVE WELDON, FRANK R. WOLF as amici curiae in support of appellants.

Mr. COATS. Mr. President, I know my time is up, I intend to take additional time later to talk about the constitutionality of the Communications Decency Act, and to restate the case for why I believe it will pass constitutional muster.

Mr. President, this is something that we have to be vigilant on because

clearly we have an interest, and a responsibility to protect our children from this kind of material.

Mr. President, I thank you for the time.

I yield the floor.

Mrs. MURRAY. Mr. President, I ask unanimous consent to speak as if in morning business.

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

Mrs. MURRAY. I thank the Chair.

(The remarks of Mrs. MURRAY pertaining to the introduction of S. 324 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Wisconsin.

Mr. KOHL. I thank the Chair.

#### DEADBEAT PARENTS PUNISHMENT ACT AND SUNSHINE IN LITIGATION ACT

Mr. KOHL. Mr. President, 2 weeks ago, I introduced two bills, the Deadbeat Parents Punishment Act of 1997, and the Sunshine in Litigation Act of 1997. Both address issues that are of enormous importance to our communities and country.

First, Senator DEWINE and I introduced a measure to toughen the original Child Support Recovery Act of 1992 to ensure that more serious crimes receive more serious punishment. Our new proposal sends a clear message to deadbeat parents: Pay up or go to jail.

Current law already makes it a Federal offense to willfully fail to pay child support obligations to a child in another State if the obligation has remained unpaid for longer than a year or is greater than \$5,000. However, current law provides for a maximum of just 6 months in prison for a first offense and a maximum of 2 years for a second offense. A first offense, however, no matter how egregious, is not a felony under current law.

Police officers and prosecutors have used the current law effectively, but they have found that current misdemeanor penalties do not adequately deal with more serious cases, those cases in which parents move from State to State to intentionally evade child support penalties or fail to pay child support obligations for more than 2 years—serious cases that deserve serious felony punishment.

In response to these concerns, President Clinton drafted legislation that would address this problem, and we dropped it in last month.

This new effort builds on past successes. In the 4 years since the original deadbeat parents legislation was signed into law by President Bush, collections have increased by nearly 50 percent, from \$8 billion to \$11.8 billion, and we should be proud of that increase. Moreover, a new national database has helped identify 60,000 delinquent fathers, over half of whom owed money to women on welfare.

Nevertheless, there is much more that we can do. It is estimated that if delinquent parents fully paid up their child support, approximately 800,000 women and children could be taken off the welfare rolls. So our new legislation cracks down on the worst violators and makes clear that intentional or long-term evasion of child support responsibilities will not receive a slap on the wrist. In so doing, it will help us continue to fight to ensure that every child receives the parental support they deserve.

With this bill, we have a chance to make a difference in the lives of families across our entire country. I look forward to working with my colleagues to give police and prosecutors the tools they need to effectively pursue individuals who seek to avoid their family obligations.

The second bill I introduced 2 weeks ago was the Sunshine in Litigation Act of 1997, a measure that addresses the growing abuse of secrecy orders issued by Federal courts. All too often, our Federal courts will allow vital information that is discovered in litigation and which directly bears on public health and safety to be covered up, to be shielded from people whose lives are potentially at stake and from the public officials we have asked to protect our health and safety.

All of this happens because of the so-called protective orders, which are really gag orders issued by courts—and designed to keep information discovered in the course of litigation secret and undisclosed. Typically, injured victims agree to a defendant's request to keep lawsuit information secret. They agree because defendants threaten that, without secrecy, they will refuse to pay a settlement. Victims cannot afford to take such chances. And while courts in these situations actually have the legal authority to deny requests for secrecy, typically they do not because both sides have agreed and judges have other matters they prefer to attend to. So judges are regularly and frequently entering these protective orders using the power of the Federal Government to keep people in the dark about the dangers they face.

This measure will bring crucial information out of the darkness and into the light. The measure amends rule 26 of the Federal Rules of Civil Procedure to require that judges weigh the impact on public health and safety before approving these secrecy orders. It is simple, effective, and straightforward. It essentially codifies what is already the best practices of the best judges. In cases that do not affect the public health and safety, existing practice would continue, and courts can still use protective orders as they do today. But in cases affecting public health and safety, courts would apply a balancing test. They could permit secrecy only if the need for privacy outweighs the public's need to know about potential public health and safety hazards. Moreover, courts could not, under this

measure, issue protective orders that would prevent disclosures to regulatory agencies.

I do want to mention that identical legislation was reported out of the Judiciary Committee last year by a bipartisan, 11-to-7 majority. I do want to remind people that this issue is not going away: A number of States are currently considering antisecrecy measures; the Justice Department itself has drafted its own antisecrecy proposal—one that in many ways goes further than my own. The grassroots support for antisecrecy legislation will continue and grow, as long as information remains held under lock and key.

So, Mr. President, I look forward to working with my colleagues on a bipartisan basis to do more to combat deadbeat parents and limit court secrecy.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized to speak for up to 10 minutes.

#### SCHOOL CONSTRUCTION, TRANSPORTATION, AND ENVIRONMENTAL INITIATIVE

Mr. GRAHAM. Mr. President, I speak to my colleagues and to the American public today about a quiet crisis that is occurring in our Nation. This is the crisis that has resulted from our failure to adequately invest in the basic services that will render our Nation economically productive, with a strong national security, and prepare the next generation of our citizens to meet their responsibilities. All over our Nation, from the largest cities to the smallest rural communities, we are seeing a deterioration of our basic public support system. Our schools, our bridges, our highways, our water and sewer systems are deteriorating.

In areas of growth, we do not have enough resources to meet the needs of an expanding population. Too many children are learning in overcrowded and unsafe classrooms. Too many motorists are driving on inadequate roads and highways. Too many communities are being forced to make do with inadequate water, sewer, and environmental systems.

Our ability to compete in the economy of the future, and to maintain and enhance the quality of life of our citizens, will, in large part, hinge on whether and how we correct those problems.

As we enter the 21st century, we must build and rebuild the foundations which will serve our people and their needs for years to come. In the near future, I intend to continue the efforts that are underway with my Republican and Democratic colleagues who have expressed similar concerns. Out of this will come legislation which will assist States and local communities to build the schools, roads, and water systems that they need now and in the future.

The numbers tell the story. A recent General Accounting Office report says

that one-third of our Nation's school districts have buildings in need of immediate and extensive repair. The same report states that 25 million students go to schools with poor lighting and heating, bad ventilation or air quality, or a lack of physical security; 25 million boys and girls attend schools with those deteriorating conditions. It has been estimated that \$150 billion will be needed to remedy this situation. That dollar amount does not include the cost to meet new school construction for expanding populations.

This affects my State. It affects all of the States of the Nation. The school facility crisis is estimated, for instance, in the State of North Dakota, to cost \$450 million to remedy; \$5 billion is needed in Texas, \$7.5 billion in Florida, \$15 billion in New York State, and \$20 billion in the State of California. In Louisiana, 88 percent of the 1,500 public schools are in need of repair; 77 percent of Connecticut's more than 1,000 schools need some rehabilitation. In Illinois, 89 percent of more than 4,000 schools need improvement.

I firmly believe the administration of elementary and secondary education is the responsibility of State and local communities. It is not a Federal responsibility. The Federal Government should restrain itself from interfering with curriculum, personnel and other educational policies. But I believe there is a role for the Federal Government in helping increasingly underfunded and overburdened school districts in the construction of badly needed new schools and the renovation of existing schools. That is a role in which the Federal Government has had some history.

I recently spent a day working in a rehabilitation project on Opa-Locka Elementary School in Dade County, FL. I was impressed when I looked at the plaque on the wall of Opa-Locka Elementary School, a school which is 60 years old this year. It was built by the U.S. Public Works Administration as a Depression-era job-creation project. The Federal Government has a history of assisting school districts in meeting their capital needs and has done so without the criticism of inappropriate Federal intrusion.

Mr. President, I applaud the President's proposed school construction initiative. It was one of the 10 points in the education program that he presented to the Nation during his State of the Union Address. He has opened the door to an important Federal-State-local partnership, and we must walk through that door. However, I believe the door needs to be widened.

Our school construction needs are much greater than the President's proposal would address. States and local school districts need to have a wider range of policy and fiscal options to meet their needs. We must aggressively build on the President's plan so that States and local governments can solve their tremendous needs.

School construction is obviously not the only capital issue facing States and

local governments. For example, the United States has 39 million miles of roads and 574,000 bridges. Recent estimates show that 60 percent of our roads and a third of our bridges are substandard and in need of repair. The U.S. Department of Transportation estimates that we currently invest \$35 billion annually in highway construction. This is \$15 billion less than is needed to keep up with deterioration and \$33 billion less than the amount estimated to keep ahead of growth, change, and congestion.

Nationally, our water and sewer management investment needs are in excess of \$138 billion.

The key question for us and for America is, how will we face these problems? We must address these problems in a way that is responsible, both to our commitment to a balanced budget and to the needs of States and local communities. It is vital that we find a funding source that is limited, stable and viable over an extended period of time.

I suggest that some of the principles of this new partnership of the Federal Government with State and local communities in meeting their education, transportation and environmental infrastructure needs would include these: We must form an expanded and long-term partnership. It must be a partnership built on a basic respect for the responsibilities of State and local government to make the key policy decisions.

It must also be built on a requirement that it be a true partnership with the States and as a condition of participation that they provide a matching source of funds to that which will come from the Federal Government and that they maintain their current level of effort so that this will truly be an additional effort toward meeting our unmet needs, not a substitution for current effort, and that there be maximum flexibility to the States in the form in which they choose to meet those needs and the priorities which they establish.

I am going to suggest, Mr. President, as we develop these concepts into legislation, that one of the most appealing ways in which to provide that stable and sustainable revenue source in order to be able to form this partnership is to utilize the 4.3 cents per gallon of motor fuels tax which was enacted in 1993 and which goes directly to the Federal Treasury, not as does most other federally imposed motor fuels tax into a highway trust fund. This revenue source is currently generating in excess of \$6 billion.

If States and local communities are willing to provide a substantial match to these funds—and I will suggest that that match should be in the ratio of one-third State and local to two-thirds Federal—the total effect of this Federal contribution for educational, transportation, environmental needs over the next 5 to 10 years could be in excess of \$200 billion, if these funds

were used as the basis of innovative financing methods.

Mr. President, this will have the potential of tremendous positive impact on our Nation's economy. Clearly, the economy will benefit by having children who are educated in appropriate environments. The country will benefit by having a transportation system that can meet our current and future needs that will not impose excessive costs due to congestion and inadequacy of facilities. Our Nation will be enhanced by having quality environmental systems that will protect our water and our air and our natural resources.

Those are some of the benefits. But in addition to those, a program of this scale will provide employment for literally hundreds of thousands of people, as we strive to construct these facilities that will have such positive long-term benefits.

Mr. President, in the next weeks I expect to continue to work with my colleagues in developing this into specific legislative proposals.

Our motorists and our Nation's commercial interests need safe, modern, and reliable highways. Our communities deserve responsible water and sewer and other environmental systems. Our children will require the best quality of educational facilities in order to achieve world-class standards of educational performance. We can wait no longer to meet the needs of this quiet crisis of deteriorating infrastructure in America. Now is the time to act. Thank you, Mr. President.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed for 15 minutes.

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

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 325, S. 326, and S. 327 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

#### BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. HOLLINGS. The distinguished Senator from Arkansas is right on target, it is the king of corporate welfare. The Senator from Arkansas has been at this for years trying to save the conscience of this particular body. I have been most interested in his factual, in-depth study and report to the Congress, and particularly here to us in the Senate. It is just astounding to me that it continues.

As he said, the public can hardly believe what he says. I want to turn to a subject that the public cannot believe, and that is what we say, because we have a funny way of talking about deficits. Specifically, if you look, Mr. President, at the budget message of the

President in the budget green book, fiscal year 1998, on page 2, and you want to see what the deficit is after the fifth year out, it says on page 2 at the bottom, "Surplus deficit." Why doublespeak? You would not get that from your accountant.

Do not, by gosh, make your income tax statement in April on the basis of surplus deficit, on budget/off budget, unified budget, unified deficit. But you will see here that they show a \$17 billion surplus on page 2. However, Mr. President, if you turn to page 331, buried in the back, you will find table S-16, "Federal Government Financing and Debt." All one needs do to ever determine a deficit is to just look at the increase, if you please, of the debt each year. If the debt stays the same, you

have a balanced budget. If the debt goes down, then you have a surplus. But, if the debt goes up, as it says on page 331, clearly you have a deficit. You can see that the debt in 2002 is \$6.6525 trillion on the line which says "Total gross Federal debt." Then, if you subtract the previous year's debt of \$6.4852 in 2001 from the 2002 figure of \$6.6525 trillion, you will get, of course, a \$167.3-billion deficit. This is not a surplus as you find on page 2, but a deficit, as it states on page 331. That is the real world, and it should be our real world. It should be our real world, Mr. President, because, otherwise, the discipline has broken here in this body. Specifically, if you are going to use some offset borrowing, it is like going

to the bank and the teller says, "Well, HOLLINGS, you don't have any money left," and I say, "Well, let me borrow from the next fellow's account over there and put it in mine."

So what we do for the unified budget is borrow from Social Security and highway trust funds. Let me give you the list, Mr. President. This chart lists each President since Harry Truman in 1945, the U.S. budget, the trust funds that are used, the real deficit, the gross Federal debt, and then the gross interest costs.

I ask unanimous consent to have this printed in the RECORD.

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

President/Year	U.S. budget (outlays) (in billions)	Trust funds	Real deficit	Annual deficit change	Gross Federal debt (billions)	Gross interest
Truman:						
1945	92.7	5.4	.....	.....	260.1	.....
1946	55.2	3.9	-10.9	.....	271.0	.....
1947	34.5	3.4	+13.9	.....	257.1	.....
1948	29.8	3.0	+5.1	.....	252.0	.....
1949	38.8	2.4	-0.6	.....	252.6	.....
1950	42.6	-0.1	-4.3	.....	256.9	.....
1951	45.5	3.7	+1.6	.....	255.3	.....
1952	67.7	3.5	-3.8	.....	259.1	.....
1953	76.1	3.4	-6.9	.....	266.0	.....
Eisenhower:						
1954	70.9	2.0	-4.8	.....	270.8	.....
1955	68.4	1.2	-3.6	.....	274.4	.....
1956	70.6	2.6	+1.7	.....	272.7	.....
1957	76.6	1.8	+0.4	.....	272.3	.....
1958	82.4	0.2	-7.4	.....	279.7	.....
1959	92.1	-1.6	-7.8	.....	287.5	.....
1960	92.2	-0.5	-3.0	.....	290.5	.....
1961	97.7	0.9	-2.1	.....	292.6	.....
Kennedy:						
1962	106.8	-0.3	-10.3	.....	302.9	9.1
1963	111.3	1.9	-7.4	.....	310.3	9.9
Johnson:						
1964	118.5	2.7	-5.8	.....	316.1	10.7
1965	118.2	2.5	-6.2	.....	322.3	11.3
1966	134.5	1.5	-6.2	.....	328.5	12.0
1967	157.5	7.1	-11.9	.....	340.4	13.4
1968	178.1	3.1	-28.3	.....	368.7	14.6
1969	183.6	-0.3	+2.9	.....	365.8	16.6
Nixon:						
1970	195.6	12.3	-15.1	.....	380.9	19.3
1971	210.2	4.3	-27.3	.....	408.2	21.0
1972	230.7	4.3	-27.7	.....	435.9	21.8
1973	245.7	15.5	-30.4	.....	466.3	24.2
1974	269.4	11.5	-17.6	.....	483.9	29.3
Ford:						
1975	332.3	4.8	-58.0	.....	541.9	32.7
1976	371.8	13.4	-87.1	.....	629.0	37.1
Carter:						
1977	409.2	23.7	-77.4	.....	706.4	41.9
1978	458.7	11.0	-70.2	.....	776.6	48.7
1979	503.5	12.2	-52.9	.....	829.5	59.9
1980	590.9	5.8	-79.6	.....	909.1	74.8
Reagan:						
1981	678.2	6.7	-85.7	[-6.1]	994.8	95.5
1982	745.8	14.5	-142.5	[-56.8]	1,137.3	117.2
1983	808.4	26.6	-234.4	[-91.9]	1,371.7	128.7
1984	851.8	7.6	-193.0	[-41.4]	1,564.7	153.9
1985	946.4	40.6	-252.9	[-59.9]	1,817.6	178.9
1986	990.3	81.8	-303.0	[-50.1]	2,120.6	190.3
1987	1,003.9	75.7	-225.5	[-77.5]	2,346.1	195.3
1988	1,064.1	100.0	-255.2	[-29.7]	2,601.3	214.1
Bush:						
1989	1,143.2	114.2	-266.7	[-11.5]	2,868.0	240.9
1990	1,252.7	117.2	-338.6	[-71.9]	3,206.6	264.7
1991	1,323.8	122.7	-391.9	[-53.3]	3,598.5	285.5
1992	1,380.9	113.2	-403.6	[-11.7]	4,002.1	292.3
Clinton:						
1993	1,408.2	94.2	-349.3	[-54.3]	4,351.4	292.5
1994	1,460.6	89.1	-292.3	[-57.0]	4,643.7	296.3
1995	1,514.4	113.4	-277.3	[-15.0]	4,921.0	332.4
1996	1,560.0	154.0	-261.0	[-16.3]	5,182.0	344.0
1997	1,632.0	130.0	-254.0	[-7.0]	5,436.0	360.0

Source: Historical Tables, "Budget of the U.S. Government FY 1996": Beginning in 1962 CBO's "1995 Economic and Budget Outlook."

Mr. HOLLINGS. Mr. President, you go down each year and—incidentally, when I got here, in 1966, there wasn't any unified budget, or unified deficit, or unified surplus. There wasn't anything unified. There wasn't any in 1967, 1968, and 1969. When they started that under President Johnson, they said

President Johnson started it as a gimmick. If you look at these figures, you will find out that President Johnson did have a surplus and a balanced budget—I voted for it; I was here then—and it did not use Social Security or any of the other trust funds.

Then, Mr. President, as I was saying, there is a table here of the different amounts used in this so-called unified budget, or deficit. In the year 1997, there was \$78 billion in Social Security moneys to reduce the size of that deficit; in 1998, \$81 billion; in 1999, \$88 billion; in 2000, \$94 billion; in the year

2001, \$98 billion; and in 2002, \$104 billion. That is a total of \$543 billion.

Now, I am a budgeteer. I am on the Budget Committee. I go in the room and I say: Well, now, are we going to really look at the debt and see if we've got this Government on a pay-as-you-go program, or are we going to play the gamesmanship? Oh, they have reporters running all around the world, to China, to find out whether or not they made a contribution in the Presidential election. But they don't have the integrity to report the facts, truth in budgeting. The discipline is broken. I go in as a budgeteer and you say: Wait a minute, you have \$543 billion, a half trillion bucks, over the next 6 years, and if I don't spend it for what I want, that fellow over there is going to spend it on defense; this one over here is going to spend it on foreign aid; the next one is going to spend it on the national parks. I might as well get my money to take back home. There is no discipline. There is no trust.

Obviously, the public has heard us talk ad nauseam about deficits and balancing budgets. And like old Tennessee Ernie sang, "Another day older and deeper in debt." We have these polls taken to see whether or not they trust us. I hope they don't because we are not giving them the truth in budgeting. I am trying my dead-level best here to list these amounts.

I ask unanimous consent that this particular table be printed in the RECORD.

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

Gross debt 1996 .....	5182	Gross debt 1997 .....	5436
Gross debt 1995 .....	4921	Gross debt 1996 .....	5182
Difference .....	261	Difference .....	254
		1996	1997
Deficit .....		107	124
Trust funds:			
Social Security .....		66	78
Medicare HI <sup>1</sup> .....		-4	-10
Medicare SMI .....		13	-5
Military Retirement .....		5	9
Civilian Retirement .....		28	28
Unemployment .....		6	7
Highways .....		3	3
Airports .....		-3	-4
Other .....		1	3
Additional borrowing:			
Banking .....		16	10
Treasury loans .....		23	11
Total trust funds and additional borrowing .....		154	130
Real deficit .....		261	254
Gross interest .....		344	360

<sup>1</sup> The HI part of Medicare is projected to go broke by 2001. Based on numbers reported by the Treasury Department.

Mr. HOLLINGS. You will find that in the 1997 budget we use \$78 billion from Social Security; military retirement, \$9 billion; civilian retirement, \$28 billion; unemployment compensation fund, \$7 billion; highways, \$3 billion; additional borrowings from banking, \$10 billion; Treasury loans, another \$11 billion.

So you can see the tremendous amounts that we do to obscure the size of that deficit. And this has been quite a problem for this particular Senator,

because I have been trying to get one vocabulary, if you please, so when we go into the Budget Committee we all talk the same language. Then, we can have "slush" funds instead of "trust" funds. We, very lightly, make a motion and say the money is there and we will use it there, and we will use the CPI and pick up a trillion dollars over 10 years. Oh, there are all kinds of gimmicks to use. I got an initiative in the formal statutory law, which was called a gimmick less than 24 hours ago by the distinguished chairman of the Budget Committee. I don't think the law is a gimmick.

I want to talk seriously about that, Mr. President, because we can go back to the National Commission on Social Security Reform in January 1983. You will find, under section 21, a majority of the national commission recommends that the operations of OASI, DI, HI, and SMI—the trust funds, Social Security trust funds—should be removed from the unified budget. In the operations, the Social Security trust funds have been included in the unified budget. However, by including Social Security trust funds in the annual budget process, it gives a false impression to the American public. The national commission believed that changes in the Social Security program should be made only for programmatic reasons and not for balancing the budget.

Then, they projected as the reason for removing it from the unified budget was to take Social Security from a pay-as-you-go program to building up surpluses—tremendous reserves—to take care of the baby boomers in the next century. They use the year 2056 in one instance and talk about protecting the fund for 75 years in another. Now, in all the litany from these reports and emergency committees that go around studying this, they are coming back in and saying it will be broke in the year 2029, not 2056 or 75 years out as the Greenspan Commission reported.

What should we do? We should reduce benefits and increase taxes. But do you know what happens? The trust fund surpluses created by the tax increases are spent on other programs. The Social Security taxes that we passed in 1983 were formally declared as revenues for Social Security surpluses, a trust fund for the baby boomers in the next century. They were certainly not to be used for defense, or foreign aid, or housing, or any of these other endeavors. But we are spending it for any and all purposes except Social Security. It is a dirty shame what is going on. You cannot get it reported. And the effect is on us immediately, not in the next century. The effect is this particular minute. We are running up these horrendous deficits and debt to the tune now—as you can see from the table that I put in—of \$1 billion a day in interest costs. It was only about \$1 billion a week when President Reagan came to town. He was going to balance the budget in 1 year. I can show you

the talk. He came to town and he says, "Oops. This is the way it works. I am going to balance it in 3 years." He came in with "Reaganomics." Brother, I can tell you the debt just went soaring through the ceiling. We had 210 years of history with the cost of all the wars, the Revolution, the War of 1812, the Civil War, the Spanish American War, the Mexican War, World War I, World War II, Korea, Vietnam—we had the cost of all the wars; we had 38 Presidents, Republican and Democrat; and we never got to a \$1 trillion debt. Yet, without the cost of a war in 15 years, we now have \$5.3 trillion in debt. That is the crowd around here talking about they are concerned about deficits and the next fellow is not.

When the Greenspan commission made this recommendation I was on the Budget Committee. I cosponsored and worked in a bipartisan fashion on Gramm-Rudman-Hollings. Then I went to work on really stopping this debt from soaring that nobody knew was soaring because we were using billions from the Social Security trust fund. And it took me until 1990, Mr. President, to do just exactly that. And in July of 1990, as a member of the Budget Committee, I made the motion that we do as the Greenspan commission had recommended and put it off budget; build up an accounting surplus. And the vote was 20 to 1.

I ask unanimous consent to include the vote in the RECORD at this particular point.

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

#### HOLLINGS MOTION TO REPORT THE SOCIAL SECURITY PRESERVATION ACT

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

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

Nays: Mr. Gramm.

Mr. HOLLINGS. Mr. President, therefore we had a vote on the floor of the U.S. Senate.

I ask unanimous consent to include in the RECORD that particular vote.

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

#### ROLLCALL VOTE NO. 283—OMNIBUS BUDGET RECONCILIATION

##### (Social Security Trust Funds)

YEAS (98):

Democrats (55 or 100%): Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Conrad, Cranston, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Harkin, Heflin, Hollings, Inouye, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pell, Pryor, Reid, Riegle, Robb, Rockefeller, Sanford, Sarbanes, Sasser, Shelby, Simon, and Wirth.

Republicans (43 or 96%): Bond, Boschwitz, Burns, Chafee, Coats, Cochran, Cohen,



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

NAYS (2):

Democrats (0 or 0%).

Republicans (2 or 4%): Armstrong and Wallop.

NOT VOTING (0):

Democrats (0).

Republicans (0).

Mr. HOLLINGS. Mr. President, 98 Senators in the U.S. Senate agreed with me. I will tell you, Mr. President, it was really interesting because I have never seen such a thing occur. We all went home in those campaigns and we talked about how we had finally put it into law. It was on November 5, 1990, that George Herbert Walker Bush signed that into law. That is the formal section of the Budget Act, section 13301. It says, "Thou shalt not use Social Security surpluses to obscure the size of the deficit." We wanted to have truth in budgeting. When I say 98 Senators, I counted up about 33 that are still here in the U.S. Senate that were there in 1990 voting for this.

Right to the point, here is the provision in the statute. It says:

Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old Age and Survivors Insurance trust fund shall not be counted as new budget authority, or as outlays, or as receipts, or deficits, or surplus for the purpose of the budget of the U.S. Government as submitted by the President, or for the purposes of the congressional budget, or for the purposes of the Balanced Budget and Emergency Deficit Control Act.

When we passed that, the distinguished Senator—and there is no one I have greater respect for, and he is my friend, and I am his friend—came on the floor yesterday, the chairman, the Senator from New Mexico, Senator DOMENICI, and he came on the floor yesterday late in the evening, and it is one of the things that prompted my appearance here this afternoon. Let me quote from page S. 1294 of the CONGRESSIONAL RECORD of February 12:

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 funds surpluses for anything they want. It is no longer subject to any budget discipline. It is out there by itself.

Senator DOMENICI is totally mistaken.

Let me quote the real Senator DOMENICI. Here is the report, and I refer to the Social Security Preservation Act of July 10, 1990, and the additional views of Mr. DOMENICI.

I ask unanimous consent that the entirety be included in the RECORD.

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

#### ADDITIONAL VIEWS OF MR. DOMENICI

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

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

The best way to protect Social Security is to reduce the Federal budget deficit. We need to balance our non-Social Security budget so that the Social Security trust fund surpluses can be invested (by lowering our national debt) instead of used to pay for other Federal operating costs. We could move toward this goal without changing the unified budget, a concept which has served us well for over twenty years now.

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

Of course, I also understand that we might be able to restore some public trust by taking Social Security out of the deficit calculation. Trust that we in Congress are not "masking the budget deficit" with Social Security. That is why I believe we should take Social Security out of the deficit, but only if we provide strong protection against spending the trust fund reserves. We need a "firewall" around those trust funds to make sure the reserves are there to pay Social Security benefits in the next century. Without a "firewall" or the discipline of budget constraints, the trust funds would be unprotected and could be spent on any number of costly programs.

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

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

Furthermore, the Hollings bill says nothing about how or when we will achieve balance in the non-Social Security budget. The bill simply takes Social Security out of the deficit calculation. If enacted, the Hollings bill would require \$173 billion in deficit reduction in 1991 to meet the statutory GRH target (see attached table). Obviously, that is not going to happen.

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

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

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

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

Mr. HOLLINGS. I quote:

We need to balance our non Social Security budget so that the Social Security trust funds surpluses can be invested by lowering our national debt instead of using it to pay for other Federal operating costs. If we take Social Security without any new protection for the trust funds, Congress could spend the reserves without facing new spending cuts or revenue increases in other programs, and, if we spend the trust fund reserves today, we will threaten the solvency of the Social Security program putting at risk the benefits we have promised to today's workers.

Then the Senator goes on to submit firewall protection. He said this particular statute is not enough. Here he is adamant about this statute, says it is necessary, says it has to be done so you can't use the money for anything else. Yet he insists now using the money for anything else as just hunky-dory, and the law itself is a gimmick.

Let me make sure so they don't have to look it up, subtitle C, section 1301.

I ask unanimous consent to include it in the RECORD.

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

EXCERPT FROM PUBLIC LAW 101-508

SUBTITLE C—SOCIAL SECURITY

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

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

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of

the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title."

Mr. HOLLINGS. Mr. President, that is pretty serious business when the distinguished chairman of your own Budget Committee, who is supposed to lead the discipline, leads the nondiscipline.

I have laid it on the line. When you spend these moneys to obscure the size of the deficit, thereupon that discipline is broken because you are spending it. We have already spent about \$570 billion, at this particular point, Mr. President, and by the year 2002 we will owe over \$1 trillion. In any of these budgets that will be debated here this year, we will use over \$1 trillion of Social Security trust funds to balance the budget.

(Mr. FRIST assumed the chair.)

Mr. HOLLINGS. I stood here with the distinguished Senator from New Mexico, the chairman of our Budget Committee, 2 years ago and said if you can give me a balanced budget by the year 2002, without increasing taxes, I will jump off the Capitol dome.

Right to the point, we have tried our best, Senator DORGAN, myself and others—there are five of us—and I ask unanimous consent to include in the RECORD a letter dated March 1, 1995, where five of us said just reiterate the law rather than repeal the law.

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

U.S. SENATE,

Washington, DC, March 1, 1995.

Hon. ROBERT J. DOLE,  
Majority Leader, U.S. Senate,  
Washington, DC.

DEAR MR. LEADER: We have received from Senator Domenici's office a proposal to address our concerns about using the Social Security trust funds to balance the Federal budget. We have reviewed this proposal, and after consultations with legal counsel, believe that this statutory approach does not adequately protect Social Security. Specifically, Constitutional experts from the Congressional Research Service advise us that the Constitutional language of the amendment will supersede any statutory constraint.

We want you to know that all of us have voted for, and are prepared to vote for again, a balanced budget amendment. In that spirit, we have attached a version of the balanced budget amendment that we believe can resolve the impasse over the Social Security issue.

To us, the fundamental question is whether the Federal Government will be able to raid the Social Security trust funds. Our proposal modifies those put forth by Senators Reid and Feinstein to address objections raised by some Members of the Majority. Specifically, our proposal prevents the Social Security trust funds from being used for deficit reduction, while still allowing Congress to make any warranted changes to protect the solvency of the funds. The prior language of the Reid and Feinstein amendments

was not explicit that adjustments could be made to ensure the soundness of the trust funds.

If the Majority Party can support this solution, then we are confident that the Senate can pass the balanced budget amendment with more than 70 votes. If not, then we see no reason to delay further the vote on final passage of the amendment.

Sincerely,

BYRON L. DORGAN,  
ERNEST F. HOLLINGS,  
WENDELL H. FORD,  
HARRY M. REID,  
DIANNE FEINSTEIN.

Mr. HOLLINGS. That is why I ask unanimous consent also in addition to the letter that we include Senate Joint Resolution 1.

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

S.J. RES. 1

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

"ARTICLE—

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

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

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

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

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

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

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

"SECTION 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later."

Mr. President, it is impossible for them on the other side of the aisle, or anybody else, to provide a budget that would be balanced in the year 2002 without increasing taxes. That is not a

daring statement to make because all you have to look at is the chart that I included, and you see the gross interest cost for the fiscal year in 1997, the year we are in, is estimated to be at \$360 billion. That is \$1 billion a day. No one has in mind over that 5-year period of cutting \$360 billion. Nor do I recommend, necessarily, that you cut that amount, but it is going to have to be a combination of cuts, freezes, and increased taxes if we are to reach the balanced budget—and perhaps foregoing some new programs.

When they all talk about these tax cuts that they have in mind for families here and families there and students here and everything else, there are no taxes to cut. We are operating and have been operating in deficit mode in such a disastrous fashion, as in a downward spiral. The spending is on automatic pilot that must occur for interest costs on the national debt faster than we can possibly raise any revenues or cut any spending. That ought to be clearly understood.

The best way to raise taxes is to continue on this course because you continue to raise interest costs. When you raise the debt, you raise the interest costs, which is added, of course, to the debt, which increases the debt, which increases the interest costs that must be paid just like taxes.

So the surreptitious way in order to raise taxes is to continue on this particular path. That is why I have called for truth in budgeting so that everyone would understand that it is not a gimmick when we come up here and talk about the 1990 law. There is no criminal penalty for violating it, but maybe we will have to get some court injunctions or something of that kind to forego this reporting of a unified budget for the simple reason that there is no basis in law for that. There is only the basis in law that we must report the deficit without the use of Social Security trust funds in order to show the true deficit. Now, that is the law today, but they continue to call it a gimmick.

Now, what happens here in Senate Joint Resolution 1, if you see section 7, Mr. President, it says, "Total receipts shall include all receipts of the U.S. Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except those for the repayment of debt principal."

That particular section 7 thereby repeals section 13301, the Social Security protection. The trust fund is immediately made a slush fund constitutionally. And then, Mr. President, the way the particular Senate Joint Resolution 1 reads in section 1, "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year."

Now, Mr. President, that being the case, you have to get a three-fifths vote to succeed. If total outlays shall not exceed total receipts, you cannot use the Social Security trust fund surpluses. You can get what you would ordinarily call a balanced budget, but

you have to either cut spending or increase taxes in order to pay the Social Security recipients. You can't use the surplus.

Now, that is pointed out, Mr. President, in a very dramatic fashion, by the Center on Budget and Policy Priorities back in January, which I included in the RECORD at that particular time. Let me read this paragraph.

I ask unanimous consent that the report be printed in the RECORD.

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

#### THE BALANCED BUDGET AMENDMENT AND SOCIAL SECURITY

In recent years, Congress has considered two versions of the balanced budget amendment. The version supported by the Republican Congressional leadership (herein termed the "Leadership version") requires the "unified budget" to be balanced each year, including Social Security. The other version, which Senators Wyden, Feinstein, Dorgan and others introduced in the last Congress, requires the budget exclusive of Social Security to be in balance.

The version that includes Social Security in the unified budget poses serious dangers for the Social Security system. It also is inequitable to younger generations, as it would likely cause those who are children today to be saddled with too heavy a tax load when they reach their peak earnings years. The Wyden/Feinstein version does not pose those problems.

#### BACKGROUND

In coming decades, Social Security faces a demographic bulge. The baby boomers are so numerous that when they retire, the ratio of workers of retirees will fall to a low level.

This poses a problem because Social Security has traditionally operated on a "pay-as-you-go" basis. The payroll taxes contributed by today's workers finance the benefits of today's retirees. Because there will be so many retirees when the baby boomers grow old, however, it will be difficult for workers of that period to carry the load without large increases in payroll taxes.

The acclaimed 1983 bipartisan Social Security commission headed by Alan Greenspan recognized this problem. It moved Social Security from a pure "pay-as-you-go" system to one under which the baby boomers would contribute more toward their own retirement. As a result, the Social Security system is now building up surpluses. By 2019, these surpluses will equal \$3 trillion. After that, as the bulk of the baby boom generation moves into retirement, the system will draw down the surpluses. This is akin to what families do in saving for retirement during their working years and drawing down their savings when they retire.

This approach has important merits. It promotes generational equity by keeping the burden on younger generations from becoming too high. In addition, if the Social Security surpluses were to be used in the next two decades to increase national saving rather than to offset the deficit in the rest of the budget, that would likely result in stronger economic growth, which in turn would better enable the country to afford to support the baby boomers when they reach their twilight years.

To pursue this approach, the tasks ahead are to reduce significantly or eliminate the deficit in the non-Social Security budget so that the surpluses in the Social Security trust funds contribute in whole or large part to national saving, and to institute further reforms in Social Security to restore long-

term actuarial balance to the Social Security system. Restoring long-term balance will almost certainly entail a combination of building the surpluses to somewhat higher levels and reducing somewhat the benefits paid out when the boomers retire.

#### THE LEADERSHIP BBA AND SOCIAL SECURITY

Unfortunately, the balanced budget amendment pushed by the Leadership would undermine this approach to protecting Social Security and promoting generational equity. Under this version of the BBA, total government expenditures in any year—including expenditures for Social Security benefits—could not exceed total revenues collected in the same year. The implications of this requirement for Social Security are profound. It would mean that the Social Security surpluses could not be used to cover the benefit costs of the baby boom generation when it retires. The benefits for the baby boom generation would instead have to be financed in full by the taxes of those working in those years. The Leadership version thus would eviscerate the central achievement of the Greenspan commission.

The reason the Leadership version would have this effect is that even though the Social Security trust funds would have been accumulating large balances, drawing down those balances when the baby boomers retire would mean that the trust funds were spending more in benefits in those years than they were taking in in taxes. Under the Leadership version, that would result in impermissible deficit spending.

By precluding use of the Social Security surpluses in the manner that the 1983 legislation intended, the Leadership version would be virtually certain to precipitate a massive crisis in Social Security about 20 years from now, even if legislation had been passed in the meantime putting Social Security in long-term actuarial balance. Since the \$3 trillion surplus could not be used to help pay the benefits of the baby boom generation, the nation would face an excruciating choice between much deeper cuts in Social Security benefits than were needed to make Social Security solvent and much larger increases in payroll taxes than would otherwise be required. The third and only other allowable alternative would be to finance Social Security deficits in those years not by drawing down the Social Security surplus but instead by slashing the rest of government so severely that it failed to provide adequately for basic services, potentially including the national defense.

Given the numbers of baby boomers who will be retired or on the verge of retirement in those years, deep cuts in Social Security benefits are not likely at that time. Thus, under the leadership BBA, it is almost inevitable that younger generations will face a combination of sharp payroll tax increases and deep reductions in basic government services.

For these reasons, the Leadership BBA is highly inequitable to younger generations. Aggravating this problem, the Leadership version would undermine efforts to pass Social Security reforms in the near future. Why should Congress and the President bother to make hard choices now in Social Security that would build the surpluses to more ample levels if these surpluses can't be used when the boomers retire? Under the leadership BBA, there is no longer any reason to act now rather than to let Social Security's financing problems fester.

#### LEADERSHIP BBA ALSO POSES OTHER PROBLEMS FOR SOCIAL SECURITY

Under the Leadership version, reductions in Social Security could be used to help Congress and the President balance the budget when they faced a budget crunch. This could

lead to too little being done to reduce or eliminate deficits in the non-Social Security part of the budget and unnecessary benefit cutbacks in Social Security.

At first blush, that may sound implausible politically. But the balanced budget amendment is likely to lead to periodic mid-year crises, when budgets thought to be balanced at the start of a fiscal year fall out of balance during the year, as a result of factors such as slower-than-expected economic growth. When sizable deficits emerge with only part of the year remaining, they will often be very difficult to address. Congress and the President may be unable to agree on a package of budget cuts of the magnitude needed to restore balance in the remaining months of the year. Congress also may be unable to amass three-fifths majorities in both chambers to raise the debt limit and allow a deficit.

In such circumstances, the President or possibly the courts may feel compelled to act to uphold the Constitutional requirement for budget balance. In documents circulated in November 1996 explaining how the amendment would work, the House co-authors of the amendment—Reps. Dan Schaefer and Charles Stenholm—write that in such circumstances, "The President would be bound, at the point at which the 'Government runs out of money' to stop issuing checks." This would place Social Security benefits at risk.

#### THE WYDEN/FEINSTEIN APPROACH

The Wyden/Feinstein approach resolves the problems the Leadership version creates in the Social Security area. It reinforces the 1983 Social Security legislation rather than undermining that legislation. It does so both by requiring that the surpluses in the Social Security system contribute to national saving rather than be used to finance deficits in the rest of the budget and by enabling the surpluses to be drawn down when the baby boomers retire.

The Wyden/Feinstein amendment thus improves intergenerational equity rather than undermining it. It ensures the surpluses will be intact when they are needed, rather than lent to the government for other purposes in the interim.

The amendment also ensures that Social Security benefits will not be cut—and Social Security checks not placed in jeopardy—if the balanced budget amendment leads to future budget crises and showdowns. However those crises would be resolved, Social Security would not be involved, because cuts in Social Security would not count toward achieving budget balance.

Mr. HOLLINGS. Quoting on page 2:

Under this version of the balanced budget amendment, total Government expenditures in any year, including expenditures for Social Security benefits, could not exceed total revenues collected in the same year. The implications of this requirement for Social Security are profound. It would mean that Social Security surpluses could not be used to cover the benefit costs of the baby-boom generation when it retires. The benefits for the baby-boom generation would, instead, have to be financed in full by the taxes of those working in those years.

Continuing to quote:

The leadership version, thus, would eviscerate the central achievement of the Greenspan Commission.

Mr. President, that is followed up, finally, here, of course, with the Congressional Research Service, which on February 5, came out with a report from the American Law Division.

I ask unanimous consent that this CRS report 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: \_\_\_\_\_  
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 affect 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.

CONGRESSIONAL RESEARCH SERVICE,  
THE LIBRARY OF CONGRESS,  
Washington, DC, February 5, 1997.

To: Honorable Thomas A. Daschle, Attention: Jonathan Adelstein.  
From: American Law Division.  
Subject: Treatment of Outlays from Social Security Surpluses under Balanced Budget Amendment.

This memorandum is in response to your inquiry for an evaluation of an argument made in connection with interpretation of the proposed Balanced Budget Amendment (BBA), now pending in the Senate as S.J. Res. 1. Briefly stated, the contention is that the terms of the proposal, if proposed and ratified, would preclude, at a future time when Social Security outlays in a particular year begin to exceed Social Security receipts in that particular year, the use of surpluses built up in the Social Security trust funds to pay out benefits.

At the present time, surpluses are being accumulated in the Social Security trusts funds, at least as an accounting practice, as

a result of changes made in 1983. It is expected that when the receipts into the funds fall below the amount being paid out that moneys from the surpluses will be used to make up the differences.

The BBA would have its impact on this legislated plan because under §1 of the proposal "[t]otal outlays for any fiscal year shall not exceed total receipts for that fiscal year. . . ." Under §7 of the BBA, the two terms are defined thusly: "Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal."

Therefore, under the BBA's language, there is mandated a balance in each year of the outlays that year and the receipts that year. Payments out of the balances of the Social Security trust funds would not be counted as Government receipts under the BBA, when in the year 2019, or whenever the time occurs, the receipts in those particular years into the Social Security funds are not adequate to cover the outlays in those years. That is, payments out of the trust fund surpluses could not be counted in the calculation of the balance between total federal outlays and receipts. Because the BBA requires that the required balance be between outlays for that year and receipts for that year, the moneys that constitute the Social Security surpluses would not be available as a balance for the payments of benefits.

Now, of course, this does not mean that Social Security benefits could not be paid. If the rest of the receipts into the Treasury for a particular year exceed outlays, this amount could be used to offset the Social Security deficit. And, again of course, tax or expenditure provisions, or both, could be altered to create a new balance.

JOHNNY H. KILLIAN,  
Senior Specialist,  
American Constitutional Law.

Mr. HOLLINGS. I quote from this:

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

Now, Mr. President, we are talking about serious matters—the American Law Division, the priorities on budgets. You have a very serious matter which has been called by the chairman of the Budget Committee a "gimmick."

I ask unanimous consent that at this particular time the letter of the distinguished Senator from New Mexico, dated January 13, be printed in the RECORD.

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

U.S. SENATE,  
Washington, DC, January 13, 1997.

DEAR REPUBLICAN COLLEAGUE: We are likely to debate early in the 105th Congress the Constitutional amendment to require a balanced federal budget. When that debate begins, some Senators will push to remove Social Security from the balanced budget requirement.

I have always believed this effort to exempt Social Security from the Constitutional amendment was more of a diversion than anything else. It is raised to confuse the debate and provide a rationale for some to oppose the effort.

Nonetheless, in preparation for debate in the Senate, I thought it was important to review with you the consequences of such a proposal so that we can all effectively debate it using facts.

One of the arguments made by those who push for excluding Social Security from the balanced budget amendment is that excluding Social Security will force us to "save" the Social Security surpluses and therefore enhance fiscal responsibility.

This is only a very small part of the story.

It is true that Social Security is currently running surpluses, and these surpluses offset deficit spending in the rest of the budget. If the balanced budget requirement excludes Social Security, we would be required by the Constitution to achieve balance in the "on-budget" portion of the federal government—which is everything except Social Security. The total or unified budget—which is the sum of the "on-budget" programs and Social Security—would therefore be in surpluses in amounts equal to the Social Security surpluses. Between 2002 and 2018, these surpluses would total \$1.2 trillion in 1996 dollars.

It should go without saying that, when we are amending the Constitution—now into its third century—we should take the long view. And in the long run, these near term Social security surpluses will be overwhelmed by massive, long-term Social Security deficits.

These deficits are projected to total \$9.3 trillion in 1996 dollars between 2019 and 2050, with a deficit of about \$630 billion in 2050 alone, again in constant 1996 dollars.

If it is true that excluding Social Security from the balanced budget amendment would force us to "save" the short-term surpluses, it is equally true that excluding Social Security would allow us to run massive budget deficits equal to the deficits that are projected to occur in the Social Security trust funds beginning in 2019.

These deficits would be real deficits—just like the deficits we are experiencing today. And they would have the same negative economic consequences: lower national savings, higher interests rates, lower investment and productivity, and sluggish growth. The only difference is that these deficits would be much larger than anything we have ever experienced, and therefore the consequences would be much worse.

Ironically, these massive and unprecedented deficits would be specifically sanctioned by an amendment to the Constitution calling for "balanced budgets" excluding Social Security. Congress could continue to pass so-called "balanced budgets" while running up massive new debt which would tremendously burden our economy.

The attachment chart shows graphically what I have just described. "On-budget" would show a zero deficit throughout the time period, as required by the Constitution. The total budget which includes Social Security would show surpluses for two decades or so followed by massive and unprecedented deficits.

It should be obvious from this analysis that, contrary to assertions by some who want to exclude Social Security, such a move will weaken fiscal responsibility, not strengthen it.

Sincerely,

PETE V. DOMENICI.

Mr. HOLLINGS. Mr. President, I read on the first page of that letter the last line:

It is equally true that excluding Social Security would allow us to run massive budget deficits equal to the deficits that are projected to occur in the Social Security trust funds beginning in 2019. These deficits would be real deficits.

That is what I am talking about, real deficits, not gimmicks. When you borrow from one to minimize the size of the other; namely, the deficit itself, then you really mislead the real deficit; you misreport it. Again, on yesterday, the distinguished leader for the balanced budget amendment to the Constitution, the distinguished Senator from Utah [Mr. HATCH], said on page S1336:

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.

That is not the case. Only one law passed in 1990. It is not a different section. He said:

This is confusing:

Well, the statement made by the distinguished Senator from Utah is what 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.

How? This is in violation of the 1990 law. If we had an enterprising free press, a media who would go for truth in budgeting so that the public would be properly and accurately informed, the Members themselves would begin to command discipline rather than broken discipline when deficits are misreported. Mr. President, you can see what we really have here.

Now, they come, of course, and say that what really has occurred is that this is a vote for the senior citizens. Not at all. I readily acknowledge that Social Security is the senior citizens' program and they are vitally interested in it. But between Medicare and Social Security, the present-day recipients have yet to be heard from. I haven't heard from them. I have asked why not. Of course, the obvious reason, Mr. President, is they are going to get their money. They know they are going to be paid right now. So they are putting all their efforts on saving Medicare and health costs and could care less about the baby-boom generation. In contrast, the baby-boom generation are being told they are not going to get it, so why should they show any kind of interest in the thing that they say is not going to be there for them anyway?

And the politicians sometimes say: Why should we concern ourselves about the baby-boom generation? Why should we not look to the next election rather than the next generation? Of course, that occurs. They look just to the next election.

This particular initiative—the amendment that will be presented by the distinguished Senator from Nevada, Senator REID—is not a gimmick. It is based in law. It is one worked on by the Senator from Utah, who voted for it, the Senator from New Mexico, who voted for it and said it has serious purpose. He did not call it a gimmick in 1990. We thought we had it all down and understood. But that's what happens when they go out to Andrews Air Force Base. They went out there in 1990 and they repealed the targets of

Gramm-Rudman-Hollings. So often, having been a principal cosponsor, I am asked, "Senator, what about Gramm-Rudman-Hollings?" Oh, no, Gramm-Rudman-Hollings was working. We had an automatic cut across the board, and they eliminated it. I made the point of order at 1:15 in the morning on October 21, 1990, that is exactly what they were doing. They voted that point of order down. So don't come to me and say Gramm-Rudman-Hollings didn't work. It worked and would have continued to work had they not repealed it in 1990.

My final statement is to the effect that the distinguished President of the United States, for 10 years prior to his arrival here for his first term in 1993, spent 10 years balancing budgets down in Arkansas. He is the only President since Lyndon Baines Johnson balanced this budget in 1968 and 1969 to reduce the deficit 4 consecutive years. President Clinton is the only President who has come to Washington and lowered the deficit. Listen to that statement.

He has lowered it each year and every year. Yet, there is a crowd here on the Senate floor which keeps running around in a circle like the President is a tax-and-spend liberal Democrat when they are the ones that tripled—excuse me, quadrupled—excuse me, quintupled the Federal debt. Five times \$1 trillion is \$5 trillion. It was less than \$1 trillion when Ronald Reagan came to town. Now it is \$5.3 trillion. They are the ones, not President Clinton, that ran up this horrendous debt that is causing us to spend \$1 billion a day in interest costs which increases taxes \$1 billion a day. Because you add it to the debt, you have to pay for it, and it is a subtle way of increasing taxes. And running around fussing at the President saying, "Where is his balanced budget? And he has not balanced it." Where is their budget? I am looking for one. I am on the Budget Committee. I attend meetings. I look around. They don't have a budget.

It is wheeling and dealing, and all these other things going on. If that is what we are going to have, let us get rid of the Budget Committee so we can put our effort and time somewhere else. But that is the gamesmanship that is being played. They don't want to put up a budget because they know that budget will show massive tax cuts in that 5-year period being offset by cuts in Medicare. And on up and up and away the deficit goes.

So I think the gamesmanship as we go on our break here in February ought to conclude. Let us get their budget. Let us compare the two budgets like we do in the regular sense of the word, reconcile the differences, and go forward with the work of the American people.

Mr. President, I thank the distinguished Senator from North Dakota.

