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Senate

(Legislative day of Monday, January 30, 1995)

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

PRAYER

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

Let us pray:

My grace is sufficient for thee: for my strength is made perfect in weakness.—II Corinthians 12:9.

Gracious Heavenly Father, often when we need Thee most, we find it hardest to come to Thee. Sometimes we do not come because we are impressed with our strength and do not feel any need. Sometimes we do not come because we have failed or sinned and refuse to admit our need. Either way, it is pride which deprives us of Thy favor. Forgive us, Lord, for finding it so difficult to understand the meaning of grace, that grace means the unmerited favor of God.

Help us see that the one condition grace requires is admission of need; that it is our weakness which qualifies us for Thy strength; that it is our lack of wisdom which qualifies us for Thy light and truth; that it is our failure and sin which qualify us for Thy love, forgiveness, and renewal.

Loving God, we have no secrets from Thee. Thou knowest us far better than we know ourselves. Help us to humble ourselves before Thee and find in Thy grace a very present help in time of trouble. Touch every person in the Senate with grace and love and healing. Forgive and restore wherever there is need—in heart and office and home.

We pray in the name of Him whose grace is always more than sufficient, however great our need. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

Mr. LOTT. I thank the Chair.

SCHEDULE

Mr. LOTT. Mr. President, this morning the time for the two leaders is reserved, and there will now be a period for the transaction of morning business until the hour of 10 a.m., with Senators permitted to speak for up to 10 minutes each, with the following Senators permitted to speak for the designated times: Senator BOND 10 minutes and Senator HUTCHISON 10 minutes. At 10 a.m., the Senate will resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

I should advise Members we do expect that an amendment will be laid down this morning for debate only.

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Missouri.

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

THE FUTURE OF FEDERAL HOUSING POLICY AND HUD'S BUDGET CRISIS

Mr. BOND. Mr. President, I rise today to discuss the future of Federal housing and community development policy and the financial and management crisis currently facing the U.S. Department of Housing and Urban Development.

Last November, the American people declared their anger and frustration with inefficient, ineffective, and wasteful Government programs of the past and demanded change. This new Congress must deliver on that mandate, not with more promises and debates, but with specific action and workable solutions. I emphasize that this mandate has provided the House and Senate with a real opportunity to revitalize Federal housing policy; namely, to redirect Federal housing and community development policy from HUD micromanagement to a policy of consolidation based on State and local decisionmaking.

I look forward to working with my colleagues, including my new ranking member, Senator BARBARA MIKULSKI, our new chairman of the Banking Committee, Senator D'AMATO, Senator SARBANES, and the new chairman of the Housing Opportunities Subcommittee, Senator MACK, and my friends across the aisle, to find the appropriate reforms and meaningful approaches to address the many housing and community needs of this country.

Primarily, I seek to sound an alert to my colleagues to the budgetary crisis at HUD and use this opportunity as a call to action. HUD has been likened to a massive bureaucratic and budgetary *Titanic* drifting inexorably on the shoals of spending reductions and a balanced budget amendment. We can't stop it, and we can't turn it around on a dime. No doubt some of our colleagues would just as soon fiddle with the deck chairs, and others would simply scuttle the vessel.

Moreover, I share many of those concerns. Despite my reservations about the great difficulty of finding real and meaningful solutions to the budgetary and management crisis facing the Department of Housing and Urban Development, I accepted the responsibilities of chairman of the Senate VA–HUD Appropriations Subcommittee for the 104th Congress.

In order to reach a better understanding of the HUD budgetary crisis, I

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

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began on January 19, 1995, a series of three hearings on HUD management, program status, program reform, and HUD funding before the VA–HUD Appropriations Subcommittee. We have completed these three initial hearings and the subcommittee has heard compelling testimony from a number of sources, including HUD Secretary Cisneros, the National Academy of Public Administration, the General Accounting Office, Ms. Susan Gaffney, the HUD inspector general, the Congressional Budget Office, the FHA Commissioner, Nicolas Retsinas, as well as testimony from witnesses representing housing organizations, and State and local officials.

I hope that these hearings will help both me and my colleagues in the weeks and months ahead to formulate, craft, and implement the changes—in some cases profound changes—which are necessary to sustain the Department and to serve the needs of our communities.

First, these hearings clarified that HUD programs as they currently stand cannot be sustained in this era of a freeze on discretionary spending. But if we are to preserve the billions of dollars of prior investment in the assisted housing inventory, and provide hope to millions of lower income families, senior citizens, the disabled, and the communities in which they reside, then we must chart a new course, and put steady and firm pressure at the helm.

I believe it important that I highlight and share some of the key issues we have identified and discussed over the last several weeks.

HUD, with an estimated $22 billion in annual outlays in fiscal year 1994, is one of the largest Federal agencies in terms of domestic discretionary spending with almost 12 percent of the federalwide total.

HUD is also one of the fastest growing Departments in terms of domestic discretionary spending, increasing at a rate of 9 percent per year.

Moreover, HUD has amassed over $225 billion in unexpended budgetary authority, more than the entire Department of Defense and dwarfing all other Federal agencies. In fact, even were HUD abolished in fiscal year 1995 and no additional budget authority appropriated, HUD's outlays—actual dollars spent—for fiscal year 1996 would still go up.

Finally, in addition to substantial evidence of organizational, management, and program deficiencies, HUD faces a thicket of complex problems of enormous magnitude, including: First, the need to minimize mortgage loan defaults and address the physical inadequacies of insured multifamily properties, an area of critical importance since HUD expects to lose some $10 billion in multifamily loan defaults over the next 6 years; second, the need to resolve the billions of dollars of backlogged housing rehabilitation needs, increased vacancy rates, and declining tenant incomes for public housing residents; and third, the need to address the spiraling costs of providing Federal housing subsidies to lower income families.

Despite these problems, I emphasize that previously enacted limitations on discretionary spending do not allow any increase in current appropriations, even for inflation. In fact, the most recent analysis indicates that even with a hard freeze on overall discretionary spending, current budget caps will be breached by a total of $15 billion in budget authority and $11 billion in outlays over the next 3 fiscal years.

Nevertheless, the notion of a hard freeze is totally incompatible with HUD's projection of program needs. The HUD budget baseline, for example, suggests that we will increase budget authority by almost $70 billion and outlays by $26 billion over the next 5 fiscal years. The Department has indicated that the President's budget will reduce this increase down to an estimated $20 billion in budget authority and $13 billion in outlays. I again stress that these funding requirements are still substantial increases over the current rates of spending. Not only are we in the dark on how the Department plans to make these reductions and meet these projections, but, if accepted, Congress must find this $20 billion in budget authority and $13 billion in outlays from other programs over the next 5 years.

I want to make it clear about the extent of the HUD problems and the costs associated with these problems. Resolving them is a particularly difficult task since HUD has grown from an agency with some 50 programs in 1980 to an agency with the responsibility for over 200 programs currently. Therefore, I will address two broad categories of programs with which we are all familiar—the public housing program and the section 8 program. While I describe these programs in the singular, I remind my colleagues that there are many subsets of programs within each program.

Public housing: As for the public housing program, there are currently some 13,200 public housing developments, administered by 3,200 PHA's. These developments contain some 1.4 million units, with 92 percent occupancy as of 1991, providing shelter for more than 3.4 million low-income, public housing residents, 40 percent of whom are elderly or disabled.

Public housing has become, in general, housing of last resort; the assisted housing stock that tends to warehouse the poorest of the poor. In particular, median income in public housing is approximately 16 percent of the local area median income, down from 33 percent in 1980. The average income of nonelderly public housing residents is less than $7,000.

Operating subsides continue to cost about $2.7 billion per year. Yet, much of this stock is in physical distress and aging, with modernization needs that exceed $20 billion. Moreover, many of the older public housing developments are in neighborhoods that are distressed. Nearly all 700,000 nonelderly public housing households live in areas that are characterized by extreme poverty and high crime rates. Nevertheless, the public housing program continues to stagnate, strangled by bureaucratic redtape and unworkable legislative mandates.

Section 8: The Section 8 Rental Assistance Program is a microcosm of the budgetary crisis facing the Department. About 2.8 million lower income families receive assistance under the section 8 program. To be blunt, HUD estimates that by fiscal year 1996 the total cost of renewing section 8 tenant-based assistance known as vouchers and certificates will exceed $9.5 billion in budget authority, whereas the current appropriation is less than $3.3 billion. This budget estimate assumes a HUD shortening of contract term renewals from a traditional 5 year period to a 3-year contract term. By the year 2000, the annual cost of these section 8 contract renewals would approach $20 billion in budget authority. In the current fiscal climate, the Federal budget cannot begin to meet these renewal commitments; thus threatening hundreds of thousands of families currently receiving assistance with eviction or dramatic rent increases.

The cost of section 8 project-based assistance similarly is reaching crisis proportions. Some 940,000 units were developed under the section 8 new construction and substantial rehabilitation contracts of the 1970's and 1980's. Most of these units have been financed with section 8 project-based contracts that exceed the local fair market rents or the rents of comparable units, and in many cases these contracts represent 140 percent or more of the fair market rent. The budget authority for these contracts was appropriated to cover contract costs for 20- to 40-year periods, and many of these section 8 project-based contracts are now starting to come up for renewal.

These section 8 project-based contracts represent another hard decision and another high cost for the Government. However, these projects continue to house poor families, with some 47 percent of the units occupied by the elderly. Many of these projects are insured by the Department or financed with direct loans by the Department. Estimates show that approximately 390,000 of these projects, or 41 percent are insured or held by the Department. Another 240,000, or 25 percent, constitute section 202 elderly and disabled projects. The majority of the remaining one-third of the inventory are projects financed by State housing finance agencies.

Finally, there is the issue of the prepayment program first initiated in the 1987 Housing Act and permanently authorized as part of the 1990 National Affordable Housing Act where Congress

authorized incentives for certain owners of HUD-insured projects not to prepay their mortgages and keep their units affordable for low-income tenants. Owners of some 400,000 rental units are, or soon will be, eligible to apply for these financial incentives, including equity take-out loans. In these cases, the Government will pay increased section 8 assistance to owners to cover the cost of the incentives. The HUD IG Susan Gaffney recently identified this program as a ''rip-off'' to the American taxpayer. In fact, the costs for these additional subsidies will run into the billions of dollars.

As I have indicated these are issues that require congressional attention and responsible action. It took decades of neglect, through many Congresses and several administrations, both Democratic and Republican, to create a problem of this enormous magnitude and complexity. HUD cannot be fixed overnight, or by simply passing a law with the word ''reform'' in its title. I stress that we need to redirect Federal housing and community development policy from Federal micromanagement to the consolidation of programs with an emphasis on State and local decisionmaking.

We need to get away from the one-size-fits-all mentality and provide flexibility at the State and local level—we need to do this by making housing more affordable through approaches such as public-private partnerships, employment incentives for low-income families, mixed income projects, and the demolition of substandard housing where the demolition makes sense.

Mr. President, I raise these issues now because it is important that all of my colleagues and those in the administration and those who are concerned about housing focus on the difficult problems we face and help us develop the drastic solutions that we need to continue our commitment to housing, yet to do so without bankrupting the budget or taking away from other very needed programs.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Texas is recognized to speak for up to 10 minutes.

UNFUNDED MANDATES

Mrs. HUTCHISON. Mr. President, last week the Senate approved landmark legislation to protect States and communities from unfunded Federal mandates, and yesterday, the House followed suit. When the President signs this legislation, we will witness a sea change in the relationship among Federal, State, and local government.

Let me remind my colleagues, however, that when we consider the staggering load of unfunded mandates the Federal Government imposes on State and local governments, southern border States such as Texas bear a huge share of the burden.

Last year, I asked Congress to allocate $350 million to the affected States for incarcerating illegal alien felons. Congress took a significant step in rectifying this situation when it appropriated $130 million for the purpose. This was the first time in history the Federal Government has ever acknowledged its fiscal obligation to States directly impacted by Federal policies—and failures.

But that appropriation was merely an initial installment on what is actually a huge, crippling debt incurred by the Federal Government.

This year I am calling on President Clinton to include that $350 million allocation in his budget proposal—to move closer toward Federal acknowledgment of the true magnitude of the costs of illegal immigration to this country.

Illegal aliens, who enter our States and take up permanent, unlawful residence, are there as a result of the Federal Government's failure to carry out one of its most important functions—the securing of our borders. Texas, California, Arizona, New Mexico, and even Florida, absorb the brunt of these costs.

My State and others similarly affected are required by Federal law and Federal courts to pay for incarcerating illegals who commit crimes and also for the costs of education, welfare, medical services, and a host of other government-funded programs serving illegal aliens.

The Federal Government underwrites very little of these expenditures. But under the threat of penalty imposed by Federal law State and local taxpayers are coerced into footing the bill.

Texas, alone, must spend more than $60 million a year to keep illegal alien felons in prison—California nearly $400 million.

Texas also spends more than $60 million annually on unreimbursed Medicaid services to illegal aliens.

Texas like other States—is experiencing a seemingly insoluble school funding crisis, due in part to the presence of illegal alien children which the Federal courts have ruled must be educated.

In several Texas school districts, close to 50 percent of the students enrolled are the children of illegal aliens. In some cases, children cross the border from Mexico every day to attend school in Texas.

In La Joya, a small lower Rio Grande Valley town near Brownsville, a third of the school district's enrollment comes from Mexico. Yet school officials are forbidden to ask students for proof of residency—in their school district.

A study by Rice University in Houston estimates that Texas pays, all told, $1.4 billion a year to provide federally mandated services to illegal immigrants.

This is $1.4 billion a year we do not have, or, if we did, could be put to better use for Texas taxpayers.

For instance, that $1.4 billion would more than make up for the funding shortfall in Texas schools.

The situation has become intolerable—and resulted unfortunately in a backlash against all immigrants such as we witnessed in California during the debate over proposition 187. I am thankful the situation in Texas has not yet reached this point.

But the unfunded mandates situation has reached the crisis stage in its impact on our State and local budgets.

To put it plainly, the Federal Government is shifting the responsibility for these mandated expenditures onto the backs of Texas taxpayers. Texans are being forced to provide social benefits to individuals who have broken our laws, jumping ahead of those who play by the rules—while the Federal Government looks the other way. Illegal immigrants ought not be entitled to State taxpayers' money for simply crossing the border—and breaking our laws in the process.

In the past, I have supported the assignment of more Border Patrol agents to make our border areas more secure. The immigration reform bill I introduced in the 103d Congress would have put 6,000 more agents in the field to stop this flagrant and habitual violation of U.S. law.

Now my colleague, Senator GRAMM, has introduced another illegal immigration bill which would put even more new agents on the border, realizing that we are going to have to get serious about stopping the influx of people who are illegal into out country.

One of the reasons I am a strong advocate of the unfunded mandate legislation is that it will enforce a kind of truth-in-lawmaking we have not seen in Washington for decades—putting a clear price tag on programs and policies when they are foisted onto the States.

This correction in our country's course is long overdue.

THE BALANCED BUDGET AMENDMENT

Mrs. HUTCHISON. Mr. President, we have seen the debate this week in the Senate on the balanced budget amendment.

I am very pleased that the House of Representatives has taken this step already, and now it is up to the Senate to decide if Americans finally will have the opportunity for their legislatures to vote to adopt a very important amendment to our Constitution. It is

an amendment that will make the difference for our future generations because it will say to our future generations we are not going to rack up the bill and give you the opportunity to pay for what we are doing today. That is what this balanced budget amendment is all about.

Mr. President, we have heard all kinds of reasons why people are now saying that they might not support the balanced budget amendment. But I hope the American people realize that these are in fact excuses. This is a solid, plain, simple, understandable balanced budget amendment. Maybe I would have changed a few words. Maybe others would change a few words and make exceptions. But we cannot make exceptions if we are going to take the responsible approach of saying we are going to set parameters on the amount of spending that we can do in this country. Every business in America does that. Every household in America does that. Every State government and every local government does that in America. Why, Mr. President, should Congress be the one entity in America that does not have to live within a budget? And every day that you see someone standing up on the floor and giving an excuse why they are not going to support the balanced budget amendment, I hope the American people realize that is what it is.

We will make the cuts that are necessary. We will save Social Security. We have done it every year except last year when there was an increase in taxes, and they did increase the taxes on Social Security recipients. Not one Republican voted for that bill; not one.

So I do not think the American people need to fear that a Republican majority is going to do something that would in any way impact Social Security in not a beneficial way. It is not our side that has done anything on Social Security. What we are trying to do is make sure that people on Social Security know that their children and grandchildren are going to have a responsible government in Washington, DC.

Mr. President, that is what the argument is about on the balanced budget amendment.

I thank the Senator from Utah for his great leadership in this effort. He has been there fighting the cause this whole week and for years before saying this is what is right for America. I appreciate the time and effort that he is putting in. I just hope that when it comes down to the bottom line that this Senate does the right thing and sends an amendment to the people of our country through its legislatures to say we are going to be responsible like every State government, every local government, every business and every household in America has to be responsible.

It is the most important vote I will ever make in my time in the U.S. Senate.

Thank you, Mr. President.

I yield the floor.

INCREASE IN THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, I commend the President for his leadership in bringing together so many Members of Congress this morning in support of an increase in the minimum wage for working families. The increase proposed by the President would raise the wages of more than 7 million hard-working Americans who currently earn less than $5.15 an hour. The increase would lift substantial numbers of working families out of poverty and diminish its severity for many more. The increase would also help millions of middle-class families who depend on the earnings of low-wage workers to get back on the track toward a better standard of living for themselves and their children. It is simple justice for working Americans.

Since the enactment of the first Federal minimum wage law in 1938, bipartisan majorities of the Congress have seven times reaffirmed the Nation's commitment to the minimum wage by voting in favor of minimum wage increases. Once again, Democrats and Republicans must join together to address the decline in the real value of the minimum wage. If we fail to act, by next year the real value of the minimum wage will be lower than it has been at any time since 1955.

Our economy is growing, corporate profits are up, and so are the incomes of the wealthiest 20 percent. But the vast majority of Americans are still losing ground. An increase in the minimum wage is long overdue. It ought to be part of any contract with America, and I hope we can vote on it in the first 100 days.

Mr. President, just an hour ago, the President of the United States in the White House reminded us that in 1989, when Congress last addressed this issue and voted overwhelmingly with bipartisan support to increase the minimum wage, we had a Republican President and Democratic majorities in the House of Representatives and Senate, but The President and the Congress came together, Republicans and Democrats alike. More than 85 percent of the Republicans in the Senate in 1989 supported legislation providing for two increases of 45 cents an hour each, to go into effect in 1990 and 1991.

The President made the point that he is hopeful that now, with a Democratic President and Republican majorities in the House and Senate, we too would go forward on a bipartisan basis and vote for two similar 45-cent increases.

The legislation enacted in 1989 provided for a 45-cent increase in 1990, and a 45-cent increase in 1991. And now the President is proposing a 45-cent increase for this year, 45 cents for next year.

The economy is much stronger today than it was in 1989 when we last voted to increase the minimum wage. In the past 2 years, we have seen the creation of over 5 million jobs. Business profits are up. The wealthiest individuals are doing well, the top 20 percent. And what we are basically saying with the President's proposal to increase in the minimum wage is that men and women in this country who are prepared to work 40 hours a week, 52 weeks of the year, ought not to live in poverty. They ought to be able to earn a living wage. That is not such a radical concept or radical idea, Mr. President.

The history of the minimum wage in this country teaches this very clearly. If we look at what the real value of the minimum wage has been and what the income needed to keep a family out of povery was from 1960 right up to 1980, the minimum wage was a livable wage. It kept working families out of poverty. And what we are seeing now is that unless we act to increase the minimum wage, by next year, in real purchasing power, the minimum wage will be the lowest it has been in 40 years.

What we are saying when we renew our commitment to a livable minimum wage is that work makes a difference. We ought to reward work in this country. We ought to say to families that we believe those who can and do and want to work and are working should be able to support themselves and their families and not be forced to rely on taxpayer-financed safety net programs to feed, house and adequately provide for their families.

If working people are not able to earn enough at the minimum wage to support their families, then it is other workers who in effect are called on to make up the difference through taxpayer- financed support programs. Thus, by raising the minimum wage, not only are we giving opportunity and prosperity to workers who want to work, we are also reducing, cutting the need to rely on public support programs.

Mr. SIMON. Will the Senator yield?

Mr. KENNEDY. Increasing the minimum wage will save taxpayer dollars because individuals will raise their incomes and no longer have to rely on the wide range of support programs which otherwise they are eligible for today. Increasing the minimum wage is a winning proposition for families that want to work, that will work. It is a winning proposition for taxpayers. It is a well-deserved increase.

I will be glad to yield for a question.

Mr. SIMON. Since the bottom fifth in terms of income in our country get 43 percent of the benefits from this, is it not true that if we were to raise the minimum wage as is suggested in this legislation, along the lines of what the Senator has just talked about, it probably would do more to provide real welfare reform than 90 percent of the talk of welfare reform that is going on around right now?

Mr. KENNEDY. The Senator makes a very important point that has been reiterated in our recent Labor and Human Resources Committee hearings chaired by Senator KASSEBAUM on the

various job training programs. We heard testimony from a very distinguished professional from Arlington, VA, who said you cannot expect to move people out of welfare into jobs that pay less than $7 an hour, because people cannot afford the cost of housing, transportation, health care—or day care if they have children—at a lower wage. Therefore, there is very little incentive for people to move off welfare unless the job they are moving into pays a livable wage.