I yield the floor.

I yield back the remainder of my time.

Mr. HATCH. Mr. President, I would like to take this time to briefly re-

spond to Senator HOLLINGS concerning his remarks claiming that passage and ratification of the balanced budget amendment would harm the Social Security Program. As did Senators DORGAN, REID, and CONRAD at a press conference held yesterday, Senator HOLLINGS claimed that a one-page memorandum, dated February 5, 1997, 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. This is alleged to be true because the balanced budget amendment would not allow the present day surplus to be used in the future when the program goes into the red to pay benefits. The problem is that the CRS memorandum did not conclude that at all.

All the CRS memorandum concluded was that Social Security existing surpluses after 2019—the year the program no longer produces surpluses because of the retirement of the baby boomers—could not be used to fund the program unless benefit expenditures were offset by revenue or budget cuts. Of course this is technically true. That's what a balanced budget does. It balances outlays and receipts in a given year, and expenditure of any part of the budget is an outlay. Despite what Senator HOLLINGS alleges today, and Senators CONRAD, DORGAN, and REID claimed yesterday at their press conference, under current law, assets of the Federal Treasury could be drawn upon to ensure payments to beneficiaries today and when the system starts running annual deficits.

To clear-up the confusion that the Conrad-Dorgan-Reid press conference created about the February 5 CRS memorandum, which Senator HOLLINGS has apparently bought into, CRS produced another memorandum at Senator DOMENICI's request. I want to thank Senator DOMENICI for requesting this new CRS memorandum—dated February 12, 1997. This memorandum clearly states—and I quote—"We [that is CRS] are not concluding that the trust fund surpluses could not be drawn down to pay beneficiaries. The balanced budget amendment would not require that result."

Senator HOLLINGS and the other 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 merely "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. There exists no separate Social Security trust fund separate from the budget. 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. This is the safest investment that exists.

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 the Social Security funds in every one of his budgets. Did Senators HOLLINGS, CONRAD, DORGAN, and REID oppose this?

Senator HOLLINGS also denies that we have a unitary budget. He says that the 1990 Budget Enforcement Act [BEA] placed Social Security off-budget. That, in fact, we have two budgets—one for Social Security and one for the rest of the Nation. Let me expand on the remarks I made yesterday concerning the 1990 Budget Enforcement Act and explain why Senator HOLLINGS position is false. Under section 13301(a) of the act, the receipts and outlays of the Social Security trust funds are indeed not counted in both the President and Congress' budgets. So it is off-budget, but for only certain specific reasons. The primary purpose for this exclusion was to exempt Social Security from sequestration by the President under the Gramm-Rudman-Hollings procedures and from the act's pay-as-you-go requirement. In addition, as added protections, sections 13302 and 13303 of the BEA also created firewall point-of-order protections for the Social Security trust funds in both the House and Senate. Nevertheless, this does not preclude both Congress and the President from formulating a unitary budget—that includes Social Security trust funds—for national fiscal purposes.

Look, I recognize that Social Security is in danger. But the problem is not the inclusion Social Security funds in the budget. The problem is that with the retirement of baby boomers, there will not be enough FICA taxes to fund their retirement. CRS, in an other study, concluded that the present day surpluses would not be sufficient to resolve this problem. These Senators never mention that. CRS also concluded that the Social Security Program needs to be fixed.

Indeed, not including Social Security in the budget would harm the program. Congress would rename social programs—as they have done before—as Social Security and use the FICA taxes to fund these programs. Then you'll really see the program raided.

My colleagues problem—in reality—is not with the balanced budget amendment, but with the problems the Social Security Program faces. We need to fix that and adopting the balanced budget amendment is a good start.

#### ORDER OF PROCEDURE

The PRESIDING OFFICER [Mr. COATS]. The Senator from South Caro-

lina will be advised that the time for morning business has expired.

Mr. HOLLINGS. No; I was told otherwise. When he took the 8 minutes, I was told that the Chair had given me past 3. It was from 2:30 to 3:15, 45 minutes.

Mr. LOTT. Mr. President, will the Senator from South Carolina yield to allow me to address it? If I could get him to allow me to get consent with regard to the milk resolution, I would like to ask unanimous consent that following the resolution of this issue, the Senator from South Carolina resume his discussion at that time.

Mr. HOLLINGS. Right.

Mr. LOTT. So I propound that unanimous-consent request.

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

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I ask unanimous consent that the Senate now proceed to the consideration of a Senate resolution submitted by Senator SPECTER regarding milk prices. I further ask consent there be 15 minutes for debate divided as follows, Senator SPECTER allocated 5 minutes, Senator KOHL allotted 5 minutes, and Senator FEINGOLD 5 minutes. I ask that following the expiration or yielding back of that time the Senate proceed to vote on adoption of the resolution all without further action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, reserving the right to object—

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Pro forma, and I shall not, we have colleagues about to catch the plane so I would ask, if the distinguished majority leader considers it appropriate, to vote and argue immediately after the vote or immediately following Senator HOLLINGS' reserved time.

Mr. LOTT. I think in order to do that we need to get Senator KOHL to agree and he is literally on his way, so we cannot actually reach him. If we go ahead and get started, we can have debate time and have a vote and accommodate Members who have commitments, if the Senator would allow us.

Mr. SPECTER. Mr. President, I would be glad to follow the suggestion of the distinguished majority leader, and I shall begin to speak to the issue for 5 minutes.

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

Mr. SPECTER. I would ask for that expedited schedule, if our colleague will yield.

Mr. HOLLINGS. All right.

Mr. LOTT. I yield the floor.

#### ADDRESSING THE DECLINE IN MILK PRICES

Mr. SPECTER. Mr. President, I send a substitute or amended resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 55) expressing the sense of the Senate regarding the need to address immediately the decline in milk prices.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this resolution is being submitted on behalf of Senators SANTORUM, FEINGOLD, KOHL, JEFFORDS, LEAHY, WELLSTONE, SNOWE, and COLLINS.

It follows activity which Senator SANTORUM and I had undertaken in our State where the farmers have been very hard hit by low milk prices and rising costs of production, so that many, many farmers are near bankruptcy.

It is my understanding that this is a national problem, not only a problem in Pennsylvania. On Monday of this week, Secretary of Agriculture Dan Glickman went to northeastern Pennsylvania and heard from a large assembly of farmers, estimated at some 500, and heard firsthand the plight of those farmers, again, as I say representative of the Nation.

We all know that we rely upon the farmers for our supply of food. We know how important milk is in that supply. And we have a large group of farmers who laid it on the line in very emphatic and dramatic terms about their impending bankruptcy, the hard times they were facing because the price of milk had dropped so precipitously from \$15.37 per hundredweight in September to \$11.34 cents per hundredweight in December 1996, all the time costs going up.

In our inquiry on this issue, we found that a key ingredient on the pricing of milk was the price of cheese, and that the price of cheese had been established by the Green Bay Cheese Exchange, and that the price on the Green Bay Cheese Exchange might not be realistic of the accurate market price. If the price of cheese is raised by 10 cents, it means there would be a rise in the price of milk \$1 per hundredweight.

I do believe that the Secretary of Agriculture is sympathetic to this issue and would like to ascertain the accurate price of cheese.

It is my thought, Mr. President, from all that I know, and it has to be verified, that the price of cheese is priced unreasonably low at this time by the Green Bay Exchange; therefore, the Green Bay Exchange's price of cheese is really not the price of cheese.

This resolution maintains that it is the sense of the Senate that the Secretary of Agriculture should consider acting immediately pursuant to his legal authority to modify the basic formula price for dairy by replacing the national cheese exchange as a factor to be considered in setting the basic formula price.



This resolution has been filed pursuant to the leadership initiated by my colleague, Senator SANTORUM, who traveled to northeastern Pennsylvania several weeks ago. I went this past Monday. And I think it will put us on a track to show that something can be done immediately. When I say immediately, within the course of the next several weeks.

It had been my hope that we might have been able to make some modification in the price of cheese to have even faster action by the Secretary of Agriculture. But considering the fact that this resolution was drafted on Monday morning and has gone through considerable analysis by a number of Members of the Senate—and I thank my colleagues for their prompt attention to this issue—we are moving now very, very rapidly.

In conclusion, Mr. President, let me point out that there was an extensive study of the Green Bay Cheese Exchange made at the request of the Secretary of Agriculture of the State of Wisconsin, and there were some indications there that because of the limited amount of cheese which was traded there, there was an opportunity to have a price established which was not genuinely a market price. The amount of cheese traded at Green Bay was less than one-half of 1 percent, and where you have such a limited exchange rate and with people at the scene who have a considerable interest in having a lower price of cheese, that result may not have represented the accurate market price of cheese.

The Secretary of Agriculture has the authority unilaterally to make a modification on the price of cheese if he develops an evidentiary base from other transactions which lead him to conclude that is not the fair market price of cheese, and I believe that to be the case. The Secretary of Agriculture had previously initiated the process on informal rulemaking, which would take some considerable period of time. But he does have the authority.

If we may vote at this time, Mr. President, I will conclude.

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

Mr. KOHL. Mr. President, I want to thank the Senator from Pennsylvania for his efforts on this issue.

The Cheese Exchange is of great concern to all dairy farmers nationwide, because it is a market that is very thinly traded, completely unregulated, and has a great deal of influence on the prices that farmers are paid for their milk.

That's why my colleague from Wisconsin, Senator FEINGOLD and I have been working to reduce the influence of the Cheese Exchange. Both Senator FEINGOLD and I introduced legislation on this matter last week. Ultimately, what we need to do is find an alternative price discovery mechanism that is more reflective of market conditions, and less subject to manipulation.

And we have two initiatives underway that could form the basis for new price discovery mechanisms.

First, we've worked with Secretary Glickman to start a new cheese price survey, to survey cheese plants nationwide, to get a better view of prices paid for cheese. If done right, this could be very useful as a price discovery mechanism. But there's still some issues that need to be ironed out.

And second, we've asked other exchanges such as the Coffee, Sugar, Cocoa Exchange to explore the possibility of creating a new cash market for cheese. Again, if this is done right, it could be very useful as a new price discovery mechanism.

But in the short term, the Senator from Pennsylvania is right, we need to delink the National Cheese Exchange from the farmers' milk prices, and we need to do that as soon as possible. Two weeks ago, the Secretary of Agriculture announced a 60-day comment period on that exact proposal. The trick will be to find a new equivalent price mechanism, to take it's place. We need to find a new mechanism that is credible, or we'll merely make matters worse.

So I thank the Senator from Pennsylvania, and I look forward to working with him on this issue, which has been a longstanding concern of mine. As far as I'm concerned, the more Senators become aware of this problem and join our efforts, the better.

Mr. FEINGOLD. Mr. President, I am pleased to join the Senator from Pennsylvania, Senator SPECTER, in submitting the Sense of the Senate Resolution directing the Secretary of Agriculture to take action to delink the National Cheese Exchange from the basic formula price established by USDA under Federal Milk Marketing Orders.

Dairy farmers have been concerned for many years about the role of the National Cheese Exchange, located in Green Bay, WI, in determining the price they receive for their milk. While the exchange has had an indirect influence on milk prices for many years, it also directly affects milk prices through USDA's basic formula price, established by regulation in 1995. For years, Wisconsin farmers have been concerned that the characteristics of the Exchange, outlined in this resolution, make it vulnerable to price manipulation. Those fears were confirmed by a March 1996 report by the University of Wisconsin Department of Agricultural Economics which found evidence supporting the allegations of manipulations. The concerns about manipulation and the influence of the exchange on milk prices nationally, were further heightened by the dramatic and unprecedented decline in cheese prices on the exchange last fall which led to a 26 percent decline in farm milk prices.

The senior Senator from Wisconsin Senator KOHL and I have been working to address the concerns of the UW report for the last 10 months and have introduced legislation to address the short- and long-term problems associated with the Cheese Exchange. The di-

rective of the resolution introduced by the Senator from Pennsylvania is also included in my bill S. 258, the Milk Price Discovery Improvement Act of 1997 which I introduced last week. My legislation goes beyond the directive in the resolution by seeking additional long term solutions to the lack of price discovery in milk markets and by establishing improved USDA oversight of the National Cheese Exchange. S. 256, introduced by the senior Senator from Wisconsin Senator KOHL, which I have cosponsored, would enhance the role of the Commodity Futures Trading Commission in National Cheese Exchange oversight as well.

The resolution we are introducing today, however, emphasizes the importance of quick action on this problem by the Secretary of Agriculture and I am pleased to welcome the Senator from Pennsylvania to our efforts to resolve this very difficult problem. Farmers have a right to expect that milk prices are determined fairly and without manipulation. The resolution introduced today is a step toward reducing the influence of the exchange on farm-level milk prices.

I urge my colleagues to support this resolution and to work with us toward the enactment of S. 258 and S. 256 as well.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Is the Senator from Pennsylvania propounding a unanimous consent request?

Mr. SPECTER. Mr. President, I am advised that I do have the authority to yield back the time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. SPECTER. Mr. President, 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 resolution.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX] is necessarily absent.

I also announce that the Senator from Vermont [Mr. LEAHY] is absent attending a family funeral.

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

The result was announced—yeas 83, nays 15, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—83

Abraham	Boxer	Cleland
Akaka	Bryan	Cochran
Ashcroft	Bumpers	Collins
Baucus	Burns	Conrad
Biden	Byrd	Coverdell
Bingaman	Chafee	D'Amato



Daschle	Hutchinson	Nickles
DeWine	Hutchison	Reed
Dodd	Inhofe	Reid
Domenici	Inouye	Robb
Dorgan	Jeffords	Rockefeller
Durbin	Johnson	Roth
Faircloth	Kennedy	Santorum
Feingold	Kerrey	Sarbanes
Feinstein	Kerry	Sessions
Ford	Kohl	Shelby
Frist	Landrieu	Smith, Bob
Glenn	Levin	Smith, Gordon H
Gorton	Lieberman	Snowe
Graham	Lott	Specter
Gramm	Lugar	Stevens
Grams	McCain	Thompson
Grassley	McConnell	Thurmond
Gregg	Mikulski	Torricelli
Hagel	Moseley-Braun	Warner
Harkin	Moynihan	Wellstone
Helms	Murkowski	Wyden
Hollings	Murray	

## NAYS—15

Allard	Coats	Kyl
Bennett	Craig	Lautenberg
Bond	Enzi	Mack
Brownback	Hatch	Roberts
Campbell	Kempthorne	Thomas

## NOT VOTING—2

Breaux	Leahy
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The resolution (S. Res. 55) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

## S. RES. 55

Whereas, during the last few months farm milk prices have experienced substantial volatility, dropping precipitously from \$15.37 per hundredweight in September, 1996 to \$11.34 per hundredweight in December, 1996;

Whereas, the price of cheese at the National Cheese Exchange in Green Bay, Wisconsin influences milk prices paid to farmers because of its use in the Department of Agriculture's Basic Formula Price under Federal Milk Marketing Orders;

Whereas, less than one percent of the cheese produced in the United States is sold on the National Cheese Exchange and the Exchange acts as a reference price for as much as 95 percent of the commercial bulk cheese sales in the nation; Now, therefore, be it

*Resolved*, That it is the Sense of the Senate of the United States that the Secretary of Agriculture should consider acting immediately pursuant to his legal authority to modify the Basic Formula Price for dairy by replacing the National Cheese Exchange as a factor to be considered in setting the Basic Formula Price.

The PRESIDING OFFICER. The majority leader is recognized.

## EXTENSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that upon the conclusion of Senator HOLLINGS' remarks, the period for morning business be extended with Senators permitted to speak therein for 5 minutes each, except Senator DORGAN for 30 minutes, Senator KERREY for 15 minutes, Senator DOMENICI for up to 30 minutes, and Senator GRAMM for up to 15 minutes.

I want to emphasize that Senator HOLLINGS goes forward with his remarks. I want to thank Members again for your cooperation in getting this vote done, and I want to confirm, as we have already notified Members as they come in, this is the last vote this week. There will be a vote at 5:30 on Monday.

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

(By unanimous consent, the remarks of Mr. HOLLINGS appear at an earlier point of today's RECORD.)

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from North Dakota has 30 minutes reserved.

The Senator from North Dakota is recognized.

(The remarks of Mr. DORGAN, and Mr. KERRY pertaining to the introduction of S. 331 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Texas is recognized.

## BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. GRAMM. Mr. President, we have seen the specter this week of our colleagues on the Democratic side of the aisle proposing to exempt additional programs from the balanced budget amendment to the Constitution: Social Security, emergency spending, veterans programs, housing programs, education, health and welfare programs, college aid and training programs, law enforcement programs, the Tennessee Valley Authority, highways, bridges, dams, roads, buildings, and it goes on and on. Given how far afield we have gone in this debate, I wanted to very briefly try to remind the Senate and those who are following this debate what this debate is about. This debate is about families making hard decisions at their kitchen table, trying to make ends meet. So I thought I would look today, at 28 years ago, the last year that we had a balanced budget in America.

The last time we had a balanced budget was in 1969. If you look at the front page of the Washington Post for Thursday, February 13, 1969, you can see that not very much happened in the world 28 years ago today when we had a balanced budget. But there was some very exciting news that day. The very exciting news was not on the front page; the very exciting news was in the want ads. I would like just to review what America looked like the last time we had a balanced budget.

Dale City is a city 25 miles south of Washington. It is sort of a middle-class neighborhood. In Dale City, 28 years ago today, when we had a balanced budget, they were advertising new homes that were selling between \$18,600 and \$38,000 apiece. In the richest county in America, Montgomery County, 28

years ago, when we had our last balanced budget, they were advertising new homes in Walnut Hill for \$32,500.

And 28 years of deficit spending later, they are still running want ads. They ran them today. The want ads today show that houses in the suburbs of Northern Virginia are selling between \$230,000 and \$340,000 apiece, and in Montgomery County they are selling for \$270,000 a piece.

The newspaper of 28 years ago today did not have any news on the front page worthy of being remembered, but it had want ads worthy of being remembered.

A Chevrolet Impala could be bought for \$51 a month, and you had it paid off in 3 years. That was 28 years ago today, the last time we had a balanced budget. Today, to buy a Chevrolet Cavalier, it costs you \$194 a month, and you have to pay for 6 years to pay it off.

There was not much exciting news on the front page of the paper 28 years ago today, when we had a balanced budget, but there was exciting news in the want ads. You could buy a new Good-year tire for \$8.75 apiece. Now, in fact, there is an ad today for \$24.99. But my guess is, 28 years ago and today, if you went out to get the \$8 tires then or the \$24 tires today, you would find that they did not fit your car. But look at what has happened to the base tire in terms of expenses.

Twenty-eight years ago today, the public was buying pork. And our Government was beginning to go on a binge of pork that would last 28 years. Pork chops at Giant 28 years ago today were 89 cents a pound. Pork chops at A&P 28 years ago today, as advertised in the Post, were 89 cents a pound. Pork chops at Safeway 28 years ago today, when we had a balanced budget, were 89 cents a pound. Today, in the Washington Post, Safeway boneless pork chops are \$3.99 a pound. Mr. President, 28 years ago there was not a big headline in the paper, but there should have been. The big headline in the paper should have been, "Budget Balanced This Year for the Last Year in 28 Years."

Our colleagues say: Well, things are going great. It's wonderful. We ought to exempt the budget from itself. There's no reason to quit spending. But I think anybody who looks at what was in the paper 28 years ago today and what is in the paper today has to conclude that there have been a lot of changes in the 28 years since we have had a balanced budget and that many of those changes are not trends that we want to continue.

Finally, tomorrow is Valentine's Day. Twenty-eight years ago today you could buy this Whitman deluxe red foil heart assortment, 1 pound of candy, for \$2.66. After 28 years of deficit spending here in Washington, it costs \$8.79.

Mr. President, maybe some of our colleagues on the Democratic side of the aisle could say: Well, don't worry about housing costs up from \$18,000 to

\$230,000 and don't worry about automobile costs up from a monthly payment of \$51 to a monthly payment of \$248. Maybe they could say: Don't worry about the price of tires and don't worry about pork. But when the cost of love is exploding, the time has come to stop deficit spending. That is what this debate is about. I wanted to remind my colleagues before we all left for our work period at home. This organization is permanently charged with ensuring compliance with the convention's requirements and with monitoring the chemical industry and the chemical production throughout the world. The convention's preparatory commission, which is located in The Hague, is currently determining precisely how the permanent organization is going to be structured and how the convention is going to be implemented.

Every State that ratifies that convention has to complete the destruction of chemical weapons agents, munitions and production facilities within 10 years of the convention's entry into force, or its date of ratification, whichever comes earlier.

I would like to describe what the treaty accomplishes in terms of control of chemicals and their precursors and monitoring and tracking of those chemicals and precursors.

The convention establishes three lists, or schedules as they are called, of chemical warfare agents and their precursor chemicals. These are arranged in the order of their importance to chemical weapons production and the extent of their legitimate peaceful or commercial uses.

The OPCW Technical Secretariat will update those schedules as needed and as circumstances change. And the production, the use, or the transfer of any chemicals on these schedules above set minimal amounts must be projected prospectively by the manufacturers and subsequently reported annually to the OPCW.

Any facility that makes use of or is capable of producing scheduled chemicals has to register with the OPCW, as do facilities that produce over 30 metric tons annually of a discrete chemical containing phosphorous, sulphur, or fluorine.

So, Mr. President, what we gain here is a mechanism for knowing globally who produces what chemicals, how much they produce, and where these chemicals are going.

The inspections of chemical facilities provided by the convention will vary according to the nature of the chemicals. Those declared as producing, storing, or destroying chemical weapons are subject to systematic on-site inspection and continuous instrument monitoring. Those chemical facilities declared as nonchemical weapons facilities are subject to routine or random inspections, depending on the schedule or schedules on which the chemicals they produce or handle are listed. All other facilities that produce or handle or are suspected of producing

or handling chemicals are subject to on-site challenge inspections upon the request of a signatory nation.

So, I reiterate, under the terms of the convention we will achieve for the first time the ability to know who is producing what chemicals, how much they produce, and where these chemicals are moving, and we obtain the ability to inspect any of those chemical production or handling entities.

#### THE CHEMICAL WEAPONS CONVENTION

Mr. KERRY. Mr. President, I want to talk about an issue of enormous importance to our national security and express my hope that during the course of the next week, while the U.S. Senate is out of session, Senators will focus on and think hard about our responsibilities with respect to the Chemical Weapons Convention. More than 100 years of international efforts to ban chemical weapons, 100 years of effort, culminated January 13, 1993, in the final days of the Bush administration when the United States of America signed the Chemical Weapons Convention as one of the original signatories.

I hope my colleagues on the other side of the aisle will focus closely on the efforts of former President Bush, former National Security Adviser General Scowcroft, former Chairman of the Joint Chiefs of Staff General Powell, and so many other people whose bona fides with respect to issues of national security I do not believe have ever been at issue. They all worked hard and fought hard to bring this Convention to a successful conclusion.

Since the time the United States signed it as one of the original signatories, 160 other nations have joined in signing it. That is 161, I might say, out of a total of 190 independent states that compose the world community of nations.

Immediately after the signing, the process of ratification by the signatories began. The convention was submitted to the U.S. Senate for its advice and consent in November 1993, and multiple hearings have been held by the Senate Foreign Relations Committee, the Armed Services Committee, the Intelligence Committee, and the Judiciary Committee during both the 103d and the 104th Congresses. As of January 27, 1997, 68 nations have already ratified the Convention, but not the United States of America that helped lead the effort of its creation.

This Convention provides that it will take force and its provisions will become applicable to party nations 180 days following its ratification by the 65th nation. The 65th ratification occurred late last year, so the clock is now ticking toward the date on which it enters into force. The Convention will enter into force on April 29 of this year, just a little more than 2 months after we return from the recess period that begins later today.

It is important to understand the provisions of the Convention, espe-

cially when measured against that date. The Convention bans the development, production, stockpiling, and use of chemical weapons by its signatories. It also requires the destruction of virtually all chemical weapons and production facilities.

This treaty also provides the most extensive, most intrusive verification regime of any arms control treaty yet negotiated, extending its coverage not only to governmental and military but also to civilian facilities.

The fact is that this verification package provides, in the end, increased security to the United States. That verification package includes instrument monitoring, both routine and random inspections, and challenge inspections for sites that are suspected of chemical weapons storage or production. The Convention also requires export controls and reporting requirements on chemicals that can be used as warfare agents and their precursors.

In order to implement its provisions and to administer them on an ongoing basis, the Convention establishes the Organization for Prohibition of Chemical Weapons, or the OPCW. This organization is permanently charged with ensuring compliance with the Convention's requirements and with monitoring the chemical industry and the chemical production throughout the world. The Convention's preparatory commission, which is located in The Hague, is currently determining precisely how the permanent organization is going to be structured and how the Convention is going to be implemented.

Every State that ratifies that Convention has to complete the destruction of chemical weapons agents, munitions and production facilities within 10 years of the Convention's entry into force, or its date of ratification, whichever comes earlier.

I would like to describe what the treaty accomplishes in terms of control of chemicals and their precursors and monitoring and tracking of those chemicals and precursors.

The Convention establishes three lists, or schedules as they are called, of chemical warfare agents and their precursor chemicals. These are arranged in the order of their importance to chemical weapons production and the extent of their legitimate peaceful or commercial uses.

The OPCW Technical Secretariat will update those schedules as needed and as circumstances change. And the production, the use, or the transfer of any chemicals on these schedules above set minimal amounts must be projected prospectively by the manufacturers and subsequently reported annually to the OPCW.

Any facility that makes use of or is capable of producing scheduled chemicals has to register with the OPCW, as do facilities that produce over 30 metric tons annually of a discrete chemical containing phosphorous, sulphur or fluorine.

So, Mr. President, what we gain here is a mechanism for knowing globally who produces what chemicals, how much they produce, and where these chemicals are going.

The inspections of chemical facilities provided by the Convention will vary according to the nature of the chemicals. Those declared as producing, storing, or destroying chemical weapons are subject to systematic on-site inspection and continuous instrument monitoring. Those chemical facilities declared as nonchemical weapons facilities are subject to routine or random inspections, depending on the schedule or schedules on which the chemicals they produce or handle are listed. All other facilities that produce or handle or are suspected of producing or handling chemicals are subject to on-site challenge inspections upon the request of a signatory nation.

So, I reiterate, under the terms of the Convention we will achieve for the first time the ability to know who is producing what chemicals, how much they produce, and where these chemicals are moving, and we obtain the ability to inspect any of those chemical production or handling entities.

Signatory nations agree not to export the most troublesome chemicals, those listed in schedule 1, to any non-signatory nation. Schedule 2 chemicals may be traded with nonsignatory nations for only 3 years after the Convention enters into force, and schedule 3 chemicals, which are the least troublesome and most widely used commercially, can be freely traded for 5 years after the Convention comes into force so long as end-use certification is provided. Five years after the Convention comes into force, additional controls will be considered and may be required.

Now, Mr. President, one might reasonably expect that all those in this institution would by their study of history be aware of the occasions when chemical weapons have been used in conflicts and the horrifying effects that they can have and have had on both combatants and noncombatants, and one would think those with such an awareness would warmly embrace and applaud the successful negotiation and apparent widespread acceptance of this Convention among the nations of the world. The images, both visual and verbal, of the effects of chemical weapons have seared themselves into our minds.

We know the effects of mustard gas in the trenches of Europe in World War I. We know of the terrible effect of chemicals employed in the Iran-Iraq War. Americans have witnessed the anguish of those who served in the gulf war who are suffering from maladies that may have resulted from some exposure to chemical weapons amassed by Saddam Hussein in Iraq. Civilized people everywhere have been repelled by the effects of these horrible weapons. Indeed, that is what propelled us under a Republican administration to negotiate and then to sign this Convention.

One might reasonably anticipate, therefore, that the United States, which led the way for so many years in seeking allies among the community of nations in the effort to outlaw these weapons and their use, and which was the driving force behind the negotiations that produced the Chemical Weapons Convention, would see virtually universal support for the ratification of this critical treaty. But that is not the case, as my colleagues know.

Most unfortunately, a small group of Senators, primarily within one segment of the Republican Party, and nourished by a group of committed cold warriors whose reflexive behavior is to see catastrophe for the United States in any arms control agreement, has dedicated itself to preventing the Senate from approving ratification of this Convention. They have found shadows behind the trees, and express great fear that United States participation could somehow weaken our Nation militarily and leave us vulnerable to a reemergent Russia or to some rogue nation that refuses to abide by the Convention's requirements.

I want to emphasize that while I believe those conclusions are entirely unwarranted, I take no issue with anybody who wants to proceed cautiously here. I take no issue with anybody who asserts that conceivably there is some downside to the Convention, and it is appropriate for us to have legitimate debate about that. But legitimate debate and legitimate expressions of caution are different from standing in the way of the U.S. Senate being able to resolve this issue in a vote on the floor of the Senate and allowing the Senate to perform its critical constitutional responsibilities of advise and consent.

I agree it would be a mistake for this Nation to blindly assume that simply as a result of the disappearance of the Soviet Union we will never again face a serious threat from Russia or from some other nation whose interests conflict with our own. That, of course, is why we spend \$250-plus billion on defense every year.

But the vehemence with which these Senators oppose the Convention, and their rationales for so doing, persuade me that the principal problem is not the Convention itself or its terms, but the fact that it is simply not a perfect treaty, that it is not 100 percent leak-proof or 100 percent verifiable.

We cannot establish such a standard, Mr. President, for by so doing, we effectively would say that no arms control treaty could ever be in our national interest.

Mr. President, I reject the notion that there is no such thing as a good arms control treaty, a treaty that advances the interests of the United States effectively. I specifically reject the notion that the Chemical Weapons Convention does anything to diminish the national security of our Nation, or that it is not in our national interest. To the contrary, I believe that our Nation and our people will be safer and

more secure and, in fact, will be the entire world community of nations, if the United States joins the other nations which have ratified it.

More importantly, Mr. President, that is not just my belief. It is the belief of former Presidents of the United States. It is the belief of the Chairman and Members of the Joint Chiefs of Staff, the belief of the current and immediate past Directors of Central Intelligence, the current and immediate past Secretaries of Defense, Gen. Norman Schwarzkopf and a host of others whose credentials as national security experts are sterling.

So let us address the specific concerns that are raised by those who would rather see the United States not participate in this convention, and who would deprive the Senate of the opportunity to debate the convention on the floor and vote on the resolution of ratification as the American people should be able to expect.

The opponents claim that the Chemical Weapons Convention will not be effective because it fails to ban or control possession of all chemicals that could be used for lethal purposes, specifically including two agents used with deadly effect in World War I, phosgene and hydrogen cyanide. The reality is that the CWC does cover all toxic chemicals and their precursors "except where intended for purposes not prohibited under this Convention \* \* \*". Phosgene and hydrogen cyanide are explicitly listed in schedule 3 of the convention.

The convention also contains a provision to expand the list of chemicals subject to declaration and verification as new CW agents are developed and identified.

The opponents claim that the CWC is not global, since many dangerous nations—for example, Iran, Syria, North Korea, and Libya—have not agreed to join the treaty regime. The reality, however, is that of the approximately 20 nations believed to have or to be seeking a chemical weapons program, more than two-thirds have already signed the convention. The failure of the United States to ratify the treaty is unlikely to spur these countries to become signatories and relinquish any determination they may have to develop chemical weapons. And, indeed, our failure to ratify will actually give to those recalcitrant countries political cover for their failure to join.

If the United States does not join, why should they care about it? If the United States, which initially sought it and long worked for it, now finds something wrong with the convention, then they have justification to also assert something is wrong with it. Further, several of the Convention's key provisions are targeted directly at nonparticipating nations. Some of the most threatening chemicals cannot be sold to nonparticipating nations by signatories and chemical trade with the nonsignatories will be impeded in other ways. In this important respect the treaty is, indeed, global in its reach.

In effect, those who claim to be defending the interests of the United States are, I believe, unwittingly—and I know not purposefully—aiding those countries that would continue to be rebellious nonparticipants in the work of removing chemical weapons from the earth.

If the opponents mean to point out that all convention provisions do not apply to all nations, OK, they are correct. Not all provisions apply to those 30 or fewer nations that have not yet signed the convention and may choose never to sign or ratify. But there is no way that one sovereign nation can force another to enter into a treaty. But you can, through a treaty, isolate those nations that choose not to sign, and, indeed, make it extraordinarily difficult for them to pursue their nefarious objectives.

This treaty will, very definitely, according to the Joint Chiefs of Staff, the intelligence community, and many others in our defense establishment whose judgment and expertise I respect in their specialties, have significant constraining effects even on nonsignatories. It will be far more difficult for a nonsignatory to proceed to develop a chemical weapons program and to produce chemical weapons, and it will be much more likely—not 100 percent certain but much more likely—that we will know if they do so.

The opponents claim that the CWC is not verifiable, Mr. President. Well, the reality is that the intelligence community and the Department of Defense have testified that the convention, while not being perfectly verifiable to be sure, will facilitate the ability of our intelligence agencies to detect significant violations in a timely manner, because it provides additional tools to do the job of tracking the spread of chemical weapons—a job that we would have to do anyway, with or without the Chemical Weapons Convention and its tools.

In fact, it is the acknowledged difficulty of detecting chemical weapons and their production, frankly, that makes the CWC all the more important. Our intelligence community needs all the additional tools and advantages it can get to make it more likely that such weapons and production will be identified, and identified as early as possible. The CWC provides critical tools and advantages, and the intelligence community and Defense Department have urged the Senate to approve its ratification.

The opponents claim that the convention will be toothless in application and that violations, once identified, will go unsanctioned. This, of course, is totally conjectural, and nothing in the verbiage of any treaty can absolutely guarantee that every provision will be enforced or every violation effectively sanctioned. But recent experience with the North Korean nuclear program demonstrates that governments can and will respond to evidence of non-compliance and will act to uphold the

integrity of an arms control agreement—in this case, the Non-Proliferation Treaty.

I am of the opinion, personally, that violations of the Chemical Weapons Convention will result in a strong reaction by the community of nations that is participating in it—but that is my opinion. The only demonstrable fact, in response to the fear expressed by opponents, is that with the Chemical Weapons Convention, there is a multilateral mechanism to define objectionable actions and the basis on which to organize an international response. Those are both advantages that do not exist today.

The opponents claim that the Chemical Weapons Convention will create a massive new United Nations-type international inspection bureaucracy, which will result in costs to our taxpayers of as much as \$200 million per year. The reality is that the non-partisan Congressional Budget Office has estimated the U.S. costs to comply with declaration, inspection, and verification procedures of the CWC will average \$33 million per year, an amount which includes our annual assessment to the OPCW of \$25 million. That is considerably less than \$200 million.

The active involvement of our negotiators in developing the treaty requirements applying to the OPCW ensures that it will undertake only essential tasks, and will do so efficiently. After the trillions of dollars our taxpayers spent defending our Nation during the cold war, and in the face of the terrible threats of chemical weapons, I believe—and this is shared by the President, the intelligence community, and the defense community—that an expenditure of \$33 million a year for U.S. costs of participating in the CWC, and for guaranteeing for the first time intrusive tracking of chemical agents and precursors, is a very, very good buy for the taxpayers.

The opponents claim that the Convention will jeopardize our citizens' constitutional rights by requiring the U.S. Government to permit searches without either warrants or probable cause. Mr. President, that is not true. The reality is that most firms that will be subjected to CWC inspections will voluntarily grant access for that purpose. And it is important to note here that the vast majority of the chemical industry of the United States is supportive of this treaty. The strong support of that industry and its active involvement during the CWC negotiations strengthen the belief that, in fact, most of the firms subject to inspection will not object to the inspections. But if a firm does exercise its constitutional right to object, then, Mr. President, the U.S. Government is committed to fully complying with our constitutional requirements. In such a case the Government will obtain a search warrant prior to an inspection to ensure that the constitutional rights of any citizen are fully protected.

The opponents claim that the Convention will subject as many as 8,000 companies across the Nation to new reporting requirements, entailing uncompensated annual compliance costs that could reach hundreds of thousands of dollars for each. The reality is that it will not affect 8,000, it will affect only about 2,000 companies. Approximately 1,800 of those 2,000 companies will not have to do anything more onerous than check a box on a form regarding production range. They will not even be required to specify which chemicals they produce. Most of the firms for which compliance activities will be more extensive are supporters of the treaty, and directly, or through their industry association, were consulted as the CWC provisions affecting commercial facilities were negotiated. The Convention's opponents generally fail to mention the fact that the biggest cost to the U.S. chemical industry is likely to come as a result of the United States failing to ratify the Convention. According to the Chemical Manufacturers Association, the trade restrictions on export of chemicals that will apply to nonparticipating nations will place at risk \$600 million in annual export sales for U.S. companies.

It is a very material fact that the Chemical Weapons Convention is primarily about increasing the safety of the United States, of our troops, and our citizens from the chemical weapons of other nations.

During the Bush administration, the decision was made for the United States to leave the chemical weapons business and to destroy the vast majority of our stockpile of chemical weapons—all those that the CWC would require to be destroyed. It is very important that we understand this. The Bush administration has already embarked this Nation on a course that will result in the destruction of our stockpile of chemical weapons. That process already is underway, and it will continue whether or not we ratify the Convention.

Does it not make sense, then, if we are stripping ourselves of these weapons anyway, for us to take steps to increase the likelihood that other nations will do the same, and that we will know if some nations choose to manufacture and stockpile such weapons?

There certainly is no reason for the United States to refuse to ratify the CWC because it in some way would impede the maintenance or production of weapons deemed important to our national security. The decision to destroy our chemical weapons was made years ago, during the Bush administration. It is not a decision that any of our defense leadership suggests should be reversed.

Last fall, after the Senate Foreign Relations Committee had favorably reported the resolution of ratification for the convention on a strong bipartisan vote, the convention was caught up, most unfortunately, in Presidential politics. Mr. President, as the ranking

member of a subcommittee with jurisdiction over other matters that Foreign Relations Committee Chairman HELMS had linked to action on the Convention, I had worked hard with Senator HELMS and others to get an agreement to bring the ratification resolution to the floor. While he was majority leader, Senator Dole agreed that we should have a vote on that resolution, and we secured a unanimous consent agreement that ensured the Senate would consider and vote on the resolution of ratification before the end of the 105th Congress. But then, in the heat of Presidential politics, although President Clinton strongly supported ratification of the convention, Senator Dole, as the Republican nominee for President, suddenly announced opposition to the CWC. That called into question whether the necessary two-thirds majority vote for ratification could be secured. So we delayed action on the resolution.

Mr. President, the time for action on this convention has arrived. It is now. We are beyond the complications of a Presidential election. We have held the hearings, many hearings, in four separate Senate committees. We know the facts. The support of the defense and intelligence communities and leaders is strong and clear.

And now there is one more very important reason for expeditious action to approve the resolution of ratification. If the United States has not ratified this convention by the time it takes effect on April 29, by its terms U.S. citizens will be ineligible for appointment to the OPCW administrative staff and corps of international inspectors, and, therefore, we will forfeit the opportunity to influence its decisions, its budget, and inspection practices that our negotiators led the way to secure. To be sure, if the United States later ratifies, Mr. President, American citizens will become eligible for such posts but only as they become vacant at some point in the future. Our Nation will have irrevocably lost out in the vitally important initial formative policy making and procedure development.

As scores of newspaper editorials around the country have said, those who believe the threat of chemical weapons is real, and who realize that our intelligence and defense organizations need all the help they can get to identify where chemical weapons are being manufactured and stockpiled, must not let a small group of Senators prevent the U.S. Senate from acting on this important treaty.

I urge the majority leader to act in the interest of our country and our people and, in the interest of our institution and its constitutional right and duty to advise and consent to treaties, to permit the Senate to act on this treaty, which I believe a significant majority of this body supports.

We cannot permit the perfect to become the enemy of the good. We must not permit those who make that mis-

take to prevent us from acting in the best interests of our Nation and its people. And we cannot allow some cloudy objections to obviate the facts and prevent this institution from discharging its responsibilities.

I believe it would be a grave mistake to deprive our Nation, our Armed Forces, and our citizens of the additional protections from the threat of chemical weapons that the Chemical Weapons Convention offers. And I think it would be foolish for the United States to relinquish the influence it will gain in implementing this critical treaty if it fails to ratify the Convention by April 29.

Mr. President, I thank the distinguished Senator from New Mexico for his forbearance.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized for up to 30 minutes.

Mr. DOMENICI. Mr. President, first let me ask. Is my 30 minutes the last business before the Senate today?

The PRESIDING OFFICER. There are 15 minutes reserved for the Senator from Nebraska, Senator KERREY.

Mr. DOMENICI. Might I say, as much as I would like to use my 30 minutes, I do not want to delay the Senate indefinitely tonight. If Senator KERREY intends to use time, let me suggest I could probably finish in 15 minutes.

#### BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. DOMENICI. Mr. President, might I first say that it is a pleasure to address this issue with the senior Senator from the State of Washington in the chair. I don't know that what the Senator from New Mexico is going to speak to today is needed to edify the occupant of the chair, but I think it is imperative that, after an awful lot of talk about a constitutional balanced budget and its potential effect on the Social Security trust fund, that some of us state what we think this whole scare about the Social Security trust fund is all about.

So let me first say to the senior citizens that I gather now that you know the emotional ramping up by frightening senior citizens is beginning to take place out there in our States and communities. Let me, to the extent that I can, say to the seniors who are listening to those who would like to make you believe that they are really here arguing to save Social Security, suggest to you that what they are really arguing about is that they don't want a constitutional amendment to balance the budget and they have now hit on what I perceive to be a risky gimmick in an effort to frighten seniors and by that approach defeat a constitutional balanced budget amendment.

I might say to the seniors of this country, it is now the almost universal

consensus of those who look at the next 25 years that the most important thing for senior citizens and the best effect on the trust fund is that this economy grow and grow and grow and that we have low inflation and sustained economic growth. Those who have worked for decades, looking at what is going to happen to Social Security and putting into that all of the mix that goes into it to see what they can project, without exception they testify here and everywhere, do not forget that you must have a sustained and growing economy for these numbers to be believable about the validity of this trust fund in the future.

Having said that, it would appear that balancing the American budget and keeping it balanced is probably in and of itself the single most important factor—not the only factor, but the single most important factor—to productivity, growth, and prosperity when you already have a \$5 trillion accumulated series of deficits which now equal the debt.

So let nobody be fooled, for those who want to inject Social Security and are trying to take it off the budget of the United States, the risk is we will never get a balanced budget. It is my honest opinion that it was not an overstatement of the case when 29 budgets were piled up here. In fact, I didn't have time to ask somebody, but how many times in those 29 budgets can Presidents say, "I am giving you a balanced budget?" How many times after they were presented did Congresses of the United States say, "Oh, we are going to do better, we are giving you a balanced budget?" It never happened. And it will not happen. In fact, we are all dedicated to getting it balanced by 2002. But I am suggesting, as one who is as dedicated to that mission as anyone here, that you are far more apt to get it and keep it with the organic law of this land saying that is the way it is going to be, it is the law of the land.

Having said that, let me see if I can convince senior citizens and those in this body who are worried about the issue of should you have Social Security on budget or off budget.

First, just from the standpoint of a budget, you know Social Security is now the largest program in America. The tax for it is the largest single tax on America and Americans of all the entourage and litany of taxes we have. Literally 55 to 60 percent of the public pay more in Social Security and Medicare taxes, I say to my friend occupying the chair, pay more in that tax than they pay in income taxes.

Just from the standpoint of a budget, doesn't it seem kind of strange that you would say Americans should have a budget and it should be balanced, but, oh, let us take all of that big program that I have just described and all of those taxes and let us just take them off the budget?

So it is rather ironic that we speak of budgets and leave all of that which is so important to our future, so important to our young people who have

jobs—because the taxes there must be compared with what? With the taxes that the rest of society imposes on us. You cannot leave those taxes and those payments out there untouched, unrelated as if they have nothing to do with the corporate income tax and the individual income tax and the State taxes. They are all related, and they should all be part of our budget as we look at it.

Now, I am not sufficiently versed in economics, but I have learned something because New Mexicans have sent me here long enough that, if nothing else, by osmosis I learn something about it because I sit there with my colleagues most of the time and they talk and I listen. Frankly, the United States made a decision that to be real about its budget, you ought to use a unified budget. We decided that more than two decades ago. And it serves us very well in trying to look at the effect of taxes and expenditures on the American economy and our people.

Therefore, point No. 1. For those who are talking about gimmicks to frighten us into not passing the constitutional amendment, the first thing that is happening that is very, very dangerous is they are denying senior citizens the most significant tool to assure the success of Social Security.

Now, a second point.

Since Social Security is on budget now and it has a surplus now and the surplus will go away at some point in the future and we will be starting to spend that, there are some now who are saying to seniors we better take it off budget so they cannot spend it. Get it. Take it off budget so they cannot spend it. Take it off budget so you cannot borrow from it.

Listen for a minute. You take the Social Security trust fund. It is defined by statute law. It is not going to be in the Constitution. Who defines statute law? Who defines statute law? Congress. Congress defines statute law. So you take off a huge amount of money and a huge amount of taxes and you say it is no longer in this budget because we do not want anybody to spend it or borrow it.

Friends, in particular senior citizens, do you believe your trust fund is protected by being out there all alone, running up huge surpluses, subject to whom? Who can spend it? Who can spend that surplus? Oh, the same Congress that has been creating all these deficits.

You mean they cannot spend it? somebody is going to stand up and ask. Of course, they can. All they have to do is pass a statute and spend that surplus. On what? On what? Right now you have to invest it in Treasury bills of the United States. But I say to our friend from Michigan, over the next 20 years as that surplus is there and as Congress feels the pinch of not having money to spend over here and perhaps a Medicare system that is really hurting; 6 years from now we have not helped it very much, or 8, and it is

hurting for money to pay the bills, what do you think is going to happen? Congress is going to say, well, it is all seniors, right? Let us spend \$48 billion for what we need for the next 6 months for Medicare. Let us take it out of the trust fund.

Mr. GORTON. Will the Senator from New Mexico yield for a question?

Mr. DOMENICI. Of course.

Mr. GORTON. Is that not exactly one of the forms of risky gimmicks that the Senator spoke of should we adopt this amendment?

Mr. DOMENICI. My friend, it is the biggest potential gimmick I have ever seen. And let me tell you, if there are those who say this cannot happen, I will give you one. The President in this year's budget decided that another trust fund, the Medicare trust fund—in this case it was running out of money, but the President decided I am going to tell Congress to just take out \$82 billion of the expenditures that are in that trust fund, right, by fiat, by law. Who is going to do that? Congress is going to pass a law, he says, take out the \$82 billion and let somebody else pay for it.

Now, if you can do that, you can take a trust fund that is very solvent and do the exact same thing. A President says, well, look, it is going to take us 5 more years to fix this Medicare mess so why not just borrow from that trust fund. It is sitting out there. It is all alone, right, and we do not want to count it over here on our budget because we thought it was really going to be protected if we took it out there, and lo and behold, that budget could have that very same thing in it. That is the real kind of gimmick that is going to be used.

Mr. GORTON. Will the Senator from New Mexico yield to another more general question?

Mr. DOMENICI. Sure.

Mr. GORTON. Am I not correct in remembering that we went through exactly this same debate 2 years ago at the time at which the balanced budget constitutional amendment ultimately was defeated by one vote in the Chamber of the Senate?

Mr. DOMENICI. Absolutely.

Mr. GORTON. And we heard all of the same alarms from those who ultimately opposed the balanced budget amendment about the future of Social Security at that point?

Mr. DOMENICI. No question about it.

Mr. GORTON. Now, perhaps my friend from New Mexico, who is the chairman of the Budget Committee, and who has totally immersed himself in these problems, has a better memory than I have, but does the Senator from New Mexico remember any proposal after the defeat of the constitutional amendment last time by those who opposed it that would buttress or build up the Social Security trust fund, any changes in eligibility, any increases in the payroll tax or not? I remember no attempts in this last 2 years to do anything about this imminent or future in-

solveny of the Social Security trust fund. Does my friend from New Mexico?

Mr. DOMENICI. I think the Senator is absolutely correct.

Mr. GORTON. So is it the net result of the defeat of the constitutional amendment 2 years ago that we are simply 2 years closer to the insolvency of the Social Security trust fund and the Medicare hospital insurance trust fund?

Mr. DOMENICI. Absolutely right, without a question.

Mr. GORTON. Is it not also true that all of those, almost all of those who opposed the balanced budget constitutional amendment 2 years ago told us all that was required to balance the budget was courage and dedication on the part of the Congress itself? Is that not pretty much the message that we constantly get from them?

Mr. DOMENICI. That is absolutely right.

Mr. GORTON. And did we not take them up on that proposal and did we not, in fact, pass through the Congress of the United States a budget that would have been balanced by the year specified in the constitutional amendment and would have postponed for an extended period of time the insolvency of the Medicare hospital insurance trust fund?

Mr. DOMENICI. Absolutely.

Mr. GORTON. And was that not opposed by all of the people who opposed the constitutional amendment with the single exception of the then Senator from Oregon and vetoed by the President of the United States?

Mr. DOMENICI. I think that is right.

I might also say to the Senator I am going to give myself enough latitude so that I know I am right, but I think that same balanced budget to which the Senator alludes, if carried out and all of the changes made in it and projected it out beyond that time, would be balanced 3 years, no longer than 3 years thereafter without using the Social Security trust fund.

So what I am saying, you put yourself on a trend line by entitlement reform to where you cannot get to balance without the Social Security trust fund in the process of accomplishing your major goal of getting it balanced within the unified budget with everything on budget.

Mr. GORTON. And is it not also true that whether this constitutional amendment passed or not, there would be no impact on the actual total spending of the Government of the United States or the total receipts of the United States; we would simply pretend that the largest single spending and social program were not a part of a budget or of balancing the budget?

Mr. DOMENICI. That is exactly right.

Mr. GORTON. And then in several years, in a few years when the Social Security trust fund is paying out more money than it is taking in, Congress would be able to pretend that the budget was balanced when, in fact, we were



running a huge deficit in the Social Security trust fund. And, in fact, the Social Security trust fund could go absolutely bankrupt, could it not, and yet under that proposal the budget would still be balanced?

Mr. DOMENICI. The Senator is correct. In fact, I did not bring to the floor a chart showing that, but it is one of the wonderful, factual presentations about how, after a few years, what they have been talking about down here, about "the Social Security fund ought to be off budget so we can handle our matters within the rest of the budget and how we can protect its solvency," it turns out that down the line a little—and if we do a constitutional amendment, it is going to be down the line for a long time, it should be here forever—when the Social Security fund starts to spend out and go in the red, guess what we can do? We can let it go right on in the red and spend. But over here on the rest of the budget, which we call the unified budget less Social Security, you can spend so much money in that budget and still be in balance because you are not charged with the deficit in Social Security. It is billions, about 18 or 20 years from now. You are going to be able to spend on this unified budget, less Social Security, something like \$7 trillion more than you are currently expecting to spend, and be in balance, because you let this other big deficit occur and you do not do anything about it.

I want to add one thing. You could have asked me, "Senator, when you have this trust fund sitting out here all by itself and it starts to go in the red, because we did not have the guts to fix it, and over here is the rest of this budget, it has been kind of wallowing around, now, Congress gets together and says, 'How do we fix that Social Security?'" Guess what, they can borrow money without being subject to the constitutional amendment and put it in that trust fund. They could borrow \$5 trillion. And guess what we would be doing? We would be getting ourselves right back in the mess of borrowing to pay deficits.

Mr. GORTON. That \$5 trillion figure, you did not pull that out of thin air, did you? That is what the indicators show we would have?

Mr. DOMENICI. That is correct. And, frankly, I have to say, in all honesty—I had a group of seniors I talked to today. They said to me, "You may be right, and you may be more right than them." But then they said, "Can't Congress, if you take it off budget, can't you just pass a law so none of these terrible things will happen to this wonderful trust fund?"

And I said, "By asking me if we could pass a law, you have just answered your own question. Of course we could." But Congress makes the laws and Congress changes the laws. Consequently, we could protect it by statute and then, when it got in trouble, we could unprotect it by statute. But if you insist that it be counted in the

unified budget, then what you are saying is when money is spent out of it, it counts. And you have to find, within a budget, some cuts to make up for it. And that is especially the case when Social Security starts to go in the red, if it does, and probably at some period in its history it will for awhile.

Mr. GORTON. In summary, then, I ask my friend from New Mexico, that is just one of the reasons that this proposed change in the balanced budget constitutional amendment is a risky gimmick, and the risk is to Social Security and its beneficiaries themselves; is that not correct?

Mr. DOMENICI. That is absolutely right.

Mr. GORTON. I thank my colleague.

Mr. DOMENICI. So I want to wrap up my few minutes. I thank the Senator for his questions which made my presentation far more understandable than had I gone on rambling for 15 minutes.

But essentially the truth of the matter is, if the risky gimmick being offered by some defeats the constitutional amendment, that will inure to the detriment of senior citizens, for we will probably never have a sustained and long-term balanced budget, and that is what Social Security needs more than anything else.

Second, the risky gimmick is to take it off budget and subject the entire trust fund to the will and whim of Congress and Presidents, without any of the discipline that would come from the spending and borrowing that you must account for within a unified budget.

I have a couple of graphs that explicitly show what I have been showing. I am going to have them printed in the RECORD, especially with respect to what happens when Social Security starts to spend out more than it has taken in, the future amount of money that is then available on budget to spend without having any effect on the budget.

I yield the floor and thank the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from North Dakota.

Mr. DORGAN. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are. The Senator is authorized to speak for up to 5 minutes.

Mr. DORGAN. Mr. President, the Senator from New Mexico is one of those I admire most in this Chamber. He is one of the brightest and most interesting Members to serve with. He has demonstrated over many years and many disciplines a great knowledge and great intellect. I have always enjoyed serving with him.

With great respect, I think he is so wrong on this issue, but I say that with the greatest respect.

Mr. DOMENICI. I thank the Senator for his kind remarks.

#### BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. DORGAN. Mr. President, I want to give the other side of exactly the

issue the Senator from New Mexico has just spent some time describing. I say this not because I believe my side is right and therefore he is here doing something untoward. That is not the case. I think we have a disagreement here about this issue that is very substantial, and it is very important. I do not suggest that someone who does not agree with me on this position is out here deciding to play games or to take a position for anything other than a noble purpose. But, by the same token, I feel so strongly that the discussion I just heard is wrong, I feel compelled to correct it, at least from my perspective.

Let me describe what we have. We have a proposal to change the Constitution of the United States. Some refer to it repeatedly as a proposal to balance the budget. It will not do that, and no one who understands the difference between a statute and a constitutional change should refer to it as balancing the budget. You can change the Constitution 2 minutes from now, and 3 minutes from now you will not have altered by one penny the Federal debt or the Federal deficit, and there is not anyone in here who would stand up and contest that, I would judge. So this is not about balancing the budget. It is about altering the Constitution.

I am prepared to alter the Constitution under certain circumstances, but I will not—repeat, not—support an approach that changes the Constitution of the United States in a manner that I think will create more problems than it solves.

We have, and will vote for, a constitutional amendment to balance the budget. We will all be required to vote on a couple of versions of that, one, the version proposed by the majority, one, a version that I will introduce as a substitute amendment. So we will have an opportunity to vote on a constitutional amendment to balance the budget. The version proposed by the majority says this. It says that revenues and expenditures in future years must be relatively equal so that you are not running a deficit. And that includes counting all of the revenues and all of the expenditures. Period. End of description—I think a fair description of what the majority is proposing.

The problem with that is this. We have a separate program in Government, one of the largest programs, called the Social Security system. It has been a very successful program. But we have a demographic problem with our Social Security system. We have a group of babies born who represented the largest group of babies born in our history, and when they hit the retirement rolls, we are going to have a significant strain on that system. And so, a decision was made some years ago to save for that purpose, and therefore this year, and last year, and next year, to run a surplus, a very significant budget surplus in the Social Security accounts, only in those accounts, in order to have that available to save for the future.



The amendment that is being offered by the majority is an amendment that would say: Let's not distinguish between one dollar and another dollar. Yes, we're running a surplus in Social Security, but it doesn't matter. We can use the surplus of Social Security to just pay for other spending elsewhere.

Well, I do not think that is the way we say to those with whom we have decided that we are going to provide for their future and have a Social Security trust fund, I do not think that is the way for us to say to them we are meeting our responsibilities. That is not meeting our responsibilities. What that is doing is allowing us to say we have balanced the budget when we have not. We have taken trust funds that we said would be used for only one purpose and brought it to say, now we have balanced the budget.

I am waiting—and I will ask the question again; there is only one other Member on the floor—but I would ask the question again, and I have not yet heard an answer: If under this constitutional amendment and a budget plan that is proposed to meet this constitutional amendment of balancing the budget, if in the year in which they claim they have balanced the budget the Federal debt limit must be increased by \$130 billion, how do you claim you have balanced the budget?

If you have balanced your family budget, do you have to borrow more money? I would not think so. If you have balanced your business budget, would you have to borrow more money? I do not think so. Why, in this plan, in the year in which they say they balance the budget, does the Congressional Budget Office tell us in that very year they have to increase the Federal debt limit by \$130 billion? Why? Can anybody tell me? They have not told me for a couple weeks because there is not an answer to that. There is not an answer.

The answer, if everyone here were honest, would be that this is not truly balancing the budget. The budget will be called in balance, they will describe it as in balance, and the Federal debt will continue to increase. So the folks who moved the Federal debt clock around that shows how the Federal debt is increasing will still have a clock that keeps ticking. The Federal debt will keep rising. I do not understand that.

I would like us to balance the Federal budget. I think there is a compelling reason for us to balance the Federal budget. In fact, the budget deficit is down 60 percent in the last 4 years in part because some of us have had the courage to cast hard votes, votes that were not popular. I am glad I did it. They were not very popular votes, but we cast the votes to bring the budget deficit down.

But the job is not done. The job is half done. We need to finish the job. We can alter the Constitution, but that will not finish the job. The only way this job gets finished is if individual

men and women in the U.S. Senate make spending and taxing decisions that say we want to balance the budget. When they say to their constituents, "We've balanced the budget," and then must confess to their bankers back home, "But, yes, we increased the Federal debt by \$130 billion," no one here can claim that with a straight face, unless they have no sense of humor, that they have done what they promised back home they are doing.

That is the point I am making. If we are going to alter the Constitution, let us make those changes in the Constitution in a careful, measured way that does not create more problems than it solves.

My time is up. I will be on the floor for a few minutes and perhaps have some other discussion. I know another Senator is waiting to discuss this. But, Mr. President, this is an important issue. We are finally talking about what we ought to talk about. And I hope we can have some exchange of views in the coming days on this very subject because this is not a nuisance issue. This is not a nettlesome issue or some tiny, little issue. This is a trillion-dollar issue that deals with people who earn paychecks and pay taxes, expecting certain results from them, and a trillion-dollar issue that deals with senior citizens on Social Security who expect something from that program as well.

Mr. President, I yield the floor.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

(The remarks of Mr. HUTCHINSON pertaining to the introduction of S. 328 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### THE CHEMICAL WEAPONS CONVENTION

Mr. LEVIN. Mr. President, I rise today to speak on an issue of great importance to our national security: the Chemical Weapons Convention.

This convention, which is commonly known as the CWC, has been a high priority for the past three administrations, and is a perfect example of a bipartisan foreign and security policy issue. It was negotiated beginning under President Reagan, it was signed under President Bush, and the Clinton administration is now seeking Senate advice and consent to its ratification.

The United States has always taken the lead on negotiating the CWC, and we should soon have before us an opportunity to improve the security of our Nation and of the world by ratifying this convention. Some 160 countries have already signed the CWC, and more than 65 have ratified it—including all our major NATO allies and China. It will enter into force on April 29 of this year, whether or not we ratify it. But our ratification will make a big difference in the effect the treaty has on us and on the effectiveness of the treaty worldwide.

Mr. President, let me summarize what the Chemical Weapons Convention will do: it will drastically reduce the stockpiles of chemical weapons; require the destruction of chemical weapon production facilities; provide for the most intrusive verification procedures ever negotiated—including challenge on-site inspections; improve our intelligence of foreign chemical weapon activities; require domestic laws that will permit nations to investigate and prosecute chemical weapon activities; and, perhaps most importantly, make it much more difficult for rogue nations or terrorists to make or acquire chemical weapons.

As the Defense Department leadership and the Joint Chiefs of Staff have testified on numerous occasions over several years: this convention is in our national security interest, and we should ratify it as soon as possible.

Mr. President, on January 22 the Senate Armed Services Committee held a nomination hearing for our former colleague, Senator Bill Cohen, to be the Secretary of Defense. That afternoon the Senate voted unanimously to confirm him by a vote of 99-0. He is now the new Secretary of Defense, and I am looking forward to working with him on the many important and challenging national security issues that will come before the Armed Services Committee and before the Senate.

I want to share with my colleagues the comments of then Secretary-designate Cohen about the CWC, because it is important that we consider the views of the President's chief defense adviser.

At his nomination hearing, Senator Cohen made three important points about the CWC.

First, he told the Committee "whether we ratify it or not, we are engaged in the unilateral disarmament of chemical weapons. We are eliminating all our stocks of chemical weapons, and they will be completely gone by the year 2004. That was initiated under the administration of Ronald Reagan. So, whether we sign it or not, we are getting rid of ours."

Second, he told us that whether we sign it or not, the convention will go into effect. Given that fact, it makes sense for us to ratify the treaty and to take part in making the rules by which it will be implemented, as well as having our own inspectors on the inspection teams.

Third, he told the Committee that the American chemical industry stands to lose up to \$600 million in sales if we do not ratify because of sanctions which were intended for rogue nations but which will apply to our industry and prevent it from selling precursor chemicals to signatory nations.

Secretary-designate Cohen concluded that it is in our national interest to ratify the CWC because we are already getting rid of our chemical weapons, and by ratifying we can help assure that other countries which ratify the CWC will get rid of theirs. Those are

three points I hope our colleagues will keep in mind as the Senate considers the Chemical Weapons Convention.

Prior to his confirmation hearing before the Armed Services Committee, Secretary-designate Cohen had an opportunity to provide a more comprehensive explanation of his support for the CWC. I would like to share those views with our colleagues because they clearly enumerate why the CWC is in our national security interests.

Here is the committee's question and Senator Cohen's answer:

*Question.* The President has made ratification of the Chemical Weapons Convention a very high priority for early Senate action. The Convention will enter into force on April 29, 1997, and ratification must occur prior to that date for the U.S. to be an original party.

Do you agree that ratification of the CWC is very much in our national security interest and do you support the goal of ratification prior to the April 29 deadline?

*Answer.* Yes. The CWC, as both a disarmament and nonproliferation treaty, is very much in our national security interests because it establishes an international mandate for the destruction of chemical weapons (CW) stockpiles. Congress has mandated that the Army, as executive agent for CW destruction, eliminate its unitary CW, which constitute the bulk of its CW stockpile, by 31 December 2004. That destruction process is well under way at the CW destruction facilities at JOHNSTON Atoll and Tooele, UT. The CWC mandates that state parties destroy, under a strict verification regime, their entire CW stockpiles within 10 years after the Convention enters into force (April 2007). Given that the U.S. does not need CW for its security, and given that we are currently legally committed to eliminating unilaterally the vast majority of our CW stockpile, common sense suggests that it would be preferable to secure a commitment from other nations to do the same; prohibits the development, retention, storage, preparations for use, and use of CW. These expansive prohibitions establish a broadly accepted international norm that will form a basis for international action against those states parties that violate the CWC. Unlike the 1925 Geneva Protocol, which only bans the use of CW in war, the CWC: includes a verification regime; restricts the export of certain dual-use CW precursor chemicals to non-state parties; prohibits assisting other states, organizations, or personnel in acquiring CW; and requires state parties to implement legislation prohibiting its citizens and organizations from engaging in activities prohibited by the Convention. The CWC also contains mechanisms for recommending multilateral sanctions, including recourse to the UN Security Council; increases the probability of detecting militarily significant violations of the CWC. While no treaty is 100% verifiable, the CWC contains complementary and overlapping declaration and inspection requirements. These requirements increase the probability of detecting militarily significant violations of the Convention. While detecting illicit production of small quantities of CW will be extremely difficult, it is easier to detect large scale production, filling and stockpiling of chemical weapons. Over time, through declaration, routine inspections, fact-finding, consultation, and challenge inspection mechanisms, the CWC's verification regime should prove effective in providing information on significant CW programs that would not otherwise be available; hinders the development of clandestine CW stockpiles. Through systematic on-site verification, rou-

tine declarations and trade restrictions, the Convention makes it more difficult for would-be proliferators to acquire, from CWC state parties precursor chemicals required for developing chemical weapons. The mutually supportive trade restrictions and verification provisions of the Convention increase the transparency of CW-relevant activities. These provisions will provide the U.S. with otherwise unavailable information that will facilitate U.S. detection and monitoring of illicit CW activities.

I strongly support the Chemical Weapons Convention and the goal of U.S. ratification of the Convention by 29 April 1997, and I understand that the Department of Defense shares that view. U.S. ratification of the CWC prior to this date will ensure that the U.S. receives one of the 41 seats on the Executive Council of the Organization for the Prohibition of Chemical Weapons (OPCW), the international organization that will oversee CWC implementation. Early ratification will also ensure that U.S. citizens will fill key positions within the OPCW and act as inspectors for the Organization. Direct U.S. involvement and leadership will ensure the efficacy and efficiency of the OPCW during the critical early stages of the Convention's implementation. The U.S., upon ratification and implementation of the CWC, will also receive CW-related information from other state parties. As a state party and a member of the Executive Council, the U.S. will be in the best position to assure the effective implementation of the Convention's verification provisions.

Mr. President, this is a very strong and persuasive statement of support for the Chemical Weapons Convention. I urge my colleagues to consider Secretary Cohen's views. We should take up the CWC for advice and consent to ratification without delay.

Mr. President, I want to provide an additional item for the record, and will ask unanimous consent at the conclusion of my remarks that it be printed in the RECORD.

The additional item is a letter from Dr. Lori Esposito Murray, Special Adviser to the President and ACDA Director on the Chemical Weapons Convention, to this Senator dated January 14, 1997. This letter provided a review of a number of issues concerning the CWC where there was some confusion during our consideration last September. I think this letter is a useful contribution to the Senate debate.

Mr. President, I hope the Senate will take up the Chemical Weapons Convention early enough to permit ratification before the April 29 deadline. I hope the Senate leadership can make sure the Senate has an opportunity to exercise its unique constitutional responsibility for advice and consent to treaty ratification.

I ask unanimous consent that the item I referred to previously be printed in the RECORD.

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

U.S. ARMS CONTROL AND,  
DISARMAMENT AGENCY,  
Washington, DC, January 14, 1997.

DEAR SENATOR LEVIN: We understand that the Center for Security Policy recently re-circulated to you a letter on the Chemical Weapons Convention (CWC) dated September

6, 1996 that had originally been sent to Majority Leader Lott. The letter urges Senator Lott to reject ratification of the CWC "unless it is made genuinely global, effective, and verifiable." Since the letter contains significant misinformation about the Convention, we thought the following information might be helpful as you assess this vital treaty.

*Misstatement:* "The CWC is not effective because it does not ban or control possession of all chemicals that could be used for lethal purposes. For example, it does not prohibit two chemical agents that were employed with deadly effect in World War I—phosgene and hydrogen cyanide."

*Fact:* Phosgene and hydrogen cyanide are covered by the Convention and are explicitly listed on the Schedule of Chemicals (Schedule 3). Moreover, the CWC definition of a chemical weapon covers all toxic chemicals and their precursors "except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes." Furthermore, the CWC also includes provisions to expand the lists of chemicals subject to declaration and verification as new CW agents are identified and to improve verification procedures and equipment as technology and experience improve.

*Misstatement:* "The CWC is not global since many dangerous nations (for example, Iran, Syria, North Korea, and Libya) have not agreed to join the treaty regime."

*Fact:* Of the approximately twenty countries believed to have or to be seeking a CW program, more than two thirds already have signed the CWC. It is unlikely that those outside the regime would join if the United States also remained outside, giving them political cover. Additionally, the CWC goes further than any other multilateral agreement to date in applying pressure on nonsignatories to join the regime.

Along with the political and diplomatic muscle that a multilateral arms control agreement provides against rogue states, the CWC explicitly applies trade restrictions to states that are not Parties to the CWC. The Non-Proliferation Treaty, which relied solely on diplomatic pressure to encourage states to join, went from 43 State Parties in 1970 to 184 in 1997. The CWC already has 67 State Parties and 160 signatories, Iran among them. Most recently, China's Parliament approved the CWC and the Russian Duma passed its CW destruction plan. Without the CWC, these rogue states would proceed, business as usual, in their efforts to acquire chemical weapons. With the CWC, not only will we know more about what they are doing, but it will be harder for them to do it, and it will cost them—even if they hold off on joining.

*Misstatement:* "The CWC is not verifiable as the U.S. intelligence community has repeatedly acknowledged in congressional testimony."

*Fact:* The Clinton Administration has determined that the CWC is effectively verifiable because, among other things, it will facilitate the ability of our Intelligence Community to detect significant violations in a timely manner. The Intelligence Community has emphasized in its testimony that the CWC provides additional tools to do a job we would have to do anyway with or without the CWC—track and control the spread of chemical weapons worldwide.

*Misstatement:* "... governments tend to look the other way at evidence of non-compliance rather than jeopardize a treaty regime."

*Fact:* Our recent experience with the North Korean nuclear program demonstrates that

governments can and will respond to evidence of non-compliance and rally to uphold the integrity of an arms control agreement, in this case the Non-Proliferation Treaty. Indeed, the very existence of multilateral arms control agreements provides a legal and political basis for taking action against proliferators.

Misstatement: "The CWC will create a massive new, UN-style international inspection bureaucracy (which will help the total cost of this treaty to U.S. taxpayers amount to as much as \$200 million per year)."

Fact: The Congressional Budget Office estimates that the costs to the U.S. taxpayer to comply with the declaration, inspection, and verification procedures of the CWC would average \$33 million per year, not \$200 million. These activities would include paying our \$25 million assessment to the CWC implementing organization. The United States has worked diligently to ensure that the organization contains only those elements essential to the completion of the task. This contribution is certainly worth the investment in reducing the risk that our troops will face poison gas on the battlefield.

Misstatement: "The CWC will jeopardize U.S. citizens' constitutional rights by requiring the U.S. Government to permit searches without either warrants or probable cause."

Fact: The Administration expects that access to private facilities will be granted voluntarily for the vast majority of inspections under the CWC. If this is not the case, the United States Government will obtain a search warrant prior to an inspection in order to ensure that there will be no trampling of constitutional rights.

Misstatement: "As many as 8,000 companies across the country may be subjected to new reporting requirements entailing uncompensated annual costs between thousands to hundreds of thousands of dollars per year to comply."

Fact: The CWC will affect approximately 2,000 not 8,000 companies. Approximately 1,800 of these companies will not have to do anything more than check a box regarding production range. They will not even be required to specify which chemicals they produce. No information will be required regarding imports, exports, or domestic shipments. The CWC provisions covering commercial facilities were developed with the active participation of industry representatives. The chemical industry has long supported the CWC. In fact, the biggest expense to industry could come as the result of the United States not ratifying the CWC. The CWC's trade restrictions for non-Parties will apply to the United States if we have not ratified the Convention by entry into force in April 1997. According to the Chemical Manufacturer's Association, these trade restrictions could place at risk \$600 million in export sales.

The Chemical Weapons Convention will enhance U.S. security. No one disputes that the spread of weapons of mass destruction to rogue states and terrorists is among the gravest security challenges we face in the post Cold War era. We will need every available tool to respond to it successfully. The CWC is just such a tool. As Secretary of Defense Perry and Attorney General Reno have stated, "To increase the battlefield safety of our troops and to fight terror here and around the globe, the Senate should ratify the Chemical Weapons Convention now." General Shalikashvili, Chairman of the Joint Chiefs of Staff, has also testified, "The non-proliferation aspect of the Convention will retard the spread of chemical weapons and in so doing reduce the probability that U.S. forces may encounter chemical weapons in a regional conflict."

The Chemical Weapons Convention is mainly about other countries' chemical

weapons, not our own. The United States has already made the decision to get out of the chemical weapons business. In fact, we are currently destroying the vast majority of our chemical weapons stockpile, and the Chemical Weapons Convention will require other countries to do the same.

As noted above, the Chemical Weapons Convention has the strong support of industry. The impact on small business, in particular, will be negligible. But should the United States fail to ratify the CWC, trade restrictions originally intended to put pressure on rogue states would be imposed on U.S. chemical companies.

The United States has been a consistent and strong world leader in the 25-year effort to ban these horrific and indiscriminate weapons. This effort, which culminated in President Bush's success in concluding the CWC, has had strong bipartisan support over the years.

I urge your support for this Convention and hope the Senate will act promptly and favorably so that the United States can be among the original parties to the Convention when it comes into force on April 29, 1997.

Sincerely,

LORI ESPOSITO MURRAY,  
*Special Adviser to the President.*

#### REGULATIONS REGARDING STAFF ACCESS TO THE SENATE FLOOR

Mr. WARNER. Mr. President, yesterday, the Rules Committee approved an amendment to the Regulations Controlling the Admission of Employees of Senators and Senate Committees to the Senate Floor.

The amendment to the regulations regarding staff floor access provides full floor access for leadership staff and committee staff directors and chief counsels.

I ask unanimous consent that a letter from Senators LOTT and DASCHLE to Ranking Member FORD and myself be printed in the RECORD along with the amended Regulations Controlling the Admission of Employees of Senators and Senate Committees to the Senate Floor.

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

U.S. SENATE,

Washington, DC, February 3, 1997.

Hon. JOHN WARNER,  
*Chairman.*

Hon. WENDELL H. FORD,  
*Ranking Member, Committee on Rules and Administration, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN AND SENATOR FORD: Senator Byrd wrote us a thoughtful letter last December that dealt with what he characterized as "a small but important matter: decorum in the Senate." We share Senator Byrd's view "of the importance of maintaining proper order in the Senate at all times" and wish to encourage the Committee on Rules and Administration to recommend a method for better management of staff access to the Chamber. We understand the Sergeant at Arms has developed such a proposal which has merit and is deserving of a rapid review by the Committee.

Senators often require their staff to assist them in the Senate Chamber, and Senators must continue to have access to their staff when they determine it is necessary. We would in no way wish to limit Senators' rights in this regard. Indeed, Senators may at any time request unanimous consent to

grant a staff member the privileges of the Floor, and we would not support limiting that right in any way. Door keepers in the Chamber should urge staff to use the seating provided rather than lean against the walls.

We feel confident that the Committee proposal will protect the important balance between Senators' individual rights and the needs of the larger body.

Sincerely,

TRENT LOTT,  
TOM DASCHLE.

#### REGULATIONS CONTROLLING THE ADMISSION OF EMPLOYEES OF SENATORS AND SENATE COMMITTEES TO THE SENATE FLOOR

1. Of those persons entitled to the privilege of the Senate Floor, under Rule XXIII of the Standing Rules of the Senate, card admissions *henceforth* will apply solely to employees of Senators and Committees. *All cards for admission to the Senate Floor, currently in possession of Senators or officers and employees of the Senate under previous rules, shall be withdrawn by the Sergeant at Arms.*

2. Senators and Committee Chairman are requested to prepare and forward to the Sergeant at Arms a list of those staff and Committee employees who may have reason to apply for a Floor Pass in the actual discharge of their official duties. These provisions will not deprive any employee of the privilege of the Senate Floor if he is entitled thereto under Rule XXIII. They will, however, permit closer supervision over employees admitted to the Senate Floor.

3. Serially numbered cards, referred to as Floor Passes, will be retained at an admission table in the foyer of the Vice President's Entrance to the Senate Floor. This table will be manned by a representative of the Sergeant at Arms of the Senate from one-half hour before each daily session until one-half hour after recess or adjournment. When the actual discharge of their official duties requires their presence on the Senate Floor, employees of Senators and Committees, otherwise entitled to admittance under Rule XXIII, will apply to the attendant at the designated table for a Floor Pass.

4. Admission cards under the system will be available at the admission table in quantities as follows:

All Committees of the Senate, including Joint Committees—4 cards to each Committee having jurisdiction of pending legislation.

All Committees of the Senate, including Joint Committees—2 cards to each Committee for official duties, with a 15-minute limitation.

Staffs of individual Senators—2 cards for each Senator and the Vice President.

Although two admission cards are provided for the qualified staff personnel of each Senator, only one member of a Senator's staff shall be allowed in the Senate Chamber itself at any given time, with a time limitation of 15 minutes if the individual Senator is not present. The other card (of different color) may be used by an additional member of the Senator's staff only to gain admittance to the Senate Lobby (but not the Senate Chamber) for the sole purpose of conferring with the Senator.

*Each Committee may request two 15 minute Floor passes to be used for the transaction of official business.*

Should the occasion arise when an individual Senator desires the assistance on the Senate Floor of personnel additional to the number permitted under the above allocations, he should request unanimous consent to augment the maximum number allowed herein.

5. When an eligible employee presents [himself] *his Senate identification (ID) card* at

the admission table, the attendant in charge there, as the representative of the Sergeant at Arms, will satisfy himself of the applicant's identity and eligibility before issuing a Floor Pass. He will then note, on a special roster prepared for the purpose, the name of the employee, his office, the nature of his official business, and the serial number of the card issued to him. When the employee leaves the floor he will return the card to the above attendant. The latter will replace the card in its appropriate place in the rack, after noting its return on the roster. If, after completion of his business on the Floor, a person to whom a Floor Pass was issued fails to return the Pass or loses it, that person shall not be admitted to the Floor until the Floor Pass is returned or its loss is satisfactorily explained to the Sergeant at Arms.

6. In no case shall any Doorkeeper admit to the Senate Floor any office employee of a Senator or a Committee staff member without a proper and correct visual presentation of a Floor Pass. An employee admitted to the Senate Floor under these regulations shall remain there only as long as necessary for the transaction of his official business and shall, at all times, while so present, have in his possession *his Senate ID card and the Floor Pass* issued to him. While on the Senate Floor, an employee shall in no way encroach upon the areas and privileges reserved for Senator's only. When an employee's objective is solely to follow the course of a pertinent discussion or vote but not to render any actual assistance otherwise to his Chairman or Senator, he should, under normal circumstances, observe the proceedings from an appropriate place in the Senate Galleries.

7. At the beginning of all roll-call votes the Sergeant at Arms will clear the Senate Floor and the lobby of all staff members except Senate clerks for whom unanimous consent has previously been granted and except the staff personnel of the Committee or Committees associated with the issue involved in the roll-call vote shall be permitted to enter or remain in the lobby for such purposes.

8. In addition to the Floor Passes discussed above, the Sergeant at Arms of the U.S. Senate shall issue to both the Majority and Minority Leaders, fourteen Full Floor Access Passes for their distribution to and use by their leadership staff. These passes will be valid for the duration of the Congress. The Sergeant at Arms shall also hold at the admission table an additional twenty similar committee staff Full Floor Access Passes, ten reserved for use by majority party committee staff directors and chief counsels and ten reserved for use by minority staff directors and chief counsels. The Majority and Minority Leader and Committee Chairman are requested to prepare and forward to the Sergeant at Arms a list of those eligible staff who are authorized to use a Full Floor Access Pass. A full Floor Access Pass shall entitle eligible staff identified on such lists to access the Senate Floor from any door. Committee staff Full Floor Access Passes are issued on a daily basis beginning one-half hour before each session and must be returned to the admission table no later than one-half hour after recess or adjournment. If a person to whom a Committee staff Full Floor Access Pass has been issued, fails to return the pass or loses it, that person shall not be admitted to the floor until the pass is returned or its loss is satisfactorily explained to the Sergeant at Arms.

9. The Sergeant at Arms will be responsible for the enforcement of these regulations. He shall report to the Chairman of the Committee on Rules and Administration the name of any employee who, in the opinion of the Sergeant at Arms, is guilty of abusing these regulations.

10. It is not the desire or intention of the Committee on Rules and Administration to limit assistance by staff personnel to Sen-

ators on the floor. On the contrary, the Committee believes that these regulations will insure adequate opportunity for such assistance and, at the same time, prevent the distraction to orderly proceedings attendant upon the presence of superfluous employees in the Senate Chamber. All Senators are asked to acquaint their employees with the scope and purposes of these regulations.

11. Rules are effective in direct proportion to the vigor of their enforcement and the cooperation demonstrated in compliance. The Senators generally have expressed themselves in full accord with efforts to diminish disorder and confusion caused by the presence of unnecessary personnel on the Senate Floor. It is hoped that all Senators, especially when serving as the Presiding Officer of the Senate, will cooperate with the Sergeant at Arms and the Committee on Rules and Administration in this endeavor to control the problem.

#### TRIBUTE TO WILLIAM L. HODSON

Mr. HATCH. Mr. President, I am pleased to join with many others in Utah who have expressed their appreciation to Bill Hodson, director of the Salt Lake City Veterans Medical Center.

Bill recently retired after many years of faithful service to our Nation's veterans from New Jersey to Arizona, including the last 11 years in Salt Lake City. These years have been ones of great accomplishment, not just for Bill personally, but for the VA. We have all, in one way or another, benefited from his innovation and determination. In 1992, Bill received the Secretary's Award for advancement in nursing programs.

But, we in Utah owe Bill a particular debt of gratitude for his stewardship of our Salt Lake VA Medical Center. Bill Hodson led the way on a \$30 million project to renovate the main building of the VA Medical Center for patient areas and ambulatory care clinics, successful management of a dynamic heart transplant program, and expanded research and training programs. The buildings and services that Bill has built will be a lasting legacy of Bill's leadership and commitment to public service.

There can be no question that Bill was a highly able administrator; but, more importantly, his compassion and concern for others has earned him a special place in the hearts of veterans—and indeed all the citizens of Utah.

Bill Hodson has been active in our community, particularly in the Greater Salt Lake Council of the Boy Scouts of America. This involvement clearly shows that he not only honors those citizens who have already contributed to our country, but also that he believes in our youth and their capacity for contributing to our future. We will miss him at the head of the Salt Lake VA Medical Center, but look forward to his continuing involvement in our community.

I hope that as he reads this tribute, Bill is already sitting on a nice warm beach and enjoying the first well de-

served fruits of retirement. I wish him all the best and hope my colleagues will join me in recognizing an exemplary public servant.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, February 12, the Federal debt stood at \$5,308,979,863,712.08.

One year ago, February 12, 1996, the Federal debt stood at \$4,988,100,000,000.

Five years ago, February 12, 1992, the Federal debt stood at \$3,799,009,000,000.

Ten years ago, February 12, 1987, the Federal debt stood at \$2,227,183,000,000.

Fifteen years ago, February 12, 1982, the Federal debt stood at \$1,036,402,000,000 which reflects a debt increase of more than \$4 trillion (\$4,272,577,863,712.08) during the past 15 years.

#### HERE'S WEEKLY BOX SCORE ON U.S. FOREIGN OIL CONSUMPTION

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending February 7, the U.S. imported 7,894,000 barrels of oil each day, 942,000 barrels more than the 6,952,000 imported during the same week a year ago.

Americans relied on foreign oil for 54.9 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,894,000 barrels a day.

#### HONORING THE BREDEHOEFTS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Mildred and Eldred Bredehoeft of Concordia, Missouri, who on April 6, 1997, will celebrate their

50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. Mildred and Eldred's commitment to the principles and values of their marriage deserves to be saluted and recognized.

#### TERM LIMITS

Mr. ALLARD. Mr. President, first I would like to thank my colleague from Missouri for taking the lead on this important issue of term-limits. Term-limits has been a concern of the people of Colorado for many years. They have said time and time again that the hour has come for Congressional term-limits and I share this belief. That is why I am a proud sponsor of Senate Joint Resolution 16, the Ashcroft-Thompson Term Limitation bill which limits Representatives to 6 years in the House and Senators to 12 years in the Senate.

In 1990 with 71 percent of the vote, the State of Colorado was the first State to pass a constitutional amendment limiting the number of years for Congressional Members—12 years in the House of Representatives and 12 years in the Senate. Four years later, Colorado passed a more restrictive term limit initiative of 6 years in the House and 12 years in the Senate. Since 1990, 22 other States passed some form of term-limits with the support of over 25 million Americans. However, in 1995, the Supreme Court ruled that State set term-limits for Federal officials were unconstitutional. With the Supreme Court's decision in mind, Colorado voters passed amendment 12 in 1996. The Term Limits Initiative calls for Colorado's elected officials to introduce term-limit legislation, vote in favor of the Congressional Term Limits Amendment, and states that if a member of the congressional delegation does not vote in favor of the amendment then the designation of disregarded voter instruction on term-limits next to their name on the ballot.

Mr. President, at this time I ask unanimous consent to insert into the RECORD a copy of the amendment 12 language at the end of my statement.

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

(See exhibit 1.)

Mr. ALLARD. Mr. President, while I believe that States should have the opportunity to set limits for their elected officials, as Colorado has done on a number of occasions, the Supreme Court's decision has left this important decision up to us. Some have argued that there is little chance that Members of Congress will ever limit their own terms and thereby limit their power. While there is some merit to this argument, I must say that this gives us a great opportunity to show that we, as elected officials, can heed the will of the people and impose term-limits on ourselves.

I began fighting for term-limits while in the State Senate of Colorado and was one of four State Senators to stand-up on the Colorado Senate floor

in favor of them. As a Member of the House of Representatives, I introduced and co-sponsored numerous pieces of term-limit legislation. I was very proud to be a part of the 104th Congress where we voted for the first time in history on a term-limit constitutional amendment.

I have always believed that our elected officials should be citizen legislators. Citizens from all walks of life with new ideas, thoughts and private work experience fresh in their memory should have a chance to serve. Term-limits will ensure that lawmakers do not become too far-removed from their constituents and will allow more citizens the opportunity to serve. Our legislatures will have a better understanding of main street and how their laws and actions affect the everyday lives of working men and women.

We find the concept of a citizen legislature in the very foundation of this country. In Article 57 of the Federalist Papers, my most admired historical figure, James Madison wrote:

The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of society; and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust. The elective mode of obtaining rulers is the characteristic policy of republican government. The means relied on in this form of government for preventing their degeneracy are numerous and various. The most effectual one is such a limitation of the term of appointments as will maintain a proper responsibility to the people.

Mr. President, I wholehearted agree with Mr. Madison and his assessment. Despite the large classes in 1994 and 1996, incumbent re-election rates still exceed 90 percent. Term-limits at the State and local levels have made our elections more open and competitive thereby opening the doors to all Americans and allowing for a more diverse legislature. Federal elections would be re-energized by opening-up politics to many people who have been excluded by career incumbents. If people call for more representation by women and minorities, then they should be strong supporters of term-limits. In 1992, 22 of the 24 new women elected to the U.S. House of Representatives were elected in open seats, but only 2 of the 42 women candidates who challenged an incumbent were successful.

While I agree with many who call for campaign finance reform, only term-limits will truly change the incentives for seeking office. They are a positive tool to break the cycle of excluding those citizens who want to run for election to Federal office but cannot overcome the largest obstacle of all—incumbency and name identification—regardless of the campaign laws and the amount spent on a campaign.

I have also heard that if the Framers believed term-limits were so important, they would have placed them in the Constitution from the outset. This is the same argument I hear con-

cerning the Balanced Budget amendment. My belief is that the Framers never thought persistent deficits or spending one's career in political office would be a problem. They believed that serving would always be a brief period in one's life and would never be seen as a career. However, it is now clear that only a Constitutional amendment getting term-limits will ensure that the citizen legislator is reestablished as envisioned by the Framers of the Constitution.

I am pleased to carry on the tradition and hard work of my predecessor Senator Hank Brown. Senator Brown was a leader in this body for term-limits and I am proud to serve in a like manner and continue to fight for term-limits and the will of the people of Colorado.

Mr. President, early in this session, we will have an opportunity to make good on our campaign promises on term-limits. We must bring business-as-usual to an end and return the power back to the people. I urge all my colleagues to join this fight and begin to make true changes in the way this Congress operates. It is time to bring back the citizen legislator and reconnect our elected officials to the people whom they serve.

#### EXHIBIT 1

##### PROPOSAL OF TEXT OF AMENDMENT 12—TERM LIMITS

Be it Enacted by the People of the State of Colorado:

Article XVIII, section 12.

(1) CONGRESSIONAL TERM LIMITS AMENDMENT.

The exact language for addition to the United States Constitution follows:

Section 1: No person shall serve in the office of United States Representative for more than three terms, but upon ratification of this amendment no person who has held the office of United States Representative or who then holds the office shall serve for more than two additional terms.

Section 2: No person shall serve in the office of United States Senator for more than two terms, but upon ratification of this amendment no person who has held the office of United States Senator or who then holds the office shall serve for more than one additional term.

Section 3: This amendment shall have no time limit within which it must be ratified to become operative upon the ratification of the legislatures of three-fourths of the several states.

(2) VOTER INSTRUCTION TO STATE LEGISLATORS.

(a) The voters instruct each state legislator to vote to apply for an amendment-proposing convention under Article V of the United States Constitution and to ratify the Congressional Term Limits Amendment when referred to the states.

(b) All election ballots shall have "DISREGARDED VOTER INSTRUCTION ON TERM LIMITS" designated next to the name of each state legislator who fails to comply with the terms of subsection (5)(b).

(c) Said ballot designation shall not appear after the Colorado legislature has made an Article V application that has not been withdrawn and has ratified the Congressional Term Limits Amendment, when proposed.

(3) VOTER INSTRUCTION TO MEMBERS OF CONGRESS.

(a) The voters instruct each member of the congressional delegation to approve the Congressional Term Limits Amendment.

(b) All election ballots shall have "DISREGARDED VOTER INSTRUCTION ON TERM LIMITS" designated next to the name of each member of Congress who fails to comply with the terms of subsection (5)(b).

(c) Said ballot designation shall not appear after the Congressional Term Limits Amendment is before the states for ratification.

(4) VOTER INSTRUCTION TO NON-INCUMBENTS. The words "DECLINED TO TAKE PLEDGE TO SUPPORT TERM LIMITS" shall be designated on all primary and general election ballots next to the names of non-incumbent candidates for United States senator, United States representative, state senator, and state representative who have not signed the pledge to support term limits unless the Colorado legislature has ratified the Congressional Term Limits Amendment.

The pledge shall read:

I pledge to use all my legislative powers to enact the proposed Congressional Term Limits Amendment set forth in Article XVIII, section 12. If elected, I pledge to vote in such a way that the designation "DISREGARDED VOTER INSTRUCTION TERM LIMITS" will not appear next to my name.

Signature of Candidate:

(5) DESIGNATION PROCESS.

(a) The Colorado secretary of state shall determine these ballot designations. The ballot designation shall appear unless clear and convincing evidence establishes that the candidate has honored voter instructions or signed the pledge in this subsection (4). Challenges to designation or lack of designation shall be filed with the Colorado supreme court within 5 days of the determination and shall be decided within 21 days after filing. Determinations shall be made public 30 days or more before the Colorado secretary of state certifies the ballot.

(b) Non-compliance with voter instruction is demonstrated by any of the following actions with respect to the application or ratification by state legislators, and in the case of members of Congress referring the Congressional Term Limits Amendment for ratification, if the legislator:

- (i) fails to vote in favor when brought to a vote;
- (ii) fails to second if it lacks one;
- (iii) fails to vote in favor of all votes bringing the measure before any committee in which he or she serves;
- (iv) fails to propose or otherwise bring to a vote of the full legislative body, if necessary;
- (v) fails to vote against any attempt to delay, table or otherwise prevent a vote by the full legislative body or committee;
- (vi) fails in any way to ensure that all votes are recorded and made available to the public;
- (vii) fails to vote against any change, addition or modification; or
- (viii) fails to vote against any amendment with longer limits than the Congressional Term Limits Amendment.

(6) ENFORCEMENT.

Any legal challenge to this section 12 shall be an original action filed with the Colorado supreme court. All terms of this section 12 are severable.

Mr. THURMOND. Mr. President, I rise to discuss the pending nomination of Mr. Federico Peña, who has been nominated to serve as Secretary of Energy. The Armed Services Committee recently held a hearing to receive testimony from Mr. Peña on his views and positions relative to Department of Energy Programs that fall within the jurisdiction of the Armed Services Committee.

The purpose of the hearing was to explore Mr. Peña's proposals for the De-

partment's critical national security programs and to allow him the opportunity to establish a coherent record of his views regarding these programs. The Committee felt such a record needed to be established, because Mr. Peña has no background in national security matters and, prior to last week's hearing, he had no identifiable position on defense issues that Senators could use to assess his suitability to manage the Department's diverse national security activities.

I want to state very clearly that the purpose of this hearing was to provide Mr. Peña with an opportunity to discuss his views. It was never our intent to delay his nomination or to interfere with the customary reporting process for his nomination in any way. I worked very closely with Senator MURKOWSKI to ensure that this hearing focused only on the Department's defense missions and did not infringe on the Energy Committee's jurisdiction. Senator MURKOWSKI was exceptionally helpful in coordinating the activities of our two committees and I applaud his leadership in this matter.

Regarding Mr. Peña's qualifications, let me say that I find him to be intelligent, thoughtful, and a quick study. If confirmed, I believe he will bring much-needed management ability to the Department—something that has been lacking for the past 4 years. However, the members of the Armed Services Committee take the Department of Energy's national security and defense environmental cleanup missions very seriously. It is our responsibility to thoroughly assess the qualifications of those nominated to head this agency and make public our findings and concerns.

Mr. President, for some time now, the Armed Services Committee has expressed its concern regarding the Department's approach to maintaining the reliability and safety of the Nation's enduring nuclear weapons stockpile. We are concerned that the Department's proposed Science-based Stockpile Stewardship and Management Plan may unnecessarily put our enduring nuclear forces at risk—both in terms of safety and reliability. We are concerned that the Department's plan to restore tritium production capabilities are not realistic and won't deliver the required quantities of tritium in the timeframe needed by the Department of Defense. We are further concerned that the pace of cleanup at former nuclear defense facilities may not be aggressive enough to meet the Department's stated 10-year cleanup goal.

We discussed these issues and others with Mr. Peña and generally found his responses to be informed and reasoned. Unfortunately, on at least two critical issues, Mr. Peña's testimony caused some level of concern.

When asked what action he would take in a hypothetical situation where he was informed by all three DOE weapons laboratory directors that a significant safety problem existed in a

nuclear weapon in the U.S. stockpile and that the only feasible way to fix that problem was to conduct an underground nuclear test, Mr. Peña stated that he would present the relevant information to the President, but steadfastly refused to acknowledge his responsibility to make a test or don't test recommendation to the President. I found his response troubling.

Mr. President, as the U.S. nuclear stockpile ages, the hypothetical situation I just described is not only plausible, but one that we could face in the very near future. Unfortunately, Mr. Peña's response was less than forthright. We expect every Cabinet Secretary to present all the relevant information to the President, but in this hypothetical, the Secretary would be required to do more than that. This situation requires that the Secretary of Energy make a recommendation to the President. Mr. Peña's refusal to commit to making such a recommendation raised considerable doubt regarding his understanding of the role that the Secretary of Energy plays in advising the President on nuclear matters and leads me to question his willingness to carry out the responsibilities of the Secretary of Energy.

My fear is that Mr. Peña does not recognize that our current confidence in the U.S. nuclear stockpile could diminish rapidly in the near future. The next Secretary of Energy must understand this reality and demonstrate a commitment to take all actions necessary to maintain the safety and reliability of our enduring nuclear deterrent. If he is confirmed, I hope to work closely with Mr. Peña to ensure the Department does not back away from its obligations in this area.

I also found Mr. Peña's commitment to restore U.S. tritium production less than satisfactory.

For my colleagues who do not know, tritium is a radioactive gas that is required in all modern nuclear weapons in the U.S. stockpile. Without tritium, our nuclear weapons cannot function. Because tritium decays at a rate of 5 and 5½ percent per year, it must be replaced in weapons at regular intervals. The U.S. stopped producing tritium in 1988 and current supplies are being exhausted.

The Department has pursued nearly a dozen different technical options for tritium production—at great cost to the taxpayers—and we are still no closer to restoring tritium production today than we were almost a decade ago. Meanwhile, our supply of tritium continues to degrade and our nuclear deterrent, which has served to protect this Nation for over 50 years, becomes incrementally less effective with each passing year.

Congress has consistently directed the Department to move more quickly to restore tritium production. In fact, the fiscal year 1997 Defense Authorization Act required DOE to make a decision on tritium this fiscal year. However, Mr. Peña endorsed the Department's current dual track strategy—



which will not result in the selection of a preferred option until fiscal year 1999—but, he also stated his intent to explore a new, third option. This is a recipe for disaster that will result in further delays and even more wasted taxpayer dollars.

The Department should stop studying this issue and move forward with a decision. I believe that such a decision can and should be made this fiscal year and I will look toward the next Secretary of Energy to provide leadership in this area.

These are two issues of deep concern to me and other members of the Armed Services Committee. I am looking for Mr. Peña to provide the Senate a clear answer on nuclear testing and demonstrate that he is willing to move more quickly on restoring tritium. It will be difficult for me to fully support Mr. Peña's nomination unless these issues are addressed.

Let me state that while I am very concerned about these issues, I remain openminded regarding Mr. Peña's nomination. I have made available in room 228 of the Russell Building a copy of the hearing transcript and Mr. Peña's responses to advance policy questions and posthearing questions. I encourage my colleagues to review these materials. I am certain that they will find them highly useful in making an informed determination on Mr. Peña's pending nomination.

#### 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 2 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 36. Joint resolution approving the Presidential finding that the limitation on obligations imposed by section 518(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, is having a negative impact on the proper functioning of the populations planning program.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 21. Concurrent resolution providing for an adjournment of both Houses.

The message further announced that pursuant to the provisions of section 1295b(h) of title 46 App., United States Code, the Speaker appoints the fol-

lowing Member on the part of the House to the Board of Visitors to the U.S. Merchant Marine Academy: Mr. KING.

The message also announced that pursuant to section 127 of Public Law 97-377 (2 U.S.C. 88b-3), the Speaker appoints the following Members on the part of the House to the Page Board: Mrs. FOWLER and Mr. KOLBE.

The message further announced that pursuant to the provisions of section 194(a) of title 14, United States Code, the Speaker appoints the following Member on the part of the House to the Board of Visitors to the U.S. Coast Guard Academy: Mrs. JOHNSON of Connecticut.

The message also announced that pursuant to the provisions of section 9355(a) of title 10, United States Code, the Speaker appoints the following Members on the part of the House to the Board of Visitors to the U.S. Air Force Academy: Mr. HEFLEY and Mr. YOUNG of Florida.

The message further announced that pursuant to the provisions of Public Law 96-388, as amended by Public Law 97-84 (36 U.S.C. 1402(a)), the Speaker appoints the following Members on the part of the House to the U.S. Holocaust Memorial Council: Mr. GILMAN, Mr. REGULA, Mr. LATOURETTE, and Mr. FOX.

The message also announced that pursuant to the provisions of sections 5580 and 5581 of the Revised Statutes (20 U.S.C. 42-43) the Speakers appoint the following Members on the part of the House to the Board of Regents of the Smithsonian Institution: Mr. LIVINGSTON and Mr. SAM JOHNSON of Texas.

The message further announced that pursuant to section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)), the Speaker appoints the following Members on the part of the House to the Board of Trustees of the John F. Kennedy Center for the Performing Arts: Mr. GINGRICH and Mr. MCDADE.

The message also announced that pursuant to the provisions of section 1505 of Public Law 99-498 (20 U.S.C. 4412), the Speaker appoints the following Member on the part of the House to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development: Mr. YOUNG of Alaska.

The message further announced that pursuant to the provisions of section 6968(a) of title 10, United States Code, the Speaker appoints the following Members on the part of the House to the Board of Visitors to the U.S. Naval Academy: Mr. GILCREST and Mr. SKEEN.

The message also announced that pursuant to the provisions of section 4355(a) of title 10, United States Code, the Speaker appoints the following Members on the part of the House to the Board of Visitors to the U.S. Military Academy: Mrs. KELLY and Mr. TAYLOR of North Carolina.

At 5:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the

following bill, in which it requests the concurrence of the Senate:

H.R. 581. An act to amend Public Law 104-208 to provide that the President may make funds appropriated for population planning and other population assistance available on March 1, 1997, subject to restrictions on assistance to foreign organizations that perform or actively promote abortions.

#### MEASURES PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.J. Res. 36. Joint resolution approving the Presidential finding that the limitation on obligations imposed by section 518A(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, is having a negative impact on the proper functioning of the population planning program.

#### MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 581. An act to amend Public Law 104-208 to provide that the President may make funds appropriated for population planning and other population assistance available on March 1, 1997, subject to restrictions on assistance to foreign organizations that perform or actively promote abortions.