Let me also point out this to the Senator from Illinois: The Senator is quite correct that 43 percent of the benefits of the last minimum wage increase went to families with earnings in the bottom 20 percent. But 45 percent of the benefits went to families with earnings in the middle 60 percent. Increasing the minimum wage is critically important to workers trying to support their families on a minimum wage job. But it is also a lifeline to families that are just on the border of middle income, and are dependent on the earning of someone who is working and supplementing the family's income with a minimum wage job to maintain their standard of living.

Mr. SIMON. Mr. President, if I may ask one more question of the Senator? So this talk that when we raise the minimum wage, we are really just helping the teenagers of people who are well off, that really is a myth and has no substance in fact?

Mr. KENNEDY. The Senator is quite correct. Two-thirds of those who are making the minimum wage today are adults—two-thirds.

It is a reasonable ask what is going to be the impact of this increase on jobs in our country? I hope, over the course of both the debate on this issue and in the course of hearings, to have a chance to review the most recent studies. David Card and Alan Krueger, of Princeton Universit did a very interesting study. They studied the effects on employment on the fast food industry in New Jersey, resulting from the 1992 increase in the State minimum wage from $4.25 to $5.05. This 80-cent increase in 1992 followed the 1990 increase in the Federal minimum wage from $3.35 to $3.80 and the 1991 increase of $3.80 to $4.25.

We listened to the Governor of the State of New Jersey speak the other night in her response to the President's State of the Union message about how strong the economy in New Jersey. This is a State that had a 45-cent increase, another 45-cent increase, and then had an 80-cent increase in the minimum wage after that, and the state economy is flourishing.

And that was borne out by the Princeton economists' study. It found no negative impact on employment from the increase in the New Jersey State minimum wage to $5.05. And, interestingly, it showed some evidence of positive impact on employment. People who were outside the labor market came back because they could make a decent living. So they added to the economy. Rather than a reduction of jobs, it increased jobs.

The Wessell study on the impact on restaurant employment of the 1990 and 1991 increases in Federal minimum wage from $3.25 to $4.25 also found there was virtually no impact on employment.

Similar results were found by Lawrence Katz of Harvard University and Alan Krueger of Princeton University, who did a 1992 study on employment in the fast food industry in Texas in 1990 and 1991 following the last increase in the Federal minimum wage. They also found no significant impact on employment. So we have similar results from studies of the impact of minimum wage increases in an industrial State, New Jersey, and in the State of Texas.

In addition, we have a 1992 study by Professor Card of the effects on teenage employment across 50 States resulting from the 1991 increase from $3.80 to $4.25. This study again found virtually no significant impact on teenage employment in low-wage as well as high-wage States.

And this was found true as well in another study in that looked at changes in retail trade and teenage employment in California resulting from the 1988 increase in the State minimum wage from $3.25 to $4.35.

We will hear a great deal during the course of the debate about the impact of minimum wage increases on employment. I think those issues are legitimate ones and have to be addressed. But any thoughtful and fair review of recent empirical evidence on the actual effect of minimum wage increases shows that the kind of increase proposed this morning by the President would have only a marginal, neglible effect on employment.

Most of all, this issue is really about making work pay. It is a hollow argument indeed, to say this increase is going to mean a lesser life for working families in this country. We are talking about permitting working families to participate in the prosperity of America. This is a fair proposal. It ought to be treated fairly here in the Congress. I believe it ought to be part of the Contract With America.

Profits are up. Wages across this country have been stagnant for most workers for many years. This is really a concrete effort to try to make a difference for working families, to give them a livable wage so they can live with respect and dignity, and with a real sense of hope for the future.

I hope at the appropriate time we will have a chance to have further debate and take positive action, hopefully in a bipartisan way, in this body.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID ''YES''

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, February 2, the Federal debt stood at $4,814,204,062,209.10. On a per capita basis, every man, woman, and child in America therefore owes $18,274.80 as his or her share of that debt.

COSPONSOR S. 228—BRYAN BILL ON CONGRESSIONAL PENSIONS

Mr. ABRAHAM. Mr. President, during the past year I have repeatedly been approached by citizens of my State of Michigan who have expressed their outrage about the current congressional pension system. Initially, their anger was focused upon what they believed to be an exorbitant level of compensation for Members of Congress. Later in the campaign, another issue also rose; namely, the shroud of secrecy which surrounded congressional pensions themselves.

Because of my experience, during the campaign I pledged to introduce or cosponsor legislation which would bring congressional pension plans into general line with the rest of the Federal Government and with the private sector. I also committed myself to eliminating the shroud of secrecy which has surrounded the pension system by pushing for full disclosure. Consequently, I am today announcing my cosponsorship of S. 228, the bill introduced by the Senator from Nevada, Senator BRYAN, which will bring the pension compensation for Members of Congress in line with that currently available to members of the Federal civil service.

However, because the Senator from Nevada's legislation does not include language on disclosure, I am also today introducing my own legislation which will require that information regarding Members' pensions be made available to the public. When the issue of congressional pension reform reaches the floor, the Senator from Michigan will offer this disclosure bill as an amendment if similar language is not already contained therein.

Mr. President, only when the American people are provided with accurate information can they make informed decisions regarding what level of pension compensation for Members of Congress and their staffs is appropriate.

Mr. President, I yield the floor.

REGULATORY FLEXIBILITY AMENDMENTS ACT OF 1995

Mr. BOND. Mr. President, yesterday I introduced S. 350, the Regulatory Flexibility Amendments Act of 1995, to provide for judicial enforcement under the Reg Flex Act. This bill is vitally important to America's small businesses who are suffering from the excessive burdens of Federal Government regulations. In support of my bill, S. 350, I have received letters from the U.S. Chamber of Commerce, the Small Business Legislative Council, and the National Roofing Contractors Association.

Mr. President, I ask unanimous consent that the letters and the bill, S. 350, be printed in the RECORD.

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

S. 350

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 ''Regulatory Flexibility Amendments Act of 1995''.

SEC. 2. JUDICIAL REVIEW OF REGULATORY FLEXIBILITY ANALYSES.

(a) AMENDMENT.—Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) Except as provided in paragraph (2), not later than 1 year after the effective date of a final rule with respect to which an agency—

''(A) certified, pursuant to section 605(b) of this title, that such rule would not have a significant economic impact on a substantial number of small entities; or

''(B) prepared final regulatory flexibility analysis pursuant to section 604 of this title, an affected small entity may petition for the judicial review of such certification or analysis in accordance with the terms of this subsection. A court having jurisdiction to review such rule for compliance with the provisions of section 553 of this title or under any other provision of law shall have jurisdiction to review such certification or analysis.

''(2)(A) Except as provided in subparagraph (B), in the case where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), such lesser period shall apply to a petition for the judicial review under this subsection.

''(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this title, a petition for judicial review under this subsection shall be filed not later than—

''(i) 1 year; or

''(ii) in the case where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), the number of days specified in such provision of law,

after the date the analysis is made available to the public.

''(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

''(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

''(5)(A) In the case where the agency certified that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 of this title if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

''(B) In the case where the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with the requirements of section 604 of this title if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604 of this title.

''(6) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

''(A) to prepare the analysis required by section 604 of this title; or

''(B) to take corrective action consistent with the requirements of section 604 of this title,

the court may stay the rule or grant such other relief as it deems appropriate.

''(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

''(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after the date of enactment of this Act.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, February 2, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Senate Small Business Committee, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The U.S. Chamber of Commerce Federation, representing 215,000 businesses (96% of whom are small businesses), 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 69 American Chambers of Commerce abroad, is pleased to endorse your legislation, the Regulatory Flexibility Amendment Act, which would strengthen the Regulatory Flexibility Act (RFA) by allowing judicial review of agency compliance.

The importance of judicial review cannot be overstated. The original RFA was designed to provide the small business community respite from the ever-growing hindrance of excessive regulation by requiring federal agencies to consider the impact of proposed regulations on small entities. Its intent was to ensure that the least burdensome approach for regulatory implementation was adopted. The lack of judicial review, however, has meant that agencies do not have to answer to any compelling authority. As a result, agencies routinely give the RFA minimal attention, if any at all.

Too often, small businesses have borne the brunt of the cumulative impact of unreasonable and costly federal mandates. Given their importance to our struggling economy, we need to ensure not just their survival but their growth as well. Judicial review as part of the RFA will place us closer to that goal. That is why your legislation is so critical. It could mean the difference between job creation and job lay-offs.

We look forward to working with you and your colleagues in ensuring passage of this badly needed legislation.

Sincerely,

R. BRUCE JOSTEN.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC, February 2, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Small Business Legislative Council (SBLC) we wish to express our support for your version of legislation to enact amendments to the Regulatory Flexibility Act (RFA). As long-time supporters of the RFA, we know from first-hand experience that agencies have been able to ignore the law due to the lack of judicial review. At the time of the enactment of the original RFA, we thought it was a risk we could reluctantly accept in order for us to overcome the then formidable resistance of the bureaucracy to the entire law. Time has proven that the price was too much to pay.

The original concept of the original law is still sound. The goal is to have agencies undertake an analysis of proposed rules to determine whether they have an adverse impact on small business. If such a determination is made, then the agency must explore alternatives to mitigate the impact on small business.

In fact, for several years, we have said Congress should apply the same standard when considering proposed legislation, that is, analyze the impact on small business, and consider alternatives. We are pleased that the Senate has passed S. 1, the unfunded mandate reform bill. It goes a long way towards establishing such a discipline.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, tourism, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

JOHN S. SATAGAJ,
President.

Attachment.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Gear Manufacturers Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Travel Agents, Inc.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehouse Association.
American Wholesale Marketers Association.
AMT—The Association for Manufacturing Technology.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.

Association of Small Business Development Centers.
Automotive Service Association.
Automotive Recyclers Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Christian Booksellers Association.
Cincinnati Sign Supplies/Lamb and Co.
Council of Fleet Specialists.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Health Industry Representatives Association.
Helicopter Association International.
Independent Bakers Association.
Independent Bankers Association of America.
Independent Medical Distributors Association.
International Association of Refrigerated Warehouses.
International Communications Industries Association.
International Formalwear Association.
International Television Association.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
National Association for the Self-Employed.
National Association of Catalog Showroom Merchandisers.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Private Enterprise.
National Association of Realtors.
National Association of Retail Druggists.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Association of Truck Stop Operators.
National Association of Women Business Owners.
National Chimney Sweep Guild.
National Association of Catalog Showroom Merchandisers.
National Coffee Service Association.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Food Brokers Association.
National Independent Flag Dealers Association.
National Knitwear Sportswear Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Venture Capital Association.
National Wood Flooring Association.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Passenger Vessel Association.
Petroleum Marketers Association of America.
Power Transmission Representatives Association.
Printing Industries of America, Inc.
Professional Lawn Care Association of America.
Promotional Products Association International.
Retail Bakers of America.
Small Business Council of America, Inc.
Small Business Exporters Association.
SMC/Pennsylvania Small Business.
Society of American Florists.
Turfgrass Producers International.

NATIONAL ROOFING CONTRACTORS ASSOCIATION,
Washington, DC, February 2, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BOND: NRCA recently testified before the House Small Business Committee in support of strengthening the Regulatory Flexibility Act of 1980 (Reg Flex). Judicial review for Reg Flex is a priority for us, and we are pleased that it's a key component of the new Republican congressional majority's agenda for regulatory relief. We are also pleased to inform you that NRCA strongly supports the Regulatory Flexibility Amendments Act of 1995.

I am certain that I speak for the Regulatory Flexibility Act Coalition, consisting of some 60 organizations representing small business and small government entities, when I state that we stand ready to assist your committee's effort to amend Reg Flex to help control excessive government regulation.

Please call if there's anything I can do.

Best wishes.

Sincerely,

CRAIG S. BRIGHTUP.

IMPORTANCE OF INTELLECTUAL PROPERTY TO AMERICA'S TRADE

Mrs. MURRAY. Mr. President, tomorrow is a critical date in United States trade relations with the People's Republic of China [PRC]. The United States Trade Representative has found that the PRC is seriously deficient in its protection of intellectual property rights. Talks have broken off, and unless the Chinese change their laws and improve their enforcement at this eleventh hour, the United States will impose steep tariffs on a number of products imported from the PRC, starting tomorrow.

I am disappointed that the situation has deteriorated to this point. More than 1 year ago I invited the Chinese Ambassador, United States executives and other Members of the Washington congressional delegation to my office to discuss this issue. I spoke with President Clinton and U.S. Trade Ambassador Michael Kantor as well. I encouraged all sides to get together and work toward a solution to the problem.

As a proponent of free trade, I am hopeful talks will be resumed and the Chinese Government will take serious steps to protect intellectual property rights. Hard-working people in the State of Washington are losing too much money to international pirates. This must end, and our relationship with this important trading partner must resume as quickly as possible.

It is up to the Clinton administration, and, more importantly, to the Chinese, to show some leadership. If China wants to be a global economic player, they have to play by the global economic rules. And those rules don't allow piracy.

Mr. President, as you know, I come from a State which is, per capita, the largest exporting State in the country. Washington State is home to America's single largest exporting company—the Boeing Co. We send the literal fruits of our labors—our apples and wheat—to every corner of the globe.

And, we are the site of some of America's most forward-looking, cutting-edge industries. We have big companies like the Microsoft Corp and Nintendo of America as well as small concerns all along the I–5 corridor which specialize in a dazzling array of high technology and biotech products.

These companies produce goods rich in intellectual property, the cornerstone of American innovation. Protecting these inventions through intellectual property rights is vital. Enforcing copyrights, patents and trademarks means that when you build a better mousetrap, you can reap the rewards of innovation. That's why we need and have strict laws in this country which protect inventions and punish thievery.

I am pleased that intellectual property has been included as a new discipline in the General Agreement on Tariffs and Trade [GATT]. Accordingly, it is important that all our trading partners uphold and enforce the strongest intellectual property laws possible, especially those countries that wish to join the GATT.

That is why the looming deadline is so disheartening. I sincerely hope China will address this situation, and prove they deserve a place in the global economic community.

WILLIAM J. BARODY, JR.

Mr. MOYNIHAN. Mr. President, for a quarter century I have been involved with the Woodrow Wilson International Center for Scholars. I was a member of its first board of trustees in 1969, and served as vice chairman from 1971 to 1976. During the center's existence, five remarkable men have served as chairmen of its board: Hubert H. Humphrey, 1969–72; William J. Baroody, Sr., 1972–79; Max M. Kampelman, 1979–82; William J. Baroody, Jr., 1982–94; and now Joseph H. Flom, 1994– .

William J. Baroody, Jr.'s term on the board expired just this week, and I would like to join his colleagues at the Wilson Center in honoring his remarkable tenure. A dinner was given in Bill's honor following the last board meeting in October, when he stepped down from its chairmanship, and I ask unanimous consent that the text of the

evening's richly deserved tribute be printed in the RECORD.

REMARKS AT DINNER HONORING WILLIAM J. BAROODY, JR., OCTOBER 11, 1994

Mr. BLITZER. I want to join Joe Flom in welcoming all of you here this evening to this richly deserved tribute to Bill Baroody, a man who served with enormous devotion skill and wisdom as Chairman of the Board of Trustees of the Woodrow Wilson Center for nearly half of the Center's life.

During the years I have known Bill, and particularly during the six years that I've served under his chairmanship, my respect for him has constantly grown as has my affection. I can say with absolute sincerity that during those years I have never asked Bill for his help without receiving it. Similarly I have never sought his advice without receiving suggestions that contributed substantially and fruitfully to my own ideas and those of my colleagues. In many ways I would say that Bill has been a model of what a chairman should be. He shared with us the knowledge and the wisdom gained in the legislative and executive branches of government, including in the White House, and as the head of a kindred but not quite identical institution, and in all of this he has somehow managed to guide without being intrusive.

His chairmanship of the board, a board composed of distinguished and often strong-minded people appointed by three presidents of two parties, and his leadership of the Center under two directors, have been characterized by an extraordinary combination of effectiveness, tact, evenhandedness and self-effacement. Indeed if it is possible to be modest to a fault that perhaps is Bill's singular fault. With his clear sense of the delicate balance between the legal responsibility of a board and the authority of a director, he served the Center well and made the experience for me at least, and I suspect for my predecessor, of serving under him a genuine pleasure. It is for that accomplishment, and for his stewardship of this institution that his fellow trustees, the Center's staff, his friends, his family and I join in honoring him this evening with deep respect and affection.

TED BARREAUX. I have been given the assignment of reading one of the letters that Bill Baroody has received from the former Presidents who have appointed him to various posts. But before that I wanted to tell you all what a pleasure it is for me to be here tonight because I've known Bill for many years. The two of us met almost thirty years ago, and we were both at various points in our lives aides of President Nixon. Now I don't know if Bill's memory fades in and out as occasionally most Nixon aides' memories do, but my experience when I first met Bill was illustrative of what became a very warm and valued friendship.

I met Bill as I said nearly thirty years ago in the spring of 1967, when I was in Washington to have lunch on a Saturday morning with a friend of mine, Congressman Glenn Lipscomb from California. He was a close ally and colleague of Congressman Mel Laird, for whom Bill worked.

I didn't have a change to work with Bill while he was at the Defense Department or in Congress, but I worked very closely with him when he was the public liaison for President Ford. I had the pleasure not only of working with Bill when he was a White House aide but also when I spent twelve years on the Board of Trustees of the Wilson Center. I served under Bill's father, I served under Max Kampelman, and I served under Bill.

The one thing about Bill that impressed me as well as all of the other trustees and the Fellows is Bill's commitment to public service. He provided two characteristics that I think really mean public service to me, and he carried them out with firmness and commitment and dedication and with an élan and an ease that made it appear even more beautiful than it ordinarily is. The first of these is satisfaction. He demonstrated clearly the satisfaction one derives from the formulation of public policy. There are dozens of key policy issues where he played a central role and he did it always with grace and intelligence and style.

And the second is sacrifice. I was always impressed by the fact that he never capitalized in a personal way on his public service, which is terribly impressive when you consider that although there is nothing wrong with that, he chose a different road.

President Ford, whose letter I've been asked to read tonight, shares many of my sentiments, and I'll share his letter with you now.

"Dear Bill, I write with congratulations and best wishes on the occasion of your retirement as Chairman of the Woodrow Wilson Center Board of Trustees. It is indeed an enjoyable task to acknowledge your generosity and commitment to that fine institution.

"I also remember with great pleasure your time as a member of our White House team and I am so pleased that you and many of your colleagues have continued a tradition of outstanding public service. Thanks to your dedicated leadership, the Wilson Center is now known throughout the world as a place of both scholarly excellence and practical relevance.

"I am delighted to have this opportunity to express my appreciation of your devotion to the Center and its scholarly ideals.

"I am delighted to have this opportunity to express my appreciation of your devotion to the Center and its scholarly ideals.

"Thank you for your many kindnesses and loyal support.

Warmest, best regards,

GERALD R. FORD."

I would now like to toast Bill Baroody who is not only a friend, a colleague and a boss, all three things you get to be when you're Chairman of the Board of the Center, but he's also a very special human being.

GERTRUDE HIMMELFARB. I cannot I'm afraid compete with Ted who has known Bill for thirty years. I can only claim to have known him for less than twenty years. I was then a Fellow of the Woodrow Wilson Center and Bill Baroody, Sr. was then Chairman of the Board. The Baroodys were my introduction to Washington and I assure you it was a very enjoyable, a very interesting, a very exciting experience.

I then met Bill some ten years later when I was a member of the board and Bill, Jr. was its Chairman. I came to admire Bill as all of us did, and not only for his extraordinary devotion to the Woodrow Wilson Center, his mastery of all the details of the operation of the Center, his assiduous attendance at meetings, board meetings, fellowship and other committee meetings even in periods of ill health and an evident discomfort, but also because of his very good judgment and his wisdom in helping to keep the Center on a steady course at a rather perilous time for institutions such as this, for cultural and academic institutions which were being buffeted about as they still are by all the vagaries of intellectual fads and fashions and by political and social pressures. As I say it was a very heartening experience to serve under a chairman who was able to perform that not inconsiderable feat.

I'd like now to take the occasion to pay tribute not only to Bill but also to Charles Blitzer and to the staff of the Woodrow Wilson Center, all of whom manage to work so harmoniously together and all of whom manage to resist those fashions and those pressures, who manage to preserve the integrity of the Center and to maintain the very high standards of scholarship and research that the Center is in fact now known for, always has been known for.

Bill, Sr. would be very proud of you Bill, and I think he would like to join us in this toast to you. But first I would like to read a letter from someone who can express his appreciation of Bill more eloquently than I can.

"DEAR BILL, I am delighted to join your friends, family, and colleagues in congratulating you on the occasion of your retirement from the Woodrow Wilson International Center for Scholars.

"I hate to be the one to break the news to you, but I've found that there is no such thing as retirement! I had a fleeting notion way back: to find a shady spot under a tree and a good sturdy hammock. It was a grand plan, but it never materialized. I hope you have better luck with it than I did!

"Seriously, you have every reason to be proud of your twelve years of honorable commitment to the Center and to nationwide scholarship. You have proudly carried on your family tradition as an able and dignified leader, and it is that noble legacy which will continue to flourish thanks to your constant nurturing and tireless commitment. You have my deepest gratitude and admiration for the wisdom and integrity you have consistently shown in your devotion to the Center.

"I wish you all the happiness and success you deserve as you begin this exciting new chapter in your life. God bless you for your dedication and unwavering faith in this great nation.

Sincerely,

RONALD REAGAN."

I think President Reagan would like to join us in this toast to Bill.