#### 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-1092. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, a report relative to criminal law jurisdiction; to the Committee on Armed Services.

EC-1093. A communication from the Chairman and Finance Committee Chairman of the Federal Election Commission, transmitting, pursuant to law, a supplemental request for funds for fiscal year 1997; to the Committee on Rules and Administration.

EC-1094. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, Revenue Procedure 97-17 received on February 11, 1997; to the Committee on Finance.

EC-1095. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Walnuts Grown in California" (FV96-984-1) received on February 11, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1096. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of an intention concerning the allocation of funds; to the Committee on Foreign Relations.

EC-1097. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on economic policy and trade practices; to the Committee on Foreign Relations.

EC-1098. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to

law, the report on the rule relative to international accounting rates, received on February 11, 1997; to the Committee on Commerce, Science, and Transportation.

EC-1099. A communication from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to whale protection, (0648-AJ03) received on February 12, 1997; to the Committee on Commerce, Science, and Transportation.

EC-1100. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a rule regarding the USEC Privatization Act (received on February 12, 1997); to the Committee on Environment and Public Works.

EC-1101. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a rule regarding Fissile Material Shipments (received on February 6, 1997); to the Committee on Environment and Public Works.

EC-1102. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to pesticide tolerance for emergency exemptions, (FRL-5585-1), received on February 12, 1997; to the Committee on Environment and Public Works.

EC-1103. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule relative to single-employer plans, received on February 11, 1997; to the Committee on Labor and Human Resources.

#### 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-32. A resolution adopted by the Sevierville, Tennessee Board of Mayor and Alderman relative to the Pigeon River; to the Committee on Environment and Public Works.

#### 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 Ms. MOSELEY-BRAUN (for herself and Mrs. MURRAY):

S. 320. A bill to amend the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

By Mr. GREGG:

S. 321. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee social security payroll deductions, to extend the solvency of the old-age, survivors, and disability insurance program, and for other purposes; to the Committee on Finance.

By Mr. GRAMS (for himself, Mr. FEINGOLD, Mr. ABRAHAM, Mr. CONRAD, Mr. DORGAN, Mr. KERREY, Mr. KOHL, Mr. KYL, Mr. LEVIN, Ms. MOSELEY-BRAUN, Mr. HAGEL, and Mr. WELLSTONE):

S. 322. A bill to amend the Agricultural Market Transition Act to repeal the North-east Interstate Dairy Compact provisions; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SHELBY (for himself, Mr. BYRD, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GREGG, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. LUGAR, Mr. SANTORUM, Mr. THURMOND, Mr. SESSIONS, Mr. COCHRAN, Mr. MURKOWSKI, and Mr. HAGEL):

S. 323. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Governmental Affairs.

By Mrs. MURRAY (for herself and Mr. CAMPBELL):

S. 324. A bill to amend title 32, United States Code, to provide that performance of honor guard functions at funerals for veterans by members of the National Guard may be recognized as a Federal function for National Guard purposes; to the Committee on Armed Services.

By Mr. BUMPERS (for himself, Mr. FEINGOLD, Mr. LEAHY, and Mr. KOHL):

325. A bill to repeal the percentage depletion allowance for certain hardrock mines; to the Committee on Finance.

By Mr. BUMPERS:

326. A bill to provide for the reclamation of abandoned and hardrock mines, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS (for himself, Mr. AKAKA, Mr. LEAHY, Mr. FEINGOLD, and Mr. KOHL):

327. A bill to ensure that federal taxpayers receive a fair return for the extraction of locatable minerals on public domain lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HUTCHINSON (for himself, Mr. NICKLES, Mr. WARNER, Mr. MACK, Mr. KYL, Mr. BROWNBACK, Mr. COCHRAN, Mr. ROBERTS, Mr. HATCH, Mr. GORTON, Mr. ENZI, Mr. GREGG, Mr. ALLARD, Mr. LOTT, Mr. SESSIONS, Mr. FAIRCLOTH):

S. 328. A bill to amend the National Labor Relations Act to protect employer rights, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ABRAHAM:

S. 329. A bill to provide that pay for Members of Congress shall be reduced whenever total expenditures of the Federal Government exceed total receipts in any fiscal year, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BREAUX (for himself and Mr. SHELBY):

S. 330. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for contributions to individual investment accounts, and for other purposes; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. KEMPTHORNE, Mr. BINGAMAN, Mr. CONRAD, Mr. CRAIG, Mr. DOMENICI, Mr. THOMAS, and Mr. DASCHLE):

S. 331. A bill to amend title 23, United States Code, to provide a minimum allocation of highway funds for States that have low population densities and comprise large geographic areas; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself, Mr. CONRAD, Mr. KENNEDY, Mr. DORGAN, Ms. MIKULSKI, and Mr. LEVIN):

S. 332. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 333. A bill to increase the period of availability of certain emergency relief funds allocated under section 125 of title 23, United States Code, to carry out a project to repair or reconstruct a portion of a Federal-aid primary route in San Mateo, California.

By Mr. MOYNIHAN:

S. 334. A bill to amend section 541 of the National Housing Act with respect to the partial payment of claims on health care facilities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WARNER (for himself, Mr. GRAHAM, Mr. HOLLINGS, Mr. FAIRCLOTH, Mr. LUGAR, Mr. FORD, Mrs. HUTCHINSON, Mr. INHOFE, Mr. NICKLES, Mr. BREAUX, Mr. HELMS, Mr. COATS, Mr. MCCONNELL, Mr. SHELBY, Mr. BOND, Mr. THURMOND, Mr. SESSIONS, Mr. HUTCHINSON, Mr. GRAMM, Mr. ROBB, Mr. COVERDELL, Mr. CLELAND, and Mr. GRAMS):

S. 335. A bill to authorize funds for construction of highways, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SARBANES:

S. 336. A bill to convert certain excepted service positions in the United States Fire Administration to competitive service positions, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HUTCHINSON (for himself, Mr. HAGEL, Mr. ABRAHAM, Mr. NICKLES, and Mr. HELMS):

S. 337. A bill to amend the Foreign Assistance Act of 1961 to restrict assistance to foreign organizations that perform or actively promote abortions; to the Committee on Foreign Relations.

Mr. COVERDELL (for himself and Mr. CLELAND):

S. 338. A bill to designate the J. Phil Campbell, Senior Natural Resource Conservation Center; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEVIN (for himself, Mr. ABRAHAM, Mr. AKAKA, Mr. HELMS, and Mr. ROBB):

S. 339. A bill to amend title 18, United States Code, to revise the requirements for procurement of products of Federal Prison Industries to meet needs of Federal agencies, and for other purposes; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. CONRAD, Mr. KENNEDY, Mr. DORGAN, Ms. MIKULSKI, and Mr. LEVIN):

S. 340. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; to the Committee on Finance.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 341. A bill to establish a bipartisan commission to study and provide recommendations on restoring the financial integrity of the medicare program under title XVIII of the Social Security Act; to the Committee on Finance.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself, Mr. SANTORUM, Mr. FEINGOLD, Mr. KOHL, Mr. JEFFORDS, Mr. LEAHY, Mr. WELLSTONE, Ms. SNOWE, Ms. COLLINS, and Mr. GRAMS):

S. Res. 55. A resolution expressing the sense of the Senate regarding the need to address immediately the decline in milk prices; considered and agreed to.

By Mr. SPECTER (for himself, Mr. SANTORUM, Ms. SNOWE, Mr. WARNER, Mr. GRASSLEY, Mr. SHELBY, Mr. THURMOND, Mr. ROTH, Mr. D'AMATO,

Mr. COCHRAN, Mr. DOMENICI, Mr. GREGG, Mr. ABRAHAM, Mr. JEFFORDS, Mr. FAIRCLOTH, Mr. THOMPSON, Mr. COVERDELL, Mr. CHAFEE, Mr. KENNEDY, Mr. DURBIN, Mr. GLENN, Mr. KOHL, Mr. GRAHAM, Mr. BIDEN, Mr. ROBB, Mr. REID, Ms. MOSELEY-BRAUN, Mr. KERRY, Ms. MIKULSKI, Mr. REED, Mr. LEVIN, Mr. HOLLINGS, Mr. INOUE, Mr. LIEBERMAN, Mrs. BOXER, Mr. MOYNIHAN, Mrs. FEINSTEIN, Mr. WYDEN, Mr. LAUTENBERG, Mrs. MURRAY, Mr. BYRD, Mr. SARBANES, Mr. DODD, and Mr. TORRICELLI):

S. Res. 56. A resolution designating March 25, 1997, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Mr. BOND, Mr. BURNS, Mr. CONRAD, Mr. COCHRAN, Mr. CRAIG, Mr. DASCHLE, Mr. GORTON, Mr. KERREY, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. SMITH, and Mr. REID):

S. Res. 57. A resolution to support the commemoration of the bicentennial of the Lewis and Clark Expedition; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself, Mr. THOMAS, Mr. MACK, and Mr. ROCKEFELLER):

S. Res. 58. A resolution to state the sense of the Senate that the Treaty of Mutual Cooperation and Security Between the United States of America and Japan is essential for furthering the security interests of the United States, Japan, and the countries of the Asia-Pacific region, and that the people of Okinawa deserve recognition for their contributions toward ensuring the Treaty's implementation; to the Committee on Foreign Relations.

#### STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MOSELEY-BRAUN (for herself and Mrs. MURRAY):

S. 320. A bill to amend the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

#### THE COMPREHENSIVE WOMEN'S PENSION PROTECTION ACT OF 1997

Ms. MOSELEY-BRAUN. Mr. President, I introduce the Comprehensive Women's Pension Protection Act of 1997. At the end of the 104th Congress, Congresswoman KENNELLY and I introduced the Comprehensive Women's Pension Protection Act of 1996. When we introduced that legislation at the end of the last Congress we made a commitment to reintroduce this legislation at the beginning of the 105th Congress and to make women's retirement security a priority in the 105th Congress. Today we are keeping that promise.

The Comprehensive Women's Pension Protection Act of 1997 combines some of the best ideas on women's pension legislation that have come before the House or the Senate and new proposals to increase the security, equity, and accessibility of our pension system.

Many of America's women are facing a retirement without economic security. The majority of the elderly in this country are, and will continue to be, women, and our retirement system is failing them.

Younger women are not earning sufficient pension benefits to provide for their secure retirement. Due to the demands of child rearing and elder care, which often take women out of the workforce for a time, and to lower lifetime earnings due to continuing wage inequities, the average 35-year-old woman with a \$50,000 salary must have accumulated retirement savings of \$35,000 in order to have a comfortable retirement. A man need only have saved \$3,000 by the time he is 35.

Many older women worked in the home or took time off to raise families, and when pension benefits of their own. For many older women too, widowhood or divorce can rob them of their part of their husband's pension benefits. To ensure that the golden years are not the disposable years women need to take charge of their own retirement, but Congress must ensure that the Nation's retirement system enables them to do so.

On May 14, of last year I introduced, and many of my colleagues cosponsored, the Women's Pension Equity Act of 1996, to begin to address one of the leading causes of poverty for the elderly—little or no pension benefits. Less than a third of all female retirees have pensions, and the majority of those that do earn less than \$5,000 a year. The lack of pension benefits for many women means the difference between a comfortable retirement and a difficult one. Three of the six provisions of that bill are now law.

This legislation is a continuation of my effort to enact real pension reforms that will allow women to achieve a secure retirement. Since introducing the first of my women's pension equity bills, I have heard from hundreds of women from States across the country about the need for pension policy that allows women to retire with dignity.

Addressing pension issues is an integral part of the solution to women's economic insecurity. In addition, pension issues are critical to our Nation as a whole. In light of the demographic trends facing America, retirement security is increasingly important to the quality of life of all of our citizens. Social Security is the focus of much discussion and debate in Congress and throughout the Nation, and it should be. However, addressing the problems facing Social Security alone will not provide women, or any American, with the tools to create a secure retirement. The intent, from its inception, was that Social Security would provide a floor—a minimum amount of resources for retirement. The average retiree will only have about 40 percent of his or her wages replaced by Social Security.

Clearly, women must take charge of their own retirement and not just rely on Social Security. I have advocated that every woman create her own "pension eight" checklist to prepare for economic security. The 8 items that should be on any woman's checklist include: (1) finding out if she is earning or has ever earned a pension; (2) learn-

ing if her employer has a pension plan, and how to be eligible for the plan; (3) contributing to a pension plan if she has the chance; (4) not spending pension earnings if given a one-time payment when leaving a job; (5) if married, finding out if her husband has a pension; (6) not signing away a future right to her husband's pension if he dies; (7) during a divorce, considering the pension as a valuable, jointly earned asset to be divided; and (8) finding out about pension rights and fighting for them.

Even when women take charge of their own retirement, however, they can face a brick wall of pension law that prevents them from investing enough for their future. Pension laws were not written to reflect the patterns of women's work or women's lives. Women are more likely to move in and out of the workforce, work at home, earn less for the work they do, and work in low paying industries. These factors limit our ability to access or accrue pension benefits. Women are also more likely to be widowed or divorced, live alone, and live longer in their retirement years, leaving them without adequate coverage.

This bill, which is also being introduced in the House of Representatives today by Congresswoman KENNELLY, a long-time champion of women's pension rights, addresses the range of concerns that women face as they consider retirement.

This legislation preserves women's pensions by ending the practice of integration by the year 2004, the practice whereby pension benefits are reduced by a portion of Social Security benefits. It provides for the automatic division of pensions upon divorce if the divorce decree is silent on pension benefits. It allows a widow or divorced widow to collect her husband's civil service pension if he leaves his job and dies before collecting benefits. And it continues the payment of court ordered Tier II railroad retirement benefits to a divorced widow.

This legislation protects women's pensions by prohibiting 401(k) plans, the fastest growing type of plans in the country, from investing employee contributions in the company's own stock. It requires annual benefits statements for plan participants. And it applies spousal consent rules governing pension fund withdrawals to 401(k) plans.

This legislation helps prepare women for retirement by creating a women's pension hotline, providing a real opportunity for women to get answers to their questions.

By preserving and protecting women's pensions, we in Congress can provide women with the tools they need to prepare for their own retirement. By reintroducing this legislation today we are giving notice that pension policy will be at the top of the agenda for the 105th Congress.

Pension policy decisions will determine, in no small part, the kind of life Americans will live in their older

years. With a baby boomer turning 50 every 9 seconds, we cannot ignore the problems facing people as they grow older. Now, more than ever, all Americans need to consider the role that pensions play in determining the kind of life every American will lead. We look forward to being joined, on a bipartisan basis, by all of our colleagues in the fight for pension equity.

Senator MURRAY joins me today in introducing the Comprehensive Women's Pension Protection Act of 1997. Mr. President, I ask unanimous consent that a summary of the bill and a copy of the legislation be printed in the RECORD.

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

S. 320

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

#### SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Women's Pension Protection Act of 1997".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title.

#### TITLE I—PENSION REFORM

Sec. 101. Pension integration rules.

Sec. 102. Application of minimum coverage requirements with respect to separate lines of business.

Sec. 103. Division of pension benefits upon divorce.

Sec. 104. Clarification of continued availability of remedies relating to matters treated in domestic relations orders entered before 1985.

Sec. 105. Entitlement of divorced spouses to railroad retirement annuities independent of actual entitlement of employee.

Sec. 106. Effective dates.

#### TITLE II—PROTECTION OF RIGHTS OF FORMER SPOUSES TO PENSION BENEFITS UNDER CERTAIN GOVERNMENT AND GOVERNMENT-SPONSORED RETIREMENT PROGRAMS

Sec. 201. Extension of tier II railroad retirement benefits to surviving former spouses pursuant to divorce agreements.

Sec. 202. Survivor annuities for widows, widowers, and former spouses of Federal employees who die before attaining age for deferred annuity under civil service retirement system.

Sec. 203. Court orders relating to Federal retirement benefits for former spouses of Federal employees.

#### TITLE III—REFORMS RELATED TO 401(K) PLANS

Sec. 301. Requirement of annual, detailed investment reports applied to certain 401(k) plans.

Sec. 302. Section 401(k) investment protection.

#### TITLE IV—MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS

Sec. 401. Modifications of joint and survivor annuity requirements.

#### TITLE V—SPOUSAL CONSENT REQUIRED FOR DISTRIBUTIONS FROM SECTION 401(K) PLANS

Sec. 501. Spousal consent required for distributions from section 401(k) plans.

#### TITLE VI—WOMEN'S PENSION TOLL-FREE PHONE NUMBER

Sec. 601. Women's pension toll-free phone number.

#### TITLE VII—PERIODIC PENSION BENEFITS STATEMENTS

Sec. 701. Periodic pension benefits statements.

### TITLE I—PENSION REFORM

#### SEC. 101. PENSION INTEGRATION RULES.

(a) APPLICABILITY OF NEW INTEGRATION RULES EXTENDED TO ALL EXISTING ACCRUED BENEFITS.—Notwithstanding subsection (c)(1) of section 1111 of the Tax Reform Act of 1986 (relating to effective date of application of nondiscrimination rules to integrated plans) (100 Stat. 2440), effective for plan years beginning after the date of the enactment of this Act, the amendments made by subsection (a) of such section 1111 shall also apply to benefits attributable to plan years beginning on or before December 31, 1988.

(b) INTEGRATION DISALLOWED FOR SIMPLIFIED EMPLOYEE PENSIONS.—

(1) IN GENERAL.—Subparagraph (D) of section 408(k)(3) of the Internal Revenue Code of 1986 (relating to permitted disparity under rules limiting discrimination under simplified employee pensions) is repealed.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of such section 408(k)(3) is amended by striking "and except as provided in subparagraph (D)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to taxable years beginning on or after January 1, 1998.

(c) EVENTUAL REPEAL OF INTEGRATION RULES.—Effective for plan years beginning on or after January 1, 2004—

(1) subparagraphs (C) and (D) of section 401(a)(5) of the Internal Revenue Code of 1986 (relating to pension integration exceptions under nondiscrimination requirements for qualification) are repealed, and subparagraph (E) of such section 401(a)(5) is redesignated as subparagraph (C); and

(2) subsection (l) of section 401 of such Code (relating to nondiscriminatory coordination of defined contribution plans with OASDI) is repealed.

#### SEC. 102. APPLICATION OF MINIMUM COVERAGE REQUIREMENTS WITH RESPECT TO SEPARATE LINES OF BUSINESS.

(a) IN GENERAL.—Subsection (b) of section 410 of the Internal Revenue Code of 1986 (relating to minimum coverage requirements) is amended—

(1) in paragraph (1), by striking "A trust" and inserting "In any case in which the employer with respect to a plan is treated, under section 414(r), as operating separate lines of business for a plan year, a trust", and by inserting "for such plan year" after "requirements"; and

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULE WHERE EMPLOYER OPERATES SINGLE LINE OF BUSINESS.—In any case in which the employer with respect to a plan is not treated, under section 414(r), as operating separate lines of business for a plan year, a trust shall not constitute a qualified trust under section 401(a) unless such trust is designated by the employer as part of a plan which benefits all employees of the employer."

(b) LIMITATION ON LINE OF BUSINESS EXCEPTION.—Paragraph (6) of section 410(b) of such Code (as redesignated by subsection (a)(2) of this section) is amended by inserting "other than paragraph (1)(A)" after "this subsection".

#### SEC. 103. DIVISION OF PENSION BENEFITS UPON DIVORCE.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Paragraph (1) of section 414(p) of the Internal Revenue Code of 1986 (relating to qualified domestic relations order defined) is amended by adding at the end the following new subparagraph:

"(C) DEEMED DOMESTIC RELATIONS ORDER UPON DIVORCE.—

"(i) IN GENERAL.—Except as provided in clause (iv), a domestic relations order with respect to a marriage of at least 5 years duration between the participant and the former spouse (including an annulment or other order of marital dissolution) shall, if the former spouse, within 60 days after the receipt of notice under paragraph (6)(B)(i)(II), so elects, be deemed by the plan to be a domestic relations order that specifies that 50 percent of the marital share of the participant's accrued benefit is to be provided to such former spouse.

"(ii) MARITAL SHARE.—The marital share shall be the accrued benefit of the participant under the plan as of the date of the first payment under the plan (to the extent such accrued benefit is vested at the date of the divorce or any later date) multiplied by a fraction, the numerator of which is the period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

"(iii) INTERPRETATION AS QUALIFIED DOMESTIC RELATIONS ORDER.—Each plan shall establish reasonable rules for determining how any such deemed domestic relations order is to be interpreted under the plan so as to constitute a qualified domestic relations order that satisfies paragraphs (2) through (4) (and a copy of such rules shall be provided to such former spouse promptly after delivery of the divorce decree). Such rules—

"(I) may delay the effect of such an order until the earlier of the date the participant is fully vested or has terminated employment,

"(II) may allow the former spouse to be paid out immediately,

"(III) shall permit the former spouse to be paid not later than the earliest retirement age under the plan or the participant's death,

"(IV) may require the submitter of the divorce decree to present a marriage certificate or other evidence of the marriage date to assist in benefit calculations, and

"(V) may conform to the rules applicable to qualified domestic relations orders regarding form or type of benefit.

"(iv) APPLICATION.—This subparagraph shall not apply—

"(I) if the domestic relations order states that pension benefits were considered by the parties and no division is intended, or

"(II) to the extent that a qualified domestic relations order issued in connection with such divorce provides otherwise."

(2) NOTIFICATION PROCEDURES.—Section 414(p)(6) of such Code (relating to plan procedures with respect to orders) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting before subparagraph (C) (as so redesignated) the following new subparagraphs:

"(A) NOTICE AND DETERMINATION BY ADMINISTRATOR.—In the case of any domestic relations order received by a plan, including such an order received under subparagraph (B) or section 4980B(f)(6)(C)—

"(i) within 14 days after receipt of such order, the plan administrator shall—

"(I) notify the participant and each alternate payee of the receipt of such order and the plan's procedures for determining the qualified status of domestic relation orders, and

"(II) notify the former spouse of such former spouse's rights under paragraph (1)(C), and

"(ii) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified domestic relations order and notify the participant and each alternate payee of such determination.

"(B) NOTIFICATION OF PLAN ADMINISTRATOR.—In the case of a domestic relations order which is not a qualified domestic relations order, each plan—

"(i) shall require that each participant is responsible for notifying the plan administrator of the occurrence of a divorce of the participant from the former spouse and for delivery to the plan administrator of the domestic relations order along with the information required by paragraph (2)(A) within 60 days after the date of the divorce, and

"(ii) shall allow a former spouse to so notify the plan administrator and deliver to the plan administrator the domestic relations order within 60 days after the date of the divorce."

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subsection (d)(3)(B) of section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) is amended—

(A) by striking "this paragraph—" and inserting "this paragraph:",

(B) in clause (i)—

(i) by striking "the term" and inserting "The term", and

(ii) by striking "met, and" and inserting "met.",

(C) in clause (ii), by striking "the term" and inserting "The term", and

(D) by adding at the end the following new clause:

"(iii)(I) Except as provided on subclause (IV), a domestic relations order with respect to a marriage of at least 5 years duration between the participant and the former spouse (including an annulment or other order of marital dissolution) shall, if the former spouse, within 60 days after the receipt of notice under subparagraph (G)(ii)(I)(bb), so elects, be deemed by the plan to be a domestic relations order that specifies that 50 percent of the marital share of the participant's accrued benefit is to be provided to such former spouse.

"(II) The marital share shall be the accrued benefit of the participant under the plan as of the date of the first payment under the plan (to the extent such accrued benefit is vested at the date of the divorce or any later date) multiplied by a fraction, the numerator of which is the period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

"(III) Each plan shall establish reasonable rules for determining how any such deemed domestic relations order is to be interpreted under the plan so as to constitute a qualified domestic relations order that satisfies subparagraphs (C) through (E) (and a copy of such rules shall be provided to such former spouse promptly after delivery of the divorce decree). Such rules—

"(aa) may delay the effect of such an order until the earlier of the date the participant is fully vested or has terminated employment,

"(bb) may allow the former spouse to be paid out immediately,

"(cc) shall permit the spouse to be paid not later than the earliest retirement age under the plan or the participant's death,

"(dd) may require the submitter of the divorce decree to present a marriage certificate or other evidence of the marriage date to assist in benefit calculations, and

"(ee) may conform to the rules applicable to qualified domestic relations orders regarding form or type of benefit.

"(IV) This clause shall not apply—

"(aa) if the domestic relations order states that pension benefits were considered by the parties and no division is intended, or

"(bb) to the extent that a qualified domestic relations order issued in connection with such divorce provides otherwise."

(2) NOTIFICATION PROCEDURES.—Section 206(d)(3)(G) of such Act (29 U.S.C. 1056(d)(3)(G)) is amended by striking all matter before clause (ii), by redesignating clause (ii) as clause (iii), and by inserting before clause (iii) (as so redesignated) the following:

"(G)(i) In the case of any domestic relations order received by a plan, including such an order received under clause (ii) or section 606(a)(3)—

"(I) within 14 days after receipt of such order, the plan administrator shall—

"(aa) notify the participant and each alternate payee of the receipt of such order and the plan's procedures for determining the qualified status of domestic relation orders, and

"(bb) notify the former spouse of such former spouse's rights under subparagraph (B)(iii), and

"(II) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified domestic relations order and notify the participant and each alternate payee of such determination.

"(ii) In the case of a domestic relations order which is not a qualified domestic relations order, each plan—

"(I) shall require that each participant is responsible for notifying the plan administrator of the occurrence of a divorce of the participant from the former spouse and for delivery to the plan administrator of the domestic relations order along with the information required by subparagraph (C)(i) within 60 days after the date of the divorce, and

"(II) shall allow a former spouse to so notify the plan administrator and deliver to the plan administrator the domestic relations order within 60 days after the date of the divorce."

#### SEC. 104. CLARIFICATION OF CONTINUED AVAILABILITY OF REMEDIES RELATING TO MATTERS TREATED IN DOMESTIC RELATIONS ORDERS ENTERED BEFORE 1985.

(a) IN GENERAL.—In any case in which—

(1) under a prior domestic relations order entered before January 1, 1985, in an action for divorce—

(A) the right of a spouse under a pension plan to an accrued benefit under such plan was not divided between spouses,

(B) any right of a spouse with respect to such an accrued benefit was waived without the informed consent of such spouse, or

(C) the right of a spouse as a participant under a pension plan to an accrued benefit under such plan was divided so that the other spouse received less than such other spouse's pro rata share of the accrued benefit under the plan, or

(2) a court of competent jurisdiction determines that any further action is appropriate with respect to any matter to which a prior domestic relations order entered before such date applies,

nothing in the provisions of section 104, 204, or 303 of the Retirement Equity Act of 1984 (Public Law 98-397) or the amendments made

thereby shall be construed to require or permit the treatment, for purposes of such provisions, of a domestic relations order, which is entered on or after the date of the enactment of this Act and which supersedes, amends the terms of, or otherwise affects such prior domestic relations order, as other than a qualified domestic relations order solely because such prior domestic relations order was entered before January 1, 1985.

(b) DEFINITIONS.—For purposes of this section—

(1) IN GENERAL.—Terms used in this section which are defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) shall have the meanings provided such terms by such section.

(2) PRO RATA SHARE.—The term "pro rata share" of a spouse means, in connection with an accrued benefit under a pension plan, 50 percent of the product derived by multiplying—

(A) the actuarial present value of the accrued benefit, by

(B) a fraction—

(i) the numerator of which is the period of time, during the marriage between the spouse and the participant in the plan, which constitutes creditable service by the participant under the plan, and

(ii) the denominator of which is the total period of time which constitutes creditable service by the participant under the plan.

(3) PLAN.—All pension plans in which a person has been a participant shall be treated as one plan with respect to such person.

#### SEC. 105. ENTITLEMENT OF DIVORCED SPOUSES TO RAILROAD RETIREMENT ANNUITIES INDEPENDENT OF ACTUAL ENTITLEMENT OF EMPLOYEE.

Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended—

(1) in subsection (c)(4)(i), by striking "(A) is entitled to an annuity under subsection (a)(1) and (B)"; and

(2) in subsection (e)(5), by striking "or divorced wife" the second place it appears.

#### SEC. 106. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title, other than section 101, shall apply with respect to plan years beginning on or after January 1, 1998, and the amendments made by section 103 shall apply only with respect to divorces becoming final in such plan years.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "January 1, 1998" the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1999, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2000.

(c) PLAN AMENDMENTS.—If any amendment made by this title requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 2000, if—

(1) during the period after such amendment made by this title takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment made by this title, and

(2) such plan amendment applies retroactively to the period after such amendment

made by this title takes effect and such first plan year.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.

## **TITLE II—PROTECTION OF RIGHTS OF FORMER SPOUSES TO PENSION BENEFITS UNDER CERTAIN GOVERNMENT AND GOVERNMENT-SPONSORED RETIREMENT PROGRAMS**

### **SEC. 201. EXTENSION OF TIER II RAILROAD RETIREMENT BENEFITS TO SURVIVING FORMER SPOUSES PURSUANT TO DIVORCE AGREEMENTS.**

(a) IN GENERAL.—Section 5 of the Railroad Retirement Act of 1974 (45 U.S.C. 231d) is amended by adding at the end the following new subsection:

“(d) Notwithstanding any other provision of law, the payment of any portion of an annuity computed under section 3(b) to a surviving former spouse in accordance with a court decree of divorce, annulment, or legal separation or the terms of any court-approved property settlement incident to any such court decree shall not be terminated upon the death of the individual who performed the service with respect to which such annuity is so computed unless such termination is otherwise required by the terms of such court decree.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

### **SEC. 202. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS, AND FORMER SPOUSES OF FEDERAL EMPLOYEES WHO DIE BEFORE ATTAINING AGE FOR DEFERRED ANNUITY UNDER CIVIL SERVICE RETIREMENT SYSTEM.**

(a) BENEFITS FOR WIDOW OR WIDOWER.—Section 8341(f) of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1) by—

(A) by inserting “a former employee separated from the service with title to deferred annuity from the Fund dies before having established a valid claim for annuity and is survived by a spouse, or if” before “a Member”; and

(B) by inserting “of such former employee or Member” after “the surviving spouse”;

(2) in paragraph (1)—

(A) by inserting “former employee or” before “Member commencing”; and

(B) by inserting “former employee or” before “Member dies”; and

(3) in the undesignated sentence following paragraph (2)—

(A) in the matter preceding subparagraph (A) by inserting “former employee or” before “Member”; and

(B) in subparagraph (B) by inserting “former employee or” before “Member”.

(b) BENEFITS FOR FORMER SPOUSE.—Section 8341(h) of title 5, United States Code, is amended—

(1) in paragraph (1) by adding after the first sentence “Subject to paragraphs (2) through (5) of this subsection, a former spouse of a former employee who dies after having separated from the service with title to a deferred annuity under section 8338(a) but before having established a valid claim for annuity is entitled to a survivor annuity under this subsection, if and to the extent expressly provided for in an election under section 8339(j)(3) of this title, or in the terms of any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.”; and

(2) in paragraph (2)—

(A) in subparagraph (A)(ii) by striking “or annuitant,” and inserting “annuitant, or former employee”; and

(B) in subparagraph (B)(iii) by inserting “former employee or” before “Member”.

(c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—Section 8339(j)(3) of title 5, United States Code, is amended by inserting at the end the following:

“The Office shall provide by regulation for the application of this subsection to the widow, widower, or surviving former spouse of a former employee who dies after having separated from the service with title to a deferred annuity under section 8338(a) but before having established a valid claim for annuity.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply only in the case of a former employee who dies on or after such date.

### **SEC. 203. COURT ORDERS RELATING TO FEDERAL RETIREMENT BENEFITS FOR FORMER SPOUSES OF FEDERAL EMPLOYEES.**

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IN GENERAL.—Section 8345(j) of title 5, United States Code, is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

“(3) Payment to a person under a court decree, court order, property settlement, or similar process referred to under paragraph (1) shall include payment to a former spouse of the employee, Member, or annuitant.”.

(2) LUMP-SUM BENEFITS.—Section 8342 of title 5, United States Code, is amended—

(A) in subsection (c) by striking “Lump-sum benefits” and inserting “Subject to subsection (j), lump-sum benefits”; and

(B) in subsection (j)(1) by striking “the lump-sum credit under subsection (a) of this section” and inserting “any lump-sum credit or lump-sum benefit under this section”.

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8467 of title 5, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

“(c) Payment to a person under a court decree, court order, property settlement, or similar process referred to under subsection (a) shall include payment to a former spouse of the employee, Member, or annuitant.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### **TITLE III—REFORMS RELATED TO 401(K) PLANS**

#### **SEC. 301. REQUIREMENT OF ANNUAL, DETAILED INVESTMENT REPORTS APPLIED TO CERTAIN 401(K) PLANS.**

(a) IN GENERAL.—Section 104(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(3)) is amended—

(1) by inserting “(A)” after “(3)”; and

(2) by adding at the end the following new subparagraph:

“(B)(i) If a plan includes a qualified cash or deferred arrangement (as defined in section 401(k)(2) of the Internal Revenue Code of 1986) and is maintained by an employer with less than 100 participants, the administrators shall furnish to each participant and to each beneficiary receiving benefits under the plan an annual investment report detailing such information as the Secretary by regulation shall require.

“(ii) Clause (i) shall not apply with respect to any participant described in section 404(c).”.

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Labor, in prescribing regulations required under section 104(b)(3)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(3)(B)(i)), as added by subsection (a), shall consider including in the information required in an annual investment report the following:

(A) Total plan assets and liabilities as of the beginning and ending of the plan year.

(B) Plan income and expenses and contributions made and benefits paid for the plan year.

(C) Any transaction between the plan and the employer, any fiduciary, or any 10-percent owner during the plan year, including the acquisition of any employer security or employer real property.

(D) Any noncash contributions made to or purchases of nonpublicly traded securities made by the plan during the plan year without an appraisal by an independent third party.

(2) ELECTRONIC TRANSFER.—The Secretary of Labor in prescribing such regulations shall also make provision for the electronic transfer of the required annual investment report by a plan administrator to plan participants and beneficiaries.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

#### **SEC. 302. SECTION 401(K) INVESTMENT PROTECTION.**

(a) LIMITATIONS ON INVESTMENT IN EMPLOYER SECURITIES AND EMPLOYER REAL PROPERTY BY CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of section 407(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)) is amended by adding at the end the following new subparagraph:

“(D) The term ‘eligible individual account plan’ does not include that portion of an individual account plan that consists of elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986 (and earnings thereon), if such elective deferrals (or earnings thereon) are required to be invested in qualifying employer securities or qualifying employer real property or both pursuant to the documents and instruments governing the plan or at the direction of a person other than the participant (or the participant’s beneficiary) on whose behalf such elective deferrals are made to the plan. For the purposes of subsection (a), such portion shall be treated as a separate plan. This subparagraph shall not apply to an individual account plan if the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans maintained by the employer.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TRANSITION RULE FOR PLANS HOLDING EXCESS SECURITIES OR PROPERTY.—

(A) IN GENERAL.—In the case of a plan which on the date of the enactment of this Act, has holdings of employer securities and employer real property (as defined in section 407(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)) in excess of the amount specified in such section 407, the amendment made by this section applies to any acquisition of such securities and property on or after such date, but does not apply to the specific holdings which constitute such excess during the period of such excess.



(B) SPECIAL RULE FOR CERTAIN ACQUISITIONS.—Employer securities and employer real property acquired pursuant to a binding written contract to acquire such securities and real property entered into and in effect on the date of the enactment of this Act, shall be treated as acquired immediately before such date.

#### **TITLE IV—MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS**

##### **SEC. 401. MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS.**

(a) AMENDMENTS TO ERISA.—

(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Paragraph (1) of section 205(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(a)) is amended by inserting “or, at the election of the participant, shall be provided in the form of a qualified joint and  $\frac{3}{4}$  survivor annuity” after “survivor annuity.”

(B) DEFINITION.—Subsection (d) of section 205 of such Act (29 U.S.C. 1055) is amended—

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

(ii) by inserting “(1)” after “(d)”, and

(iii) by adding at the end the following new paragraph:

“(2) For purposes of this section, the term “qualified joint and  $\frac{3}{4}$  survivor annuity” means an annuity—

“(A) for the participant while both the participant and the spouse are alive with a survivor annuity for the life of surviving individual (either the participant or the spouse) equal to 67 percent of the amount of the annuity which is payable to the participant while both the participant and the spouse are alive,

“(B) which is the actuarial equivalent of a single annuity for the life of the participant, and

“(C) which, for all other purposes of this Act, is treated as a qualified joint and survivor annuity.”

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 205(c)(3)(A) of such Act (29 U.S.C. 1055(c)(3)(A)) is amended to read as follows:

“(i) the terms and conditions of each qualified joint and  $\frac{3}{4}$  survivor annuity and qualified joint and  $\frac{3}{4}$  survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgment form to be signed by the participant and the spouse that they have read and considered the illustration before any form of retirement benefit is chosen.”

(b) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Clause (i) of section 401(a)(11)(A) of the Internal Revenue Code of 1986 (relating to requirement of joint and survivor annuity and preretirement survivor annuity) is amended by inserting “or, at the election of the participant, shall be provided in the form of a qualified joint and  $\frac{3}{4}$  survivor annuity” after “survivor annuity.”

(B) DEFINITION.—Section 417 of such Code (relating to definitions and special rules for purposes of minimum survivor annuity requirements) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) DEFINITION OF QUALIFIED JOINT AND  $\frac{3}{4}$  SURVIVOR ANNUITY.—For purposes of this section and section 401(a)(11), the term “qualified joint and  $\frac{3}{4}$  survivor annuity” means an annuity—

“(1) for the participant while both the participant and the spouse are alive with a survivor annuity for the life of surviving individual (either the participant or the spouse) equal to 67 percent of the amount of the annuity which is payable to the participant

while both the participant and the spouse are alive,

“(2) which is the actuarial equivalent of a single annuity for the life of the participant, and

“(3) which, for all other purposes of this title, is treated as a qualified joint and survivor annuity.”

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 417(a)(3)(A) of such Code (relating to explanation of joint and survivor annuity) is amended to read as follows:

“(i) the terms and conditions of each qualified joint and survivor annuity and qualified joint and  $\frac{3}{4}$  survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgment form to be signed by the participant and the spouse that they have read and considered the illustration before any form of retirement benefit is chosen.”

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning on or after January 1, 1998.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of enactment of this Act, the amendments made by this section shall apply to the first plan year beginning on or after the earlier of—

(A) the later of—

(i) January 1, 1999, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of enactment of this Act), or

(B) January 1, 2000.

(3) PLAN AMENDMENTS.—If any amendment made by this section requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 2000, if—

(A) during the period after such amendment made by this section takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment made by this section, and

(B) such plan amendment applies retroactively to the period after such amendment made by this section takes effect and such first plan year.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this paragraph.

#### **TITLE V—SPOUSAL CONSENT REQUIRED FOR DISTRIBUTIONS FROM SECTION 401(k) PLANS**

##### **SEC. 501. SPOUSAL CONSENT REQUIRED FOR DISTRIBUTIONS FROM SECTION 401(k) PLANS.**

(a) IN GENERAL.—Paragraph (2) of section 401(k) of the Internal Revenue Code of 1986 (defining qualified cash or deferred arrangement) is amended by striking “and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting “, and”, and by adding at the end the following new subparagraph:

“(E) which provides that no distribution may be made unless—

“(i) the spouse of the employee (if any) consents in writing (during the 90-day period ending on the date of the distribution) to such distribution, and

“(ii) requirements comparable to the requirements of section 417(a)(2) are met with respect to such consent.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning on or after January 1, 1998.

#### **TITLE VI—WOMEN'S PENSION TOLL-FREE PHONE NUMBER**

##### **SEC. 601. WOMEN'S PENSION TOLL-FREE PHONE NUMBER.**

(a) IN GENERAL.—The Secretary of Labor shall contract with an independent organization to create a women's pension toll-free telephone number and contact to serve as—

(1) a resource for women on pension questions and issues;

(2) a source for referrals to appropriate agencies; and

(3) a source for printed information.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$500,000 for each of the fiscal years 1998, 1998, 2000, and 2001 to carry out subsection (a).

#### **TITLE VII—PERIODIC PENSION BENEFITS STATEMENTS**

##### **SEC. 701. PERIODIC PENSION BENEFITS STATEMENTS.**

(a) IN GENERAL.—Subsection (a) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking “shall furnish to any plan participant or beneficiary who so requests in writing,” and inserting “shall furnish at least once every 3 years, in the case of a defined benefit plan, and annually, in the case of a defined contribution plan, to each plan participant, and shall furnish to any plan participant or beneficiary who so requests.”

(b) RULE FOR MULTIEMPLOYER PLANS.—Subsection (d) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended to read as follows:

“(d) Each administrator of a plan to which more than 1 unaffiliated employer is required to contribute shall furnish to any plan participant or beneficiary who so requests in writing, a statement described in subsection (a).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the earlier of—

(1) the date of issuance by the Secretary of Labor of regulations providing guidance for simplifying defined benefit plan calculations with respect to the information required under section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025), or

(2) December 31, 1997.

#### **COMPREHENSIVE WOMEN'S PENSION PROTECTION ACT OF 1997**

##### **Section-by-Section Summary**

##### **SECTION 101—INTEGRATION**

Problem—Social Security integration is a little known, but potentially devastating mechanism whereby employers can reduce a portion of employer-provided pension benefits by the amount of Social Security to which an employee is entitled. The Tax Reform Act of 1986 limited integration so as to guarantee a minimum level of benefits, but the formula only applied to benefits accrued in plan years beginning after December 31, 1998. Low wage workers are disproportionately affected by integration and are often left with minimal benefits.

Solution—Apply the integration limitations of Tax Reform Act of 1986 to all plan years prior to 1998, thereby minimizing integration for low and moderate wage workers. In addition, eliminate integration entirely for plan years beginning on or after January 1, 2004. The lag between enactment and 2004 is designed to be a transition period for employers. No integration would be permissible for Simplified Employee Pensions for taxable years beginning after January 1, 1998.

# SECTION 102—APPLICATION OF MINIMUM COVERAGE REQUIREMENTS WITH RESPECT TO SEPARATE LINES OF BUSINESS

**Problem**—Current law allows companies with several lines of business to deny a substantial percentage of employees pension coverage. The employees denied coverage are disproportionately low-wage workers.

**Solution**—Requires that all employees within a single line of business be provided pension coverage to the extent the employer provides coverage and the employee meets other statutory requirements such as minimum age and hours.

## SECTION 103—DIVISION OF PENSION BENEFITS UPON DIVORCE

**Problem**—Pension assets are often overlooked in divorce even though they can be a couple's most valuable asset.

**Solution**—Using COBRA as a model for the process, provide for an automatic division of defined benefit pension benefits earned during the marriage upon divorce, provided that the couple has been married for five years. The employee would notify his or her employer of a divorce. The employer would then send a letter to the ex-spouse informing him or her that he or she may be entitled to half of the pension earned while the couple was married. The ex-spouse would then have 60 days, as under COBRA, to contact the employer and determine eligibility. If a Qualified Domestic Relations Order (QDRO) dealt with the pension benefits, then this provision would not apply.

## SECTION 104—CLARIFICATION OF CONTINUED AVAILABILITY OF REMEDIES RELATING TO MATTERS TREATED IN DOMESTIC RELATIONS ORDERS ENTERED INTO BEFORE 1985

**Problem**—In response to both the greater propensity of women to spend their retirement years in poverty and the fact that women were much less likely to earn private pension rights based on their own work history, the Retirement Equity Act of 1984 gave the wife the right to a share of her husband's pension assets in the case of divorce. This law only applied to divorces entered into after January 1, 1985.

**Solution**—Where a divorce occurred prior to 1985, allow the Qualified Domestic Relations Order (QDRO) to be reopened to provide for the division of pension assets pursuant to a court order.

## SECTION 105—ENTITLEMENT OF DIVORCED SPOUSES TO RAILROAD RETIREMENT ANNUITIES INDEPENDENT OF ACTUAL ENTITLEMENT OF EMPLOYEE

**Problem**—Under the Railroad Retirement System a divorced wife is automatically entitled to 50% of her husband's pension under Tier I benefits as long as four conditions are met: 1) the divorced wife and her husband must both be at least 62 years old; 2) the couple must have been married for at least 10 consecutive years; 3) she must not have remarried when she applies; and 4) her former husband must have started collecting his own railroad retirement benefits. There have been situations where a former husband has delayed collection of benefits so as to deny the former wife benefits.

**Solution**—Eliminate the requirement that the former husband has started collecting his own railroad retirement benefits.

## SECTION 201—EXTENSION OF TIER II RAILROAD RETIREMENT BENEFITS TO SURVIVING FORMER SPOUSES PURSUANT TO DIVORCE AGREEMENTS

**Problem**—The Tier I benefits under the Railroad Retirement Board take the place of social security. The Tier II benefits take the place of a private pension. Under current law, a divorced widow loses any court ordered Tier II benefits she may have been receiving while her ex-husband was alive, leaving her with only a Tier I annuity.

**Solution**—All payment of a Tier II survivor annuity after divorce.

## SECTION 202—COURT ORDERS RELATING TO FEDERAL RETIREMENT BENEFITS FOR FORMER SPOUSES OF FEDERAL EMPLOYEES

**Problem**—Currently, under CSRS, if the husband dies after leaving the government (either before or after retirement age) and before starting to collect retirement benefits, no retirement or survivor benefits are payable to the spouse or former spouse.

**Solution**—Make widow or divorced widow benefits payable no matter when the ex-husband dies or starts collecting his benefits.

## SECTION 203—SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS, AND FORMER SPOUSES OF FEDERAL EMPLOYEES WHO DIE BEFORE ATTAINING AGE FOR DEFERRED ANNUITY UNDER CSRS

**Problem**—In the case of a husband dying before collecting benefits, his contributions to the Civil Service Retirement System are paid to the person named as the "beneficiary." The employee may name anyone as the beneficiary. A divorce court cannot order him to name his former spouse as the beneficiary to receive a refund of contributions upon his death, even if she was to receive a portion of his pension.

**Solution**—Authorize courts to order the ex-husband to name his former wife as the beneficiary of all or a portion of any refunded contributions.

## SECTION 301—SMALL 401(K) PLANS REQUIRED TO PROVIDE ANNUAL INVESTMENT REPORTS TO PARTICIPANTS

**Problem**—Current law requires that pension plans file an annual detailed investment report with the Treasury Department and make it available to any participant upon request. Pension plans, including 401(k)s, with fewer than 100 participants and beneficiaries are not required to file or make detailed investment reports available to participants. 401(k)s, unlike traditional pension plans, do not have the plan sponsor guaranteeing their pension benefits nor do they have PBGC pension insurance. Consequently small 401(k) participants bear the investment risks, but are not told what the investments are.

**Solution**—The Secretary of Labor must issue regulations requiring small 401(k) plans to provide each participant with an annual investment report. The details of the report are left to the Secretary.

## SECTION 302—SECTION 401(K) INVESTMENT PROTECTION

**Problem**—Under federal law, a traditional defined benefit pension plan may not invest more than 10 percent of its assets in the company sponsoring the plan. The purpose of the limitation is to protect employees from losing their jobs and pensions at the same time. The 10 percent limitation does not apply to 401(k) plans, despite their having become the predominant form of pension plan, enrolling 23 million employees and investing more than \$675 billion.

**Solution**—Apply the 10 percent limit to employee contributions to 401(k) plans—unless the participants, not the company sponsoring the plan, make the investment decisions.

## SECTION 401—MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS

**Problem**—Under current federal law, traditional defined benefit pension plans can offer unequal survivor benefit options. That option can pay the surviving spouse (most often the wife) only half the survivor's benefit paid to the spouse who participated in the plan. Plans may, but are not required, to offer more equitable options. Current law also requires that pension plans disclose retirement benefit options to one spouse, the spouse who participated in the plan. This

leaves the other spouse (usually the wife) uninformed about an irrevocable decision that affects her income for the rest of her life.

**Solution**—Require that pension plans offer an additional option that provides either surviving spouse with two-thirds of the benefit received while both were alive. Require that both spouses be given an illustration of benefits before any benefit can be chosen.

## SECTION 501—SPOUSAL CONSENT REQUIRED FOR DISTRIBUTIONS FROM SECTION 401(K) PLANS

**Problem**—Under current federal law, in order for a plan participant to take a lump sum distribution from a defined benefit plan, the participant must have the consent of his or her spouse. This is not true of a 401(k) plan. This means that a participant can, at any time, drain his or her pension plan and leave the spouse with no access to retirement savings.

**Solution**—Require that 401(k) plans be covered by the same spousal consent protections as defined benefit plans when it comes to lump-sum distributions.

## SECTION 601—WOMEN'S PENSION TOLL-FREE PHONE NUMBER

**Problem**—One of the key obstacles to women's pension security is lack of information. Too many women do not know whether or not they are eligible for retirement income, the implications of the decisions they are asked to make regarding divorce and survivor benefits, the steps they should take to provide for a secure retirement, or even how to gather the necessary information.

**Solution**—Create a women's pension hotline that can provide basic information to women regarding pension law and their options under that law.

## SECTION 701—PERIODIC PENSION BENEFITS STATEMENTS

**Problem**—Under federal law, pension plans are required to provide a benefits statement annually, upon request by the employee. Many employees, especially young employees, do not consider pension income or do not feel secure requesting information from their employer. Thus, many employees do not know the amount of their accrued benefits, or payout upon retirement. In addition, there are numerous instances of defined contribution plans misappropriating money by failing to place funds in the employee's account. Unless an employee asks for a statement, he or she does not have a clear idea of the state of his or her retirement security, or if the funds are being properly placed.

**Solution**—Require that 401(k) plans provide benefits statements automatically at least once a year. For defined benefit plans, due to the more complicated calculations required to produce an accurate future benefits statement be automatically provided every three years.

By Mr. GRAMS (for himself, Mr. FEINGOLD, Mr. ABRAHAM, Mr. CONRAD, Mr. DORGAN, Mr. KERREY, Mr. KOHL, Mr. KYL, Mr. LEVIN, Ms. MOSELEY-BRAUN, Mr. HAGEL, and Mr. WELLSTONE):

S. 322. A bill to amend the Agricultural Market Transition Act to repeal the Northeast Interstate Dairy Compact provision; to the Committee on Agriculture, Nutrition, and Forestry.