LYNNE CHENEY. I want to bring you greetings, Bill, not only from myself and from the signator of the letter I'm about to read, but from Dick Cheney who is sorry he can't be with us tonight. Dick and I first knew Bill more than twenty years ago back in the Nixon and Ford years, and you were out there on the front line for public liaison putting Gerry Ford in exactly the setting in which he performed most brilliantly, dealing with citizens in forums across the country, answering questions, and Dick as White House Chief of Staff, was exceedingly grateful for your imaginative use of the President's time and for presenting him as the really great leader he was. I'm so glad that I was here tonight to hear Gerry Ford's letter to you.

Dick and I are now at the American Enterprise Institute, another organization in which you had such an important role to play, so our lives have been intertwined for quite a long time. I will remember with gratitude and warmth the opportunity that I had to serve with you as a member of the Woodrow Wilson Center's Board of Trustees. We had some challenging meetings, some interesting issues with which to deal, and I do love now seeing them all begin to come to fruition knowing that this Center will soon be housed in a way that it should be in order to honor the memory of Woodrow Wilson to whom this Center was established.

So many people are grateful to you for your service, Dick and I chief among them; and I'm especially proud tonight to have the honor to read to you a letter from yet another former President, What friends you have, Bill.

''DEAR BILL, word has reached me of your retirement as Chairman of the Woodrow Wilson Center's Board of Trustees, and I am delighted to join your family and colleagues in congratulating you for a job well done.

''Your distinguished tenure as chairman is one marked by significant accomplishment, and you can be proud in the knowledge that your many contributions helped to enhance America's leadership in a turbulent and sometimes dangerous world. As one of several Presidents to benefit from your dedicated career in service to our Nation, I am pleased to have this opportunity to thank you for your loyal support, counsel, and friendship through the years. ''You will be missed, but I have a feeling this won't be the last we hear from you. In the meantime, Barbara joins me in sending best wishes for your very happiness.

Sincerely,

GEORGE BUSH.''

I would like all of you to join me in a toast to Bill Baroody for whom all of us here, like all of the Presidents who have so far been named, have the greatest respect, admiration and to whom we'd like to extend our thanks.

JAMES BILLINGTON. I would like to speak to you from my heart about Bill Baroody because we honor tonight someone who is part of a unique contribution to the life of this city and to the country.

We have a kind of apostolic succession here. It began with Hubert Humphrey who was the first chairman, then Bill Baroody, Sr. succeeded him, then Max Kampelman (who had been so close to Hubert Humphrey) succeeded Bill, and then Bill, Jr. succeeded Max, and now of course we have a new chairman. I second Bea Himmelfarb's warm words of praise for Charles Blitzer and the staff. It is wonderful to see the sustaining over the years of the real commitment to quality, one of the things that the Baroodys have always been committed to and that Bill has helped this very talented staff sustain so well.

I liked Ted Barreaux' emphasis on public service, because it seems to me Bill has had an extraordinary career which has never been fully documented. There was service in Congress, with Mel Laird. There was service in the Pentagon, and a variety of different functions in the White House.

I would say there are four things that characterize Bill's public service. The first of these is an extremely self-effacing kind of leadership. When the spotlight is on, Bill always runs the other way. He reminds me very much of people like Paul McCracken and Bryce Harlow, names that you don't read very often in the history books, who had this soft spoken, quiet kind of integrity when integrity wasn't always the first currency of the day. Bill is very much a part of that world and part of that type of public servant who never gets enough attention, never gets enough praise.

The second is the commitment to dialogue. At the Ford White House, Bill bridged a gap that was very real in those days between government and the broader private sector and established a very important kind of dialogue. It continued during his days at AEI, and he certainly has sustained the Center's tradition for dialogue, one of its great contributions to this city.

And the third thing closely related to it is quality—the defense of the pure quality of scholarship in a city very closely concerned with advocacy. To maintain the purest standards of high quality in the midst of the political pressures and vortex of this city has been a wonderful achievement, and I must say we owe that to our whole apostolic succession of chairmen.

And the fourth thing that Bill has provided is something that's not always found even where there's dialogue and where there's quality, and that is genuine depth. One of Bill Baroody, Sr.'s great contributions to the intellectual dialogue of this city was introducing deeper themes such as the role of religion in public life. Bill Baroody, Jr. has continued that role.

This is a man who not only has quietly in a self-effacing way sustained dialogue and sustained quality in this wonderful institution that we celebrate and honor today, but who behind it all has a passion and understanding for the deeper things of life that are somehow inextricably connected to our broader public and individual lives.

I'd like to propose a toast to Bill Baroody and to the past—I am reminded of a wonderful evening Max Kampelman hosted like this for Bill's father here about fifteen years ago. Please join me in a toast to Bill and to the past, present and future of a wonderful family.

MAX KAMPELMAN. There is an old Yiddish superstition that if a mother wishes her newborn child to be a great thinker or a great philosopher she kisses the child on the head. If she wishes her child to be a great pianist or musician she kisses the child on the fingers. If she wishes her child to be a singer she kisses the child on the neck close to the vocal chords. I don't know where our mothers kissed Bill Baroody, Joe Flom and me when we were born, but I do know that all three of us have been blessed with the opportunity to serve as chairpersons of the Woodrow Wilson International Center for Scholars. Speaking for myself it has been one of the most satisfying public experiences of a full and busy life.

My first exposure to the Wilson Center came through my friend Hubert Humphrey who became the first Chairman of the Board. I vividly recall the excitement with which he joined the effort to create a living memorial of scholarship through which to perpetuate the memory of Woodrow Wilson in our nation's capital. I recall the deep sense of honor that he felt in being appointed by President Johnson to serve as this Center's first chairman. My long-time friend William Baroody, Bill's distinguished father, succeeded Hubert as its chairman. Bill, you and I know that your dad was a great man; a giant of a man, and I am convinced that you have filled his shoes with distinction.

Tonight we meet to acknowledge your selfless and devoted service to our Center as its fourth chairman. Your wisdom and integrity have added luster to our Center and strength to our staff. The comments we have heard this evening all add credence to that sentiment. You presided over our Center at a critical period of our nation's transition away from the Cold War with its clear challenges and objectives into a new set of problems and opportunities and you did so with dignity and determination.

In partnership with our most distinguished director Charles Blitzer you have further fashioned and strengthened our Center into one of the most distinguished and respected institutions of learning in the world.

To Joe Flom, our experienced and wise new chairman, I say let us rededicate ourselves to our mandate from Congress to harmonize and strengthen the relationship between the world of learning and the world of public affairs. It is with that aspiration that I appropriately ask all of you tonight to join me in a toast to our friend, Bill Baroody.

JOE FLOM. As the new chairman of the Woodrow Wilson Center for International Scholars I have been given the pleasurable duty by the board to read a resolution which was adopted unanimously today with respect to Bill. I would first like to thank Bill for the help he has given me in the transition. His courtesy, his wisdom and his judgment are very much appreciated. He has set a standard which I hope I can match in my role. I would now like to read this resolution, which was unanimously passed today by the Board of Trustees:

Whereas, William J. Baroody, Jr., in more than thirteen years of distinguished service to the Woodrow Wilson International Center for Scholars, both as a member of its Board of Trustees and as its Chairman, devoted himself unstintingly, wisely, and supportively to the Center's growth and well-being; and

Whereas, his devotion brought to the Center the bountiful benefits of his extraordinary wisdom, experience, and thoughtfulness, as well as his deep commitment to and participation in the worlds of scholarship and public affairs; and

Whereas, his unfailing dedication to the Center and his sensitive, fair-minded leadership and often subtle guidance have increased the Center's stature and strengths,

Therefore, be it resolved that the members of the Board of Trustees—in their own names, in the names of the Center staff, of all the scholars who have studied at the Center, and of all persons, in the United States and throughout the world, for whom the Wilsonian ideals of scholarship and high public purpose remain beacons of hope and humanity—extend to William J. Baroody, Jr., deep gratitude, lasting affection, and the sincere hope that the Center will remain close to his considerate and warm heart, and that he will continue to sustain the Baroody family tradition by participating in its life and exciting future.

JOSEPH H. FLOM AND CHARLES BLITZER.

Mr. BAROODY. I do thank you most sincerely for the kind words. I guess it's a little like perfume: It's okay to sniff it as long as you don't swallow it. This has really been a treat for me. I'm very, very proud that three presidents and some fifty-two different board members have tolerated my presence on the board of this incredibly magnificent institution for as long as they have.

I listened to the tape of a similar event held in honor of my father on June 9, 1980 just a few weeks before he died. I don't cite that tape or that event in invite comparisons, but as Max Kampelman introduced himself in that wonderfully humble way he has, Max insisted he had not replaced my father. He said he had succeeded, but not replaced my father as chairman, for no one could replace him.

I mention that tape of that event among other very personal reasons because Pat Moynihan, the patron saint of this great Center, reminisced that night about his affiliation with the Center and with my father. Pat said that when he and Charles Blitzer conspired together in 1968 to draft the legislation to create the Center, their vision was to create a center of learning which the 22nd Century would regard as having influenced the 21st.

I used to talk to dad about his vision for the Center, and in his response he would always mention an exchange he had with Pat Moynihan concerning the report dad commissioned at the beginning of his tenure as chairman in 1969 to help the Center determine what kind of an institution it should become. Pat Moynihan was then Ambassador to India, and dad cabled him to ask for his views on the mission of the Wilson Center. Ambassador Moynihan cabled back one sentence: ''Think no small thoughts.'' Well, I dare say that all four chairmen and three directors so far have demonstrated a commitment to building an institution that can fulfill the dream that emerged from the legislative drafting session in 1968, and the mission statement in 1969. From what I've seen of the

Center's fifth chairman, there is no danger of that vision being distorted as we look to the future.

This fall we conclude the first twenty-five years of the Wilson Center's existence. It has been my privilege to serve as the fourth chairman for almost half of the Center's existence. I have had the good fortune personally of observing and delighting in the increasing prominence and impact of the Center throughout the world. The essence of the Woodrow Wilson Center of course is its Fellows who come here from all over the world to pursue their scholarly studies and participate in the life of the Center. More than 1300 Fellows and guest scholars have been in residence since its creation and the fellowship selection process has become increasingly competitive each year, compelling evidence of the Center's expanding international reputation.

Over the past quarter century the Wilson Center has retained its unique status in our nation's capital as a high quality international nonpartisan center. The great public value of a scholarly center like the Wilson Center cannot be overstated. Everyone associated with it should not only take pride in its accomplishments but also in the high reputation and standards it maintains, and to that end I would be remiss if I did not single out the two directors of the Wilson Center who have occupied that position during my tenure.

Jim Billington whose vision and skill were largely responsible for building the Center into a world-class institution and Charles Blitzer who was there at the creation and in its formative years as Dillon Ripley's able agent and in the last several years as we have been consolidating and rethinking our mission in preparation for the second twenty-five years of this great institution. The Wilson Center and the country have been well served by the stewardship of these two extraordinarily able leaders and their very able staffs.