## THE NORTHEAST INTERSTATE DAIRY COMPACT REPEAL ACT OF 1997

Mr. GRAMS. Mr. President, I rise today, along with my colleague from Wisconsin, Senator FEINGOLD, to introduce the Dairy Fairness Act. In short, this bill repeals the provision in the 1996 farm bill creating the so-called Northeast Interstate Dairy Compact.

Senator FEINGOLD and I offer this legislation with 10 other colleagues,

both Democrats and Republicans, for two basic reasons: Fair process and sound policy. The compact sets a very dangerous precedent by violating both. Let me be specific, first regarding process.

Back in the 103d Congress—to give history—the Senate Judiciary Committee held a business meeting to consider the compact, without the benefit of a prior public hearing, and reported the bill to the floor. The full Senate never considered it. A House Judiciary subcommittee held a hearing on the proposal, but eventually sent it to full committee without a recommendation because the vote was evenly divided for and against the compact. The bill died in full committee. It is important to note that the official Department of Agriculture witness at the House hearing stated the administration had no position and twice stated that, we believe this is a matter that warrants further review and consideration.

In the 104th Congress, the compact was the subject of not one single hearing in either the Judiciary Committee or the Agriculture Committee of the Senate. Nor was it the topic of a single hearing in counterpart committees in the House. The importance of all this is that veteran lawmakers knew, at best, that the Department of Agriculture was not sure about the compact. And, 11 freshmen senators and 87 House freshmen knew little-to-nothing about the compact because of the lack of any public record.

Despite this, the compact was exhumed from its crypt and found its way into the Senate's version of the farm bill. Fortunately, many of my colleagues and I led a successful bipartisan effort to strip the compact from the farm bill. The House had never included the compact in its version.

Now, here is the kicker. The compact never had ample consideration in the 103d Congress. It never had a single hearing in the 104th. The compact was not included in the House version of the farm bill. And, it was stripped out of the Senate's version. But the compact came back to life in conference. It was included in the 1996 farm bill and, due to time constraints on passage of farm legislation, as we know, the compact became law.

Now, my purpose in reciting this litany of events is not to disparage the respective committees for not considering the compact. They have their priorities. Nor do I mean to disparage those in the conference committee for agreeing to the compact.

They worked hard to present a timely and—aside from the compact—excellent farm bill for farmers who were already making planting decisions, if not already planting at the time the bill was passed.

Now my point is best summarized by the late Justice Oliver Wendell Holmes who said that “the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only

ground upon which their wishes can be carried out.”

I would like to think that my colleagues in what's been called the most deliberative body in the world would want nothing less for the compact or any other proposal. Unfortunately, the compact never faced the test and, as a consequence it has never been accepted.

Mr. President, there is no doubt about it, the compact circumvented a very important process.

In regard to policy, the scenario does not improve. In a nutshell, the compact would permit a six-State compact commission to fix prices for that region's dairy producers. Yet, simple economics tells us that the higher minimum price set by the commission will result in even more milk production in the six-State region—which is great news for producers in those six States. But the overproduction will undoubtedly further depress producer income for every other region of the country.

Unfortunately, as many of my colleagues know, producer income nationally is already so depressed that the Secretary announced some emergency steps to correct the problem including the purchase of \$5 million in cheese and advanced cheese purchases for the School Lunch Program. In the Midwest, it's reported to be so bad that small- and mid-sized producers aren't even recovering the cost of production. But despite all this, the compact will drive national dairy prices down even further in 44 States in order to boost producer income in 6, even though the 6 have traditionally received higher class I prices in the first place.

The compact is patently unfair. The inequity it creates for dairy farmers in 44 States is exactly the problem the Framers of the Constitution thought Congress would protect against in providing us with the power to regulate commerce among the States.

Now, I understand that even more States are pondering the idea of a compact of their own. I cannot underscore how destructive this course is: using government-condoned, anticompetitive programs to the disadvantage of other domestic producers in other regions of the country. In an era of freer and fairer trade, I find it very troubling that what we don't want to do with our foreign competitors, we're now doing to ourselves. That's no way to encourage a national industry and that's no way to compete abroad.

Of course, it is not just dairy producers who are hurt by the compact. According to Public Voice, a leading consumer advocacy group, the compact will cost New England consumers over \$300 million in just 3 years, especially affecting the region's poor, and drive up the cost of Federal, State, and local food nutrition programs. Indeed, the St. Paul Pioneer Press, the Washington Post, the New York Times, and the Boston Herald—whose employees as New Englanders are ostensibly served by the compact—have called it “nox-

ious,” “absurd,” an “ugly precedent,” and the “OPEC of milk.”

The compact is being challenged in Federal court. In fact, last week, the court issued an order allowing the Secretary of Agriculture 45 days to bolster his arguments for the compact before the case proceeds any further. But what was most telling was the tenor of the order and I'll offer just an excerpt. The order reads:

As the Court tried to make plain in its December 11, 1996 Opinion, [the court] could not even tell whether anyone at the Department of Agriculture had read all the comments in the administrative record or just counted them since the only expressed reason . . . for his finding of compelling public interest . . . was that 95 percent of the comments . . . supported the implementation of the Compact. But, a simple head count will not do . . . particularly in view of the numerous concerns the Secretary himself expressed [about the Compact]. Those concerns, expressed in four paragraphs, overshadow the four reasons, expressed in two sentences, that the Secretary gave for finding a compelling public interest.

I ask unanimous consent to have the order printed in the RECORD.

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

[U.S. District Court for the District of Columbia, Civil Action No. 96-2027 (PLF)]

MILK INDUSTRY FOUNDATION, PLAINTIFF, *v.* DANIEL R. GLICKMAN, SECRETARY, U.S. DEPARTMENT OF AGRICULTURE, DEFENDANT, AND NORTHEAST DAIRY COMPACT COMMISSION, DEFENDANT-INTERVENOR

#### ORDER

This matter is before the Court on defendant's motion for a stay of proceedings in this case to allow the Secretary of Agriculture 45 days to provide what defendant characterizes as “an Amplified Decision on its finding that there is compelling public interest in the compact region for the Northeast Interstate Dairy Compact.” Plaintiff opposes the motion for a variety of reasons, while defendant-intervenor supports it.

The parties to this case are all aware that Congress placed a particular condition on its consent to the Compact—that the Secretary make a finding of compelling public interest. As the Court tried to make plain in its December 11, 1996 Opinion, it could not even tell whether anyone at the Department of Agriculture had read all the comments in the administrative record or just counted them, since the only expressed reason the secretary gave for his finding of compelling public interest (other than congressional consent and state approval) was that 95 percent of the comments the Department received supported implementation of the Compact. Opinion at 8, 24-25. But “a simple head count will not do,” *id.* at 24, particularly in view of the numerous concerns the Secretary himself expressed about the potential adverse effects the Compact might have, concerns presumably based on material in the record. *Id.* at 9-10, 25. “Those concerns, expressed in four paragraphs, overshadow the four reasons, expressed in two sentences, that the Secretary gave for finding a compelling public interest.” *Id.* at 25.

If the Secretary wants time now “to amplify” his decision, he must make sure that the entire administrative record, including the comments submitted, is thoroughly reviewed and analyzed and approached from a

fresh perspective. It is not open to the Secretary under this Court's Opinion of December 11, 1996, to approach his task with a preconceived view that a compelling public interest exists. His job is not merely to cull out from the favorable comments reasons to support a pre-determined decision. His responsibility is to review the quality of the comments in the record and to decide whether his earlier finding is justified at all.

The Court is prepared to grant the stay requested by the defendant, so long as the Secretary of Agriculture and his counsel understand what is required over the course of the next 45 days. The Court agrees with plaintiff that if a stay is granted the Secretary's responsibility is much broader than he and defendant-intervenor suggest. The Secretary must now be as open to reaching a finding of no public interest as he is to concluding that there is one. Regardless of which conclusion he reaches, he must articulate his reasons in accordance with the Administrative Procedure Act and the case law. With the foregoing in mind, it is hereby

Ordered that all proceedings in this case are stayed until March 20, 1997, during which time the Secretary of Agriculture shall review the Administrative Record in this case, reach a conclusion with respect to the existence of a compelling public interest, and provide a reasoned explanation for that decision in accordance with this Court's Opinion of December 11, 1996, and today's order, it is

Further ordered that the stay does not preclude plaintiff from renewing its motion for a preliminary injunction should the Compact attempt to move forward and impose higher milk prices or for any other appropriate reason; it is

Further ordered that the briefing and argument schedule set forth in this Court's Order of December 11, 1996, is rescinded; and it is

Further ordered that the parties shall jointly propose within ten days from the date of this Order a revised briefing and argument schedule.

So ordered.

PAUL L. FRIEDMAN,  
*United States District Judge.*

Mr. GRAMS. Mr. President, in short, a Federal judge cannot even find the merit behind the compact. But, despite earlier misgivings, the Department seems resigned to embarking on what appears to be the herculean task of making some sense out of the compact in order to save it from a court.

Now, Mr. President, I believe this Congress has a unique opportunity to save an overcrowded court some time, help the Department focus its energies on the consolidation and reform of milk marketing orders, and do it all while guaranteeing New England consumers and dairy producers in 44 States a little fairness. We can do this by passing the Dairy Fairness Act.

I urge my colleagues to support this important legislation.

I see some of my other colleagues who have helped sponsor this legislation, including Senator KOHL and Senator FEINGOLD, are on the floor, and I yield some time to them if they would like to add their support to this bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise to express my continued opposition to the Northeast Dairy Compact. As I have said many times in the past, it does not make me happy to oppose efforts

by dairy farmers in other parts of the country to reap a higher price for their milk. For years, I have worked with many of the proponents of the compact in efforts to help farmers get a better price for their product. But in the past, these efforts have been national. And I believe we should continue with national efforts to bring farmers together, instead of regional efforts that pit farmer against farmer.

The Northeast Compact is an effort by six Northeastern States to establish a regional cartel, to guarantee the farmers in that region alone get a higher price for their milk, to the detriment of the consumers in the Northeast, and farmers in other parts of the country, including Wisconsin. In my view, it is the exact opposite of what we should be doing; which is establishing a fair and reasonable national dairy policy that gives farmers in all regions an opportunity to prosper, free of structural impediments from the Federal Government.

In my region of the country, the discriminatory nature of the current milk pricing system has contributed to a dangerous erosion of our farm economy. In Wisconsin alone, we have lost 12,000 dairy farms in the last 10 years. And I believe that the Northeast Compact will worsen the regional inequities that exist today, and be detrimental to farmers in regions outside the Northeast.

To those outside the upper Midwest, who have not witnessed the destruction caused by the current milk pricing system, it may be difficult to understand how pricing schemes in one region could affect other regions of the country. But we cannot ignore that dairy markets are national, and any effort to artificially boost prices in one region alone will have effects throughout the national system. History has proven that point time and time again, and unfortunately, Wisconsin is the proving ground of that destruction.

And even prior to its implementation, the evidence is beginning to build proving that the Northeast Dairy Compact sets a dangerous precedent in U.S. economic policy. Recently, the secretaries of agriculture from 15 southeastern States announced that they would be seeking to establish a Southeastern Dairy Compact, citing the precedent established by the Northeast Compact. So we must ask ourselves, where does it stop? A 6-State dairy cartel in the Northeast, a 15-State dairy cartel in the Southeast. This disintegration of our national economic unity does not come without cost. We may not be able to predict where this new regional cartel movement will stop, but it is clearly dangerous.

So I join my colleagues in introducing this legislation that would repeal the section of the 1996 farm bill that gives the Secretary of Agriculture authority to approve the Northeast Compact. Whether it is stopped legislatively, or by the Secretary of Agriculture, to whom it has been returned

by a Federal judge for reconsideration, I believe it should be stopped. And I urge my colleagues to join us in opposing this dangerous precedent for U.S. economic policy.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from Wisconsin under time controlled by the Senator from Minnesota.

Mr. FEINGOLD. Thank you, Mr. President. I, too, am pleased to rise in support of the legislation introduced by the Senator from Minnesota, and also by my friend and colleague, the senior Senator from Wisconsin, Senator KOHL.

I was prepared to give a longer speech but I am informed that the mother-in-law of the Senator from Vermont, Mr. LEAHY, has passed away, and he is not able to be here today because of that. For that reason, I simply associate my remarks with the Senator from Minnesota, and the senior Senator from Wisconsin so we can take this debate up on another day when Senator LEAHY is able to respond. He is very able to respond himself. We have a strong disagreement on this issue, but I am a great friend of his and I believe he is a fine Senator and prefer at this point to wait.

Mr. President, I rise in support of the legislation introduced by the Senator from Minnesota, Senator GRAMS, to repeal the Northeast Interstate Dairy Compact. The Northeast Dairy Compact was included in the 1996 farm bill during conference negotiations after it had been struck from the Senate version of the farm bill during floor consideration of the farm bill early last year.

Mr. President, the Northeast Interstate Dairy Compact establishes a commission for six Northeastern States—Vermont, Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut—empowered to set minimum prices for fluid milk above those established under Federal Milk Marketing Orders. Ironically, the Federal milk marketing order system already provides farmers in the designated compact region with minimum milk prices higher than those received by most other dairy farmers throughout the nation. The compact not only allows the six States to set artificially high fluid milk prices for their producers, it also allows those States to keep out lower priced milk from producers in competing States and provides processors within the region with a subsidy to export their higher priced milk to non-compact States.

Mr. President, the arguments against this type of price-fixing scheme are numerous: It interferes with interstate commerce by erecting barriers around one region of the Nation; It provides preferential price treatment for farmers in the Northeast at the expense of farmers nationally; It encourages excess milk production in one region without establishing effective supply control which may drive down milk prices for producers throughout the

country; It imposes higher costs on the millions of consumers in the Compact region; It imposes higher costs to taxpayers who pay for nutrition programs such as food stamps and the national school lunch programs which provide for milk and other dairy products in their programs; and as a price-fixing compact it is unprecedented in the history of this Nation.

Most important to my home State of Wisconsin, Mr. President, is that the Northeast Dairy Compact exacerbates the inequities within the Federal milk marketing orders system that already discriminates against dairy farmers in Wisconsin and throughout the upper Midwest. Federal orders provide higher fluid milk prices to producers the further they are located from Eau Claire, WI, for markets east of the Rocky Mountains.

Wisconsin farmers have complained for many years that this inherently discriminatory system provides other regions, such as the Northeast, the Southeast, and the Southwest with milk prices that encourage excess production in those regions. Of course, that excess production drives down prices throughout the Nation and results in excessive production of cheese, butter, and dry milk. Cheese and other manufactured dairy products constitute the pillar of our dairy industry in Wisconsin. Competition for the production and sale of these products by other regions spurred on by artificial incentives under milk marketing orders has eroded our markets for cheese and other products.

Mr. President, my State of Wisconsin loses more than 1,000 dairy farms per year either through bankruptcy or attrition. The number of manufacturing plants has declined from 400 in 1985 to less than 230 in 1996. These losses are due in part, to the systematic discrimination and market distortions created by Federal dairy policies that provide artificial regional advantages that cannot be justified on any rational economic grounds.

Mr. President, my colleague from Minnesota, Senator GRAMS and I are on the floor today offering this legislation because the Northeast Dairy Compact reinforces the discrimination that has so damaged the dairy industry in our States. We have fought to change Federal milk marketing orders and we will fight to prevent the Northeast Dairy Compact from ever going into effect.

Less damaging but more insulting to Wisconsin dairy farmers than the increase in regional inequities is the inherent assumption of the compact proponents that either the financial distress of Northeast dairy farmers is worse than that experienced by farmers in other regions or that farmers in the Northeast are more important than farmers elsewhere. Either assumption is ludicrous.

As all Senators are aware, when milk prices plummeted, as they did last fall by 26 percent in 3 months, the financial pain is felt by farmers throughout the Nation, no worse and no less by any particular region.

And yet the Northeast Compact provides price protection for dairy farmers

in six States, insulating them from market conditions which noncompact farmers must confront and to which they must adjust. Compact proponents have never been able to explain how conditions in the Northeast merit greater protection from market price fluctuations than other regions of the country. The fact that there are no compelling arguments made in favor of the compact that justified special treatment for the Northeast was emphasized by a vote in the full Senate to strike the compact from the 1996 farm bill. It was the only recorded vote on approval or disapproval of the Northeast Dairy Compact—and it killed the compact in the Senate. The way in which the compact was ultimately included in the 1996 farm bill also illustrates the weak justification and the lack of support for its approval. It was never included in a House version of the farm bill and yet emerged as part of the bill after a closed door Conference negotiation. Legislation which is difficult to defend must frequently be negotiated behind closed doors rather than in the light of day.

The 1996 farm bill provided authority to approve the compact to the Secretary of Agriculture if he found a compelling public interest for the compact in the Northeast. Congress, still unwilling to accept responsibility for what I believe to be an unjustifiable compact, delegated their authority to the Secretary. The Secretary approved the compact last August but even he, with his teams of economists and marketing specialists, was unable to come up with an economic justification for the compact. The Secretary's finding of "compelling public interest" justifying his approval of the compact was so weak and unsupported by the public record that a suit was filed by compact opponents in Federal court charging that the Secretary violated the Administrative Procedures Act. Last December, a Federal District Court judge found that, in fact, the plaintiffs in that suit were likely to prevail on their claim that the Secretary's decision was arbitrary and capricious. More recently, the same Federal judge told USDA to review the public record and determine whether in fact that compact should have been approved.

Mr. President, the Northeast Dairy compact can't be justified because it is just plain bad policy. It is bad public policy because it increases costs to taxpayers nationally and consumers in the Northeast to benefit few. It is bad dairy policy because it exacerbates regional discrimination of existing Federal milk marketing orders by providing artificial advantages to a small group of producers at the expense of all others. And it is bad economic policy because it establishes barriers to interstate trade—barriers of the type the United States has been working hard to eliminate in international markets.

Mr. President, Congress should never have provided Secretary Glickman with authority to approve the compact. That in my view, was an improper and potentially unconstitutional delegation of our authority and it was irresponsible. It is the role of Congress to

approve interstate compacts and we irresponsibly abrogated our responsibility in this matter. It is time to make it right.

I hope the Secretary rescinds his earlier decision to approve the compact in the additional time the courts have provided him. If he does not, I hope the courts strike down the compact both on the grounds that it violated the APA and on constitutional grounds. However, in any event, it is incumbent upon Congress to undo the mistake it made in the 1996 farm bill. Congress can and should act independently of both the administrative and judicial process to repeal the Northeast Interstate Dairy compact. As the other branches of Government are doing their jobs, we must continue to do ours.

I urge my colleagues to support this legislation.

By Mr. SHELBY (for himself, Mr. BYRD, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GREGG, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. LUGAR, Mr. SANTORUM, Mr. THURMOND, Mr. SESSIONS, Mr. COCHRAN, Mr. MURKOWSKI, Mr. ENZI, and Mr. HAGEL):

S. 323. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Governmental Affairs.

#### THE LANGUAGE OF GOVERNMENT ACT OF 1997

Mr. SHELBY. Mr. President, I rise today to introduce what I consider to be one of the most important pieces of legislation that will be offered this year. It is the Language of Government Act of 1997, which designates English as the official language of the U.S. Government. I have as original cosponsors on that legislation Senators BYRD, COVERDELL, CRAIG, FAIRCLOTH, GREGG, HELMS, HUTCHINSON of Arkansas, INHOFE, LUGAR, SANTORUM, THURMOND, COCHRAN, and SESSIONS.

Mr. President, language, as we all know, is a powerful factor in society. As de Tocqueville observed more than a hundred years ago, "The tie of language is perhaps the strongest and the most durable that can unite mankind." That was true then, and it is true today.

Just as surely as language has the power to unite us, it has the power to divide us. One year after French-speaking Quebec rejected by a razor-thin margin in the referendum to secede from Canada, our neighbor to the north is still grappling with the repercussions of the vote. English-speaking residents of Quebec have threatened to secede if Quebec proceeds with another referendum. There are many examples in the world of what happens to nations that are divided among language and ethnic lines. Bosnia, as we all know, has been decimated by ethnic strife. The countries of the former Soviet Union are in constant internal conflict and turmoil.

Today, more than 320 different languages are spoken in our country. We should respect each of these languages and those individuals who speak them. But in order to assimilate the various cultures and ethnic groups that comprise our great Nation, I believe we must use English. Furthermore, the Federal Government should not, in my opinion, be expected to administer its official business in all of these languages. Yet, the Federal Government continues to expand the number and types of services that it administers in foreign languages.

Layers of bureaucracy have been added as these governmental agencies have evolved into permanent multi-language service providers. In light of this fact, Mr. President, I believe it is imperative that we establish in America a responsible, coherent language policy for all of us.

The legislation that I offer today, on behalf of myself and the colleagues I mentioned earlier, is simple and straightforward. It designates English as the language of the Federal Government and requires that most Government functions be performed in English. There are exceptions to that rule, Mr. President, for safety, emergencies, and health-related services.

I want to emphasize that "official English" is directed at the Federal Government and its agents, but does not cover private citizens. In no way, Mr. President, does the bill limit an individual's use of his or her native language in home, church, community, or other private communications.

Mr. President, since last December, the Nation has engaged in a heated debate over using "ebonics" in public schools. We are all familiar with that. I do not intend to join that debate today. Instead, I raise this in order to mention a fundamental point. In the words of Maya Angelo, "The very idea \* \* \* can be very threatening, because it can encourage young men and women not to learn standard English." Without mastering English, our children and grandchildren cannot succeed. Indeed, as so many Americans know from their own experiences, proficiency in English propelled them from a life of poverty to a future full of opportunity.

A substantial body of evidence supports that notion and confirms that there is a direct correlation between an individual's ability to speak English in America and that person's economic fortunes.

A recent Ohio University study concluded that if immigrant knowledge of English were raised to that of native-born Americans, their income levels would increase by \$63 billion annually. In 1994, the Texas Office of Immigration and Refugee Affairs published a study of Southeast Asian refugees in Texas. It conclusively demonstrated that in that population, individuals proficient in English earned over 20 times the annual income of those who could not speak English. Analysis of 1990 census data shows that immi-

grants' incomes rise 30 percent as a result of being able to communicate in English.

So, without question, fluency in the English language will do more to empower people coming to America than all Federal Government services combined. The Federal Government, however, is offering more services and producing more publications in a multitude of foreign languages, at a cost of \$14 billion annually. Conducting official Government functions in a foreign language supposedly facilitates assimilation into our society. What began in a piecemeal fashion to facilitate assimilation has mutated into institutionalized and permanent multilingual programs and services.

The effect, Mr. President, is that it destroys the incentive to learn English, which undermines one of the key objectives of integration in this country. As I stated earlier, the plain truth is that immigrants who do not develop proficiency in English will almost always be relegated to a lower rung on the economic ladder, often far below their earnings potential.

By designating English as the official language of our Government, we send a clear and unmistakable message that English is a necessary part of life in America. But it is not just a symbolic gesture. If most communication with the Federal Government is conducted in English, it encourages fluency in English. At the same time, establishing a language policy will stop the frivolous expenditure of printing Government documents in foreign languages. There is no justification for the money wasted to produce, for example, "The Reproductive Behavior of Young People in the City of Sao Paulo" in Portuguese or publication on the U.S. Mint in Chinese. The money squandered on those documents would be better spent teaching English to those who cannot speak it. My bill states that the savings from this initiative be used to teach English in America.

Mr. President, national polling indicates that 86 percent of Americans support making English the official language of this country. In fact, Mr. President, 8 out of 10 first-generation immigrants in America support this legislation. As our Nation becomes more diverse, it becomes more and more important for Congress to deal with the establishment of an official language policy. Our consideration of this bill shows that we take our national heritage and democracy seriously.

By Mrs. MURRAY (for herself and Mr. CAMPBELL):

S. 324. A bill to amend title 32, United States Code, to provide that performance of honor guard functions at funerals for veterans by members of the National Guard may be recognized as a Federal function for National Guard purposes; to the Committee on Armed Services.

#### NATIONAL GUARD LEGISLATION

Mrs. MURRAY. Mr President, I come to the floor today to introduce a common sense piece of legislation of great importance to the veterans of our country.

Let me begin by thanking the veterans of my State for bringing this important issue to my attention. I particularly want to thank Mr. Fran Agnes, past national chairman, with the Former Prisoners of War veterans service organization. Fran is a champion for the veterans of my State and he never lets an opportunity pass to share with me the views of Washington State veterans.

My State is home to nearly 700,000 veterans, and one of the few States with a growing veterans population. Washington State vets are active; virtually every veterans service organization has chapters, posts, and members all across my State. At the State level, Washington veterans are also blessed with a team of dedicated veterans' advocates. For me, this means I have a statewide "unofficial" advisory team to provide me with regular information about the issues of importance to veterans. I hear from Washington vets in the classroom, in the grocery store, at VA facilities, on the street, in my office and through the mail. My service on the Veterans' Affairs Committee is a genuine partnership with the veterans of my State.

The bill I am introducing today is a direct result of this partnership. Simply stated, my bill proposes to allow the performance of honor guard functions by members of the National Guard at funerals for veterans.

It may shock my colleagues to know why this legislation is so important. Sadly, decorated U.S. veterans are being laid to rest all across this country without the appropriate military honors.

For years, military installations trained personnel to provide color guard services at the funerals of veterans. Oftentimes, as many as 10 active duty personnel were made available by local military installations to provide funeral services for a compatriot and his or her grieving family. These services were immensely important to the veterans community. It allowed veterans to see fellow veterans treated with the appropriate respect and admiration they deserved, and to know that they would also be afforded a dignified service.

As the military has downsized in recent years, many installations are no longer able to provide personnel to perform color guard services and aid the veteran's family. Some installations do provide limited assistance if the deceased served in that branch of the military. In my State, that means very little to the Navy family who loses a loved one near the Air Force or Army installations nearby. And we all know, when a family member passes away there is little time or emotional capacity to plan a funeral. Too often, the result for a veteran is a funeral service



without the requested and the deserved military honors. This must change.

Veterans' service organizations have stepped in and tried to provide the color guard services for fellow deceased veterans. By most accounts, they do a very good job. But VSO's cannot meet the need for color guard services. By their own admission, they often lack the crispness and the precision of trained military personnel. Our veterans population is getting older, and we cannot expect a group of older veterans to provide these services day in and day out for their military peers. We are simply asking too much of a generation that has already given so much.

My bill is an important first step toward ensuring that every veteran receives a funeral worthy of the valiant service he or she has given to our country. I believe every single Member of Congress believes our veterans deserve to be remembered with the appropriate military honors during a funeral service. By passing my legislation, the Congress can send a message to veterans that their service to us all will never be forgotten. I urge my colleagues to join me in this effort to pass this legislation at the earliest opportunity.

Mr. President, I also want to thank Senator and Korean war veteran BEN NIGHORSE CAMPBELL for joining me in this effort. Senator CAMPBELL also serves on the Veterans' Affairs Committee and I know personally of his great commitment to the veterans of our country. And I'd also like to thank Congressman PAUL KANJORSKI, who has previously introduced this legislation on the House side. As I understand it, his constituents in Pennsylvania originally asked him to get involved in this effort. I look forward to working closely with both Senator CAMPBELL and Congressman KANJORSKI in support of this legislation.

By Mr. BUMPERS (for himself, Mr. FEINGOLD, Mr. LEAHY, and Mr. KOHL):

S. 325. A bill to repeal the percentage depletion allowance for certain hardrock mines; to the Committee on Finance.

By Mr. BUMPERS:

S. 326. A bill to provide for the reclamation of abandoned hardrock mines, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS (for himself, Mr. AKAKA, Mr. LEAHY, Mr. FEINGOLD, and Mr. KOHL):

S. 327. A bill to ensure that Federal taxpayers receive a fair return for the extraction of locatable minerals on public domain lands, and for other purposes; to the Committee on Labor and Human Resources.

#### HARDROCK MINING REFORM LEGISLATION

Mr. BUMPERS. Mr. President, I rise today to introduce three bills which are intended to reform hardrock mining on public land and recover, for taxpayers, lost revenues resulting from

the patenting process under the 1872 mining law.

The 1872 mining law was signed into law by President Ulysses S. Grant during a time when our national policy was to encourage the settlement of the West with the enticement of free land and minerals. However, 124 years have now passed and the mining law has become a relic. Rather than serve the interests of the public, the mining law gives away billions of dollars worth of land and minerals to mining companies for practically nothing.

While there are many flaws with the 1872 law, some of the most outrageous include: allowing the sale of public lands and minerals for \$2.50 to \$5.00 per acre; allowing the mining of valuable minerals without a dime in royalty payments to the taxpayers for those minerals; allowing patented land bought for \$2.50 an acre to be resold at market prices—sometimes thousands of dollars per acre; and not adequately protecting the environment.

Our attitudes toward public resources have changed since the 19th century and so have most of our public policies. While the mining law has been amended indirectly over the years, its basic provisions remain unchanged and are in dire need of reform. Over the years numerous private, government and congressional studies have recommended either revising the mining law or repealing it completely. One of the most thorough modern studies of the mining law was conducted by the Public Land Law Review Commission during the 1960's. The commission's work formed the basis for the Federal Land Policy and Management Act of 1976 [FLPMA]. In "One Third of the Nation's Land—A Report to Congress and the President" the commission stated:

The general mining law of 1872 has been abused, but even without that abuse, it has many deficiencies. Individuals whose primary interest is not in mineral development and production have attempted, under the guise of that law, to obtain use of public lands for various other purposes. The 1872 law offers no means by which the Government can effectively control environmental impacts.

While the Public Land Review Commission and many others have called for comprehensive mining law reform for some time now, Congress has failed to respond. At a time when the public is clamoring for a more efficient government and a government that treats the taxpayers with dignity and respect, the 1872 mining law instead condones the giveaway of public lands and valuable minerals worth billions of dollars for practically nothing and which permits long-term environmental degradation of our public lands.

In the last four Congresses I introduced legislation which would have comprehensively reformed the mining law. On each occasion the mining industry went to great lengths to successfully ensure that the 1872 mining law would not be comprehensively reformed. However, Mr. President, as we continue to strive to balance the Federal budget, the day of reckoning for

beneficiaries of corporate welfare is getting closer. Eventually, Congress is going to enact real mining law reform.

The legislation I am introducing today is an effort to seek to protect the interests of the very people that Members of Congress purport to represent—the American people. One hundred twenty-four years after Ulysses Grant signed the mining law the time has come to bring our Nation's mineral policy into the present.

As always, I am willing to work with people on all sides of this issue in an attempt to develop a solution amenable to all. However, I will not be a party to the efforts of those who, in an effort to end debate on the subject, attempt to enact "sham reform" legislation drafted by the mining industry.

The problems of the mining law and the proposed solutions contained in the three bills I am introducing today are described more fully below.

Under the existing mining law, a patent-free simple title—to a mining claim on Federal lands may be obtained for the purchase price of \$2.50 an acre for a placer claim—or \$5 an acre for a lode claim—a price which has not changed since 1872. During the last 124 years, the Government has sold more than 3.2 million acres of land under the patent provision of the 1872 mining law, an area similar to the size of the State of Connecticut. This is a giveaway—pure and simple—and is directly contrary to the national policy enunciated in the Federal Land Policy and Management Act—that, in most cases, public lands should be retained in public ownership.

It doesn't take a rocket scientist to figure out that \$5 an acre is far less than the fair market value of the patented land and the minerals thereon. In 1994 we witnessed one of the biggest taxpayer ripoffs in the history of the mining law when the Federal Government was forced to grant patents to a subsidiary of a Canadian-owned mining company. In exchange for 1,800 acres of land in Nevada containing more than \$10 billion in gold, the Federal Government received the princely sum of less than \$10,000. Mr. President, believe it or not, the taxpayers stand to do worse in the very near future. The Stillwater Mining Co., which is jointly owned by Chevron and Manville, has applied for patents on approximately 2,000 acres of Forest Service land in Montana. In exchange for \$10,000, the company will receive fee title to land containing, according to Stillwater's own reserve estimates, \$35 billion worth of platinum and palladium.

Congress finally took action in 1994 by imposing a 1-year moratorium on the processing of new patent applications and those applications that were still in the early stages of processing. This moratorium has been renewed the last 2 years, albeit after an effort was made by Senators from the West to repeal it.

Under the Hardrock Mining Royalty Act of 1997, which I am introducing

today, mining claim holders would no longer be able to patent their claims. The sale of Federal lands for \$2.50 or \$5.00 an acre would be permanently halted.

In addition to allowing the sale of lands for far less than fair market value, the mining law also permits corporations to mine valuable minerals from public domain lands without paying a nickel in royalties to the landowner—the taxpayers. While oil, gas, and coal producers all pay royalties to the U.S. Treasury for production on Federal lands, the Government doesn't receive anything for hardrock minerals produced on Federal lands subject to the 1872 mining law.

The hardrock mining companies contend that they would be forced to shut down operations if they were required to pay royalties to the Federal Government. However, these same companies find themselves able to pay royalties for mining operations on State and private lands. In fact, the Newmont Mining Co. pays an 18 percent royalty on land acquired from private interests on a portion of its gold quarry mine in Nevada's Carlin Trend. Ironically, a hardrock miner operating on acquired Federal lands pays a royalty to the Federal Government while his counterpart on lands subject to the mining law pays nothing. There is no justifiable reason for this difference.

Billions of dollars' worth of hardrock minerals are extracted from the public lands. It is absolutely unfair to the taxpayers of this country to permit hardrock mining companies to enjoy the same tax breaks as others, while failing to adequately compensate the public landowners. The legislation I am introducing today seeks to remedy this result. First, the Hardrock Mining Royalty Act of 1997 would require the payment of a royalty of 5 percent of the net smelter return from mineral production on public lands. Because the royalty would not apply to minerals extracted on lands already patented under the mining law, the Abandoned Mines Reclamation Act of 1997 would require mining companies operating on patented land to pay a net-income-based reclamation fee. Finally, because it makes absolutely no sense to permit mining companies to take advantage of a mineral depletion allowance when they are using taxpayer land without compensating the taxpayers, the elimination of double subsidies for the Hardrock Mining Industry Act of 1997 would repeal the depletion allowance for mining operations on land subject to the 1872 mining law.

Originally, the mining law required claimants to certify that they performed 100 dollars' worth of work on their mining claims each year in order to maintain their claims. Because many claimants were not serious about mining their claims, Congress replaced the work requirement with a \$100 per claim maintenance fee. In conjunction with the administration's proposal the Hardrock Mining Royalty Act increases the fee for new claims to \$125.

Mr. President, past mining activities have left a legacy of unreclaimed lands, acid mine drainage, and hazardous waste. More than 50 abandoned hardrock mining sites are currently on the Superfund national priority list. Some estimate that it could cost taxpayers upward of \$70 billion to clean all the abandoned mining sites.

The legislation I am introducing today would create an abandoned mine reclamation fund to help reclaim the many hardrock mining sites which have been abandoned. Money for the fund would come from the royalties and holding fees collected under the Hardrock Mining Royalty Act of 1997 and the reclamation fees collected under the Abandoned Hardrock Mining Reclamation Act of 1997.

Mr. President, the mining industry knows that the public is slowly learning about the 1872 mining law and the associated atrocities and believe me, the industry is worried. As they have done in the past, I suspect the mining industry will once again raise a smoke-screen by proposing so-called reforms. For instance, the mining industry has proposed that instead of paying \$2.50 or \$5.00 an acre for patents, that instead they pay the fair market value of the surface, regardless of the value of the minerals located on the land. While the concept of fair market value is certainly a good one, it is absurd to argue that the Stillwater Mining Co. would really be paying fair market value if they paid for the surface—probably worth less than \$100 an acre—and ignored the value of the platinum and palladium—estimated to be \$35 billion. Mr. President, if you or I ran a company which sold land for such fair market value, we would be fired in a New York minute. Mr. President, I urge my colleagues to beware of such sham reform.

Mr. President and colleagues, I urge you to support the long overdue reform of the 1872 mining law and to cosponsor my three bills. Both Republicans and Democrats are always talking about change and the need to end business as usual in Washington. My legislation is intended to end business as usual and bring the 1872 mining law into the 20th century. I ask unanimous consent that the text of the bills be printed in the RECORD.

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

S. 325

*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 "Elimination of Double Subsidies for the Hardrock Mining Industry Act of 1997."

#### SEC. 2. REPEAL OF DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) IN GENERAL.—The first sentence of section 611(a) of the Internal Revenue Code of 1986, 26 U.S.C. 611(a), is amended by inserting immediately after "mines" the following: "(except for hardrock mines located on land currently subject to the general mining laws

or on land patented under the general mining laws)".

(b) DEFINITIONS.—Section 611 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) DEFINITIONS.—For purposes of subsection (a)—

"(1) 'general mining laws' means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.

#### SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to taxable years beginning after December 31, 1996.

S. 326

*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 "Abandoned Hardrock Mines Reclamation Act of 1997".

#### SEC. 2. RECLAMATION FEE.

(a) RESERVATION OF RECLAMATION FEE.—Any person producing hardrock minerals from a mine that was within a mining claim that has subsequently been patented under the general mining laws shall pay a reclamation fee to the Secretary under this section. The amount of such fee shall be equal to a percentage of the net proceeds from such mine. The percentage shall be based upon the ratio of the net proceeds to the gross proceeds related to such production in accordance with the following table:

Net Proceeds as Percentage of Gross Proceeds	Rate of Fee as Percentage of Net Proceeds
Less than 10 .....	2.00
10 or more but less than 18 .....	2.50
18 or more but less than 26 .....	3.00
26 or more but less than 34 .....	3.50
34 or more but less than 42 .....	4.00
42 or more but less than 50 .....	4.50
50 or more .....	5.00

(b) EXEMPTION.—Gross proceeds of less than \$500,000 from minerals produced in any calendar year shall be exempt from the reclamation fee under this section for that year if such proceeds are from one or more mines located in a single patented claim or on two or more contiguous patented claims.

(c) PAYMENT.—The amount of all fees payable under this section for any calendar year shall be paid to the Secretary within 60 days after the end of such year.

(d) DISBURSEMENT OF REVENUES.—The receipts from the fee collected under this section shall be paid into an Abandoned Minerals Mine Reclamation Fund.

(e) EFFECTIVE DATE.—This section shall take effect with respect to hardrock minerals produced in calendar years after December 31, 1996.

#### SEC. 3. ABANDONED MINERALS MINE RECLAMATION FUND.

(a) ESTABLISHMENT.—

(1) There is established on the books of the Treasury of the United States an interest-bearing fund to be known as the Abandoned Minerals Mine Reclamation Fund (hereinafter referred to in this section as the "Fund"). The Fund shall be administered by the Secretary.

(2) The Secretary shall notify the Secretary of the Treasury as to what portion of the Fund is not, in his judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the Fund in public debt securities with maturities suitable for the needs of such Fund and

bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketplace obligations of the United States of comparable maturities. The income on such investments shall be credited to, and from a part of, the Fund.

(b) **USE AND OBJECTIVES OF THE FUND.**—The Secretary is, subject to appropriations, authorized to use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past mineral (other than coal and fluid minerals) and mineral material mining, including but not limited to, any of the following:

(1) Reclamation and restoration of abandoned surface mined areas.

(2) Reclamation and restoration of abandoned milling and processing areas.

(3) Sealing, filling, and grading abandoned deep mine entries.

(4) Planting of land adversely affected by past mining to prevent erosion and sedimentation.

(5) Prevention, abatement, treatment and control of water pollution created by abandoned mine drainage.

(6) Control of surface subsidence due to abandoned deep mines.

(7) Such expenses as may be necessary to accomplish the purposes of this section.

(c) **ELIGIBLE AREAS.**—

(1) Land and waters eligible for reclamation expenditures under this section shall be those within the boundaries of States that have lands subject to the general mining laws—

(A) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this title;

(B) for which the Secretary makes a determination that there is no continuing reclamation responsibility under State or Federal laws; and

(C) for which it can be established that such lands do not contain minerals which could economically be extracted through the reprocessing or remining of such lands.

(2) Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this section.

#### SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "gross proceeds" means the value of any extracted hardrock mineral which was:

(A) solid;

(B) exchanged for any thing or service;

(C) removed from the country in a form ready for use of sale; or

(D) initially used in a manufacturing process or in providing a service.

(2) The term "net proceeds" means gross proceeds less the sum of the following deductions:

(A) The actual cost of extracting the mineral.

(B) The actual cost of transporting the mineral to the place or places of reduction, refining and sale.

(C) The actual cost of reduction, refining and sale.

(D) The actual cost of marketing and delivering the mineral and the conversion of the mineral into money.

(E) The actual cost of maintenance and repairs of:

(i) All machinery, equipment, apparatus and facilities used in the mine.

(ii) All milling, refining, smelting and reduction works, plants and facilities.

(iii) All facilities and equipment for transportation.

(F) The actual cost of fire insurance on the machinery, equipment, apparatus, works, plants and facilities mentioned in subsection (E).

(G) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in subsection (E).

(H) All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for all employees.

(I) The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit.

(J) All royalties and severance taxes paid to the Federal government or State governments.

(3) The term "hardrock minerals" means any mineral other than a mineral that would be subject to disposition under any of the following if located on land subject to the general mining laws:

(A) the Mineral Leasing Act (30 U.S.C. 181 and following);

(B) the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following);

(C) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following); or

(D) the Mineral Leasing for Acquired Lands Act (30 U.S.C. 351 and following).

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "patented mining claim" means an interest in land which has been obtained pursuant to sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36 and 37) for placer claims, or section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims.

(6) The term "general mining laws" means those Acts which generally comprise Chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.

S. 327

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Hardrock Mining Royalty Act of 1997".

#### SEC. 2. ROYALTY.

(a) **RESERVATION OF ROYALTY.**—Each person producing locatable minerals (including associated minerals) from any mining claim located under the general mining laws, or mineral concentrates derived from locatable minerals produced from any mining claim located under the general mining laws, as the case may be, shall pay a royalty of 5 percent of the net smelter return from the production of such locatable minerals or concentrates, as the case may be.

(b) **ROYALTY PAYMENTS.**—Each person responsible for making royalty payments under this section shall make such payments to the Secretary not later than 30 days after the end of the calendar month in which the mineral or mineral concentrates are produced and first placed in marketable condition, consistent with prevailing practices in the industry.

(c) **REPORTING REQUIREMENTS.**—All persons holding mining claims located under the general mining laws shall provide to the Secretary such information as determined nec-

essary by the Secretary to ensure compliance with this section, including, but not limited to, quarterly reports, records, documents, and other data. Such reports may also include, but not be limited to, pertinent technical and financial data relating to the quantity, quality, and amount of all minerals extracted from the mining claim.

(d) **AUDITS.**—The Secretary is authorized to conduct such audits of all persons holding mining claims located under the general mining laws as he deems necessary for the purposes of ensuring compliance with the requirements of this section.

(e) **DISPOSITION OF RECEIPTS.**—All receipts from royalties collected pursuant to this section shall be deposited into the Fund established under section 3.

(f) **COMPLIANCE.**—Any person holding mining claims located under the general mining laws who knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading information required by this section, or fails or refuses to submit such information, shall be subject to a penalty imposed by the Secretary.

(g) **EFFECTIVE DATE.**—This section shall take effect with respect to minerals produced from a mining claim in calendar months beginning after enactment of this Act.

#### SEC. 3. ABANDONED MINERALS MINE RECLAMATION FUND.

(a) **ESTABLISHMENT.**—

(1) There is established on the books of the Treasury of the United States a trust fund to be known as the Abandoned Minerals Mine Reclamation Fund (hereinafter referred to as the "Fund"). The Fund shall be administered by the Secretary.

(2) The Secretary shall notify the Secretary of the Treasury as to what portion of the Fund is not, in his judgement, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the Fund in public debt securities and maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketplace obligations of the United States of comparable maturities. The income on such investments shall be credited to, and from a part of, the Fund.

(b) **AMOUNTS.**—The following amounts shall be credited to the Fund for the purposes of this Act:

(1) All moneys received from royalties under section 1 of this Act and the mining claim maintenance fee under section 4 of this Act.

(2) All donations by persons, corporations, associations, and foundations for the purposes of this title.

(c) **USE AND OBJECTIVES OF THE FUND.**—The Secretary is, subject to appropriations, authorized to use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past mineral (other than coal and fluid minerals) and mineral material mining, including but not limited to, any of the following:

(1) Reclamation and restoration of abandoned surface mined areas.

(2) Reclamation and restoration of abandoned milling and processing areas.

(3) Sealing, filling, and grading abandoned deep mine entries.

(4) Planting of land adversely affected by past mining to prevent erosion and sedimentation.

(5) Prevention, abatement, treatment and control of water pollution created by abandoned mine drainage.

(6) Control of surface subsidence due to abandoned deep mines.

(7) Such expenses as may be necessary to accomplish the purposes of this section.

## (d) ELIGIBLE AREAS.—

(1) Land and waters eligible for reclamation expenditures under this section shall be those within the boundaries of States that have lands subject to the general mining laws—

(A) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this Act;

(B) for which the Secretary makes a determination that there is no continuing reclamation responsibility under State or Federal laws; and

(C) for which it can be established that such lands do not contain minerals which could economically be extracted through the reprocessing or remining of such lands.

(2) Notwithstanding paragraph (1), sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this section.

(e) FUND EXPENDITURES.—Moneys available from the Fund may be expended directly by the Director, Bureau of Land Management. The Director may also make such money available through grants made to the Chief of the United States Forest Service, and the Director of the National Park Service.

(f) AUTHORIZATION OF APPROPRIATIONS.—Amounts credited to the Fund are authorized to be appropriated for the purpose of this title without fiscal year limitation.

**SEC. 4. LIMITATION ON PATENT ISSUANCE.**

No patents shall be issued by the United States for any mining or mill site claim located under the general mining laws unless the Secretary determines that, for the claim concerned a patent application was filed with the Secretary on or before September 30, 1994, and all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36 and 37) for place claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

**SEC. 5. MINING CLAIM MAINTENANCE REQUIREMENTS.**

## (a) IN GENERAL.—

(1) Effective October 1, 1998, the holder of each mining claim located under the general mining laws prior to the date of enactment shall pay to the Secretary an annual claim maintenance fee of \$100 per claim per calendar year.

(2) The holder of each mining claim located under the general mining laws subsequent to the date of enactment shall pay to the Secretary an annual claim maintenance fee of \$125 per claim per calendar year.

(b) PURCHASING POWER ADJUSTMENT.—The Secretary shall adjust the amount of the claim maintenance fee payable pursuant to subsection (a) for changes in the purchasing power of the dollar after the calendar year 1993, employing the Consumer Price Index for all urban consumers published by the Department of Labor as the basis for adjustment, and rounding according to the adjustment process of conditions of the Federal Civil Penalties Inflation Adjustment Act of 1990.

(c) TIME OF PAYMENT.—Each claim holder shall pay the claim maintenance fee payable under subsection (a) for any year on or before August 31 of each year, except that for the initial calendar year in which the location is made, the initial claim maintenance fee shall be paid at the time the location notice is recorded with the Bureau of Land Management.

(d) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—The section shall not apply to any oil shale claims for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (30 U.S.C. 242(e)(2)).

(e) CLAIM MAINTENANCE FEES PAYABLE UNDER 1993 ACT.—The claim maintenance fees payable under this section for any period with respect to any claim shall be reduced by the amount of the claim maintenance fees paid under section 10101 of the Omnibus Budget Reconciliation Act of 1993 with respect to that claim and with respect to the same period.

## (f) WAIVER.—

(1) The claim maintenance fee required under this section may be waived for a claim holder who certifies in writing to the Secretary that on the date the payment was due, the claim holder and all related parties held not more than 10 mining claims on land open to location. Such certification shall be made on or before the date on which payment is due.

(2) For purposes of this subsection, with respect to any claim holder, the term "related party" means each of the following:

(A) The spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claim holder.

(B) Any affiliate of the claim holder.

(g) CO-OWNERSHIP.—Upon the failure of any one or more of several co-owners to contribute such co-owner or owners' portion of the fee under this section, any co-owner who has paid such fee may, after the payment due date, give the delinquent co-owner or owners notice of such failure in writing (or by publication in the newspaper nearest the claim for at least once a week for at least 90 days). If at the expiration of 90 days after such notice in writing or by publication, any delinquent co-owner fails or refused to contribute his portion, his interest, in the claim shall become the property of the co-owners who have paid the required fee.

**SEC. 6. DEFINITIONS.**

As used in this Act:

(1) The term "affiliate" means with respect to any person, each of the following:

(A) Any partner of such person.

(B) Any person owning at least 10 percent of the voting shares of such person.

(C) Any person who controls, is controlled by, or is under common control with such person.

(2) The term "locatable minerals" means minerals not subject to disposition under any of the following:

(A) The Mineral Leasing Act (30 U.S.C. 181 and following);

(B) The Geothermal Steam Act of 1970 (30 U.S.C. 100 and following);

(C) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following); or

(D) the Mineral Leasing for Acquired Lands Act (30 U.S.C. 351 and following).

(3) The term "net smelter return" has the same meaning provided in section 613 of the Internal Revenue Code of 1986 (26 U.S.C. 613) for "gross income from mining".

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "general mining laws" means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30, United States Code.

By Mr. HUTCHINSON (for himself, Mr. NICKLES, Mr. WARNER, Mr. MACK, Mr. KYL, Mr. BROWNBACK, Mr. COCHRAN, Mr. ROBERTS, Mr. HATCH, Mr. GORTON, Mr. ENZI, Mr. GREGG, Mr. ALLARD, Mr. LOTT, Mr. SESSIONS, and Mr. FAIRCLOTH):

S. 328. A bill to amend the National Labor Relations Act to protect em-

ployer rights, and for other purposes; to the Committee on Labor and Human Resources.

## TRUTH IN EMPLOYMENT ACT OF 1997

Mr. HUTCHINSON. Mr. President, I am pleased to introduce today an important piece of legislation which will enable thousands of businesses in my home State of Arkansas, and across the Nation, to avoid an unscrupulous practice which is literally crippling business.

The Truth in Employment Act will protect these businesses and curtail the destructive union tactic known as salting. It may not be in the same magnitude of issues as the balanced budget amendment, which I am deeply concerned about and in which we have had prolonged debate, but it is nonetheless a very, very significant issue that is affecting the economic well-being of thousands of businesses across America. So I am glad to be able to introduce this today with 14 cosponsors joining me on S. 328.

Salting is the calculated practice of placing trained union professional organizers and agents in a nonunion workplace whose sole purpose is to harass or disrupt company operations, apply economic pressure, increase operating and legal costs, and ultimately the purpose of putting that company out of business. The objectives of these union agents are accomplished through filing frivolous and unfair labor practice complaints or discrimination charges against the employer with the National Labor Relations Board [NLRB], the Occupational Safety and Health Administration [OSHA], and the Equal Employment Opportunity Commission [EEOC]. Salting campaigns have been used successfully to cause economic harm to construction companies and are quickly expanding into other industries across the country as well.

To my colleagues I would say, Mr. President, the average cost to the employer to defend himself or defend herself against this practice runs upwards of \$5,000 per case.

Salting is not merely a union organizing tool. It has become an instrument of economic destruction aimed at nonunion companies. This is what happens. Unions send their agents into nonunion workplaces under the guise of seeking employment. Hiding behind the shield of the National Labor Relations Act, these salts use its provisions offensively to bring hardship on their employers. They deliberately increase the operating costs of their employers through actions such as sabotage and frivolous discrimination complaints.

In the 1995 Town & Country decision, the U.S. Supreme Court held that paid union organizers are employees within the meaning of the National Labor Relations Act. Because of their broad interpretation of this act, employers who

refuse to hire paid union employees or their agents violate the act if they are shown to have discriminated against the union salts.

This leaves employers in a precarious and vulnerable situation. If employers refuse to hire union salts, they will file frivolous charges and accuse the employer of discrimination. Yet if salts are employed, they will create internal disruption through a pattern of dissension and harassment. They are not there to work—only to disrupt. For many small businesses this means that whenever hiring decisions are made, the future of the company may actually be at stake. A wrong decision can mean frivolous charges, legal fees, and lost time, which may threaten the very existence of their business.

I have received many accounts from across the Nation of how salting is affecting small businesses. In Carmel, IN, John Gaylor, of Gaylor Electric, is a favorite target of the local International Brotherhood of Electrical Workers. Mr. Gaylor has to budget almost \$200,000 annually to defend himself against frivolous charges. In fact, Gaylor has been forced to defend himself against at least 80 unfair labor practice complaints. However, in each case the charges against him were dismissed as frivolous. Nonetheless, he is bound to pay hundreds of thousands of dollars to attorneys to defend himself.

In a classic example of salting tactics, Gaylor had to fire one employee after his refusal to wear his hardhat on his head. This employee would strap the hardhat to his knee and then dare Gaylor, his boss, to fire him because he said the employee manual stated only that he had to wear the hardhat, it did not state where he had to wear it.

Another common salting practice is for salts to actually create Occupational Safety and Health Administration [OSHA] violations and then report those violations to OSHA. When the employer terminates these individuals, they file frivolous unfair labor practice violations against the employer. This results in wasted time and money, as well as bad publicity for the company.

These are just a few of the many examples of how devastating this practice can be to small businesses. What makes this practice even more appalling is how organized labor openly advocates its use. According to the group, "Workplaces against Salting Abuse," the labor unions are even advocating this practice in their manuals.

The Union Organizing Manual of the International Brotherhood of Electrical Workers explains why salts are used. Their purpose is to gather information that will

\*\*\* shape the strategy the organizer will use later in the campaign to threaten or actually apply the economic pressure necessary to cause the employer to \*\*\* raise his prices to recoup additional costs, scale back his business, leave the union's jurisdiction, go out of business, \*\*\*

The International Vice President of the United Food and Commercial Workers Union has been quoted as saying that:

If we can't organize them, the best thing to do is erode their business as much as possible.

That is what we are facing. The balance of rights must be restored between employers, employees, and labor organizations. The Truth in Employment Act seeks to do this by inserting a provision in the National Labor Relations Act establishing that an employer is not required to employ a person seeking employment for the primary purpose of furthering the objectives of an organization other than that employer. Furthermore, this legislation will continue to allow employees to organize and engage in activities designed to be protected by the National Labor Relations Act.

This measure is not intended to undermine those legitimate rights or protections that employees have had. Employers will gain no ability to discriminate against union membership or activities. This bill only seeks to stop the destructive practice of salting. Salting abuses must be curtailed if we are to protect the small business owners of this Nation. This legislation will ensure these protections are possible.

I am glad that Senator NICKLES, Senator WARNER, Senator MACK, Senator KYL, Senator BROWNBACK, Senator COCHRAN, Senator ROBERTS, Senator HATCH, Senator GORTON, Senator ENZI, Senator GREGG, Senator ALLARD, Senator SESSIONS, Senator FAIRCLOTH, and the majority leader, Senator LOTT, have joined as original cosponsors of this legislation.

It is for these reasons I am introducing the Truth in Employment Act. I ask more of my colleagues to support this bill and restore fairness to the American workplace.

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. 328

*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 "Truth in Employment Act of 1997".

#### SEC. 2 FINDINGS.

Congress finds the following:

(1) An atmosphere of trust and civility in labor-management relationships is essential to a productive workplace and a healthy economy.

(2) The tactic of using professional union organizers and agents to infiltrate a targeted employer's workplace (a practice commonly referred to as "salting") has evolved into an aggressive form of harassment not contemplated when the National Labor Relations Act (29 U.S.C. 151 et seq.) was enacted and threatens the balance of rights that is fundamental to the collective bargaining system of the United States.

(3) Increasingly, union organizers are seeking employment with nonunion employers not because of a desire to work for such employers but primarily to organize the employees of such employers or to inflict economic harm specifically designed to put non-union competitors out of business.

(4) While no employer may discriminate against employees based upon the views of the employees concerning collective bar-

gaining, an employer should have the right to expect job applicants to be primarily interested in utilizing the skills of the applicants to further the goals of the business of the employer.

#### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to preserve the balance of rights between employers, employees, and labor organizations that is fundamental to a system of collective bargaining;

(2) to preserve the rights of employees to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act; and

(3) to alleviate pressure on employers to hire individuals who seek or gain employment in order to disrupt the workplace of the employer or otherwise inflict economic harm designed to put the employer out of business.

#### SEC. 4. PROTECTION OF EMPLOYER RIGHTS.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended by adding at the end the following flush sentence:

"Nothing in this subsection shall be construed as requiring an employer to employ any person who seeks or has sought employment with the employer in furtherance of the objectives of an organization other than the employer."

By Mr. ABRAHAM:

S. 329. A bill to provide that pay for Members of Congress shall be reduced whenever total expenditures of the Federal Government exceed total receipts in any fiscal year, and for other purposes; to the Committee on Governmental Affairs.

● Mr. ABRAHAM. Mr. President, today I am introducing legislation to reduce the salaries of Members of Congress by 10 percent for every year that the budget remains out of balance or Congress fails to enact a balanced budget amendment to the Constitution. Since the Senate is currently debating a balanced budget to the Constitution, I think it is an appropriate time to renew this legislation.

Mr. President, the Federal budget has been out of balance since 1969. If you exclude trust fund surpluses—as some argue we should—then the Federal Government has not had a surplus since the Kennedy administration. Since that time, the on-budget deficit has risen from \$4 billion in 1961 to \$26 billion in 1971, \$74 billion in 1981, and \$321 billion in 1991. According to the CBO, despite recent improvements, the deficit will continue to be a problem—over \$200 billion per year out into the future.

Uninterrupted deficits mean rising debt and debt service costs. The gross debt right now is over \$5 trillion. By 2002, it will be over \$6 trillion. At that time, as we all have been warned, interest payments on the debt will be the largest single portion of the Federal budget. A child born today faces close to \$200,000 in extra taxes over his/her lifetime just to pay interest on the Federal debt.

In other words, Mr. President, after 35 years of uninterrupted presence, I

think we can call the Federal deficit an institution here in Washington and admit that there's an institutional bias toward operating in the red. The legislation I am reintroducing today would create an institutional bias in the other direction—toward balance.

Specifically, the bill provides that the salary of Members of Congress be reduced by 10 percent whenever the Federal Government is unable to balance the budget at the close of a fiscal year. It further provides that such a reduced salary level remain in effect until the Government is successful in achieving a balanced budget. The bill's requirements would sunset, however, upon passage of a balanced budget constitutional amendment by both Houses of the Congress.

Mr. President, I believe it is a fundamental responsibility of Government to live within its means. Yet, Members of Congress find it tempting to spend more money than they are willing to take from taxpayers. On the one hand, they reap the benefits by pleasing their constituents. On the other hand, they avoid displeasing the taxpayers who have to foot the bill. In the end, it is future generations of taxpayers who will pick up the tab.

Last Congress, we came close to reversing this destructive trend. We came within one vote of adopting a balanced budget amendment to the Constitution, and we came within one Presidential veto of instituting a plan to reduce spending, cut taxes, and balance the budget by the year 2002. As we all know, however, close does not count, and the debt we impose upon our children continues to rise.

For that reason, I will continue to fight for a balanced budget constitutional amendment and I will continue to work as a member of the Budget Committee to enact a balanced budget plan. Until either of these initiatives is adopted, however, I will continue to propose holding Members collectively responsible for year-end deficits by reducing their pay.

Mr. President, as I said last year, the Congressional Fiscal Policy Act of 1997 is not a panacea for our current fiscal problems. However, until such time as a balanced budget amendment is placed into the Constitution, it would effect a small but potentially important step toward more responsible Government. ●

By Mr. DORGAN (for himself, Mr. KEMPTHORNE, Mr. BINGAMAN, Mr. CONRAD, Mr. CRAIG, Mr. DOMENICI, Mr. THOMAS and Mr. DASCHLE):

S. 331. A bill to amend title 23, United States Code, to provide a minimum allocation of highway funds for States that have low population densities and comprise large geographic areas; to the Committee on Environment and Public Works.

Mr. DORGAN. Mr. President, I come to the floor today to introduce a piece of legislation on behalf of myself, Senator KEMPTHORNE, Senator BINGAMAN,

Senator CONRAD, Senator CRAIG, Senator DOMENICI, Senator THOMAS, and Senator DASCHLE.

At the conclusion of my remarks I will send a copy of the bill and the statement to the desk.

Mr. President, we will have in this Congress a lot of debates about a lot of issues. One of them that will be very interesting and have great consequence will be the issue of reauthorizing the highway bill. And the question of how much money is available to which States and under what conditions will the money be available to build, to construct, and to maintain highways, roads, and bridges across our country. And to some that may seem like kind of a dull uninteresting subject. But the development, the building, and the maintenance of highways and bridges is critically important to regions of our country. It determines where people live, and where people can travel. It determines economic development, jobs and opportunity.

I come from a rural State. I recognize that there will be a formula fight, as there always is—a formula fight about how to apportion the highway dollars, and who gets what. I do not intend to take sides between one big State and another big State. But I come from a State that is rather large in geography but small in population simply to say that when all of the fighting is over we want to make certain that States like North Dakota and others, where you have large expanses of territory and relatively few people living in those States, are not left out of this process.

Some may not understand the frame of reference to a North Dakota. Let me describe it, if I might, as I begin talking about this bill.

I come from southwestern North Dakota, a town of 300 people, and graduated from a high school class of 9. The county I come from is called Hettinger County. The county next to Hettinger is Slope County, a wonderful territory. Southwestern North Dakota is ranching country with wonderful people. Slope County has fewer than 1,000 people. It is a land mass the size the State of Rhode Island. Slope County is the size of the State of Rhode Island but has fewer than 1,000 people.

There were a lot of births in Slope County last year. There were 7,900 calves born. There were 2,500 pigs born. There were about 1,500 lambs born. And there were seven children born in Slope County; seven children born in Slope County, a land expanse the size of the State of Rhode Island.

I have said—and I do it just I guess because it is obvious—that there is not a lot of childbearing going on in the Medicare years. The fact is that the average age of the population in counties like Slope County, a rural county, is increasing, and there just are not a lot of children born in those counties. In North Dakota, we have 11 counties that are growing and 42 counties that are shrinking. Slope County is an example of that.

I mention all of this to you for one reason. Roads are important. How hard do you think it is to support road building or road maintenance in a county that size with so few people? I can say the same thing about Hettinger County not only in North Dakota, but in South Dakota, New Mexico, Wyoming, Montana, and other States as well. It is very hard with a small population base and a lot of miles of road to support them with our current circumstance.

As we have a fight about highway funding here in the Congress—and the fight is a big-stakes fight over billions and tens of billions of dollars to be sliced up and divided between 50 States, and the big States have an enormous amount of money at stake, New York, Florida, California, and others—an enormous amount of money is at stake for these States. I am going to be someone who helps move this along by saying that I think highway building, highway maintenance, highway construction, and bridge repair is very important for our country's future. We must rebuild our country's infrastructure. We must pay attention to these kinds of things. All you have to do is go to some less-developed country and drive the first mile and understand how important infrastructure is and what we have here versus what they have in many other areas of the world.

But much of our infrastructure is in trouble, and we must reauthorize a highway funding bill that gives us the resources across this country to rebuild our infrastructure.

How do we divide up the money? Well, that then becomes part of this formula fight. How much does one State get versus another?

There are about eight States in this country where you have a large land mass, and only a few people. That makes it very difficult for the few people living in those States to maintain the network of highways necessary. Why is it necessary? It is necessary for the country. It is necessary for an entire transportation system.

You can imagine perhaps President Eisenhower sitting at the White House probably having Speaker Rayburn down to talk about his idea of an Interstate Highway System across our country connecting various parts of our country. And, if someone in that meeting when they talked about building an interstate highway program had said, "Well, gee, how could you conceivably support building a four-lane, expensive interstate highway that goes among other places from Fargo, ND, in the east and exits at Beach, ND, in the west as it enters Montana, for the number of people it serves in North Dakota, how on Earth could this country justify that investment in the interstate highway program?" the answer was simple. It was a national program. And the fact that you build a highway across a State with low populations such as North Dakota means that frozen fish and fresh fruit move from Boston to Seattle, not across gravel roads



in the center of the country because there are only a few people living there, but across an interstate highway system that is part of a national network of highways and roads that are important for our entire country. That is the purpose of all of it this.

Those of us that come from the less-densely populated States drive a lot. Gas taxes mean a lot to us. The price of gasoline means a lot to us. In North Dakota, for example, we drive exactly twice as much per person as they do in New York.

Why? Well, if you are going to go someplace in North Dakota, it is not two blocks to the hospital. It might be 50 miles to the hospital. It might not be a block and a half to a movie. It might be 10 miles or 15 miles from the farmstead to the small town with a theater.

The fact is we drive just almost exactly twice as much in North Dakota per person as they do in New York City. Therefore, per person we pay twice as much in highway taxes as they do, for example, in New York City or the State of New York. Is that unfair, unfortunate? Probably unfortunate. We do not like that necessarily, but we choose where we live.

The point I am making with that is that in terms of burden, we have a very substantial burden with respect to highway taxes. Our burden is much higher than the burden per person in other States.

The contribution to the Federal highway trust fund in terms of gas taxes by the average North Dakotan is \$116 a year; the average Florida resident, \$73; Massachusetts, \$61; Rhode Island, \$55, and the list goes down. We are fourth from the top in per person contribution to the Federal highway trust fund.

Some will come to this floor in all of this fight about money and they will say, well, there are donor States and donee States, and the donor States are the ones that pay more into the highway trust fund than they get back and that ought to change; it is unfair. The donee States are the recipient States and they are the ones that get more back than they paid in and they ought not to.

That is one way of looking at it. I suppose if you want to look at that in the context of funding the Coast Guard, we do not have any coast to guard up in North Dakota so whatever our taxpayers in North Dakota are paying into the Federal Government for the purpose of running a Coast Guard, I suppose we are a donor State. We are a donor State for the Coast Guard. But so what. That is not the way you ought to measure this, nor should you measure it that way from a highway funding standpoint. Measure it in terms of what citizens are having to contribute to the highway trust funds relative to the amount of driving they are doing and the amount of tax they are having to pay, and what you will see is a State such as North Dakota is right near the top.

A group of us who come from States similarly situated, States with very large expanses of land and not as many people, and therefore not having the tax base to raise the funds necessary to meet the needs of road maintenance and road building and bridge making, and so on, want to be a part of this debate on the reauthorization of ISTEA or the highway reauthorization bill in a manner that says the following. We want at the end of this discussion for these eight States that are situated in this manner not to be a part of the juggling between the formula fights that will go on on this floor from time to time this year on highway funding, but instead to be a part of a solution that says with respect to those States with unique circumstances, we will provide a guarantee that those States will receive what they have received in the past in terms of the percentage of the highway funds that have gone to these eight States with large expanses of land, many miles of highway to maintain and a lower population base, and in addition to that we will have a highway preservation fund of 1 percent—1 percent out of 100 percent of the money that is available—to be put in a pool to be distributed back to those eight States on a need basis to preserve those highways, roads and bridges, build and maintain and preserve that infrastructure in those eight States that face this unique challenge and face these unique circumstances.

That is all we say in this legislation—two things. One, North Dakota's share, for example, of the current formula is about .62 of 1 percent. North Dakota and the other seven States would be guaranteed that allocation at the end of the reauthorization bill for the coming years, plus we would be the recipients on a need basis of a pool equal to 1 percent of the highway fund that would then be reallocated on a need basis to the eight States that face these special and unique challenges.

There are a number of us, 16 Senators specifically that come from these 8 States, who have already cosponsored this legislation. I hope others will. And when we do, I hope we will be able to make a case to the rest of the Congress that we want to be helpful to others. We want to be helpful to all of those who believe there ought to be a robust highway funding program, that funding for it ought to be certain, that funding for it ought to be adequate to meet the needs in this country and we are prepared to support that. But that when the larger formula fights are completed, those eight States, uniquely situated, the eight States which include North Dakota, situated in a circumstance where their population base does not allow them to raise the resources to meet their infrastructure and transportation needs, they will be dealt with in a fair and equitable way. That is what our legislation does. It is what it would provide. And we hope that when this is over at the end of this Congress, we will look back and say we

did something that was important for our States.

I want to mention one additional point. Some say let us not have a Federal highway program anymore. Let us abolish the Federal gas tax, and then say to the States, you go ahead and raise your own money. All that I have been discussing so far describes the unique problem we have raising our own money with a large road network to deal with and a smaller population base. If we were required under a program like that, a devolution of the highway program, saying we will not have a Federal program, let us let the States do it, and therefore a State like North Dakota, we were told, you go ahead and raise this yourself, just to meet the current revenue stream we now have from the Federal highway program in North Dakota, we would be required to raise the current State gas tax by 27 cents per gallon simply to replace the revenue the State currently receives. Other States would not fare the same way. Other States would be able to decide they could raise their gas tax at the State level by a very small amount of money.

For example, Florida would have to raise their State gas tax 11 cents to raise the amount of money they now have under their road program. So when you take a look at the impact and the burden on taxpayers here, that approach, the devolution approach, saying let us not have a Federal highway program, let us tell the States raise your own money by your own gas tax, would say to Florida, you raise your gas tax by 11 cents, and would say to North Dakota, you raise yours by 27 cents.

That is the inequity of it. That moves us away from the notion that highways represent a national need, that transportation is a national system and is part of a unifying force in this country that we have always felt should work to meet our country's universal needs, and that includes especially the area of transportation.

Mr. President, this year the Congress will be debating the reauthorization of the Intermodal Surface Transportation Efficiency Act [ISTEA]. Some have focused the debate around the question of the ratio between how much States receive in highway funding related to what they pay in. However, framing the debate around the donor verses donee State concept fails to address the real issues in the reauthorization of ISTEA: that is, how do we allocate resources to maintain a national transportation system and ensure that all States have the necessary resources to participate in that system. If the heavily populated States want to ship their frozen fish and fresh fruit from coast to coast in trucking convoys, they don't want to be shipping it on gravel roads in parts of the country where the local tax base is not sufficient to maintain a national network of good roads. It is in the interest of all Americans to have a national network. That is why the

donor verses donee formula fights are so counterproductive.

If we are interested in maintaining a national transportation system, the question should be how do we allocate resources to meet all the Nation's highway needs. This includes meeting the unique needs of rural States with low-density populations and large geographic areas. If there is a national need, there's a national responsibility and we ought not to have formula fights in ways that hurt small population States with large networks of highways to maintain.

I am not a bit uncomfortable that North Dakota receives more money back in highway funding than it sends into the highway trust fund through gas taxes. In fact, if measured on a per capita basis, North Dakota is actually one of the highest contributors to the Federal highway trust fund. Some of the so-called "donor States" contribute as much in gas taxes per capita than many of the "donee States" contribute. That happens because we have a small population and are required to maintain a large highway system on a small local tax base. Without a Federal program to make up for scarce local resources in low-density States, we could not have a national network of highways.

Those who frame the debate as one between donor or donee States beg the question as to why does this notion only apply to highway funding. Should we treat all transportation programs the same way? Why single out only highway funding? Why not apply the same "return to the states" approach for mass transit, disaster relief for hurricanes and earthquakes, or the Airport Improvement Program? Should the same principle be applied to funding the Coast Guard and the Maritime Administration whose services are almost entirely used by coastal States? We don't have much of a Coast Guard in North Dakota, but our taxpayers still help pay for it. Thus, North Dakota is a donor State when it comes to these programs. Why should landlocked States support these programs?

The reason is simple—we have a national economy, not a State-by-State economy. If such approach were adopted, it would represent a dramatic abandonment from the basic principle that has been vital to our national economic and social well being: a quality national transportation system. And that is why the debate about the reauthorization of ISTEA must meet the unique needs of rural States.

A network of efficient and well-maintained roads in rural areas is just as important to densely population urban centers that export products across the country as the roads are to middle America.

We need a national transportation system that reflects a commitment to all regions of the Nation as the principle priority. To do this, highway funding formulas must provide for the unique needs of every region. Cur-

rently, the needs of States with small populations but that maintain highways for large geographic areas are not reflected under ISTEA formulas and this ought to be changed. ISTEA formulas need to reflect the needs of the national system and the unique circumstances of various geographic regions. While major urban areas need support for relieving congestion and heavy traffic loads, rural States with low populations need additional assistance to maintain long stretches of roads with smaller local tax bases.

Mr. President, I am introducing legislation to ensure that rural States with low-density populations and large geographic land areas get an adequate share of Federal support under the Federal Aid to Highways Program. There are two major provisions under this legislation. First, low-density States with large geographic land areas will be held harmless under the same percentage distribution of total highway funds as they received under ISTEA. In addition, these same States would qualify for a rural State adjustment, which would be established by setting aside 1 percent of the total highway program for rural States. These funds would be distributed by a formula that takes into account the number of National Highway System [NHS] miles of road in a qualifying State and the number of NHS vehicle miles traveled in that State. Certainly, this legislation does not resolve the matter as to how Federal highway funds will be distributed to all States. Rather, this bill only focuses on one aspect of the picture—that is, it emphasizes the unique circumstances of a small number of States that ought to have their needs recognized in the final formula.

Those of us from rural States are not suggesting that all we care about is meeting our unique needs. Much to the contrary. We desire to work cooperatively with all our colleagues to develop a strong and effective highway bill that meets the needs of all regions. Our objective is to have a fair formula that ensures that our Nation maintains a truly national system. To that end, we pledge our good faith and determination to develop the best reauthorization of ISTEA possible.

I urge my colleagues to join Senator KEMPTHORNE, Senator CONRAD, and I in supporting this legislation. It is our hope that the Congress will succeed this year in passing a strong reauthorization of ISTEA and hopefully, that legislation will reflect the concerns raised in the bill we are introducing today.

So, Mr. President, I am sending the legislation to the desk, and I hope in the coming week or so to add cosponsors to the legislation. I hope when the debate occurs on the reauthorization of the highway program, the ideas embodied in this bipartisan piece of legislation will be ideas that we will see incorporated in the final legislation passed by this Congress.

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. 331

*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 "Rural States Highway Preservation Act of 1997".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) a national surface transportation system that includes a national network of highways and that provides for efficient and safe interstate travel in every State is vital to the economic and social wellbeing of the United States;

(2) Federal policy for allocating resources to maintain an efficient and safe national surface transportation system should reflect the unique needs and circumstances of each State's ability to participate in the transportation system;

(3) low-density States that comprise large geographic land areas—

(A) bear unique financial burdens in maintaining their share of the national surface transportation system; and

(B) typically support higher per-mile costs of maintaining highways and contribute more per capita to the Highway Trust Fund than other States;

(4) many rural States have to maintain large highway systems, which provide interstate access between major population centers, but have small local populations to support their highways;

(5) since the approval and implementation of the North American Free Trade Agreement, many rural States along the northern border of the United States have experienced increased use of, and demands on, their share of the national surface transportation system due to increased international trade activities;

(6) Federal funding for surface transportation should include adjustments that reflect reasonable and appropriate resource allocations to ensure that rural, low-density States that comprise large geographic land areas can adequately participate in the national surface transportation system; and

(7) contributions from all States permit the Federal Government to provide support for essential intermodal national priorities, such as a national system of highways, mass transit, maritime activities, airports and air service, and passenger rail service.

#### SEC. 3. MINIMUM HIGHWAY FUNDING ALLOCATION FOR CERTAIN TYPES OF STATES.

Section 157(a)(4) of title 23, United States Code, is amended—

(1) by striking "In fiscal" and inserting the following:

"(A) IN GENERAL.—In fiscal"; and

(2) by adding at the end the following:

"(B) LOW-DENSITY, LARGE-GEOGRAPHIC-AREA STATES.—

"(i) DEFINITION OF ELIGIBLE STATE.—In this subparagraph, the term 'eligible State' means a State that—

"(I) has a population density of less than 20 individuals per square mile; and

"(II) comprises a land area of 10,000 square miles or more.

"(ii) HISTORICAL APPORTIONMENTS.—Notwithstanding any other provision of law, for fiscal year 1998 and each fiscal year thereafter, the Secretary shall increase the amount of funds that, but for this clause, would be apportioned to an eligible State

under section 104(b)(3) so that each eligible State receives not less of the apportioned and allocated funds described in section 1015(a)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943) (as in effect on October 1, 1996) than the percentage listed for the State in section 1015(a)(2) of that Act (as in effect on October 1, 1996).

“(iii) SET-ASIDE.—Notwithstanding any other provision of law, on October 1 of fiscal year 1998 and each fiscal year thereafter, the Secretary shall—

“(I) before making any funds available out of the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year, set aside from the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year an amount equal to 1 percent of the funds that were made available out of the Highway Trust Fund (other than the Mass Transit Account) for the preceding fiscal year;

“(II) after making any increase for an eligible State necessary to carry out clause (ii), allocate 50 percent of the amount set aside under subclause (I) among eligible States in the ratio that—

“(aa) the number of miles of highways on the National Highway System in the eligible State; bears to

“(bb) the number of miles of highways on the National Highway System in all eligible States; and

“(III) after making any increase for an eligible State necessary to carry out clause (ii), allocate 50 percent of the amount set aside under subclause (I) among eligible States in the ratio that—

“(aa) the number of vehicle miles traveled on the National Highway System in the eligible State during the latest 1-year-period for which data are available; bears to

“(bb) the number of vehicle miles traveled on the National Highway System in all eligible States during the latest 1-year-period for which data are available.”

Mr. KERRY. Mr. President, I might say to my friend from North Dakota that he raises a most important issue, and it is obviously one that we are going to have a tremendous tug-of-war on around here. It is my hope, representing a State with very old infrastructure and with enormous public works projects, a very large population in an urban area, that as we approach this we are not going to get dragged into a fractionalized, regionalized, State-versus-State, haves-versus-haves-nots issue. But, rather, that we are going to think this through in terms of the overall needs of the Nation which he has appropriately addressed with respect to his State and his region. I think the key here is to make sure we come out with an adequate amount of infrastructure investment for the country as a whole and with an appropriate division of that. I certainly intend to work with him and others, but I think we need to guarantee that.

• Mr. BINGAMAN. Mr. President, I rise to speak briefly about the Rural States Highway Preservation Act. This is an act that would ensure fairness in the distribution of funds from the Highway Trust Fund. But more importantly, Mr. President, this bill ensures that we continue our commitment to maintain a national transportation system, that in doing so, we meet all the Nation's

transportation needs and, just as importantly, the unique needs of our States that have small populations and very large geographic areas, States such as New Mexico, North Dakota, South Dakota, Idaho, Alaska, Nevada, Montana, and Wyoming.

My home State of New Mexico has only 14 people per square mile and its total land area is 121,335 square miles. Residents of large, rural States like New Mexico pay more per person in gas taxes because of the long driving distances. It is not uncommon for New Mexicans to travel 50 or more miles to their nearest large town or country seat, where they have to go to get essential supplies, health care, school, or interact with their government. To maintain this infrastructure, New Mexicans currently pay one of the highest per capita State taxes to maintain the same highways used by interstate trucks or the tourists who visit our beautiful State. Under any eventual ISTEA reauthorization that does not address these unique characteristics, New Mexico and similar States would lose highway funding that it could never recover. Under devolution, for example, New Mexico would have to impose at least a 17.8-cent gas tax just to generate the same revenue as it received from the Highway Trust Fund in 1995. Such a proposal would be devastating not only for our residents, but for the many trucks that cross our State, and for the increasing traffic between Mexico and the United States. Such a proposal would impair new Mexico's highways, but because we are but one part of a national transportation system, it would impair our national system.

The Rural States Highway Preservation Act would ensure that transportation funds that will be distributed under a reauthorized ISTEA will be done fairly, with consideration to the uniqueness of States with low population density and high geographic area, and with our national transportation needs as a priority.

Thank you, Mr. President. •

By Mr. HARKIN (for himself, Mr. CONRAD, Mr. KENNEDY, Mr. DORGAN, Ms. MIKULSKI, and Mr. LEVIN):

S. 332. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; to the Committee on Finance.

THE CHILD LABOR DETERRENCE ACT OF 1997

• Mr. HARKIN. Mr. President, I introduce the Child Labor Deterrence Act of 1997. The bill I am introducing today prohibits the importation of any product made, whole or in part, by children under the age of 15 who are employed in manufacturing or mining. This is the fourth time I have come to the floor of the Senate to introduce this bill, and I will continue to introduce it until it becomes law.

Mr. President, recently, the International Labor Organization [ILO] released a very grim report about the

number of children who toil away in abhorrent conditions. The ILO estimates that over 200 million children worldwide under the age of 15 are working instead of receiving a basic education. Many of these children begin working in factories at the age of 6 or 7, some even younger. They are poor, malnourished, and often forced to work 60-hour weeks for little or no pay.

Child labor is most prevalent in countries with high unemployment rates. According to the ILO, some 61 percent of child workers, nearly 153 million children, are found in Asia; 32 percent, or 80 million, are in Africa and 7 percent, or 17.5 million, live in Latin America. Adult unemployment rates in some nations runs over 20 percent. In Latin America, for example, about 1 in every 10 children are workers. Furthermore, in many nations where child labor is prevalent, more money is spent and allocated for military expenditures than for education and health services.

The situation is as deplorable as it is enormous. In many developing countries children represent a substantial part of the work force and can be found in such industries as rugs, toys, textiles, mining, and sports equipment manufacturing.

For instance, it is estimated that 65 percent of the wearing apparel that Americans purchase is assembled or manufactured abroad, therefore, increasing the chance that these items were made by abusive and exploitative child labor. In the rug industry, Indian and Pakistan produce 95 percent of their rugs for export. Some of the worst abuses of child labor have been documented in these countries, including bonded and slave labor.

Venezuela and Colombia exported \$6,084,705 and \$1,385,669 worth of mined products respectively to the United States in 1995. Both were documented by the Department of Labor as using child labor in mining. Mining hazards for children include exposure to harmful dusts, gases, and fumes that cause respiratory diseases that can develop into silicosis, pulmonary fibrosis, asbestosis and emphysema after some years of exposure. Child miners also suffer from physical strain, fatigue and musculoskeletal disorders, as well as serious injuries from falling objects.

Children may also be crippled physically by being forced to work too early in life. For example, a large scale ILO survey in the Philippines found that more than 60 percent of working children were exposed to chemical and biological hazards, and that 40 percent experienced serious injuries or illnesses.

These practices are often underground, but the ILO report points out that children are still being sold outright for a sum of money. Other times, landlords buy child workers from their tenants, or labor contractors pay rural families in advance in order to take their children away to work in carpet weaving, glass manufacturing or prostitution. Child slavery of this type has long been reported in South Asia,

South East Asia and West Africa, despite vigorous official denial of its existence.

Additionally, children are increasingly being bought and sold across national borders by organized networks. The ILO report states that at least five such international networks trafficking in children exist: from Latin America to Europe and the Middle East; from South and South East Asia to northern Europe and the Middle East; a European regional market; an associated Arab regional market; and, a West Africa export market in girls.

In Pakistan, the ILO reported in 1991 that an estimated half of the 50,000 children working as bonded labor in Pakistan's carpet-weaving industry will never reach the age of 12—victims of disease and malnutrition.

I have press reports from India of children freed from virtual slavery in the carpet factories of northern India. Twelve-year-old Charitra Chowdhary recounted his story—he said, “If we moved slowly we were beaten on our backs with a stick. We wanted to run away but the doors were always locked.”

Mr. President, that's what this bill is about, children, whose dreams and childhood are being sold for a pittance—to factory owners and in markets around the globe.

It is about protecting children around the globe and their future. It is about eliminating a major form of child abuse in our world. It is about breaking the cycle of poverty by getting these kids out of factories and into schools. It is about raising the standard of living in the Third World so we can compete on the quality of goods instead of the misery and suffering of those who make them. It is about assisting Third World governments to enforce their laws by ending the role of the United States in providing a lucrative market for goods made by abusive and exploitative child labor and encouraging other nations to do the same.

Mr. President, unless the economic exploitation of children is eliminated, the potential and creative capacity of future generations will forever be lost to the factory floor.

Mr. President, the Child Labor Deterrence Act of 1997 is intended to strengthen existing U.S. trade laws and help Third World countries enforce their child labor laws. The bill directs the U.S. Secretary of Labor to compile and maintain a list of foreign industries and their respective host countries that use child labor in the production of exports to the United States. Once the Secretary of Labor identifies a foreign industry, the Secretary of the Treasury is instructed to prohibit the importation of a product from an identified industry. The entry ban would not apply if a U.S. importer signs a certificate of origin affirming that they took reasonable steps to ensure that products imported from identified industries are not made by child labor. In

addition, the President is urged to seek an agreement with other governments to secure an international ban on trade in the products of child labor. Further, any company or individual who would intentionally violate the law would face both civil and criminal penalties.

This legislation is not about imposing our standards on the developing world. It's about preventing those manufacturers in the developing world who exploit child labor from imposing their standards on the United States. They are forewarned. If manufacturers and importers insist on investing in child labor, instead of investing in the future of children, I will work to assure that their products are barred from entering the United States.

Mr. President, as I said when I first introduced this bill 4 years ago, it is time to end this human tragedy and our participation in it. It is time for greater government and corporate responsibility. No longer can officials in the Third World or U.S. importers turn a blind eye to the suffering and misery of the world's children. No longer do American consumers want to provide a market for goods produced by the sweat and toil of children. By providing a market for goods produced by child labor, U.S. importers have become part of the problem by perpetuating the impoverishment of poor families. Through this legislation, importers now have the opportunity to become part of the solution by ending this abominable practice.

Mr. President, countries do not have to wait until poverty is eradicated or they are fully developed before eliminating the economic exploitation of children. In fact, the path to development is to eliminate child labor and increase expenditures on children such as primary education. In far too many countries, governments spend millions on military expenditures and fail to provide basic educational opportunities to its citizens. As a result, over 130 million children are not in primary school.

In conclusion, Mr. President, my bill places no undue burden on U.S. importers. I know of no importer, company, or department store that would willingly promote the exploitation of children. I know of no importer, company, or department store that would want their products and image tainted by having their products produced by child labor. And I know that no American consumer would knowingly purchase something made with abusive and exploitative child labor. These entities take reasonable steps to ensure the quality of their goods; they should also be willing to take reasonable steps to ensure that their goods are not produced by child labor.

Mr. President, I urge my colleagues to support this legislation.●

By Mrs. BOXER:

S. 333. A bill to increase the period of availability of certain emergency relief funds allocated under section 125 of title 23, United States Code, to carry

out a project to repair or reconstruct a portion of a Federal-aid primary route in San Mateo, CA.

#### THE DEVIL'S SLIDE TUNNEL ACT

● Mrs. BOXER. Mr. President, today I am introducing the Devil's Slide Tunnel Act to allow previously appropriated funds to be used for a tunnel project in San Mateo County, CA. This bill is essentially a technical change to a 1984 emergency spending bill to provide relief for heavy winter storms that occurred during the winter of 1982–83. These rains caused a mountain mud slide to block the use of California Highway 1, a key coastal highway linking San Mateo County to San Francisco.

This section of highway has become known as Devil's Slide because it crosses a sea cliff 600 feet above the Pacific Ocean surf about 12 miles south of San Francisco. Perennial closures because of mud slides have cut off coastal communities, particularly access to emergency services during disasters as well as to local businesses. Congress approved the supplemental appropriations for permanent repair after exhaustive study, including field hearings by the House Surface Transportation Subcommittee.

The California Department of Transportation [Caltrans] made temporary repairs and proposed a bypass construction. The bypass was opposed by environmental interests and construction was blocked in court for years. This battle fortunately ended in November when voters overwhelming approved a referendum calling for construction of a mile-long tunnel as a project alternative.

Congressman TOM LANTOS has introduced legislation in the House to carry out the voters' request. I am introducing an identical bill. Our legislation simply amends the law to allow for previously appropriated funds to be used for a project alternative and that the amount is available until expended.

It is time that we fix this dangerous highway section that threatens many people's lives and livelihoods. I urge my colleagues to join me and take swift action to allow the project alternative to proceed.

I ask unanimous consent that the legislation be printed in the RECORD.

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

S. 333

*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 “Devil's Slide Tunnel Act”.

#### SEC. 2. PERIOD OF AVAILABILITY.

Section 6 of the Act entitled “An Act to apportion certain funds for construction of the National System of Interstate and Defense Highways for fiscal year 1985 and to increase the amount authorized to be expended for emergency relief under title 23, United States Code, and for other purposes”, approved March 9, 1984 (98 Stat. 55), is amended—

(1) by inserting "(a) IN GENERAL,—" before "A project"; and

(2) by adding at the end the following:

"(b) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, sums that are allocated under section 3 for any project alternative selected under this section before, on, or after the date of enactment of this subsection shall remain available until expended."•

By Mr. MOYNIHAN:

S. 334. A bill to amend section 541 of the National Housing Act with respect to the partial payment of claims on health care facilities; to the Committee on Banking, Housing, and Urban Affairs.

#### PARTIAL PAYMENT OF CLAIMS LEGISLATION

• Mr. MOYNIHAN. Mr. President, I introduce a bill that makes a small but significant change in the hospital mortgage program and the nursing home mortgage program administered by the Department of Housing and Urban Development. The Section 242 Program, as it is known, enables HUD to guarantee to private lenders that they will not lose money on a construction loan to a hospital. If the hospital cannot make its payments, HUD will assume the mortgage. The program insures loans for renovation, modernization, and new construction, and also covers the refinancing of existing mortgages. The Section 232 program does the same for nursing home projects.

In August, 1995 the portfolio included 100 projects in 18 States. It is particularly important in New York where State regulations require hospitals to secure such insurance and where construction costs are high. Further, because New York is deregulating its hospitals, in the next few years the hospitals need as much flexibility as possible, including the ability to refinance existing debt. The program will be more important than ever.

Ensuring hospital mortgages may seem to be a risky venture, but this program is successful. Since 1969 it has made a net contribution to the government of \$221 million through fees it charges the hospitals, and in only three years has it had a negative net cash flow. The most recent was 1991.

The bill I am offering today would strengthen the program by giving HUD partial payment of claims authority. Currently, if a hospital or nursing home cannot make a mortgage payment, HUD must assume the entire mortgage at considerable cost and administrative effort. Partial payment of claims would prevent this. If, for example, a hospital owes a \$10 million payment and only has \$6 million available, HUD would simply provide the \$4 million shortfall. There would be no requirement nor necessity of assuming the mortgage.

HUD already has partial payment of claims authority in most of its other mortgage insurance programs, such as the multifamily housing program, and it works well. There is no reason for the Agency not to have this authority in the hospital and the nursing home program, and in fact it makes eminent sense.

My friend and colleague, Senator D'AMATO, joins me as a cosponsor of this bill. I ask my other colleagues to join us in supporting this bill.

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. 334

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

#### SECTION 1. PARTIAL PAYMENT OF CLAIMS ON HEALTH CARE FACILITIES.

Section 541(a) of the National Housing Act (12 U.S.C. 1735f-19) is amended—

(1) in the section heading, by adding "AND HEALTH CARE FACILITIES" at the end; and

(2) in subsection (a)—

(A) by inserting "or a health care facility (including a nursing home, intermediate care facility, or board and care home (as those terms are defined in section 232)), a hospital (as that term is defined in section 242), or a group practice facility (as that term is defined in section 1106))" after "1978"; and

(B) by inserting "or for keeping the health care facility operational to serve community needs," after "character of the project,"•

By Mr. WARNER (for himself, Mr. GRAHAM, Mr. HOLLINGS, Mr. FAIRCLOTH, Mr. LUGAR, Mr. FORD, Mrs. HUTCHISON, Mr. INHOFE, Mr. NICKLES, Mr. BREAUX, Mr. HELMS, Mr. COATS, Mr. MCCONNELL, Mr. SHELBY, Mr. BOND, Mr. THURMOND, Mr. SESSIONS, Mr. HUTCHINSON, Mr. GRAMM, Mr. ROBB, Mr. COVERDELL, Mr. CLELAND and Mr. GRAMS):

S. 335. A bill to authorize funds for construction of highways, and for other purposes; to the Committee on Environment and Public Works.

#### THE STEP-21 ISTEA INTEGRITY RESTORATION ACT

• Mr. WARNER. Mr. President, I am pleased to be joined today by Senator BOB GRAHAM and so many of my colleagues in introducing the STEP-21, ISTEA Integrity Restoration Act, to reauthorize our Nation's surface transportation programs.

The current legislation—commonly known as ISTEA—expires on September 30 of this year. New legislation must be passed for our States and local governments to receive any transportation funds on the beginning of the new fiscal year on October 1.

Mr. President, my bill presents a regionally balanced, multimodal approach for establishing a new transportation policy that will successfully carry us into the 21st century.

STEP-21 is a 5-year authorization bill that maintains a strong Federal role in transportation. It responds to the mobility and accessibility needs of all Americans to a modern and safe transportation system. It provides the resources and policies necessary for our American products to compete in a global marketplace. And, we continue the guiding principles of ISTEA committed to a system that is economically efficient and environmentally sound.

Our STEP-21 proposal is grounded in two fundamental principles—funding equity and a streamlined program.

Already much attention has focused on the regional disparities in the funding distribution formulas. But, our legislation recognizes that all regions of the Nation have important transportation needs. We are committed to devising a program that—for the first time—responds to our transportation demands using current needs information. In doing so, we provide a program that acknowledges that sparsely populated States with large land areas or States with small populations cannot go it alone. We are committed to continuing a national transportation system—to provide effective connections among the States. I believe the needs of these States must be addressed and we do so in our legislation.

STEP-21 has a much broader focus than just the single issue of funding distribution.

STEP-21 moves us beyond the advances of ISTEA with further streamlining of the current bureaucratic maze of Federal programs. We reduce the number of program categories, thus increasing the flexibility permitted for our State and local partners to determine their own transportation priorities.

STEP-21 also continues and builds upon the many successes of ISTEA.

Mr. President, this legislation maintains our national focus on multimodal solutions to moving people and goods efficiently.

We continue the flexibility of State and local decisionmakers to invest their resources in nonhighway alternatives—such as transit or commuter rail options.

We continue the important role of metropolitan planning organizations and their need to have an identified funding source.

We recognize a full and open planning process that stimulates public participation at both the State and local level will foster transportation solutions that respond to larger community goals.

We provide a program that is environmentally sound, recognizing that transportation plays an important part in our national goal to improve the quality of the air we breathe. States can continue to invest in those transportation choices that move people and goods without degrading air quality. The enhancements program that invests in alternative forms of transportation—bike paths and pedestrian walkways—and mitigates the impacts of past transportation choices on our communities quality of life will be continued.

In brief, STEP-21 ensures that we have a national multimodal transportation policy that is ready to meet the economic demands of a global marketplace. It provides solutions to the regional disparities of the current program and the Federal second-guessing of State and local transportation

choices. It does not retreat from the principles of ISTFA to provide for an open decisionmaking process permitting States and localities to invest in different modes of transportation.●

By Mr. SARBANES:

S. 336. A bill to convert certain excepted service positions in the United States Fire Administration to competitive service positions, and for other purposes; to the Committee on Governmental Affairs.

#### U.S. FIRE ADMINISTRATION LEGISLATION

● Mr. SARBANES. Mr. President, today I am introducing legislation to convert eight remaining excepted service positions at the U.S. Fire Administration to competitive service status.

During its first few years of operation, the Federal Emergency Management Agency used an excepted service authority provided under the Fire Prevention and Control Act of 1974 in order to quickly staff the National Fire Academy with personnel who were uniquely qualified in fire education.

In the early 1980's, after the Academy's original vacancies had been filled and the Academy was up and running, it became FEMA's policy to fill openings at the NFA through a competitive civil service hiring system. Today, 91 of the NFA's 99 employees are under the general schedule with only eight employees who were hired in the 1970's and early eighties remaining in excepted service status. As a result, these remaining eight are subject to significant limitations within the USFA. Although they each average over 17 years of Federal service and were hired solely because of their strong backgrounds and unique qualifications in fire education, they are legally barred from competing for management positions within the Fire Administration. The remaining eight excepted service employees are not even allowed to serve on details to competitive service jobs—even within their own organization—without an official waiver from the Office of Personnel Management.

Mr. President, I am proposing to remedy this situation. The legislation which I am introducing will enable the Director of the Federal Emergency Management Agency and the Director of the Office of Personnel Management to convert any employees appointed to the Fire Administration under the Federal Fire Protection and Control Act, to competitive service—without any break in service, diminution of service, reduction of cumulative years of service, or requirement to serve any additional probationary period with the Administration. Those converted under this legislation shall also remain in the Civil Service Retirement System and retain their seniority. This practice is consistent with other federally supported training academies. The Congressional Budget Office has indicated that there would be no cost for this conversion, and I urge my colleagues to join me in support of this legislation.●

By Mr. HUTCHINSON (for himself, Mr. HAGEL, Mr. ABRAHAM, Mr. NICKLES, and Mr. HELMS):

S. 337. A bill to amend the Foreign Assistance Act of 1961 to restrict assistance to foreign organizations that perform or actively promote abortions; to the Committee on Foreign Relations.

#### THE FOREIGN ASSISTANCE ACT OF 1961 AMENDMENT ACT OF 1997

Mr. HUTCHINSON. 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. 337

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

#### SECTION 1. RESTRICTION ON ASSISTANCE TO FOREIGN ORGANIZATIONS THAT PERFORM OR ACTIVELY PROMOTE ABORTIONS.

(a) IN GENERAL.—Section 104 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b) is amended by adding at the end the following new subsection:

“(h) RESTRICTION ON ASSISTANCE TO FOREIGN ORGANIZATIONS THAT PERFORM OR ACTIVELY PROMOTE ABORTIONS.—

“(1) PERFORMANCE OF ABORTIONS.—

“(A) RESTRICTION.—Notwithstanding any other provision of law, no funds appropriated for population planning activities under subsection (b) or other population assistance may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies to the President that it will not, during the period for which the funds are made available, perform abortions in any foreign country, except where the life of the mother would be endangered if the pregnancy were carried to term or in cases of forcible rape or incest.

“(B) STATUTORY CONSTRUCTION.—Nothing in subparagraph (A) may be construed to apply to the treatment of injuries or illnesses caused by legal or illegal abortions or to assistance provided directly to the government of a country.

“(2) LOBBYING ACTIVITIES.—

“(A) RESTRICTION.—Notwithstanding any other provision of law, no funds appropriated for population planning activities under subsection (b) or other population assistance may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies to the President that it will not, during the period for which the funds are made available, violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, or engage in any activity or effort to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, except as provided in subparagraph (B).

“(B) EXCEPTION.—Subparagraph (A) shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

“(3) APPLICATION TO SUBCONTRACTORS AND SUBGRANTEES.—The prohibitions of this subsection shall apply to funds made available to a foreign organization either directly or as a subcontractor or subgrantee, and the certifications required by this subsection shall apply to activities in which the organization engages either directly or through a subcontractor or subgrantee.”.

(b) APPROPRIATIONS COVERED.—The amendment made by subsection (a) shall apply to

appropriations made before, on, or after the date of enactment of this Act.

Mr. ABRAHAM. Mr. President: I rise to join my colleague, Senator HUTCHINSON, as an original cosponsor of S. 337, his amendment to the Foreign Assistance Act of 1961.

This legislation, Mr. President, will subject our nation's funding of international population control programs to appropriate restrictions, seeing to it that American monies are not used to promote or perform abortions.

In adopting this amendment we will continue our country's long established policy of opposing the use of our taxpayer's money to fund controversial procedures. First, this bill prohibits funding to any foreign organization, whether nongovernmental, multilateral or private, that performs or actively promotes abortion. Second, it prohibits organizations receiving U.S. funds from violating any of the host country's laws concerning abortion and from engaging in efforts to alter the host country's abortion laws. There is an exception for activities in opposition to coercive abortions or involuntary sterilizations. Third, this legislation extends these prohibitions to subcontractors and subgrantees of foreign organizations which receive funding under the population assistance program.

I strongly support this legislation because I believe that it will be insure that U.S.-funded population planning programs are administered in an appropriate manner. By this I mean that they will abide by the guidelines Congress laid down for 10 years, under both the Reagan and the Bush administrations. S. 337 will continue our established practice of protecting taxpayers from misuse of their funds and protecting unborn children around the world. It is a worthy piece of legislation. I urge my colleagues to support it.

By Mr. LEVIN (for himself, Mr. ABRAHAM, Mr. AKAKA, Mr. HELMS and Mr. ROBB):

S. 339. A bill to amend title 18, United States Code, to revise the requirements for procurement of products of Federal Prison Industries to meet needs of Federal agencies, and for other purposes; to the Committee on the Judiciary.

#### THE FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT

● Mr. LEVIN. Mr. President, I am pleased to introduce the Federal Prison Industries Competition in Contracting Act. This bill, which is cosponsored by Senators ABRAHAM, AKAKA, HELMS, and ROBB, would implement the recommendation of the National Performance Review that we should “require [Federal Prison Industries] to compete commercially for federal agencies' business” instead of having a legally protected monopoly. Our bill would ensure that the taxpayers get the best possible value for their Federal procurement dollars. If a Federal agency could get a better product at a lower



price from the private sector, it would be permitted to do so—and the taxpayers would get the savings.