I want to thank each of my fellow board members and friends who spoke tonight. I want to thank all of you for coming and I would like to conclude by raising my glass in a toast to the extraordinary men and women who have served on the staff of the Woodrow Wilson International Center for Scholars throughout its first twenty-five years. Its future is assured if it can maintain that caliber for the future.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

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

The assistant legislative clerk read as follows:

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

The Senate resumed consideration of the bill.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I really appreciate the remarks of the distinguished Senator from Texas. She is a great leader and is undaunted in this balanced budget amendment fight like so many other Republicans and some Democrats willing to stand up and do what is necessary in this battle. I for one appreciate very much her leadership. She has been a leader ever since she has gotten to the U.S. Senate. She is right up there, up front, doing what she believes is correct and proper. I might add she is right. This is the most important vote any of us are going to cast in our whole time in the U.S. Senate. I have cast a lot of very important votes. But this one is in my opinion a save-the-country vote. We have to do everything we can to save this country.

Right now it is going to take the help of a lot of people out there in our country to work with our colleagues to let them know that they want this balanced budget amendment. Because, if you want to protect Social Security, if you want to protect some of these other important social spending programs, then we had better protect the dollar, our economy, and the things that will keep our Government and our Nation strong. Frankly, if we do not adopt this balanced budget amendment, I fear we might attempt a monetization of the debt which would wreck this country, and we really cannot allow that to happen.

Mr. President, I would now like to respond to some of the comments of some of the opponents of the balanced budget amendment.

Some of my colleagues contend that section 6 of House Joint Resolution 1, the section that mandates that Congress enforce the amendment through implementing legislation, is similar to section 5 of the 14th amendment, which permits Congress to enforce that amendment. Because they are similar, the argument goes, and because courts enforce the 14th amendment, courts will also be able to enforce the balanced budget amendment to the extent courts enforce the 14th amendment.

This analogy is misleading. First, courts may only enforce an amendment when legislation or executive actions violate the amendment or when Congress create a cause of action to enforce the amendment. An example of the latter is 42 U.S.C. section 1983, the 1871 Civil Rights Act that implements section 1 of the 14th amendment.

Of course, Congress has not created, and need not create, an analogous cause of action under section 6 of the balanced budget amendment. So there is no direct judicial enforcement in existence similar to section 1983, and I cannot imagine Congress giving that authority.

Second, as to the judicial nullification of legislation or executive action that is inconsistent with a constitutional amendment, the ''case or controversy'' requirement of article III requires that a litigant demonstrate standing. As I have stated at great length already during this debate, it is very improbable that a litigant can demonstrate standing—that the litigant could demonstrate a particularized injury, which is what is required for standing—different from the generalized harm facing any citizen or taxpayer. Contrast this with cases under the 14th amendment, where standing was found because a litigant could demonstrate a particular, individualized, and concrete harm. The perfect illustration could be the case of Reynolds versus Sims, a 1962 case, the one man/one vote decision.

Third, in this circumstance, the separation of powers doctrine prevents courts from redressing a litigant's alleged harm. That is, courts will not entertain a suit where they cannot bring supply relief to the litigant. The most important case here is a recent case, Lujan versus Defenders of Wildlife, decided in 1992. The Constitution, under Article I, delegates to Congress taxing, spending, and borrowing powers. These are plenary powers that exclusively and historically have been recognized as belonging only to Congress. The balanced budget amendment does not alter this. Courts, consequently, will be loathe to interfere with Congress' budgetary powers. It is simply an exaggeration to contend that courts will place the budgetary process under receivership or that the courts will cut spending programs.

Fourth, the political question doctrine will deter courts from enforcing the balanced budget amendment. Budgetary matters, such as where to cut programs or how to raise revenues, are prototypically a political matter best left to the political branches of Government to resolve. Courts, under the political question doctrine, will naturally leave these matters to Congress.

Finally, it is ludicrous to assume that Congress would just sit by in the unlikely event that a court would commit some crazy act. Believe me, Congress knows how to defend itself. I would be at the forefront of that defense. Congress knows how to strip the courts of jurisdiction or limit the scope of judicial remedies. We do not like to do it, but in the case of outrageous judicial interference, and ignorance of the law, including prior case law, and of the Constitution, we would do that.

I might say that I do not think that it is necessary. Lower courts follow precedent, and the precepts of standing, separation of powers, and the political question doctrine effectively limit the ability of courts to interfere in the budgetary process.

Let me just give some examples of judicially unenforceable political questions. The guaranty clause of the Constitution, at issue in Luther versus Borden, back in 1849, was found to be outside the range of certain separated powers.

Treaty termination by the President, decided by Goldwater versus Carter. The conduct of foreign policy by the President is almost always found to be a political question.

The conduct of foreign policy by the President almost always found to be political question. See Tiger, ''Judicial Power, The 'Political Question' and Foreign Relations,'' 17 U.C.L.A. L. Rev. 1135 (1970) (and cases cited within).

The legality and conduct of wars and military actions. E.g., *Crockett* v. *Reagan*, 720 F.2d 1355 (D.C. Cir. 1983) (per curiam), cert. denied, 467 U.S. 1251 (1984) (legality of President Reagan's activities in Nicaragua); *Atlee* v. *Laird*, 347 F. Supp. 689 (E.D. Pa. 1972) (three judge panel) (legality of Vietnam war).

The legality and conduct of wars and military actions. Again, there are so many things that are clear here.

I do not think anybody can legitimately argue that the courts are going to interfere in enforcing the balanced budget amendment by increasing taxes or cutting spending. I just do not think anybody can legitimately argue that from a constitutional standpoint.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI] is recognized.

Mr. MURKOWSKI. Mr. President, as we continue in this historic debate, I would like to take a few minutes of the Senate's time to share a perspective on the extraordinary burden that our accumulated deficits—34 years of deficits in the last 35 years—have placed on the capacity of our Government to operate.

I will have more to say at another time, but for now I want to focus specifically on the $4.8 trillion accumulated national debt.

You have heard a lot lately of the fact that the deficit has declined for 3 consecutive years. A big part of that decline is a direct result of the growth of the economy that began in the late stages of the Bush Presidency when the country began to emerge from recession. The remaining deficit decline, in my opinion, can be attributed, to a large degree, to President Clinton's record tax increase, which has temporarily increased Federal tax revenues. Further, we have had substantial cuts in spending. But it is interesting to reflect on just where those cuts came from, primarily: The military, a decline in the military budget and military personnel.

But the reality, Mr. President, is that the decline in the deficit is but a temporary phenomenon. I am going to show some charts here that will highlight that fact. According to the Congressional Budget Office [CBO] in every year, starting next year, 1996, and for the unending future, the annual deficit, unfortunately, is on the rise. In fact, CBO projects that the deficit will more than double in less than 10 years. It will more than double in less than 10 years, from $176 billion to more than $400 billion.

This unending string of deficits has caused us to accumulate a $4.8 trillion national debt that could easily exceed $7 trillion before the end of the century. So as we add to the deficit, each year as we create a deficit, we are adding to the accumulated debt, and today it is $4.8 trillion.

Mr. President, we simply cannot tolerate the continued business-as-usual in Washington that assumes that every year we can run deficits of $150 billion, $250 billion, $350 billion. We dictate under our laws, and our financial community demands, obviously, that we live within our means. Our checks will bounce and we will no longer have credit extended to us.

The exception to that, of course, is the Federal Government. The accumulation of this debt has today brought us to the point where, for the first time in our history, we are faced with borrowing from the credit markets of the world for the sole purpose of paying interest on the debt. When you think about that, Mr. President, we are borrowing to pay interest on the debt; we are not borrowing to pay down the principal. We are borrowing to pay interest on the debt.

It may surprise some people to know that over the next 10 years, we would be running a surplus in the Federal budget in every year if we did not have to pay a $200 to $400 billion annual interest bill that has resulted from our chronic inability to bring revenue and spending into balance.

Let me begin, Mr. President, by showing on the charts the devastating effect that our fiscal policies have shown in the past and suggest over the next 10 years.

This chart shows that in every year between 1995 and the year 2004, all American Government borrowing is for the single purpose of paying interest on the debt. We could finance Defense, Medicare, Social Security, and all other Government functions over this period and still accumulate a surplus of some $360 billion if we were not strangled by this extraordinary debt.

Now, as the chart shows, beginning in 1994, our deficit was $203 billion. That was precisely the amount of interest we had to pay on the accumulated debt. So here we have the situation where we had a deficit in that year—in other words we expended $203 billion more than we collected in revenues—and we had to pay the interest on the accumulated debt, which was about $4.8 trillion but the interest was more than the deficit that year. Think about that, Mr. President. Think about the implication of what that means.

In other words, our entire deficit in 1994 consisted of interest on the debt. Without that debt service burden, we would not have had to auction a single new Treasury note or bond in the market. In 1995, we would be running a surplus of $59 billion if we did not have to service that debt. Instead, as this chart shows, our $176 billion deficit results directly from the fact that our interest costs are $223 billion. The same holds true in every year through the year 2004.

In 1997, Mr. President, a $57 billion surplus disappears into a $207 billion deficit. Why? Because, again, we have to pay $260 billion in interest.

Some say, ''Well, why do we have to pay it? We are only paying it to ourselves.'' Well, clearly we are not paying it to ourselves. We are paying it to those who hold that debt, the Treasury bills that have to be paid. We have already seen, in the crisis in Mexico, what happens when a government cannot meet the demands of those who held the notes.

Now let us look at 1998. In 1998, our interest bill jumps to $270 billion, converting a $46 billion surplus into a $224 billion deficit. And in 1999 our interest bill jumps to $294 billion, converting a $26 billion surplus into a $284 billion deficit. And that is what happens every single year through the year 2004.

If we did not have the extraordinary debt overhanging, we would have been able to reduce the national debt by some $360 billion over the next 10 years. We would not have to go back to the credit markets to borrow more than $2.9 trillion—$2.9 trillion—to finance the debt and the deficit. In other words, if we did not have this accumulated $4.8 trillion debt, the United States would be able to retire $360 billion of our national debt and would not have to issue a single new Treasury note or bond over the next 10 years.

How did we get into this extraordinary set of circumstances? We did it to ourselves. We have had Republican Presidents, we have had Democratic-controlled Congresses. As a consequence, Mr. President, the simple reality is it has to be addressed, and it has to be addressed now. And the only way to address this debt is to adopt the proposal that is before us which amends the Constitution to require a balanced budget.

Mr. President, the projections that I have cited assume that interest rates stay within the projections that CBO assumes.

Now what would happen if, as in the past years, we would see a substantial rise in interest rates? In this past year alone, long-term interest rates on Federal borrowing was 1.3 percent higher than the CBO forecast of a year ago. So clearly, CBO makes a forecast and we rely on that forecast in making budgetary judgments.

But since the Federal Reserve raised interest rates sevens times in the past year, Government borrowing costs were higher than CBO assumed. As a result, over the next 5 years the Federal Government will have to spend $143 billion more than CBO assumed just a year ago. And that is all due to interest on the national debt.