Mr. President, many in both Government and industry believe that FPI products are frequently overpriced, inferior in quality, or both. For example, I understand that the Veterans Administration has sought repeal of FPI's mandatory preference on several occasions, on the grounds that FPI pricing for textiles, furniture, and other products are routinely higher than identical items purchased from commercial sources. Most recently, VA officials estimated that the repeal of the preference would save \$18 million over a 4-year period for their agency alone, making that money available for veterans services.

Similarly, the Deputy Commander of the Defense Logistics Agency, wrote in a May 3, 1996, letter to Members of the House that FPI has had a 42 percent delinquency rate in its clothing and textile deliveries, compared to a 6 percent rate for commercial industry. For this record of poor performance, FPI has charged prices that were an average of 13 percent higher than commercial prices.

On July 30, 1996, the master chief petty officer of the Navy testified before the House National Security Committee that the FPI monopoly on Government furniture contracts has undermined the Navy's ability to improve living conditions for its sailors. Master Chief Petty Officer John Hagan stated, and I quote:

In order to efficiently use our scarce resources, we need congressional assistance in changing the Title 18 statute that requires all the Services to obtain a waiver for each and every furniture order not placed with the Federal Prison Industry/UNICOR. \* \* \* Speaking frankly, the FPI/UNICOR product is inferior, costs more, and takes longer to procure. UNICOR has, in my opinion, exploited their special status instead of making changes which would make them more efficient and competitive. The Navy and other Services need your support to change the law and have FPI compete with GSA furniture manufacturers. Without this change, we will not be serving Sailors or taxpayers in the most effective and efficient way.

In the last Congress this bill was supported by the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Federation of Independent Business, the Business and Industrial Furniture Manufacturers' Association, the American Apparel Manufacturers' Association, the Industrial Fabrics Association International, and the Competition in Contracting Act Coalition. It has also received support from hundreds of small businesses from Michigan and around the country that have seen FPI take jobs away from their businesses and give them to FPI with a guaranteed purchase—regardless of price and quality.

We all want to do what we can to ensure that we make constructive work available for Federal prisoners, but the way we are doing it is wrong. As one small businessman in the furniture in-

dustry put it in emotional testimony at a House hearing last year:

Is it justice that Federal Prison Industries would step in and take business away from a disabled Vietnam veteran who was twice wounded fighting for our country and give that work to criminals who have trampled on honest citizens' rights, therefore effectively destroying and bankrupting that hero's business which the Veteran's Administration suggested he enter?

At the end of the last Congress, I received a letter indicating the Administration's agreement that the process by which Federal agencies purchase products from Federal Prison Industries needs to be reformed. That letter states:

The Administration favors reform of Federal Prison Industries to improve its customer service, pricing, and delivery while not endangering its work program for Federal inmates. \* \* \* The Administration will present reform proposals for the House and Senate Judiciary Committees in the next session of Congress.

With this letter, the administration has promised to join us in a serious re-evaluation of the process by which Federal Prison Industries sells its products to other Federal agencies. The heart of that process is, of course, FPI's mandatory source status. The administration has made a commitment to work with us on reforming the Federal Prison Industries procurement process in this Congress, and I intend to hold the administration to that commitment.

Mr. President, our bill would not require FPI to close any of its facilities, force FPI to eliminate any jobs for Federal prisoners, or undermine FPI's ability to ensure that inmates are productively occupied. It would simply require FPI to compete for Federal contracts on the same terms as all other Federal contractors. That is simple justice to the hard-working citizens in the private sector, with whom FPI would be required to compete.

Mr. President, I am a supporter of the idea of putting Federal inmates to work. A strong prison work program not only reduces inmate idleness and prison disruption, but can also help build a work ethic, provide job skills, and enable prisoners to return to productive society upon their release.

However, I believe that a prison work program must be conducted in a manner that does not unfairly eliminate the jobs of hard-working citizens who have not committed crimes. FPI will be able to achieve this result only if it diversifies its product lines and avoids the temptation to build its work force by continuing to displace private sector jobs in its traditional lines of work. We need to have jobs for prisoners, but it is unfair and wasteful to allow FPI to designate whose jobs it will take, and when it will take them. Competition will be better for FPI, better for the taxpayer, and better for working men and women around the country.

I had hoped to get a vote on this bill last year, but the parliamentary situation at the end of the Congress made that impossible. However, this issue is

not going to go away. The issue is too important to the taxpayers, and too important to the many small businesses adversely affected by unfair competition from Federal Prison Industries, to be ignored. I look forward to working with my colleagues to make reform of the Federal Prison Industries procurement process a reality in this Congress.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 341. A bill to establish a bipartisan commission to study and provide recommendations on restoring the financial integrity of the Medicare Program under title XVIII of the Social Security Act; to the Committee on Finance.

THE NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICARE

Mr. ROTH. Mr. President, I rise today with my distinguished colleague, Senator MOYNIHAN, the ranking member of the Senate Committee on Finance, to introduce legislation establishing a National Commission on the Future of Medicare.

This Medicare Commission will serve as an essential catalyst to congressional action, and ultimately lead to a solution that will preserve and protect the Medicare Program for current beneficiaries, their children, grandchildren, and great-grandchildren.

Mr. President, we have two immense challenges presented by the Medicare crisis. First, we have the short-term problem, the looming insolvency date of 2001. Second, in the not distant future, the vast numbers of baby boomers will challenge the long-term viability of Medicare. Congress must take action immediately on the short-term bankruptcy crisis, where the Commission will help us solve the longer term problem.

I am encouraged that President Clinton has moved in our direction by offering in his budget package a \$100 billion reduction in Medicare spending growth over the next 5 years. I must admit, however, that I was somewhat concerned when the President, in his State of the Union Address last week, devoted only one sentence to discussing his plans for Medicare. And half of that sentence was devoted to expanding the program.

The President stated that his plan extends the life of the Medicare trust fund until 2007. However, in order to achieve this, the President's budget resorts to a budgetary sleight of hand. If we truly are to consider taking steps to preserve and protect the Medicare Program as a whole for future generations, shifting money from one trust fund account to the other does nothing for its long-term health. It only buys us a little extra time. Instead, we should take steps to extend the short-term solvency without budget accounting gimmicks.

Relying on a gimmick like the home health transfer has a certain appeal—it buys us some time by extending the short-term life of the Medicare hospital insurance, HI or part A, trust

fund which is headed for bankruptcy in 2001. Quite simply, Medicare is spending more than it collects from all sources of revenues. Transferring the majority of the outlays for home health care extends the life of the HI trust fund without having to make any real decisions.

Gail Wilsnky, a well-known health economist, stated recently "[t]he terms of the transfer of 480 billion of home care should be considered carefully because of the precedent it sets in transferring an obligation into what effectively is the general revenue of the Treasury. Normally, when an expense is brought into part B, a portion of the total spending becomes part of the premium paid by the elderly and the expense itself is subjected to a 20 percent coinsurance charge. This is not being done for the home health care transfer. While an argument can be made that the separation of Medicare into parts A and B, with two separate streams of funding is an archaic holdover from Medicare's inception, removing the limited cost constraints that now exist without reforming the entire program is very risky."

The anticipated bankruptcy of the trust fund in 2001 means there will not be money to pay the hospital, skilled nursing care, home health care, and hospice care bills of our senior citizens and disabled individuals who rely on Medicare. If we change current law, Medicare trends will continue on a collision course.

In 1995, expenditures out of the HI trust fund exceeded all sources of revenues into the trust fund. The Congressional Budget Office predicts that in 2001 Medicare will out spend its revenues and spend down its current surplus, becoming insolvent with a \$4.5 billion shortfall. This shortfall grows rapidly to over one half trillion dollars—\$556 billion—in 2007. And, this is before the baby-boomers begin to retire in 2010.

In the long-term, demographic trends will continue to increase financial pressure on the trust fund, challenging its ability to maintain our promise to beneficiaries. Today, there are less than 40 million Americans who qualify to receive Medicare. By the year 2010, the number will be approaching 50 million, and by 2020, it will be over 60 million. While these numbers are increasing, the number of workers supporting retirees will decrease. Today, there are almost four workers per retiree, but in 2030 there will be only about two per retiree.

The supplemental medical insurance [SMI] trust fund does not have the same solvency problem, as it has an unlimited claim on the U.S. Treasury. The SMI trust fund is financed by a monthly premium paid by beneficiaries, which covers 25 percent of the cost of Medicare part B. The remaining costs are paid by general revenues. The SMI trust fund is solvent because the Federal Government is obligated to make up the difference between bene-

ficiary premium amounts and part B costs.

Spending for the SMI trust Fund is unsustainable. According to CBO, SMI spending is expected to increase at an annual rate of 9.1 percent between 1997 and 2007, while its premium receipts will grow by only 4.5 percent a year. Under current law, the percentage of costs paid from general revenues will steadily increase. In recent testimony, Joseph Antos, the Assistant Director for Health and Human Resources at CBO, described this situation precisely, "The SMI program is no more financially sound than the HI program, in the sense that both components of Medicare are growing more rapidly than the economy's capacity to finance them."

The Commission should also consider that since Medicare's enactment in 1965, there has been a great deal of change in the private health care system in the United States, yet Medicare has remained fundamentally unchanged. Indeed, Medicare beneficiaries do not enjoy the same benefits private sector plans often offer their enrollees. This rigid 31-year-old program is unable to offer the private sector improvements in alternative systems of delivery of care or many technological advances. If Medicare were a television, it would be a 30-year-old, 12-inch black and white model.

Mr. President, the legislation I am introducing today is modeled after two well-known previous bipartisan, bicameral national commissions.

First, the mission of the Commission is similar to the 1983 National Commission on Social Security Reform, established by President Reagan by Presidential Executive Order, December 16, 1981. As was the charge to this 1983 Blue Ribbon Commission, the Medicare Commission is directed to thoroughly review Medicare and make appropriate recommendations. The Medicare Commission will review and analyze the long-term financial condition of both the Federal hospital insurance, HI or Part A, trust fund and the Federal supplementary medical insurance, SMI or Part B, trust fund.

Second, the structure of the 15-member Medicare Commission follows more closely the model established by the 1990 U.S. Bipartisan Commission on Comprehensive Health Care, known as the Pepper commission. The Pepper commission was chaired by Senator ROCKEFELLER and issued a report making recommendations on comprehensive health care reform.

The Medicare Commission will facilitate our ability to address the Medicare crisis. Ultimately, I hope to see the Medicare Commission put forward a proposal after thoroughly analyzing the options that will truly preserve and protect the Medicare Program, not just through the next 5 years, but for the next generation so that we can leave a legacy of a robust Medicare Program for our children and our grandchildren.

Mr. President, now is the time to put partisanship aside. Time is running

short, and we need to work together to avert the crisis.

Given the very short time that Medicare will remain solvent, and given the demographic facts of the American population, we cannot afford more delay. We need to preserve and protect the Medicare Program. We need to make sure we leave a solid legacy for the next generations. It is no longer time for rhetoric, but time for action. Playing politics with Medicare is simply wrong. Putting off what needs to be done is the cruelest tactic.

I encourage my colleagues to join us in cosponsoring this important legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

**SUMMARY OF LEGISLATION ESTABLISHING THE NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICARE**

Establishes a 15 member commission.

Based on the membership structure of the 1990 US Bipartisan Commission on Comprehensive Health Care (also known as The Pepper Commission), the 15 members are appointed in the following manner: 3 by the President; 6 by the House of Representatives (not more than 4 from the same political party); 6 by the Senate (not more than 4 from the same political party); and the Chairman is designated by the joint agreement of the Speaker of the House of Representatives and the Majority Leader of the Senate.

Duties are similar to the 1983 National Commission on Social Security Reform:

1. review and analyze the long-term financial condition of both Medicare Trust Funds;
2. identify problems that threaten the financial integrity;
3. analyze potential solutions that ensure the financial integrity and the provision of appropriate benefits;
4. make recommendations to restore solvency of the HI Trust Fund and the financial integrity of the SMI Trust Fund;
5. make recommendations for establishing the appropriate financial structure of the program as a whole;
6. make recommendations for establishing the appropriate balance of benefits covered and beneficiary contributions; and
7. make recommendations for the time periods during which the Commission recommendations should be implemented.

Must submit a report to the President and Congress no later than 12 months from the date of enactment.

Commission terminates 30 days after report is submitted.

Funding authorized to be appropriated from both Medicare Trust Funds.

Mr. MOYNIHAN. Mr. President, I rise to join my colleague, the chairman of the Senate Committee on Finance, in introducing a bill that would establish a commission to address the long term problems confronting the Medicare Program.

In 1983, I joined with then-Senator Bob Dole as a member of the Greenspan Commission, which proposed a series of reforms and improvements in the Social Security program. Congress' ability to resolve the complex and controversial issues facing Social Security

at that time were in doubt up until the last minute. In the end, it was the bipartisan nature of the Greenspan Commission that allowed Congress to agree on a solution.

This year, combined tax income to the Medicare and OASDI trust funds has been less than the amount paid out of these trust funds. The trustees of the Federal hospital insurance trust fund, the independent actuaries at the Health Care Financing Administration [HCFA] and the Congressional Budget Office all agree that the HI trust fund will run out of money in the year 2001.

Near-term insolvency can be resolved by reducing the rate of growth in the Medicare Program in legislation implementing the federal budget for fiscal year 1998. Yet current proposals do not address the demographic and structural factors that threaten the solvency of the Medicare Program over the longer term. Approaching changes in our Nation's demographics are well known. The so-called "baby boom," consisting of individuals born between 1946 and 1964, will begin turning 65 in the year 2011. The sheer number of people in this demographic bulge will be overwhelming to the Medicare Program.

At the same time, the number of people in the generations that follow is significantly smaller, such that by the year 2030 there will be only 2.2 workers for each individual over 65, and thus eligible for Medicare. In 1995 there were 3.9 workers per beneficiary. These demographic changes, combined with projected growth in program costs under its current structure, guarantee an imbalance between the amount of money we will have to pay for the program and the cost of the benefits that it is expected to cover.

During the recent Presidential campaign, the Republican candidate, Bob Dole, asked if I would sit on a Medicare Commission that he wanted to set up if he were elected President. I responded that I would be happy to serve on any such commission, regardless of which candidate won the White House. In the meantime, President Clinton has also called for a bipartisan process to address the long term difficulties facing Medicare. The President's most recent call for such a process came in his State of the Union Address last week.

The bipartisan bill we are introducing today will begin this process. We urge our colleagues to join this important effort.

#### ADDITIONAL COSPONSORS

S. 25

At the request of Mr. FEINGOLD, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 25, a bill to reform the financing of Federal elections.

S. 98

At the request of Mr. HUTCHINSON, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from

New Hampshire [Mr. SMITH] were added as cosponsors of S. 98, a bill to amend the Internal Revenue Code of 1986 to provide a family tax credit.

S. 197

At the request of Ms. LANDRIEU, her name was added as a cosponsor of S. 197, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 239

At the request of Mr. DASCHLE, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 239, a bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather-related conditions.

S. 261

At the request of Mr. DOMENICI, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 261, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 263

At the request of Mr. MCCONNELL, the names of the Senator from North Carolina [Mr. FAIRCLOTH] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors 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. 278

At the request of Mr. GRAMM, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 278, a bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections.

#### SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the names of the Senator from Texas [Mr. GRAMM] and the Senator from Hawaii [Mr. INOUE] were added as cosponsors of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

#### SENATE JOINT RESOLUTION 16

At the request of Mr. ASHCROFT, the names of the Senator from Oklahoma [Mr. INHOFE] and the Senator from Georgia [Mr. CLELAND] were added as cosponsors of Senate Joint Resolution 16, a joint resolution proposing a constitutional amendment to limit congressional terms.

At the request of Mr. ASHCROFT, the names of the Senator from Hawaii [Mr. INOUE] and the Senator from Alaska [Mr. MURKOWSKI] were withdrawn as cosponsors of Senate Joint Resolution 16, *supra*.

#### SENATE RESOLUTION 53

At the request of Mr. CAMPBELL, his name was added as a cosponsor of Sen-

ate 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 55— RELATIVE TO MILK PRICES

Mr. SPECTER (for himself, Mr. SANTORUM, Mr. FEINGOLD, Mr. KOHL, Mr. JEFFORDS, Mr. LEAHY, Mr. WELLSTONE, Ms. SNOWE, Ms. COLLINS, and Mr. GRAMS) submitted the following resolution; which was considered and agreed to:

S. RES. 55

Whereas, during the last few months farm milk prices have experienced substantial volatility, dropping precipitously from \$15.37 per hundredweight in September, 1996 to \$11.34 per hundredweight in December, 1996;

Whereas, the price of cheese at the National Cheese Exchange in Green Bay, Wisconsin influences milk prices paid to farmers because of its use in the Department of Agriculture's Basic Formula Price under Federal Milk Marketing Orders;

Whereas, less than one percent of the cheese produced in the United States is sold on the National Cheese Exchange and the Exchange acts as a reference price for as much as 95 percent of the commercial bulk cheese sales in the nation: Now, therefore, be it

*Resolved*, That it is the Sense of the Senate of the United States that the Secretary of Agriculture should consider acting immediately pursuant to his legal authority to modify the Basic Formula Price for dairy by replacing the National Cheese Exchange as a factor to be considered in setting the Basic Formula Price.

#### SENATE RESOLUTION 56—RELATIVE TO A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY

Mr. SPECTER (for himself, Mr. SANTORUM, Ms. SNOWE, Mr. WARNER, Mr. GRASSLEY, Mr. SHELBY, Mr. THURMOND, Mr. ROTH, Mr. D'AMATO, Mr. COCHRAN, Mr. DOMENICI, Mr. GREGG, Mr. ABRAHAM, Mr. JEFFORDS, Mr. FAIRCLOTH, Mr. THOMPSON, Mr. COVERDELL, Mr. CHAFEE, Mr. KENNEDY, Mr. DURBIN, Mr. GLENN, Mr. KOHL, Mr. GRAHAM, Mr. BIDEN, Mr. ROBB, Mr. REID, Ms. MOSELEY-BRAUN, Mr. KERRY, Ms. MIKULSKI, Mr. REED, Mr. LEVIN, Mr. HOLLINGS, Mr. INOUE, Mr. LIEBERMAN, Mrs. BOXER, Mr. MOYNIHAN, Mrs. FEINSTEIN, Mr. WYDEN, Mr. LAUTENBERG, Mrs. MURRAY, Mr. BYRD, Mr. SARBANES, Mr. DODD, and Mr. TORRICELLI) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 56

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was invested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas the founders of the modern Greek state modeled their government after that of

the United States in an effort to best imitate their ancient democracy;

Whereas Greece is one of the only three nations in the world, beyond the former British Empire, that has been allied with the United States in every major international conflict this century;

Whereas the heroism displayed in the historic World War II Battle of Crete epitomized Greece's sacrifice for freedom and democracy as it presented the Axis land war with its first major setback and set off a chain of events which significantly affected the outcome of World War II.

Whereas these and other ideals have forged a close bond between our two nations and their peoples;

Whereas March 25, 1997 marks the 176th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations were born: Now, therefore, be it

*Resolved*, That March 25, 1997 is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." The President is requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Mr. SPECTER. Mr. President, today I am pleased to submit a resolution along with 43 of my colleagues to designate March 25, 1977, as "Greek Independence Day: A Celebration of Greek and American Democracy."

The Greeks began the revolution 176 years ago, that would free them from the Ottoman Empire and return Greece to its democratic heritage. It was, of course, the ancient Greeks who developed the concept of democracy in which the supreme power to govern was vested in the people. Our Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy. Thomas Jefferson proclaimed that, "to the ancient Greeks \* \* \* we are all indebted for the light which led ourselves out of Gothic darkness." It is fitting, then, that we should recognize the anniversary of the beginning of their efforts to return to that democratic tradition.

The democratic form of government is only one of the most obvious of the many benefits we have gained from the Greek people. The ancient Greeks contributed a great deal to the modern world, particularly to the United States of America, in the areas of art, philosophy, science, and law. Today, Greek-Americans continue to enrich our culture and make valuable contributions to American society, business, and government.

It is my hope that strong support for this resolution in the Senate will serve as a clear goodwill gesture to the people of Greece with whom we have enjoyed such a close bond throughout history. Similar resolutions have been signed into law each of the past several years, with overwhelming support in both the House of Representatives and the Senate. Accordingly, I urge my Senate colleagues to join me in supporting this important resolution.

## SENATE RESOLUTION 57—CONCERNING THE BICENTENNIAL OF THE LEWIS AND CLARK EXPEDITION

Mr. DORGAN (for himself, Mr. BOND, Mr. BURNS, Mr. CONRAD, Mr. COCHRAN, Mr. CRAIG, Mr. DASCHLE, Mr. GORTON, Mr. KERREY, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. SMITH of Oregon, and Mr. REID): submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 57

Whereas the Expedition commanded by Meriwether Lewis and William Clark, which came to be called "The Corps of Discovery", was one of the most remarkable and productive scientific and military exploring expeditions in all American history;

Whereas President Thomas Jefferson gave Lewis and Clark the mission to "... explore the Missouri River & such principal stream of it, as, by its course and communication with the waters of the Pacific ocean, whether the Columbia, Oregon, Colorado or any other river may offer the most direct & practicable water communication across this continent for the purposes of commerce. . .";

Whereas the Expedition, in response to President Jefferson's directive, greatly advanced our geographical knowledge of the continent and prepared the way for the extension of the American fur trade with Indian tribes throughout the area;

Whereas President Jefferson directed the explorers to take note of and carefully record the natural resources of the newly acquired territory known as Louisiana, as well as diligently report on the native inhabitants of the land;

Whereas Lewis and Clark and their companions began their historic journey to explore the uncharted wilderness west of the Mississippi River at Wood River, Illinois on May 14, 1804, and followed the Missouri River westward from its mouth on the Mississippi to its headwaters in the Rocky Mountains;

Whereas the Expedition spent its first winter at Fort Mandan, North Dakota, crossed the Rocky Mountains by horseback in August 1805, reached the Pacific Ocean at the mouth of the Columbia River in mid-November of that year, and wintered at Fort Clatsop, near the present city of Astoria, Oregon;

Whereas the Expedition returned to St. Louis, Missouri, on September 23, 1806, after a 28-month journey covering 8,000 miles during which it traversed 11 future States: Illinois, Missouri, Kansas, Nebraska, Iowa, North Dakota, South Dakota, Montana, Idaho, Washington, and Oregon;

Whereas the explorers faithfully followed the President's directives and dutifully recorded their observations in their detailed journals;

Whereas these journals describe many plant and animal species, some completely unknown to the world of science or never before encountered in North America, and added greatly to scientific knowledge about the flora and fauna of the United States;

Whereas accounts from the journals of Lewis and Clark and the detailed maps that were prepared by the Expedition enhanced knowledge of the western continent and routes for commerce;

Whereas the journals of Lewis and Clark documented diverse American Indian languages, customs, religious beliefs, and ceremonies; as Lewis and Clark are important figures in American history, so too are Black Buffalo, Cameahwait, Sacajawea, Sheheke and Watkueis;

Whereas the Expedition significantly enhanced amicable relations between the United States and the autonomous Indian nations, and the friendship and respect fostered between the Indian tribes and the Expedition represents the best of diplomacy and relationships between divergent nations and cultures;

Whereas the Native American Indian tribes of the Northern Plains and the Pacific Northwest played an essential role in the survival and the success of the Expedition;

Whereas the Lewis and Clark Expedition has been called the most perfect Expedition of its kind in the history of the world and paved the way for the United States to become a great world power;

Whereas the President and the Congress have previously recognized the importance of the Expedition by establishing a 5-year commission in 1964 to study its history and the route it followed, and again in 1978 by designating the route as the Lewis and Clark National Historic Trail administered by the Secretary of the Interior through the National Park Service; and

Whereas the National Park Service, along with other Federal, State, and local agencies and many other interested groups are preparing commemorative activities to celebrate the bicentennial of the Expedition beginning in 2003: Now, therefore, be it

*Resolved*, That the Senate—

(1) expresses its support for the work of the National Lewis and Clark Bicentennial Council and all the Federal, State, and local entities as well as other interested groups that are preparing bicentennial activities to celebrate the 200th anniversary of the Lewis and Clark Expedition during the years 2004 through 2006;

(2) expresses its support for the events to be held in observance of the Expedition at St. Louis, Missouri in 2004 and Bismarck, North Dakota in 2005, and many other cities during the bicentennial observance; and

(3) calls upon the President, the Secretary of the Interior, the Director of the National Park Service, American Indian tribes, other public officials, and the citizens of the United States to support, promote, and participate in the many bicentennial activities being planned to commemorate the Lewis and Clark Expedition.

## BICENTENNIAL OF THE LEWIS AND CLARK EXPEDITION

• Mr. DORGAN. Mr. President, today I am submitting a Senate resolution to focus national attention to the Bicentennial of the Lewis and Clark Expedition which will be celebrated during the years 2003-2005. I am pleased that Senators BOND, BURNS, CONRAD, COCHRAN, CRAIG, DASCHLE, GORTON, JEFFORDS, KERREY, MOSELEY-BRAUN, MURRAY, GORDON SMITH, and REID have joined me as cosponsors of this resolution.

The Lewis and Clark Expedition is one of the most remarkable events in our history. In the words of historian Paul Cutright, "the Lewis and Clark Expedition stands, incomparably, as the transcendent achievement of its kind in this hemisphere, if not the entire world." Known as the Corps of Discovery, the expedition traversed a vast expanse of largely unknown territory that was just added to the United States through the Louisiana Purchase.

The expedition was conceived by Thomas Jefferson at his home in Monticello, VA. His primary motivation was to find a water route to the Pacific Ocean for commercial reasons. But President Jefferson was interested in far more than trade routes. He was equally interested in expanding the Nation's knowledge of the flora, fauna, geology, geography, and the native peoples who inhabited this vast expanse of unexplored territory that was recently added to the United States. He specifically instructed Lewis and Clark to carefully record what they found. The historic Lewis and Clark Journals were the result of that Presidential directive. The journals, maps, drawings, and specimens which Lewis and Clark produced vastly enhanced the Nation's scientific knowledge and created a lasting cultural legacy for the Nation.

During their 28-month journey, the expedition crossed 11 future States. All along the route—from St. Louis, MO, to Mandan, ND, to Fort Clatsop, OR—preparations are already underway to celebrate this epic exploration. The National Lewis and Clark Bicentennial Council was formed to stimulate and coordinate bicentennial activities across the Nation. Its mission is “to commemorate that journey, rekindle its spirit of discovery, and acclaim the contributions and goodwill of the native peoples.” In cooperation with, Federal, State, tribal, and local governments as well as other interested groups, the council will undertake educational programs, re-enactments of historical events, essay competitions, symposia, athletic events, and other commemorative activities in observances of the bicentennial of this historic journey.

I hope this resolution will help to focus public attention on this great American adventure and its remarkable achievements.

#### SENATE RESOLUTION 58—RELATIVE TO THE TREATY OF MUTUAL COOPERATION AND SECURITY BETWEEN THE UNITED STATES AND JAPAN

Mr. ROTH (for himself, Mr. THOMAS, Mr. MACK, and Mr. ROCKEFELLER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 58

Whereas, the Senate finds that the Treaty of Mutual Cooperation and Security Between the United States of America and Japan is critical to the security interests of the United States, Japan and the countries of the Asia-Pacific region;

Whereas, the security relationship between the United States and Japan is the foundation for the security strategy of the United States in the Asia-Pacific region;

Whereas, strong security ties between the two countries provide a key stabilizing influence in an uncertain post-Cold War world;

Whereas, this bilateral security relationship makes it possible for the United States and Japan to preserve their interests in the Asia-Pacific region;

Whereas, forward-deployed forces of the United States are welcomed by allies of the United States in the region because such forces are critical for maintaining stability in the Asia-Pacific region;

Whereas, regional stability has undergirded economic growth and prosperity in the Asia-Pacific region;

Whereas, the recognition by allies of the United States of the importance of United States armed forces for security in the Asia-Pacific region confers on the United States irreplaceable good will and diplomatic influence in that region;

Whereas, Japan's host nation support is a key element in the ability of the United States to maintain forward-deployed forces in that country;

Whereas, the Governments of the United States and Japan, in the Special Action Committee on Okinawa Final Report issued by the U.S.-Japan Security Consultative Committee established by the two countries, have made commitments to reducing the burdens of United States forces on the people of Okinawa;

Whereas, such commitments will maintain the operational capability and readiness of United States forces;

Whereas, the people of Okinawa have borne a disproportionate share of the burdens of United States military bases in Japan; and

Whereas, gaining the understanding and support of the people of Okinawa in fulfilling these commitments is crucial to effective implementation of the Treaty;

Now, therefore, it is the sense of the Senate that:

(1) The Treaty of Mutual Cooperation and Security Between the United States of America and Japan remains vital to the security interests of the United States and Japan, as well as the security interests of the countries of the Asia-Pacific region; and

(2) the people of Okinawa deserve special recognition and gratitude for their contributions toward ensuring the Treaty's implementation and regional peace and stability.

• Mr. ROTH. Mr. President, I rise today on behalf of myself and Senators THOMAS, MACK, and ROCKEFELLER to submit a sense-of-the-Senate resolution expressing our gratitude to the Okinawan people for their contributions toward ensuring the viability of the Treaty of Mutual Cooperation and Security between the United States of America and Japan. My friend and colleague, Rep. LEE HAMILTON, is submitting a similar resolution in the House of Representatives today.

Mr. President, the Security Treaty forms the core of our bilateral security arrangements with Japan and of our overall security strategy for the Asia Pacific region. Those arrangements have helped provide the peace and stability that have undergirded the region's economic success—from which the United States has benefitted directly.

To help ensure the viability of the Treaty, this past December, the United States and Japan agreed on terms to return roughly 20 percent of the land used by the American military. The Special Action Committee on Okinawa Final Report issued by the United States-Japan Security Consultative Committee sets out timetables for the return of the land. It also calls for training and operational procedures aimed at lessening the intrusiveness of

American forces in Okinawa and improvements in certain procedures of the Status of Forces Agreement.

Even with the coming changes, Japan will continue to provide our forces based in that country with significant amounts of host nation support. And no one in Japan shoulders a more disproportionate share of that burden than the people of Okinawa.

For their many contributions to the United States-Japan relationship and the peace and stability of all the Asia Pacific region, the Okinawan people justly deserve our recognition and our sincerest thanks. That is precisely what this resolution does. But it also goes further: the resolution makes it clear that the continued support of the Okinawan people is crucial if we are to maintain a bilateral relationship that serves both our countries' interests, as well as those of the Asia Pacific and the entire world.

In light of the need for the support and understanding of the Okinawan people, and of the prefecture's continuing economic problems, I hope the Government of Japan gives serious consideration to some of the ideas that have been circulating on making the prefecture into a bastion of free trade and investment. The surest cure for Okinawa's economic ills is a dose of fundamental market reform.

Mr. President, I submitted a similar resolution at the end of the 104th Congress. While that resolution was cleared for passage, Congress adjourned before we could take the measure up for final consideration. Because of the importance of the United States-Japan relationship, I urge all my colleagues to join me in making passage of this resolution possible this year. •

#### NOTICES OF HEARINGS

##### SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President I would like to announce for the information of the Senate and the public that a series of five workshops have been scheduled before the Subcommittee on Forests and Public Land Management to exchange ideas and suggestions on the proposed “Public Land Management Responsibility and Accountability Restoration Act.”

The first workshop will take place on Tuesday, February 25, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building. The topic for this workshop will be titles I (part A), III, and V focusing on how we would restructure the resource management planning, eco-region planning, and Resource Planning Act systems.

The second workshop will take place on Wednesday, February 26, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building. The topic for this workshop will be subpart B title II which addresses changes to administrative appeals and judicial review procedures.

The third workshop will take place on Wednesday, March 5, beginning at

2:30 p.m. in room 366 of the Dirksen Senate Office Building. The topic for this workshop will deal with administrative and related provisions of title IV.

The fourth workshop will take place on Thursday, March 6, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building. The topic of this workshop will be mechanisms for transfer of management responsibility of Federal lands to the States in Title VI.

The fifth and final workshop will take place on Tuesday, March 25, in the State of Idaho. The exact time and place have not been determined, but will be announced in a subsequent notice. This workshop will deal with title II, which addresses coordination and compliance with other environmental laws.

Testimony at these workshops is by invitation only. They are open to the public and the press. For further information please write to the Subcommittee on Forests and Public Land Management, U.S. Senate, Washington, D.C. 20510 or call Mark Rey or Judy Brown of the subcommittee staff at (202)-224-6170.

#### COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing on February 27, 1997, entitled "S. 208, The HUBZone Act of 1997." The hearing will begin at 9:30 a.m. in room 428A of the Russell Senate Office Building.

For further information, please contact Paul Cooksey at 224-5175.

### AUTHORITY FOR COMMITTEES TO MEET

#### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, February 13, 1997, at 9 a.m. in SR-328A to discuss reform to the Commodity Exchange Act.

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

#### COMMITTEE ON ARMED SERVICES

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, February 13, 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 GOVERNMENTAL AFFAIRS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, February 13, at 1:45 p.m. for a business meeting, for the purpose of considering issuance of subpoenas.

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

#### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, February 13, at 2 p.m. for a hearing on S. 207, the Corporate Subsidy Reform Commission Act of 1997.

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

#### COMMITTEE ON FINANCE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the full Committee on Finance be permitted to meet to conduct a hearing on Thursday, February 13, 1997, beginning at 10 a.m. in room 215-Dirksen.

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

#### COMMITTEE ON FINANCE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate Finance Committee be permitted to meet to conduct a hearing on Thursday, February 13, 1997, beginning at 1 p.m. in room 215-Dirksen.

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

#### COMMITTEE ON FOREIGN RELATIONS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 13, 1997, at 8 a.m. to hold a hearing.

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

#### COMMITTEE ON RULES AND ADMINISTRATION

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session on Thursday, February 13, 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.

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

#### SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct a hearing Thursday, February 13, at 2 p.m., hearing room (SD-406), on the Intermodal Surface Transportation Efficiency Act and Transportation trends, infrastructure funding requirements, and transportation's impact on the economy.

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

### ADDITIONAL STATEMENTS

#### EULOGY TO PRESIDENT WASHINGTON

• Mr. CRAIG. Mr. President, I ask that a eulogy written in honor of President George Washington be printed in the RECORD in recognition of President's Day on Monday, February 17. My constituents from Cocolalla, ID, brought

this piece to my attention, and I believe it is an appropriate tribute to our first President.

The eulogy follows:

Washington,  
The Defender of his Country,  
The Founder of Liberty,  
The Friend of Man  
History and Tradition are explored in vain  
For a Parallel to his Character.  
In the Annals of Modern Greatness  
He stands alone,  
And the noblest Names of Antiquity  
Lose their Lustre in his Presence.  
Born the Benefactor of Mankind,  
He was signally Endowed with all the Qualities  
Appropriate to his Illustrious Career,  
Nature made him great,  
And, Heaven-directed,  
He made himself Virtuous.  
Called by his Country to the Defence of her  
Soil,  
And the Vindication of her Liberties,  
He led to the Field  
Her Patriot Armies;  
And, displaying in rapid and brilliant succession  
The United Powers  
Of Consummate Prudence and Heroic Valor,  
He triumphed in Arms  
Over the most powerful Nation of Modern  
Europe;  
His Sword giving Freedom to America,  
His Counsels breathing Peace to the World.  
After a short repose  
From the tumultuous Vicissitudes  
Of a sanguinary War,  
The astounding Energies of  
Washington  
Were again destined to a New Course  
Of Glory and Usefulness.  
The Civic Wreath  
Was spontaneously placed  
By the Gratitude of the Nation  
On the Brow of the Deliverer of his Country.  
He was twice solemnly invested  
With the Powers of Supreme Magistracy,  
By the Unanimous Voice of  
A Free People;  
And in his Exalted and Arduous Station,  
His Wisdom in the Cabinet  
Transcended the Glories of the Field.  
The Destinies of Washington  
Were now complete.  
Having passed the Meridian of a Devoted  
Life,  
Having founded on the Pillars  
Of National Independence  
The Splendid Fabric  
Of a Great Republic,  
And having firmly Established  
The Empire of the West,  
He solemnly deposited on the Altar of his  
Country  
His Laurels and his Sword,  
And retired to the Shades  
Of Private Life.  
A Spectacle so New and so Sublime,  
Was contemplated by Mankind  
With the Profoundest Admiration;  
And the Name of Washington,  
Adding new Lustre to Humanity,  
Resounded  
To the remotest Regions of the Earth.  
Magnanimous in Youth,  
Glorious through Life,  
Great in Death,  
His highest Ambition  
The Happiness of Mankind,  
His noblest Victory  
The Conquest of Himself.  
Bequeathing to America  
The Inheritance of his Fame,  
And building his Monument



In the Hearts of his Countrymen,  
He Lived,  
The Ornament of the Eighteenth Century;  
He Died,  
Lamented by a Mourning World.●

#### HONORING GWENDOLYN BROOKS

● Ms. MOSELEY-BRAUN. Mr. President, tomorrow evening, Howard University will be honoring and celebrating one of our Nation's most treasured poets, Gwendolyn Brooks. There, they will highlight her lifetime of accomplishment: Many awards, over 70 honorary degrees, and her status both as the first black Pulitzer Prize winner and Poet Laureate of Illinois. I would like to take a moment to add a few words of my own to the many that will be saluting her tomorrow.

Like myself, Miss Brooks grew up on the south side of Chicago and attended Chicago public schools. Her parents loved literature and nurtured her early talent. She published her first poem when she was 11, and the world of poetry was forever changed. Her work gave voice to an entire class of people who had not yet been heard, and who had so much to say.

Her poetry has a soul of its own, sometimes whimsical, sometimes mournful, but always full of truth, and beauty. She writes of love and life and loss and liberty and lunacy and laceration. Her work is often provocative, and always inspirational. One of her most clever poems challenges its readers, shaking them out of complacency, preventing them from passively enjoying her art:

A poem doesn't do everything for you.  
You are supposed to go on with your thinking.

You are supposed to enrich the other person's poem with your extensions,  
your uniquely personal understandings,  
thus making the poem serve you.

However, Gwendolyn Brooks doesn't merely challenge readers, she challenges writers. For more than half a century, she has dedicated herself to nurturing the talent of young writers through her teaching. She sponsors annual poetry contests, using her own money for cash prizes. She is as generous with her time as her money, dispensing advice and answering questions posed by aspiring writers.

Gwendolyn Brooks is not only one of America's greatest poets and a living legend, but an inspiration to many, myself included. One of the highlights of the day I was sworn in as a Senator 4 years ago was her reading of *Aurora* to me. Her words from that day live on in me as they do in anyone who has ever heard her speak.●

#### FEDERAL SURPLUS PROPERTY DONATION ACT

● Mr. MCCONNELL. Mr. President, I wish to speak about S. 307, the Federal Surplus Property Donations Act introduced earlier in the week by Senators LUGAR, HARKIN, LEAHY, and myself.

This legislation will enable food banks and other charities, which primarily serve low-income persons, to receive surplus Federal property such as computers, office furniture, copiers, warehouse equipment, and trucks. Items like these are often not available because of their expense. Such equipment can contribute to efficient and effective food bank operations.

I want to thank Second Harvest, Habitat for Humanity, and other major charities which serve needy families and children every day for their support of this legislation and their commitment in responding to hunger in our communities.

Mr. President, Second Harvest and Habitat for Humanity work with food banks serving all 50 States and Puerto Rico. In my home State of Kentucky, this legislation will assist Dare to Care Food Bank in Louisville, God's Pantry Food Bank in Lexington, and Kentucky Food Bank in Elizabethtown in accessing Federal surplus property.

This is a modest but important bill. It can make a real difference in the lives of those who are served by these valuable programs.

I urge my colleagues to support both this legislation and the food banks across the country that serve needy families and children.●

#### GAO'S REPORT ON THE IMPACT OF THE YEAR 2000 PROBLEM

● Mr. MOYNIHAN. Mr. President, we are now at the height of a contentious debate on whether or not Social Security payments will be made in the 21st century if we pass the balanced budget amendment. The question is moot.

According to a report released yesterday by the General Accounting Office [GAO], come January 1, 2000, the "Year 2000 Computer Problem" will render all Social Security funds impounded. On the first day of the new millennium thousands of computer systems at the Social Security Administration as well as all the other Federal Agencies—Defense included—could malfunction.

It is February 13, 1997; we have 1,051 days remaining until January 1, 2000. Not only does the Year 2000 Computer Problem render our balanced budget debate moot, but its extent and impact will have consequences unseen in history. I have introduced a bill, S. 22, that would set up a commission to address the problem. This issue should be the No. 1 priority of the Governmental Affairs Committee, and of the 105th Congress.

If this matter lingers unaddressed, I can only imagine what else besides Social Security will fail in our computer-dependent society.●

#### TRIBUTE TO UTAH'S MOTHER OF THE YEAR

● Mr. BENNETT. Mr. President, I rise today to pay tribute to Sybil Shumway Stewart, Utah's 1996 Mother of the

Year. I want to recognize her for the decades of service to her community, her church, and her family. We have been proud to have her represent our State this past year.

Sybil Shumway was born in Trenton, UT, on April 1, 1920, the youngest of four daughters, raised under the most humble of circumstances during the Great Depression. Sybil's father was a schoolteacher who taught in Cache County schools and was respected throughout the community. From the earliest age, her parents instilled in her the fundamental values of hard work, honesty and integrity, sacrifice and service.

As a student in junior high school, Sybil recalls her civics teacher detailing the rise of Hitler and Nazi Germany and subsequently learned to cherish and value the freedoms many of us often take for granted. She committed herself at that time to serving her community and country. She also recognized the importance that she teach her own children to cherish these same values.

Sybil graduated from Logan High School and Utah State University in 1942. Her desire to give something back to her community led her to pursue an occupation as a schoolteacher. While she only taught for a short while, she sees many of her students today. Her students never fail to express their appreciation for the skills they learned in her home economics class.

On Valentine's Day 1943, Sybil Shumway received an engagement ring in the mail from a young Army Air Corps lieutenant named Boyd Stewart, whom she had dated in college. They were married on May 21, 1943, while Boyd was home on weekend leave. They embarked on their life together and left that night for Randolph Field in Texas where Boyd was stationed as a flight instructor. After 20-plus years of Air Force duty and more than 30 years of running two farms, their marriage is still going strong almost 54 years later.

Sybil and Boyd raised 10 children; 6 boys and 4 girls. They taught their children the value of hard work and service to their fellow men. They instilled in each of them a love of God, country, community, and family. Sybil and Boyd's children went on to become schoolteachers, government administrators, successful business owners, elected officials, community activists, farmers, Scout leaders, a published author, and a world record holder. Five of their six sons served in our Nation's Armed Forces. Four of those sons served as missionaries for their church. Most important, following the example of their mother, those 10 children are now devoted parents to 41 grandchildren and 8 great-grandchildren. Indeed, Sybil's legacy and example will live on for generations to come.

In our world today, success is unfortunately often measured by great wealth, an expensive education, and the recognition and honors of men. Sybil Stewart has proven that the

greatest success one can have is within the walls of their own home. I congratulate her on the completion of her term as Utah's 1996 Mother of the Year. I know that to her family however, she will always be the Mother of the Year.●

#### AUDITOR RESPONSIBILITIES UNDER THE 1995 PRIVATE SECURITIES LITIGATION REFORM ACT

● Mr. WYDEN. Mr. President, when a certified public accountant provides an opinion on a company's financial statements, investors and consumers rely on that statement. This role is vital to the efficient workings of our capital markets, which are the envy of the world. To keep our markets the best, investors must have confidence in them. That is why I have worked over the years for stronger rules to protect investors from corporate fraud.

In recent years, corporate fraud has been perpetrated in the health care arena, military contracting and in the savings and loan fiasco, costing taxpayers billions of dollars. As a Member of the House and as a new Senator, I have worked to put in place clear procedures for early detection of fraud and illegal acts so as to protect the public from huge losses of their hard-earned tax dollars.

To strengthen the fight against fraud, I worked as part of a bipartisan coalition that was successful in adding a new Section 10A to the Securities Exchange Act of 1934. I wish to take a moment today to update my colleagues on the status of that section's implementation.

Since the enactment of this law in December 1995, I have been interested in how the Securities and Exchange Commission (SEC) and the accounting industry would respond to the new requirements and the spirit of the law. I am pleased that both the industry and the Securities and Exchange Commission have taken positive steps to assure that both the letter and the spirit of the law are fully adhered to. Within the industry, I would note that the American Institute of Certified Public Accountants (AICPA) last year issued a revised statement of Auditing Standards (SAS) Number 82 "Consideration of Fraud in a Financial Statement Audit." The new SAS supersedes Statement of Auditing Standards (SAS) Number 53 relating to "The Auditor's Responsibility to Detect and Report Errors and Irregularities." The previous AICPA Statement of Auditing Standards Number 53 required auditors to report errors and irregularities. The new SAS takes an important step forward by making clear for the first time an auditor's responsibility to detect material fraud in financial statements and by offering various fraud risk factors to be considered in planning and performing all audits. The new revised SAS, read in conjunction with the AICPA's SAS Number 54 relating to an auditor's responsibility to detect illegal acts, is not only consistent with

Section 10A but also promotes the intent of that provision to put procedures in place to help detect fraud early.

To date, the SEC has only limited experience with Section 10A because it becomes effective in two stages. For companies that file selected quarterly financial data with the SEC, Section 10A applies to annual reports for fiscal years beginning on or after January 1, 1996. For companies that do not file these reports, the provision applies to annual reports for fiscal years beginning on or after January 1, 1997. Many financial reports are filed at the end of the calendar year, meaning that most company audits for the 1996 fiscal year have not yet been completed. The SEC has assured me that it will evaluate and report on its experience with implementation of Section 10A in a timely manner.

In addition, I wrote SEC Chairman Arthur Levitt seeking his views on whether the AICPA's new SAS Number 82 and existing SAS 54 relating to illegal acts are consistent with the purpose and intent of Section 10A. In his reply, Chairman Levitt states: "We believe that both these standards improve the ability of auditors to detect management fraud and are consistent with the purposes of Section 10A."

Mr. President, the vast majority of accountants are honest, capable professionals. The number of audit failures is actually quite low compared to the amount of work they do. The AICPA's new revised SAS No. 82 and section 10A are added protection for investors and corporations against such failures.

I am pleased with both the work of the AICPA in clarifying the role of auditors in detecting fraudulent acts and with Chairman Levitt's reply assuring us that the SEC and AICPA procedures should work well together to promote the early detection of corporate fraud.

I submit for the RECORD my letter to SEC Chairman Levitt and his reply of January 31, 1997, and ask that they be printed.

The material follows:

U.S. SENATE,

Washington, DC, January 10, 1997.

HON. ARTHUR LEVITT, JR.,  
Chairman, Securities and Exchange Commission, Washington, DC.0

DEAR MR. CHAIRMAN: I am writing to seek your views as Chairman of the Securities and Exchange Commission on the status of implementation of Section 10A of the Private Securities Litigation Reform Act of 1995 and particularly the relationship between Section 10A and the American Institute of Certified Public Accountants' (AICPA) revised Statement of Auditing Standards (SAS) Number 53 relating to fraud.

As the sponsor of Section 10A of the legislation, my goal was to clarify the auditor's role in detecting fraud in financial statements and to put in place clear procedures for early detection of fraud and illegal acts so as to avoid the need for strike suits in the first place. I would appreciate your views on whether the AICPA's revised SAS 53 and existing SAS 54 relating to illegal acts are consistent with the purpose and intent of Section 10A in seeking early detection of illegal

acts that are material to the financial statements being audited. I would also appreciate knowing whether you have encountered any problems in implementing and enforcing the requirements of new Section 10A.

I look forward to your prompt response to this request.

Sincerely,

RON WYDEN,  
U.S. Senator.

SECURITIES AND  
EXCHANGE COMMISSION,

Washington, DC, January 31, 1997.

HON. RON WYDEN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR WYDEN: Thank you for your letter seeking information on the implementation of section 10A of the Securities Exchange Act of 1934, which was adopted as Title III of the Private Securities Litigation Reform Act of 1995.

In connection with this legislation, the American Institute of Certified Public Accountants (AICPA) revised SAS No. 53, entitled "The Auditor's Responsibility to Detect and Report Errors and Irregularities." To implement the reporting provisions of section 10A(b), the Commission issued proposed rules, a copy of which are enclosed. Final action is expected soon.

The AICPA's revised standard clearly requires auditors to assess the risk of material misstatements in financial statements due to fraud. In discharging this duty, auditors must consider various fraud risk factors in planning and performing the audit. It also requires that working papers document both the auditor's assessment of those risk factors and any responsive action taken.

Additional guidance for auditors discharging their responsibilities under section 10A(a) is found in existing SAS No. 54, since this standard is not limited to fraudulent conduct. SAS No. 54, as you know, served as a template in drafting certain provisions of section 10A. We believe that both these standards improve the ability of auditors to detect management fraud and are consistent with the purposes of section 10A.

The Commission's experiences under section 10A have been limited due to the provision's relatively recent effectiveness.<sup>1</sup> Section 10A becomes effective in two stages, depending on whether a company files selected quarterly financial data with the SEC. For those companies who file this information, the provision applies to annual reports for fiscal years beginning on or after January 1, 1996. For companies who do not file these reports, the provision applies to annual reports for fiscal years beginning on or after January 1, 1997. Since most companies file at calendar year-end, the audit for the 1996 fiscal year for most companies has not yet been completed.

After we have had time to evaluate our experiences for this period, we would be pleased to furnish you with additional information. Thank you again for your continuing interest in these important issues.

Sincerely,

ARTHUR LEVITT.●

ROGERS H. CLARK

Mr. FAIRCLOTH. Mr. President, I rise today to congratulate Mr. Rogers H. Clark, the president of Sampson-Bladen Oil Co., Inc., on his recent election as president of the Petroleum Marketers Association of

<sup>1</sup>During an enforcement investigation, however, an accounting firm provided certain information and requested that it be deemed to be submitted under section 10A.

America [PMAA]. Rogers is a true leader who will bring decades of experience and insight to this important position, all to the benefit of our Nation's independent petroleum marketers, whose interests the PMAA represent.

Rogers graduated from East Carolina University with a degree in business education. He joined the U.S. Army National Guard, contributing his spare time to our community and State until he retired. He was a Sunday school teacher and was a chairman of the Board of Deacons in the First Baptist Church. He is also a past president of the Clinton [NC] Rotary Club, and a recipient of the Silver Beaver Award from the Boy Scouts of America. He served on the advisory boards of several local financial institutions, and he presently serves on the board of trustees for Meredith College in Raleigh.

In addition to running the Sampson-Bladen Oil Co. in Clinton, Rogers is the president and CEO of Waccamaw Transport, which brings petroleum products to the people of Virginia and the Carolinas.

Rogers is not new to PMAA. He has just completed a term as the association's senior vice president. He also served as president of the North Carolina Petroleum Marketers Association and received that group's esteemed Will Parker Memorial Award.

I am pleased to offer this tribute to my friend and fellow citizen of Clinton. I am sure that his family is very proud of this latest of so many accomplishments.

#### ENHANCING THE COMPETITIVENESS OF CHICAGO FUTURES EXCHANGES: IMPORTANT FOR ILLINOIS AND AMERICA

• Ms. MOSELEY-BRAUN. Mr. President, the Monday, February 10, 1997, Chicago Tribune contained an editorial entitled: "Nurturing Chicago's Exchanges." The editorial, talking about the Chicago Board of Trade, the Chicago Mercantile Exchange, and the Chicago Board of Options Exchange, made the point that:

the Chicago exchanges' global market share in future and options plunged from 60 percent in 1987 to 31 percent in 1995. The business is going overseas, where regulatory costs are lower, and off exchanges, where banks and other companies can engineer innovative contracts in a day or two without government approval.

The Tribune had it exactly right. As in so many other areas of financial policy, the law has not kept up with economic reality. The world has changed. There is a revolution underway in finance, and, if the United States sits back and ignores the new realities of the marketplace, the result will be to seriously damage American financial marketplaces vis-a-vis their global competition, and to increasingly warp and distort the competition between and among various American financial markets.

We must respond; we must respond vigorously; and we must respond now.

Chicago's future and option exchanges are an American treasure; their innovations literally created this industry and are in no small part responsible for American leadership in finance. And the creativity of the Chicago exchanges has had a huge pay off for the Chicago area. As the Tribune editorial pointed out:

the commodities and securities businesses have been strong job machines here, accounting for 50,000 direct jobs and total employment of 151,500, up 31 percent from a decade ago. The industry also keeps about \$35 billion in Chicago banks.

It is imperative, therefore, that we act quickly to reauthorize the Commodity Futures Trading Act as quickly as possible, and that we do so in a way that enhances the ability of the American futures and options industry to meet both their less regulated competition here in the United States, and their evermore formidable competition abroad. I intend to work for quick enactment of the legislation put forward by the distinguished chairman of the Senate Agriculture Committee, Senator LUGAR. I urge my colleagues to join me, and to ensure that a procompetitive, commonsense approach that allows the futures exchanges to meet and compete with all comers passes this body before the snow melts in Illinois.

Mr. President, I ask that the full text of the Tribune editorial be printed in the RECORD.

The editorial follows:

[From the Chicago Tribune Feb. 10, 1997]

#### NURTURING CHICAGO'S EXCHANGES

The Chicago Board of Trade will soon inaugurate a new \$182 million trading floor, which will triple its space and seemingly prepare the nation's oldest futures exchange for continued growth into the 21st Century.

Instead of celebrating, however, Board of Trade honchos are bemoaning their inability to compete against foreign exchanges and bankers who sell customized financial products in largely unregulated, off-exchange markets.

Indeed, unless the CBOT can create innovative products and lower costs to attract new customers, and unless it can get fair regulatory treatment from Washington, the new floor may turn out to be a monument to the past, not a springboard to the future.

CBOT leaders are confident they can invent new contracts and a joint committee of the Board of Trade and the Chicago Mercantile Exchange is working on cutting costs. (That group should push for consolidation of the two exchanges' clearing operations.)

But Congress also needs to update the Commodity Exchange Act to reflect the realities of today's financial markets. If it doesn't, Chicago will quickly lose its place as the world's center for managing financial risk.

That would be a severe blow to the city. According to a recent study the commodities and securities businesses have been strong job machines here, accounting for 50,000 direct jobs and total employment of 151,500 up 38 percent from a decade ago. The industry also keeps about \$35 billion in Chicago banks.

Despite all that, the Chicago exchanges' global market share in futures and options plunged from 60 percent in 1987 to 31 percent

in 1995. The business is going overseas, where regulatory costs are lower, and off exchanges, where banks and other companies can engineer innovative contracts in a day or two without government approval. The Board of Trade must wait six months to get a new contract approved.

That and other rules were enacted years ago, when most customers of the exchanges were farmers using futures to hedge against swings in crop prices. Today 95 percent of the trades are between large financial institutions and professional investors, who are interested in efficiency, not government protection.

Senate Agriculture Committee Chairman Richard Lugar of Indiana has introduced a bill to speed approval of new contracts and require regulators to do cost-benefit analyses before imposing new rules. It also would continue to deny commodity regulators authority to oversee off-exchange trades—a step the Treasury Department strongly supports.

But Lugar's bill would give the Chicago exchanges a chance to compete on an equal footing in the "professional" markets by allowing unregulated products for institutional customers to be developed while still insisting on protection for small retail customers.

It carefully balances the need to safeguard individual investors with the need to free the exchanges to compete in global markets. A similar House bill has been proposed by Rep. Tom Ewing (R-Ill.). Congress must debate these measures, reconcile and then pass them if Chicago is to have the chance to preserve its global leadership in financial risk management.♦

#### LOCKWOOD GREENE DONATES RARE ARCHITECTURAL DRAWINGS TO THE SMITHSONIAN

• Mr. HOLLINGS. Mr. President, today I recognize Lockwood Greene, and its chairman, Donald R. Lugar, for the company's donation of 5,000 original engineering drawings to the Smithsonian's National Museum of American History.

The Lockwood Greene Collection dates to the mid-1800's and is the largest single holding of early American engineering and architectural drawings. The drawings offer a window into the U.S. industrial history and the changes that occurred with the harnessing of electricity and the invention of the automobile.

The donated drawings, mostly on linen using India ink and still in mint condition, reveal the skills and talent of 19th and early 20th century draftsmen. They document information unrecorded elsewhere such as: The first application of electric drive to an 1893 manufacturing operation in Columbia, SC; modifications providing for the transition from horse and buggy to automobile to the important east west route, the Lincoln Highway in Lake County, IN; designs for WWII era radio stations; and drawings of the Androscoggin textile mill in Lewiston, ME, from the 1890's depicting power transmission through the factory prior to the introduction of electricity.

The official ceremony for the donation will take place at the Smithsonian's Ceremonial Court Hall

on February 19, 1997. Museum officials are delighted by the gift and they have begun compiling a computerized index of them.

I congratulate Lockwood Greene's generous decision to make this priceless gift to the Smithsonian Institution, thus securing it for future generations. Lockwood Greene, one of the country's most prominent consulting, design, and construction firms, was founded in New England in 1832 and is now headquartered in Spartanburg, SC.●

#### NEED FOR CHILD SAFETY LOCKS ON AMERICAN-MADE HANDGUNS

● Mrs. BOXER. Mr. President, I wish to call to the attention of the Senate a terrible tragedy that occurred yesterday in Bridgeport, CT. The death of 8-year-old Tynisha Gathers demonstrates once again the need for child safety locks on American-made handguns.

Yesterday, Tynisha was playing at her grandmother's house when one of her friends found a small 38-caliber handgun. In the course of acting out a scene from a popular movie, Tynisha was shot in the forehead and killed. Her 10-year-old playmate has been charged with manslaughter. If the handgun used to kill Tynisha Gathers included adequate safety features, this tragedy could have been prevented.

I have introduced legislation to require all American-made handguns to meet the same quality and safety standards currently required of imports. President Clinton has recognized this crisis, calling in his State of the Union Address for Congress to pass legislation requiring "child safety locks on handguns to prevent unauthorized use."

Mr. President, I urge all Senators to read this Associated Press story about the tragic death of Tynisha Gathers and consider cosponsoring S. 70.

I ask that the Associated Press article be printed at this point in the RECORD.

The article follows:

POLICE SAY MOVIE LINKED TO FATAL SHOOTING OF YOUNG GIRL  
(By Brigitte Greenberg)

BRIDGEPORT, CT.—A movie that authorities have linked to shootings in California and Missouri apparently instigated a fatal shooting of an 8-year-old girl here, police said.

Tynisha Gathers was shot in the forehead as she and other children imitated scenes from the movie "Set It Off," police said Wednesday. The little girl was shot by one of three other children playing with a small pistol a .380-caliber semiautomatic handgun, police said.

Detectives were investigating how the children got access to the weapon, said police Capt. John Donovan. A 10-year-old girl was taken into custody and charged with manslaughter.

The shooting occurred after the four children watched a videotape of the movie Tuesday evening, police said. Donovan said the tape apparently was a bootleg copy; the film, which arrived in theaters in November, is not yet in video stores.

The children said they were replaying a scene from the movie, said police Lt. Frank Resta.

The suspect was taken to a juvenile detention center, Resta said.

Donovan was circumspect about the movie's impact on the children.

"I'll leave that to the sociologists. We have charges lodged against a 10-year-old," he said.

Police said the shooting occurred in the victim's grandmother's house; the grandmother was home at the time but was not in the room.

The R-rated "Set It Off," which features rap star Queen Latifah, is about four desperate women who go on a bank robbery spree.

Authorities in California and Missouri have linked the movie to several shootings. The film was canceled at an Independence, Mo., theater after a moviegoer fired a gun inside a theater.

In Torrance, Calif., one man was killed outside a theater showing the movie and two teen-agers were wounded. In Los Angeles, three people were injured during a shootout between rival gangs inside a theater where the film was playing.●

#### RULES OF THE COMMITTEE ON INDIAN AFFAIRS

● Mr. CAMPBELL. Mr. President, Senate Standing Rule XXVI requires each committee to adopt rules to govern the procedures of the committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On January 8, 1997, the Committee on Indian Affairs held a business meeting during which the members of the committee unanimously adopted rules to govern the procedures of the committee. Consistent with Standing Rule XXVI, today I am submitting for printing in the CONGRESSIONAL RECORD a copy of the rules of the Senate Committee on Indian Affairs.

The rules follow:

##### RULES OF THE COMMITTEE ON INDIAN AFFAIRS COMMITTEE RULES

Rule 1. The Standing Rules of the Senate, Senate Resolution 4, and the provisions of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, to the extent the provisions of such Acts are applicable to the Committee on Indian Affairs and supplemented by these rules, are adopted as the rules of the Committee.

##### MEETINGS OF THE COMMITTEE

Rule 2. The Committee shall meet on the first Tuesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of the Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

##### OPEN HEARINGS AND MEETINGS

Rule 3. Hearings and business meetings of the Committee shall be open to the public except when the Committee by a majority vote orders a closed hearing or meeting.

##### HEARING PROCEDURE

Rule 4(a). Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee at least one week in advance of such hearing unless the Chairman of the Committee determines

that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee involved concurs. In no case shall a hearing be conducted with less than 24 hours notice.

(b). Each witness who is to appear before the Committee shall file with the Committee, at least 48 hours in advance of the hearing, an original and 50 copies of his or her written testimony.

(c). Each Member shall be limited to five (5) minutes in questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness unless the Committee shall decide otherwise.

(d). The Chairman and Vice Chairman or the Ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman all Vice Chairman or the Ranking Majority and Minority Members present may agree.

##### BUSINESS MEETING AGENDA

Rule 5(a). A legislative measure or subject shall be included in the agenda of the next following business meeting of the Committee if a written request by a Member for such inclusion have been filed with the Chairman of the Committee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee to include legislative measures or subjects on the Committee agenda in the absence of such request.

(b). Notice of, and the agenda for, any business meeting of the Committee shall be provided to each Member and made available to the public at least two days prior to such meeting, and no new items may be added after the agenda is published except by the approval of a majority of the Members of the Committee. The Clerk shall promptly notify absent Members of any action taken by the Committee on matters not included in the published agenda.

##### QUORUMS

Rule 6(a). Except as provided in subsections (b) and (c), eight (8) Members shall constitute a quorum for the conduct of business of the Committee. Consistent with Senate rules, a quorum is presumed to be present unless the absence of a quorum is noted by a Member.

(b). A measure may be ordered reported from the Committee unless an objection is made by a Member, in which case a recorded vote of the Members shall be required.

(c). One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure before the Committee.

##### VOTING

Rule 7(a). A recorded vote of the Members shall be taken upon the request of any Member.

(b). Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only on the date for which it is given and upon the terms published in the agenda for that date.

##### SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 8. Witnesses in committee hearings may be required to give testimony under oath whenever the Chairman or vice chairman of the Committee deems it to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee, and at the request of any Member, any other witness, shall be under oath. Every nominee shall submit a financial statement,

on forms to be perfected by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. All such statements shall be made public by the Committee unless the Committee, in executive session, determines that special circumstances require a full or partial exception to this rule. Members of the Committee are urged to make public a complete disclosure of their financial interests on forms to be perfected by the Committee in the manner required in the case of Presidential nominees.

#### CONFIDENTIAL TESTIMONY

Rule 9. No confidential testimony taken by, or confidential material presented to the Committee or any report of the proceedings of a closed Committee hearing or business meeting shall be made public in whole or in part by way of summary, unless authorized by a majority of the members of the Committee at a business meeting called for the purpose of making such a determination.

#### DEFAMATORY STATEMENTS

Rule 10. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee hearing tends to defame him or her or otherwise adversely affect his or her reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

#### BROADCASTING OF HEARINGS OR MEETINGS

Rule 11. Any meeting or hearing by the Committee which is open to the public may be covered in whole or in part by television, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the sight, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

#### AMENDING THE RULES

Rule 12. These rules may be amended only by a vote of a majority of all the Members of the Committee in a business meeting of the Committee: *Provided*, that no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least seven (7) days in advance of such meeting.●

### RULES OF THE COMMITTEE ON FINANCE

● Mr. ROTH. Mr. President, in accordance with rule XXVI of the Standing Rules of the Senate, I hereby submit for publication in the RECORD the rules of the Committee on Finance.

The rules follow:

#### COMMITTEE ON FINANCE

##### I. RULES OF PROCEDURE

(Adopted January 28, 1997)

Rule 1. *Regular Meeting Days.*—The regular meeting day of the committee shall be the second and fourth Tuesday of each month, except that if there be no business before the committee the regular meeting shall be omitted.

Rule 2. *Committee Meetings.*—(a) Except as provided by paragraph 3 of Rule XXVI of the Standing Rules of the Senate (relating to special meetings called by a majority of the committee) and subsection (b) of this rule, committee meetings, for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the chairman. Members will be notified of committee meetings at least 48 hours in advance, unless the chairman determines that an

emergency situation requires a meeting on shorter notice. The notification will include a written agenda together with materials prepared by the staff relating to that agenda. After the agenda for a committee meeting is published and distributed, no nongermane items may be brought up during that meeting unless at least two-thirds of the members present agree to consider those items.

(b) In the absence of the chairman, meetings of the committee may be called by the ranking majority member of the committee who is present, provided authority to call meetings has been delegated to such member by the chairman.

Rule 3. *Presiding Officer.*—(a) The chairman shall preside at all meetings and hearings of the committee except that in his absence the ranking majority member who is present at the meeting shall preside.

(b) Notwithstanding the rule prescribed by subsection (a) any member of the committee may preside over the conduct of a hearing.

Rule 4. *Quorums.*—(a) Except as provided in subsection (b) one-third of the membership of the committee, including not less than one member of the majority party and one member of the minority party, shall constitute a quorum for the conduct of business.

(b) Notwithstanding the rule prescribed by subsection (a), one member shall constitute a quorum for the purpose of conducting a hearing.

Rule 5. *Reporting of Measures or Recommendations.*—No measure or recommendation shall be reported from the committee unless a majority of the committee is actually present and a majority of those present concur.

Rule 6. *Proxy Voting; Polling.*—(a) Except as provided by paragraph 7(a)(3) of Rule XXVI of the Standing Rules of the Senate (relating to limitation on use of proxy voting to report a measure or matter), members who are unable to be present may have their vote recorded by proxy.

(b) At the discretion of the committee, members who are unable to be present and whose vote has not been cast by proxy may be polled for the purpose of recording their vote on any rollcall taken by the committee.

Rule 7. *Order of Motions.*—When several motions are before the committee dealing with related or overlapping matters, the chairman may specify the order in which the motions shall be voted upon.

Rule 8. *Bringing a Matter to a Vote.*—If the chairman determines that a motion or amendment has been adequately debated, he may call for a vote on such motion or amendment, and the vote shall then be taken, unless the committee votes to continue debate on such motion or amendment, as the case may be. The vote on a motion to continue debate on any motion or amendment shall be taken without debate.

Rule 9. *Public Announcement of Committee Votes.*—Pursuant to paragraph 7(b) of Rule XXVI of the Standing Rules of the Senate (relating to public announcement of votes), the results of rollcall votes taken by the committee on any measure (or amendment thereto) or matter shall be announced publicly not later than the day on which such measure or matter is ordered reported from the committee.

Rule 10. *Subpoenas.*—Subpoenas for attendance of witnesses and the production of memoranda, documents, and records shall be issued by the chairman, or by any other member of the committee designated by him.

Rule 11. *Nominations.*—In considering a nomination, the Committee may conduct an investigation or review of the nominee's experience, qualifications, and suitability, to serve in the position to which he or she has been nominated. To aid in such investigation

or review, each nominee may be required to submit a sworn detailed statement including biographical, financial, policy, and other information which the Committee may request. The Committee may specify which items in such statement are to be received on a confidential basis. Witnesses called to testify on the nomination may be required to testify under oath.

Rule 12. *Open Committee Hearings.*—To the extent required by paragraph 5 of Rule XXVI of the Standing Rules of the Senate (relating to limitations on open hearings), each hearing conducted by the committee shall be open to the public.

Rule 13. *Announcement of Hearings.*—The committee shall undertake consistent with the provisions of paragraph 4(a) of Rule XXVI of the Standing Rules of the Senate (relating to public notice of committee hearings) to issue public announcements of hearings it intends to hold at least one week prior to the commencement of such hearings.

Rule 14. *Witnesses at Hearings.*—(a) Each witness who is scheduled to testify at any hearing must submit his written testimony to the staff director not later than noon of the business day immediately before the last business day preceding the day on which he is scheduled to appear. Such written testimony shall be accompanied by a brief summary of the principal points covered in the written testimony. Having submitted his written testimony, the witness shall be allowed not more than ten minutes for oral presentation of his statement.

(b) Witnesses may not read their entire written testimony, but must confine their oral presentation to a summarization of their arguments.

(c) Witnesses shall observe proper standards of dignity, decorum and propriety while presenting their views to the committee. Any witness who violates this rule shall be dismissed, and his testimony (both oral and written) shall not appear in the record of the hearing.

(d) In scheduling witnesses for hearings, the staff shall attempt to schedule witnesses so as to attain a balance of views early in the hearings. Every member of the committee may designate witnesses who will appear before the committee to testify. To the extent that a witness designated by a member cannot be scheduled to testify during the time set aside for the hearing, a special time will be set aside for the witness to testify if the member designating that witness is available at that time to chair the hearing.

Rule 15. *Audiences.*—Persons admitted into the audience for open hearings of the committee shall conduct themselves with the dignity, decorum, courtesy and propriety traditionally observed by the Senate. Demonstrations of approval or disapproval of any statement or act by any member or witness are not allowed. Persons creating confusion or distractions or otherwise disrupting the orderly proceeding of the hearing shall be expelled from the hearing.

Rule 16. *Broadcasting of Hearings.*—(a) Broadcasting of open hearings by television or radio coverage shall be allowed upon approval by the chairman of a request filed with the staff director not later than noon of the day before the day on which such coverage is desired.

(b) If such approval is granted, broadcasting coverage of the hearing shall be conducted unobtrusively and in accordance with the standards of dignity, propriety, courtesy and decorum traditionally observed by the Senate.

(c) Equipment necessary for coverage by television and radio media shall not be installed in, or removed from, the hearing room while the committee is in session.

(d) Additional lighting may be installed in the hearing room by the media in order to

raise the ambient lighting level to the lowest level necessary to provide adequate television coverage of the hearing at the then current state of the art of television coverage.

(e) The additional lighting authorized by subsection (d) of this rule shall not be directed into the eyes of any members of the committee or of any witness, and at the request of any such member or witness, offending lighting shall be extinguished.

(f) No witness shall be required to be photographed at any hearing or to give testimony while the broadcasting (or coverage) of that hearing is being conducted. At the request of any such witness who does not wish to be subjected to radio or television coverage, all equipment used for coverage shall be turned off.

Rule 17. *Subcommittees*.—(a) The chairman, subject to the approval of the committee, shall appoint legislative subcommittees. All legislation shall be kept on the full committee calendar unless a majority of the members present and voting agree to refer specific legislation to an appropriate subcommittee.

(b) The chairman may limit the period during which House-passed legislation referred to a subcommittee under paragraph (a) will remain in that subcommittee. At the end of that period, the legislation will be restored to the full committee calendar. The period referred to in the preceding sentences should be 6 weeks, but may be extended in the event that adjournment or a long recess is imminent.

(c) All decisions of the chairman are subject to approval or modification by a majority vote of the committee.

(d) The full committee may at any time by majority vote of those members present discharge a subcommittee from further consideration of a specific piece of legislation.

(e) Because the Senate is constitutionally prohibited from passing revenue legislation originating in the Senate, subcommittees may mark up legislation originating in the Senate and referred to them under Rule 16(a) to develop specific proposals for full committee consideration but may not report such legislation to the full committee. The preceding sentence does not apply to nonrevenue legislation originating in the Senate.

(f) The chairman and ranking minority members shall serve as nonvoting *ex officio* members of the subcommittees on which they do not serve as voting members.

(g) Any member of the committee may attend hearings held by any subcommittee and question witnesses testifying before that subcommittee.

(h) Subcommittee meeting times shall be coordinated by the staff director to insure that—

(1) no subcommittee meeting will be held when the committee is in executive session, except by unanimous consent;

(2) no more than one subcommittee will meet when the full committee is holding hearings; and

(3) not more than two subcommittees will meet at the same time.

Notwithstanding paragraphs (2) and (3), a subcommittee may meet when the full committee is holding hearings and two subcommittees may meet at the same time only upon the approval of the chairman and the ranking minority member of the committee and subcommittees involved.

(i) All nominations shall be considered by the full committee.

(j) The chairman will attempt to schedule reasonably frequent meetings of the full committee to permit consideration of legislation reported favorably to the committee by the subcommittees.

Rule 18. *Transcripts of Committee Meetings*.—An accurate record shall be kept of all mark-

ups of the committee, whether they be open or closed to the public. This record, marked as "uncorrected," shall be available for inspection by Members of the Senate, or members of the committee together with their staffs, at any time. This record shall not be published or made public in any way except:

(a) By majority vote of the committee after all members of the committee have had a reasonable opportunity to correct their remarks for grammatical errors or to accurately reflect statements made.

(b) Any member may release his own remarks made in any markup of the committee provided that every member or witness whose remarks are contained in the released portion is given a reasonable opportunity before release to correct their remarks.

Notwithstanding the above, in the case of the record of an executive session of the committee that is closed to the public pursuant to Rule XXVI of the Standing Rules of the Senate, the record shall not be published or made public in any way except by majority vote of the committee after all members of the committee have had a reasonable opportunity to correct their remarks for grammatical errors or to accurately reflect statements made.

Rule 19. *Amendment of Rules*.—The foregoing rules may be added to, modified, amended or suspended at any time.●

## RULES OF PROCEDURE—U.S. SENATE COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, today I report to the Senate the rules adopted by the Committee on the Judiciary as provided for in rule 26.2 of the Standing Rules of the Senate. These rules were unanimously adopted by the committee in open session on January 23, 1997, and I ask that they be printed in the RECORD.

The rules follow:

### COMMITTEE ON THE JUDICIARY JURISDICTION

Rule XXV, Standing Rules of the Senate

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:

\* \* \* \* \*

(1) Committee on the Judiciary, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Apportionment of Representatives.
2. Bankruptcy, mutiny, espionage, and counterfeiting.
3. Civil liberties.
4. Constitutional amendments.
5. Federal courts and judges.
6. Government information.
7. Holidays and celebrations.
8. Immigration and naturalization.
9. Interstate compacts generally.
10. Judicial proceedings, civil and criminal, generally.
11. Local courts in the territories and possessions.
12. Measures relating to claims against the United States.
13. National penitentiaries.
14. Patent Office.
15. Patents, copyrights, and trademarks.
16. Protection of trade and commerce against unlawful restraints and monopolies.

17. Revision and codification of the statutes of the United States.

18. States and territorial boundary lines.

### RULES OF PROCEDURE

139 Cong. Rec. S1645 (daily ed. Feb. 16, 1993)

#### I. Meetings of the Committee

1. Meetings may be called by the Chairman as he may deem necessary on three days notice or in the alternative with the consent of the Ranking Minority Member or pursuant to the provision of the Standing Rules of the Senate, as amended.

2. Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee, at least 48 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

3. On the request of any Member, a nomination or bill on the agenda of the Committee will be held over until the next meeting of the Committee or for one week, whichever occurs later.

#### II. Quorums

1. Ten Members shall constitute a quorum of the Committee when reporting a bill or nomination; provided that proxies shall not be counted in making a quorum.

2. For the purpose of taking sworn testimony, a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

#### III. Proxies

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a quorum being present, a Member who is unable to attend the meeting may submit his vote by proxy, in writing or by telephone, or through personal instructions. A proxy must be specific with respect to the matters it addresses.

#### IV. Bringing a Matter to a Vote

The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bring the matter to a vote without further debate, a rollcall vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the minority.

#### V. Subcommittees

1. Any Member of the Committee may sit with any Subcommittee during its hearings or any other meeting, but shall not have the authority to vote on any matter before the Subcommittee unless he is a Member of such Subcommittee.

2. Subcommittees shall be considered *de novo* whenever there is a change in the Subcommittee chairmanship and seniority on the particular Subcommittee shall not necessarily apply.

3. Except for matters retained at the full Committee, matters shall be referred to the appropriate Subcommittee or Subcommittees by the chairman, except as agreed by a majority vote of the Committee or by the agreement of the Chairman and the Ranking Minority Member.

#### VI. Attendance Rules

1. Official attendance at all Committee markups and executive sessions of the Committee shall be kept by the Committee Clerk. Official attendance at all Subcommittee markups and executive sessions shall be kept by the Subcommittee Clerk.

2. Official attendance at all hearings shall be kept, provided that Senators are notified by the Committee Chairman and ranking



Member, in the case of Committee hearings, and by the Subcommittee Chairman and ranking Member, in the case of Subcommittee hearings, 48 hours in advance of the hearing that attendance will be taken; otherwise, no attendance will be taken. Attendance at all hearings is encouraged.●

#### PROVIDING FOR ADJOURNMENT OF BOTH HOUSES

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 21, the adjournment resolution.

I further ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 21) providing for an adjournment of both Houses.

Mr. WELLSTONE. Mr. President, reserving the right to object, I shall not object, I just wanted to bring up two quick questions with the majority leader.

Last time after the swearing-in ceremony, the majority leader will remember that I said I might object and I asked the majority leader whether I could get some kind of a commitment for a clear timeframe for taking up comprehensive campaign finance reform. I do not know whether the majority leader is prepared to make that commitment tonight, but I do want to be clear that if by March when we come back there has been no commitment made as to when we will have a bill on the floor and how we will move forward on it—because otherwise I fear delay and delay and delay, much like we did with gift ban—I will start to take amendments, campaign finance reform amendments, and attach those amendments to other bills because I believe we have to move this discussion forward. I think people want action.

I am interested in the response of the majority leader. I want to make clear to colleagues, because I think you need to give people a warning, that when we come to our next recess it may be the case that I will not agree to a unanimous consent. So I am using the model the majority leader and I worked out together at the end on gift ban and we came up with reform. I am using that model, and I think it is important for Senators to be out here on the floor really pushing very hard for this. I wonder whether the majority leader could tell me whether he has any plan now, whether we could get a specific time when we could have a bill—again, I am not trying to predetermine what the piece of legislation would be—on this floor.

Mr. LOTT. Mr. President, if I could respond to the Senator's question. First of all, it is very hard to pick a date, to say by a date certain we will get something done. For instance, on

the matter that has been pending before the Senate, Senate Joint Resolution 1, the constitutional amendment requiring a balanced budget, we had hoped we could have a reasonable and fair debate and amendments being offered—I believe the Senator from Minnesota has had three or so and maybe he had some more—and that by the end of the month we would have a vote on that after having had a good, fair debate and amendments being offered.

But now we are having trouble getting amendments up and getting a time agreed to. Now I understand we may have, I do not know, 20 or 25 amendments lurking around out there. So now I have to begin to consider filing cloture on something that—we do not want to start the cloture wars this year. So I try to take into consideration everybody's needs, and we have problems we have to take into consideration, like funerals of relatives or the Ambassador today. So it is very hard to say a time certain.

Another example is, before we have reform, I think we ought to find out, first of all, what laws have been violated already on the books. Today we have in the paper that China is working, perhaps, on trying to get some foreign contributions, illegal contributions in the Presidential campaign. There seems to be an article every day—every day.

Before we start trying to reform a law, I think we ought to see a law that is already on the books that I voted for back in 1973 or 1974 that is being used or abused. Yet we are seeing an all-out fight to stop the funding for the Governmental Affairs Committee to begin its work to find out what happened so we will know what laws have been violated, so we will know what kind of reform we may or may not need. Unfortunately, as it is being delayed and the appearance of obstruction in getting that hearing started, that has an impact on when we might get to a vote on legislation here in the Senate.

The next thing is we would like to have hearings on this issue in the Rules Committee. In fact, we will have. And yet the Rules Committee has been tied up for almost 2 weeks on trying to get the committee funding resolution and the resolution of the question with regard to the alleged illegal contributions in the Presidential campaign in 1996.

Then, also, I have to say to the Senator, are we ready now to begin to work on a bill that maybe both sides can agree to, or will it be one where you want to stick it to our side? Are you ready now to begin to get some language in there that would say that we must have paycheck equity? In other words, when I talk to my friends in my hometown, union members, some of which I used to represent when I practiced law, and my father was one, they get irate that their dues are being used for campaign purposes across this country without their approval or designation.

So, there is not going to be a campaign finance bill that does not address a question like that. So, is the Senator ready to include something like that in the legislation?

Mr. WELLSTONE. I am pleased to respond to the majority leader. I did not know we would have quite this debate but I understand—

Mr. LOTT. Do I have the floor?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. LOTT. I try to be calm and respond gently, but when the Senator pricks me a little bit, I have to try to respond in a way that explains why I can't just say, "April 15 on tax day we are going to take this bill up." I need help. I need cooperation on your side. We have done that.

The Senator from Minnesota knows that last year I worked with him, I kept my word to him even one time when there was a little misunderstanding, but we worked through it and got it done. I am willing to do that, but you have to keep in mind what we are trying to accomplish here on a number of issues that do interrelate.

I am happy to yield for a response to that.

Mr. WELLSTONE. I shall be brief, Mr. President. The majority leader, I appreciate his graciousness. I actually like his passion. It does not trouble me at all.

Mr. President, I actually made it very clear that I am not trying to—he has his own ideas about what should be in a bill. I did not insist on a particular piece of legislation. We have the McCain-Feingold bill that has been much talked about and could be a vehicle that people could work with.

My point is I learned through the gift ban we only finally took action when we just started putting that piece of legislation on other bills. The majority leader is, after all, the majority leader, and, yes, we are now on the constitutional amendment to balance the budget, but the majority leader, I think, can be a real leader on this if we can get a commitment that says, look, we will not have delay and delay and delay. We will have a bill on the floor and resolve this by July 4 or whatever date the majority leader picks out, and that makes it clear to people in the country that we are not going to just stall and stall.

The majority leader is talking about today's piece in the Washington Post, but the point is we do not really need to find out that there are problems in the way campaigns are financed. This has been going on for a long time. There is plenty to be fixed. People in the country are experts at what they do not like. There is no reason whatever that we cannot move forward with a bill. I just would like to get a commitment. I take it from what the majority leader has said today and the way he said it that he is not ready to make such a commitment. That is fine, but I want to be clear that if that is the case come March, I think the majority leader can expect to see at least

on my part as a Senator from Minnesota, some different parts of campaign finance reform as amendments on other bills. I want colleagues to know that this time I am not objecting to the UC for recess. But, come next spring—and this is plenty of warning—that may very well happen.

Mr. LOTT. Mr. President, I reclaim my time. I understand. As I have said earlier this year, and again here today, every Senator is within his or her rights to offer amendments. I know, as we go forward, there will be disagreements, and I know that the Senator from Minnesota is going to pursue this issue. He is entitled to do that. I appreciate his comments today and that he is not going to object. We will have to see how it moves forward in the future.

The PRESIDING OFFICER. If there is no objection, the resolution is agreed to.

The concurrent resolution (H. Con. Res. 21) was agreed to, as follows:

#### H. CON. RES. 21

*Resolved by the House of Representatives (the Senate concurring).* That when the House adjourns on the legislative day of Thursday, February 13, 1997, it stand adjourned until 12:30 p.m. on Tuesday, February 25, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns or recesses at the close of business on Thursday, February 13, 1997, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until 11:30 a.m. on Monday, February 24, 1997, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

#### UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 36

Mr. LOTT. Mr. President, I ask unanimous consent that at 1:30 on Monday, February 24, the Senate begin consideration of House Joint Resolution 36 under the statutory limitations. I further ask that following the expiration or yielding back of the 2-hour debate limit, the resolution be considered read the third time and set aside; and, finally, beginning at 2:10, Tuesday, February 25, there be 5 minutes of debate, equally divided in the usual form, prior to a vote on the resolution, which would begin at 2:15 on Tuesday, February 25, with no further intervening action or debate.

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

Mr. LOTT. Mr. President, this is the population planning language. In our

continuing resolution, last year, we included statutory language that would require a vote before funds could be released. This is dealing with that issue. Therefore, there will be a vote around 2:15 on Tuesday on that population planning issue.

#### UNANIMOUS-CONSENT AGREEMENT—SENATE JOINT RESOLUTION 1

Mr. LOTT. Mr. President, I ask unanimous consent that on Monday, February 24, immediately following the vote on or in relation to the Byrd amendment, Senator REID be recognized to offer an amendment relative to Social Security. I further ask unanimous consent that when the Senate convenes on Tuesday, February 25, the time between 9 a.m. and 12:30 p.m. be equally divided in the usual form on the Reid amendment.

I also ask unanimous consent that following the vote at 2:15 on Tuesday, February 25, the Senate resume debate on the Reid amendment until 6 p.m., with a vote occurring on or in relation to the Reid amendment beginning at 6 p.m. on Tuesday, February 25.

I finally ask that on Wednesday, February 26, Senator FEINSTEIN be recognized at 9 a.m. to offer an amendment, with the time between 9 a.m. and 11 a.m. divided equally in the usual form for debate on the Feinstein amendment; and, finally, a vote to occur on or in relation to the Feinstein amendment at 11 a.m. on the 26th.

I also ask that no amendments be in order to Reid or Feinstein or any language proposed to be stricken.

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

#### PROGRAM

Mr. LOTT. Mr. President, that means we will have a vote on the Byrd amendment around 5:30 on Monday. We will come in at 9 on Tuesday, the week of the 24th and 25th, and we will have debate during the morning of Tuesday on the Reid amendment. We will recess for the policy luncheons then and come in at 2:15 for a vote on the population planning issue. We will continue to debate the Reid amendment after that, with a vote at 6 o'clock on Tuesday, the 25th. We will come in at 9 o'clock on Wednesday and begin the debate on the Feinstein amendment and vote at 11 o'clock.

I thank the Democratic leader for his cooperation in getting these three amendments to the constitutional amendment for a balanced budget scheduled. Because of that cooperation, I did not file a cloture motion this afternoon. That is somewhat risky, because if we don't get good cooperation, if we don't work through these amendments with time agreements, that will mean that I could not file a cloture motion and require a vote until Wednesday of that week. But if the Members will work with us in good

faith, on both sides, if we make progress and we move toward completion of the constitutional amendment that first week that we are back, ending the 28th, then maybe a cloture motion will not be necessary. But we must have cooperation on these amendments to either get the ones that are not serious dispensed with, or to get a vote scheduled quickly on Wednesday of that week.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### MEASURE READ THE FIRST TIME—H.R. 581

Mr. COVERDELL. Mr. President, I understand that H.R. 581 has arrived from the House. I would ask for its first reading.

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

The assistant legislative clerk read as follows.

A bill (H.R. 581) to provide that the President may make funds appropriated for population planning and other population assistance available on March 1, 1997, subject to restrictions on assistance to foreign organizations that perform or actively promote abortions.

Mr. COVERDELL. Mr. President, I would now ask for its second reading and object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. The bill will be read for a second time on the next legislative day.

#### OMNIBUS COMMITTEE FUNDING RESOLUTION FOR 1997 AND 1998

Mr. COVERDELL. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar No. 16, Senate Resolution 54.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows.

A resolution (S. Res. 54) authorizing biennial expenditures by committees of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. COVERDELL. Mr. President, I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 54) was agreed to, as follows:

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 agen-

cy 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

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 expendi-

tures 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 Ad-

ministration 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.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 26 and 27. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

#### EXECUTIVE OFFICE OF THE PRESIDENT

Janet L. Yellen, of California, to be a Member of the Council of Economic Advisers.

#### SMALL BUSINESS ADMINISTRATION

Aida Alvarez, of New York, to be Administrator of the Small Business Administration.

#### NOMINATION OF JANET YELLEN

Mr. D'AMATO. Mr. President, I urge the Senate to approve Dr. Janet Yellen, the distinguished nominee, for the position of the Chairman of the Council of Economic Advisers. The nomination was approved by the Banking Committee by a vote of 17-0.

Dr. Yellen last appeared before the Senate nearly 3 years ago when she was nominated and confirmed to serve on the Board of Governors of the Federal Reserve System. While on the board of governors, Dr. Yellen focused on the important issues of consumer credit and small business lending and provided useful congressional testimony on these topics.

Prior to her tenure at the Federal Reserve Board, Dr. Yellen was the Bernard T. Rocca Jr. Professor of International Business and Trade at the Haas School of Business of the University of California at Berkeley where she taught since 1980. Dr. Yellen has also served as a senior adviser to the Brookings Panel on Economic Activity and as a member of the Economics Panel of the Congressional Budget Office.

Dr. Yellen has written on a wide variety of macroeconomic issues, including the causes and implications of unemployment. She is also a recognized scholar in international economics, recently focusing on the trade balance and reforms in Eastern Europe.

Dr. Yellen has distinguished herself in academia and at the Federal Reserve. She will bring to this position competence and a record of excellence. I believe the administration and the Congress will both benefit from her wise counsel.

I am pleased to support this nomination.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

### MEASURE INDEFINITELY POSTPONED

Mr. COVERDELL. Mr. President, I ask unanimous consent that Senate Resolution 52 be indefinitely postponed.

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

### AUTHORITY FOR COMMITTEES TO REPORT

Mr. COVERDELL. Mr. President, I ask unanimous consent that committees have from the hours of 10 a.m. to 2 p.m. on Tuesday, February 18, to file any legislative or executive matters.

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

### APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h-276k, as amended, appoints the Senator from Connecticut [Mr. DODD] as vice chairman of the Senate delegation to the Mexico-United States Interparliamentary Group during the 105th Congress.

The Chair, on behalf of the Vice President, pursuant to the provision of Public Law 99-661, appoints the Senator from Michigan [Mr. LEVIN] as a member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation, vice the former Senator from Georgia, Mr. Nunn.

### APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 96-388, as amended by Public Law 97-84, appoints the following Senators to the U.S. Holocaust Memorial Council: The Senator from California [Mrs. BOXER], vice the former Senator from Rhode Island, Mr. Pell, and the Senator from New Jersey [Mr. LAUTENBERG].

The Chair, on behalf of the President pro tempore, pursuant to Public Law 96-388, as amended by Public Law 97-84, reappoints the following Senators to the U.S. Holocaust Memorial Council: The Senator from Utah [Mr. HATCH], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Alaska [Mr. MURKOWSKI].

### ORDERS FOR MONDAY, FEBRUARY 24, 1997

Mr. COVERDELL. Mr. President, I ask unanimous consent that when the Senate adjourns under the provisions of House Concurrent Resolution 21

until the hour of 11:30 a.m. on Monday, February 24, that immediately following the prayer, Senator FRIST be recognized to read George Washington's Farewell Address, under a previous order.

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

Mr. COVERDELL. I further ask that following the address, the various routine requests through the morning hour be granted and the Senate then proceed to a period of morning business until the hour of 1:30 p.m., with the time equally divided between the two leaders or their designees.

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

## PROGRAM

Mr. COVERDELL. Mr. President, for the information of all Senators, at 1:30 p.m., the Senate will begin 2 hours of consideration on House Joint Resolution 36, dealing with the U.N. population measure. At 3:30 p.m., the Senate will resume consideration of the balanced budget constitutional amendment and the Byrd amendment for 2 hours of debate. At 5:30 p.m., the Senate will conduct a rollcall vote with respect to the Byrd amendment, and immediately following that 5:30 Monday vote, the Senate will begin debate on the Reid Social Security amendment.

Under a previous order, a rollcall vote will occur at 2:15 p.m. on Tuesday on passage of the U.N. population measure, and a second vote will occur at 6 p.m. on Tuesday with respect to the Reid Social Security amendment.

Also, at 11 a.m. on Wednesday, the Senate will conduct a rollcall vote with respect to the Feinstein amendment.

Therefore, Members should be aware of the 5:30 p.m. Monday vote and the two votes on Tuesday and the early Wednesday vote.

I thank all Members in advance for their continued cooperation.

### ADJOURNMENT UNTIL 11:30 A.M., MONDAY, FEBRUARY 24, 1997

Mr. COVERDELL. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of House Concurrent Resolution 21 until 11:30 a.m. on Monday, February 24.

There being no objection, the Senate, at 6:11 p.m., adjourned until Monday, February 24, 1997, at 11:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate February 13, 1997:

#### 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. JOSEPH E. HURD, 0000.

## FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

## DEPARTMENT OF STATE

KATHLEEN THERESE AUSTIN, OF THE DISTRICT OF COLUMBIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

## DEPARTMENT OF STATE

JOHN WESLEY HARRISON, OF VIRGINIA  
CAROL R. KALIN, OF NEW YORK  
KAREN EASTMAN KLEMP, OF ILLINOIS  
RONNA SHARP PAZDRAL, OF CALIFORNIA  
ROBERT WALTER PONS, OF NEW JERSEY

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

## DEPARTMENT OF AGRICULTURE

BRIAN D. GOGGIN, OF VIRGINIA

## DEPARTMENT OF STATE

GREGORY JON ADAMSON, OF CALIFORNIA  
CHERRIE SARAH DANIELS, OF TEXAS  
MARTHA J. HAAS, OF TEXAS  
PAUL HOROWITZ, OF OREGON  
JOHN KEVIN MADDEN, OF ARKANSAS  
DEBORAH RUTLEDGE MENNUITI, OF TEXAS  
MANISH KUMAR MISHRA, OF PENNSYLVANIA  
WILLIAM E. MOELLER III, OF FLORIDA  
WILLIAM E. SHEA, OF FLORIDA  
MARCO AURELIO RIBEIRO SIMS, OF THE DISTRICT OF COLUMBIA  
MARK L. STREGE, OF FLORIDA  
JONI ALICIA TREVISS, OF MASSACHUSETTS  
DAVID H.L. VAN CLEVE, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, EFFECTIVE JULY 12, 1994:

## U.S. INFORMATION AGENCY

SUSAN ZIADEH, OF WASHINGTON

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JAMES ROBERT ADDISON, OF VIRGINIA  
AMY MARIE ALLEN, OF ARIZONA  
EMILY JANE ALLT, OF CONNECTICUT  
GREGORY R. ALSTON, OF VIRGINIA  
MARGARET JANE ARMSTRONG, OF VIRGINIA  
WILLIAM H. AVERY, OF FLORIDA  
CHARLES R. BANKS, OF VIRGINIA  
STEPHEN B. BANKS, OF VIRGINIA  
STEPHEN A. BARNEBY, OF NEVADA  
WILLIAM G. BASIL, OF MARYLAND  
STEPHAN BERWICK, OF VIRGINIA  
MARK W. BLAIR, OF VIRGINIA  
JOSHUA BLAU, OF CALIFORNIA

CHRISTOPHER J. BORT, OF MARYLAND  
BRIDGET A. BRINK, OF MICHIGAN  
JENNIFER CHINTANA BULLOCK, OF PENNSYLVANIA  
DAVID W. CAREY, OF VIRGINIA  
PAUL M. CARTER, JR., OF MARYLAND  
JOSEPH F. CHERNESKY, OF VIRGINIA  
RACHEL M. COLL, OF VIRGINIA  
COLIN THOMAS ROBERT CROSBY, OF OHIO  
ROBERT CLINTON DEWITT, OF TEXAS  
ALI DIBA, OF VIRGINIA  
JOSEPH A. DOGONNIUCK, OF VIRGINIA  
FRED D. ENOCHS, OF FLORIDA  
NAOMI CATHERINE FELLOWS, OF CALIFORNIA  
BARBARA J. FLESHMAN, OF VIRGINIA  
MARY ANNE FLAUTA FRANCISCO, OF VIRGINIA  
ROBERT R. GABOR, OF CALIFORNIA  
JEFFREY E. GALVIN, OF COLORADO  
KATHERINE GAMBOA, OF VIRGINIA  
ROGER Z. GEORGE, OF VIRGINIA  
LISA M. GRASSO, OF VIRGINIA  
GREGORY S. GROTH, OF CALIFORNIA  
EDWARD G. GRULICH, OF TEXAS  
DOUGLAS E. HAAS, OF VIRGINIA  
MARK W. JACKSON, OF VIRGINIA  
KIPLING VAN KAHLE, OF TEXAS  
CRAIG K. KAKUDA, OF VIRGINIA  
YURI KIM, OF GUAM

JENNIFER A. KOELLA, OF VIRGINIA  
HENRY P. KOHN, JR., OF VIRGINIA  
PAULA J. LABUDA, OF VIRGINIA  
JOHN T. LANCIA, OF PENNSYLVANIA  
JENNIFER M. LEE, OF VIRGINIA  
GLENN A. LITTLE, OF VIRGINIA  
GREGORY MICHAEL MARCHESE, OF CALIFORNIA  
WILLIAM M. MARSHALL III, OF VIRGINIA  
ROBERT B. MOONEY, OF CALIFORNIA  
KEVIN L. O'DONOVAN, OF VIRGINIA  
ANN A. OMERZO, OF PENNSYLVANIA  
ROBERT ANTHONY PITRE, OF WASHINGTON  
JENNIFER L. SAVAGE, OF VIRGINIA  
BRANDON P. SCHEID, OF VIRGINIA  
CARMEN A. SELTZER, OF VIRGINIA  
RUSSELL SCHIEBEL, OF TEXAS  
MICHAELA A. SCHWEITZER, OF THE DISTRICT OF COLUMBIA  
STEFANO G.J. SERAPINI, OF THE DISTRICT OF COLUMBIA  
ROBERT E. SETLOW, OF WASHINGTON  
ANDREW SHAW, OF NEW YORK  
SCOTT A. SHAW, OF ILLINOIS  
DAVID WILLIAM SIMONS, OF COLORADO  
JAMES DOUGLAS SMITH III, OF VIRGINIA  
MATTHEW ALEXANDER SPIVAK, OF CALIFORNIA  
DAISY D. SPRINGS, OF VIRGINIA  
CHERYL S. STEELE, OF MASSACHUSETTS  
HECTOR J. TAVERA, OF THE DISTRICT OF COLUMBIA  
MARTINA ANNA TKADLEC, OF TEXAS  
BONNIE J. TOEPER, OF VIRGINIA  
BRYANT P. TRICK, OF CALIFORNIA  
MARK E. TWAMBLY, OF VIRGINIA  
PATRICK TIMOTHY WALL, OF ALABAMA  
MARK A. WEAVER, OF WASHINGTON  
MICHAEL EDWARD WIDENER, OF VIRGINIA  
CHRISTINE WILLIAMS, OF VIRGINIA  
THOMAS A. WITTECKI, OF VIRGINIA  
WILLIAM H. S. WRIGHT, OF VIRGINIA  
RONDA S. ZANDER, OF MARYLAND

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE U.S. INFORMATION AGENCY FOR THE PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

KENTON W. KEITH, OF CALIFORNIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

GEORGE FREDERIC BEASLEY, OF MARYLAND  
JOHN P. DWYER, OF CONNECTICUT  
HARRIET LEE ELAM, OF MARYLAND  
MARY ELEANOR GAWRONSKI, OF NEW YORK

DAVID P. GOOD, OF NEW YORK  
TERRANCE H. KNEEBONE, OF UTAH  
JOHN K. MENZIES, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE U.S. INFORMATION AGENCY FOR THE PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JOHN H. BROWN, OF THE DISTRICT OF COLUMBIA  
GUY BURTON, OF NEW YORK  
HELENA KANE FINN, OF NEW YORK  
STEDMAN D. HOWARD, OF FLORIDA  
GERALD E. HUCHEL, OF VIRGINIA  
MARILYN E. HULBERT, OF FLORIDA  
MARK B. KRISCHIK, OF FLORIDA  
NICHOLAS ROBERTSON, OF CALIFORNIA  
CHARLES N. SILVER, OF VIRGINIA  
MARCELE M. WAHBA, OF CALIFORNIA  
LAURENCE D. WOHLERS, OF WASHINGTON  
MARY CARLIN YATES, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT AS CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE, AS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

TERRENCE W. SULLIVAN, OF NEW YORK

THE FOLLOWING-NAMES CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR THE PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

DANIEL B. CONABLE, OF NEW YORK

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER-COUNSELOR:

WILLIAM L. BRANT, II, OF OKLAHOMA  
WARREN J. CHILD, OF MARYLAND  
MATTIE R. SHARPLESS, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR THE PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

NORVAL E. FRANCIS, OF VIRGINIA  
FRANCIS J. TARRANT, OF VIRGINIA

## CONFIRMATIONS

Executive nominations confirmed by the Senate February 13, 1997:

## EXECUTIVE OFFICER OF THE PRESIDENT

JANET L. YELLEN, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

## SMALL BUSINESS ADMINISTRATION

AIDA ALVAREZ, OF NEW YORK, TO BE ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.