I am going to show you the second chart, Mr. President, because I think it makes my point.

What we see here is a projection of our debt service cost if—if—interest rates continue to rise. We saw the Fed come up with the seventh increase on

Wednesday. Now, if we look at the bottom line, it shows the current CBO projection with interest rates on 10-year notes averaging between 6.7 to 7.7 percent. Under that, the lowest scenario, interest payments will increase from $235 billion in 1995 to $310 billion by the year 2000. However, if interest rates rise by merely 1 percent, just 1 percent through this period, we will have to pay $175 billion more in interest; by the year 2000 our interest bill would be $50 billion higher or a total of $360 billion.

The next line, Mr. President, shows what would happen if interest rates are 3 percent higher than projected. Now mind you, the first one was 1 percent, now we go to 3 percent. Under this scenario, by the year 2000 our interest bill annually would be $460 billion if interest rates are in the 9.7 to 10.7 percent range. That is not unheard of by any means.

Now, if that happened, interest on the debt would be the single—the single—largest expenditure in the Federal budget.

I was a commercial banker, Mr. President, for 25 years. Interest is like having a horse that eats while you sleep. It goes on and on and on.

If interest rates turn out to be 3 percent higher than projected, in the year 2000 interest costs would exceed Social Security payments by $27 billion. Interest costs would exceed combined Medicare-Medicaid spending by $25 billion. And interest costs would exceed our national defense expenditure, all of it, in that year by an astounding $156 billion.

(Mr. ASHCROFT assumed the chair.)

Mr. SIMON. Will my colleague yield?

Mr. MURKOWSKI. I am happy to yield briefly, without losing the floor, because I am wandering through this chart.

Mr. SIMON. I want to point out that the Senator's figures are conservative figures. For my friends who are new, they may not know that our colleague from Alaska is a banker by background.

But the Senator starts off with net interest. For example, he starts off with a $225 billion expenditure here. The net interest is something that administrations like to use rather than the gross interest because it makes it look better. In no other field—in the Justice Department; for example, we do not say, ''Well, they took in so many dollars in fines and, therefore, we should subtract that from the total of the Justice Department expenditures.''

The gross interest expenditure—and I have to give credit to my colleague, FRITZ HOLLINGS, for educating me on this—the gross interest expenditure this fiscal year is $339 billion. So the figures that my colleague from Alaska is using, those are conservative figures and I thank him for his contribution.

Mr. MURKOWSKI. I thank my friend from Illinois for his comments. He has been the leader in the balanced budget amendment for a long time, and I commend him for his commitment and dedication because I know, to some extent, the issue has been somewhat like rowing uphill until this year and truly the public has said, ''Wait a minute. This simply cannot go on.'' We have an obligation to address it, and I am pleased to join with him in that debate.

Let me conclude my remarks, Mr. President, by referring to the top line. The top line is rather interesting, because, as we know around here, many of our agencies have a worst-case scenario. The EPA has a worst-case scenario, the Corps of Engineers has a worst-case scenario. This is the worst-case scenario on the chart simply because we did not want to make another worst-case scenario. We could have.

But the top line shows our interest bill if interest costs were 5 percent higher than the CBO projects, only 5 percent higher. That would assume interest rates would be 12.7 percent. We can all remember interest rates at 12.7 percent. As many of my colleagues know, it is not without precedent for interest rates to go that high.

When I came to the Senate in 1981, the prime rate in this country, in case we have forgotten, Mr. President, was 20½ percent; 20½ percent was the prime rate. So when we talk about potentially a 5-percent interest rate increase, higher than CBO projections, for an effective rate of 12.7 percent, we are not being unreasonable in our projection.

Now, I do not expect interest rates to take such a rapid jump. However, if they did rise that high, our interest bill over the next 5 years would be $885 billion higher than projected, and the single-year cost of interest in the year 2000 would be $560 billion.

Now, to imagine how large that amount would be, I would note that all discretionary spending, all discretionary spending—defense, education, highways, criminal justice, on and on and on—is projected to cost $585 billion, barely $25 billion more than the projected interest bill in the year 2000, if interest rates spike upward.

If I were looking at the balance sheet, Mr. President, I would say we are broke. We are broke now. We do not admit we are broke. But the balance sheet simply shows if we are borrowing to pay interest on our accumulated debt, we are broke. We cannot meet our obligations. We are subject to the shifting wind of international investment, because international investment is what funds our debt. They are buying our notes, our bonds, our obligations.

A minor change of economic policy in Bonn or London, or even an earthquake in Japan has a direct effect on what the United States Government has to pay to service this unending sea of debt. Can anyone imagine what would happen if the owners of our debt—the owners of our debt are the people out there, firms, mutual funds, that hold this debt, and 18 percent of the debt is held by foreigners—what if they called the debt in and said, ''Hey, we do not want to renew it. We do not want to rewrite it. We want you to pay up. We will not buy any more of your debt.'' They called in 18 percent, just $300 billion or maybe a little more, $500 billion of our debt. How would we pay the owners off? How would we pay the principle when we are borrowing to pay interest?

We could not, unless we inflated our dollar to the point that what a dollar buys today would be actually worth 50 cents or less tomorrow. And that is inflation. We have seen it. After the First World War in Germany, the citizens ran around with a wheelbarrow full of nearly worthless marks to buy a cup of coffee.

We have already seen what happened the other day in Mexico where we had a collapse of the monetary system. We saw fit to use a monetary stabling fund that we had since we came off the gold standard in 1934, to commit some $20 billion to a $46 billion loan guarantee.

Well, Mr. President, there was a warning signal of what can happen when debt gets out of hand. I have mentioned Mexico several times, but I would not attempt to even compare our two economies, for ours is far healthier, far stronger than Mexico. There is no comparison between the importance of the dollar and that of the peso in world currency markets.

I note that Mexico's crisis is a crisis of too much debt, and lack of investor confidence. It is simply that simple. The result of that crisis is that Mexico last week had to pay 25 percent interest to roll over a small portion of its international debt—25 percent interest. Well, 25 percent, in 4 years, 100 percent. The only way to get out from under this sea of red ink is to adopt—in my opinion and that of many on this floor—the balanced budget amendment.

The public knows, they understand that no family or business can survive very long when year in and year out the principle of the debt grows and all of its borrowing is dedicated to pay off the interest that the debt holders hold.

As we begin this debate, we should not forget that a point or two or three change in the interest rates can absolutely devastate our projections and, as a consequence, our capacity to effectively govern and spin our Nation's economy into a spiral of bankruptcy.

So, Mr. President, I urge my colleagues to break with the past and begin moving this Government away from the verge of bankruptcy. And those who have doubts about the appropriateness of this balanced budget amendment, please reflect on what these figures mean. Some say we learn by history and others say not much. Let Members recognize the reality. We did not have the self-discipline to address this. It has been proven by our inability each year to bring our revenues in line with our expenditures.

Others have said that we cannot do this until we spell out what the cuts are going to be. We saw the same extended debate year after year on what

to do with the military bases. And we finally concluded that the only way to address base closings was to put together a commission. The commission would evaluate the priorities, and we in this body would vote up or down on the Commission's recommendations.

With the balanced budget amendment, it is the same set of circumstances, Mr. President. To try and spell out first what the cuts will be is simply a copout. We do not have the self-discipline. If those who say, well, this is a very dangerous proposal to mandate a balanced budget because it may affect some of our social programs, I would ask them to reflect on the reality if we do not maintain a healthy economy, a monetary system that is stable, that provides confidence, how in the world are we going to meet those obligations if there is a breakdown in investor confidence, a collapse of our monetary system, because of one single thing—too much debt.

It has happened in South America, time and time again. It has happened in Mexico. Canada is paying over 20 percent of their total budget in interest on their debt. They have a government health care system that is costing them more than their initial projection. They are among the most heavily taxed population in North America. They are facing a monetary crisis because they have nowhere to go. They cannot generate more revenue in order to float more debt. They have to pay more interest, and the consequences, Mr. President, are extremely significant and extremely severe.

So, I would ask my colleagues to reflect on this reality as we consider this issue. The previous posture that we have had of increased debt has been fraught with inability to bring together the reality associated with any fiscal matter, and that is revenue balancing expenditures. We have that set of facts today. We are not living up to it and we have little opportunity other than to take this measure which may seem extreme to some.

Mr. President, I have no further remarks. I know others are anxious to speak. But I wonder if I may be granted 30 seconds under morning business to simply introduce a technical amendment.

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

Mr. MURKOWSKI. I thank the Chair.

AMENDMENT SUBMITTED TO S. 333

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to speak for the purpose of submitting an amendment to legislation within the jurisdiction of the Senate Committee on Energy and Natural Resources.

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

Mr. MURKOWSKI. Mr. President, I send to the desk an amendment to S. 333, the Department of Energy Risk Management Act of 1995, and ask unanimous consent that it be printed as a Senate document.

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

Mr. MURKOWSKI. I yield my remaining time, and I thank my colleague for the courtesy he extended to me.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. HATCH. Mr. President, I will not be long. I just wanted to make a couple of points on the balanced budget amendment debate.

I want to mention today's New York Times, February 3, an article entitled "Clinton's Budget Falls Well Short of G.O.P. Demands;" subtitle "No Balance by Year 2002," another subtitle, "His Message Foresees Deficit of About $190 Billion Each Year for Next Decade." It is by Robert Pear. It is a very interesting article:

WASHINGTON, Feb. 2.—President Clinton will propose $1.6 trillion of spending in his 1996 budget, and he would more than offset the cost of a middle-class tax cut with savings in other areas of the budget. But he still falls far short of Republican demands for a balanced budget in the year 2002.

Mr. Clinton's budget request, to be submitted to Congress on Monday, shows a deficit of $196.7 billion for the 1996 fiscal year, up slightly from the $192.5 billion that he projects for this year. Although his Budget Message boasts that his economic policies have sharply reduced the deficit from record levels, he says the deficit will probably stay in the range of $190 billion through 2005.

Mr. President, I ask unanimous consent the full article be printed in the RECORD.

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

CLINTON'S BUDGET FALLS WELL SHORT OF G.O.P. DEMANDS—NO BALANCE BY YEAR 2002

HIS MESSAGE FORESEES DEFICIT OF ABOUT $190 BILLION EACH YEAR FOR NEXT DECADE

(By Robert Pear)

WASHINGTON, Feb. 2.—President Clinton will proposes $1.6 trillion of spending in his 1996 budget, and he would more than offset the cost of a middle-class tax cut with savings in other areas of the budget. But he still falls far short of Republican demands for a balanced budget in the year 2002.

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The budget is always a political document, and a theme of Mr. Clinton's 1996 budget is that he wants to "work with Congress," now controlled by Republicans. Indeed, he appears to be in a race with them as he tries to eliminate or consolidate programs or transfer them to the states or to private industry.

Parts of the Clinton budget echo Speaker Newt Gingrich, "The American people remain deeply dissatisfied with how their Government works," the budget says. "Many programs, perhaps even whole agencies, have outlived their usefulness."

In confidential galley proofs of the budget, Mr. Clinton says he can "save $2 billion by ending more than 130 programs" and "provide better service to Americans by consolidating more than 270 other programs."

For example, he asks Congress to abolish the Interstate Commerce Commission and to eliminate the role of the Army Corps of Engineers in smaller projects like the control of beach erosion, "local flood protection" and the construction of recreational harbors.

He says private meteorologists should take over some functions of the National Weather Service. He would rely on private businesses to track and communicate with spacecraft like the space shuttle. And he asks Congress to terminate 37 small "low-priority" education programs.

But budget documents show that Mr. Clinton will propose a major increase in his national service program, Americorps, which has been denounced by Mr. Gingrich as a form of "coerced volunteerism."

The number of participants, now 20,000, would rise to 33,000 at the end of this year and 47,000 next year under Mr. Clinton's proposal. For the corps' parent agency, which operates several volunteer programs, he requests $1 billion in 1996, an increase of $290 million over this year's appropriation.

Mr. Clinton says his economic policies have slashed the deficit from the record $290 billion in 1992. Still, his proposals would require additional Federal borrowing of nearly $1 trillion over five years, and the Federal Government would spend $194 billion more than it collects in revenue in the year 2000. Mr. Gingrich's Contract With America calls for eliminating the deficit by 2002, but the Republicans have not specified the cuts needed to achieve that goal.

The President's $1.6 trillion budget for 1996 breaks down this way: $262 billion, or 16 percent of the total, for the military; $351 billion, or 22 percent, for Social Security; $271 billion, or 17 percent, for Medicare and Medicaid, and $257 billion, or 16 percent, for interest on the Federal debt, the accumulated total of Federal borrowing.

Only $21 billion, or 1.3 percent of the total, is for foreign aid and other international activities.

The President and the Republicans have agreed that Social Security is off limits in their quest for savings, and Mr. Clinton has said that he will not tamper with Medicare, the Federal health insurance program for people who are elderly or disabled.

That means that a large share of the cuts must come from domestic programs subject to annual appropriations: activities like law enforcement, scientific research, highway construction and environmental protection. These account for $266 billion, or 17 percent of the budget.

The remainder—$184 billion, or 11 percent of the total—is for benefit programs like welfare, food stamps, Civil Service pensions and veterans' benefits, which are automatically available to people who meet certain eligibility criteria.

In his Budget Message, Mr. Clinton says: "Now that we have brought the deficit down, we have no intention of turning back. My budget keeps us on the course of fiscal discipline by proposing $81 billion in additional deficit reduction through the year 2000."

Mr. Clinton estimates that his tax cut, including a new tax credit for children and a new deduction for college expenses, will cost the Treasury $63 billion over five years. But he says, "I am proposing enough spending

cuts to provide more than twice as much in budget savings—$144 billion—as the tax cuts will cost.'' So he asserts that the net effect would be to save $81 billion over five years.

The savings fall into four categories: $26 billion from radically reorganizing three Cabinet departments and two agencies; $81 billion from extending a cap on military and other discretionary spending through the year 2000; $32 billion from benefit programs, and $5 billion from lower interest payments on the Federal debt.

Here are other highlights of the President's budget:

The Federal deficit would rise to $213 billion in 1997, drop back to $196 billion in 1998 and then ''fluctuate in a narrow range'' around that level for several years. But the economy would continue to grow, so the ratio of the deficit to the gross domestic product would be lower than at any time in two decades.

Mr. Clinton proposes an across-the-board pay raise of 2.4 percent for Federal civilian employees military personnel. The budget includes $3 billion for the raises, which would take effect in January 1996. There would be raises of 3.1 percent in 1997 and 2.1 percent in each of the next three years.

The President proposes to increase fees charged for registration of securities and other activities at the Securities and Exchange Commission. New revenue is expected to total $1.7 billion over five years.

Mr. Clinton would require the Federal Deposit Insurance Corporation and the Federal Reserve to charge fees for examination of state-chartered banks and bank holding companies. This proposal is expected to raise $500 million over five years.

Medicare for the elderly, and Medicaid, for poor people, are growing more slowly than predicted in previous budgets. But the growth is still phenomenal. Over the next five years, Medicare outlays are expected to rise 9.1 percent a year, while Medicaid grows 9.3 percent a year.

The President's budget says that health programs account for almost 40 percent of the total increase in Federal spending over the next five years. He asserts that the deficit could be eliminated in less than a decade if per capita spending on Medicare and Medicaid increased no faster than consumer prices in general.

But Mr. Clinton, battered by his experience with health care legislation last year, offers no major proposals to rein in the cost of Medicare. He said in December that he would provide tax relief to the middle class ''without any new cuts in Social Security or Medicare.''

And many Democrats expect to reap a political windfall if Republicans alarm the elderly with schemes to save money in Medicare. Mr. Gingrich said this week that Republicans would ''rethink Medicare from the ground up.''

The budget provides details of Mr. Clinton's previously announced plan to ''reinvent'' the Departments of Energy, Transportation and Housing and Urban Development, the Office of Personnel Management and the General Services Administration.

Mr. Clinton said the staff of the personnel agency, which now has 5,400 employees, would be cut by one-third. And the staff of the General Services Administration, the central housekeeping and supply agency for the Government, with 16,800 employees, will be halved, the budget says.

In keeping with the new spirit of federalism, Mr. Clinton proposes to consolidate scores of Federal grants and let local officials decide how to use the money. The Transportation Department now has 30 separate grants for construction and repair of highways, mass transit systems, railroads and airports. Mr. Clinton would merge them into a ''unified transportation grant'' and $10 billion a year.

The Department of Housing and Urban Development would merge 60 programs into eight worth $26 billion next year. Mr. Clinton denounces public housing as ''a trap for the poorest of the poor.'' He proposes to ''demolish thousands of severely deteriorated, mostly vacant units,'' and he says that ''by 1998 no housing authority will receive funds directly from HUD.'' Instead, tenants will get vouchers that they can use to pay rent in any public or private housing.

Mr. Clinton describes education and training as a ''ladder into the middle class,'' but he would take the Government out of the business of guaranteeing loans for college students. By July 1997, all new loans would be made directly by the Government, eliminating the subsidies and fees now paid to commercial banks and other private lenders. Mr. Clinton says this change would save $5 billion over five years.

Like Ronald Reagan in 1986, President Clinton proposes to sell four Federal agencies that provide electric power at subsidized rates to millions of people in Western and Southern states. He proposes to convert a fifth such agency, the Bonneville Power Administration, to a Government corporation, so it could ''operate more efficiently.''

Mr. HATCH. Mr. President, let me just say that this is ''business as usual.'' I do not blame the President. It is a tough job for him, and he knows he has to deal with the people up here, so he is trying to do the very best he can. But even doing the best he can, he is talking about $190 billion deficits for all of the next decade and then he does not know where it is going to go from there. That is assuming that all of his economic assumptions of low interest and low inflation rates are kept constant for that full 10 years. Anybody who believes that has just not listened to some of those who have been talking about increases in the minimum wage.

There are good arguments for increases in the minimum wage and excellent arguments against. But there is no doubt in anybody's mind if we increase the minimum wage 90 cents, to $5.15 an hour, that it is going to be an upward push on interest rates and inflation, and a lot of young people are going to lose jobs. A lot of small businesses are going to go out of business because they just cannot afford to pay that.

A lot of young people who need the discipline that comes from work who are uneducated, unskilled, and do not have jobs currently are going to be left as the welfare poor for the rest of their lives because business people cannot afford to hire them. So they pull in their horns, and they make do with less. They work longer and harder hours, or they go out of business. But whether it is a good thing or bad thing on the minimum wage, to increase the minimum wage, which the President says he is going to do, there is no doubt in anybody's mind that is an upward push for inflation.

By the way, it is a wonderful fix. And I have to give those who support organized labor a lot of credit for this because when they push up the minimum wage at the bottom, by almost 20 percent in this case, then all of the unionized businesses and everybody else can demand that they be given the same benefits at the top. When they push up at the bottom, those who really have the jobs are trained to make it anyway can then demand higher wage rates at the top.

I think it is a terrific scheme that has worked for years. And the American people buy off on it because they think, ''Well, how could anybody live on a minimum wage of $4.25 an hour?'' That is not the issue. A lot of people who make minimum wage who had the minimum-wage jobs are high school students, college students, and kids coming into the workplace for the first time who are uneducated, and unskilled. It is their chance to get into the workplace.

But I am not here to argue the merits on the minimum wage. What I am here to say is that the President admits that by his budget over the next 10 years it is business as usual. We are going to have $190 billion-plus deficits every year for the next 10 years. And then only God knows what is going to happen beyond that.

That is why we need a balanced budget tax limitation constitutional amendment. That is why we need this amendment. It is only one of the reasons, but it certainly is a prevailing positive dominant reason.

Let me just say this to show you how bad it is. Newsweek magazine, in a humorous little side article said, ''While Congress Slept''— I think it is their way of taking a sarcastic jab at the President's rather lengthy State of the Union speech.

It says:

During its 81-minute length, President Clinton's State of the Union address was not the only thing going on in the U.S.

Then it puts in parenthesis:

Figures based on national averages.

It says:

During that 81-minute speech, the total increase in the national debt was $40,756,284.

Just in those 81 minutes our debt went up almost $41 million.

Total health care expenditure, $9,847,602.

Just in that 81 minutes.

The number of people losing health insurance, 4,170; number of murders were 4; number of robberies 101; babies born to teens, 80; illegal aliens entering the United States, at least 46; alleged total savings for MCI customers, $99,387.

This is data based on 1992 through 1995 sources, the Uniform Crime Report, Public Health Service, Immigration and Naturalization Service, Kaiser Family Foundation, Bureau of Public Debt, MCI.

I presume from that article seriously that no President will talk more than 15 minutes hereafter in a State of the Union speech. It may not be from that article. It may be just be from having

lived through the experience this last time.

Humor aside, I think it is tough to be President of the United States, and I think this President is doing the best he can knowing that we up here in Congress are not going to be serious about balancing the budget without this fiscal mechanism.

I commend President Clinton for worrying about it. I commend him for working on it. I cannot commend more tax increases, although some of my colleagues believe that is one of the answers along with reductions in spending. I certainly can support reductions in spending. It is a tough job being President of the United States I have to say that I want to support this President as much as I can. I know it is tough. I have learned through the years that sometimes they take far too much unfair and unjustified criticism.

I thought Newsweek was really humorous. I meant it in a spirit of humor in reading it into the RECORD.

But the point I am making here is that for 10 more years under the best of projections, assuming every economic point remains the same, the President admits we are going to have at least $190 billion deficits each and every year. There is no doubt we are going to have deficits, even if we pass the balanced budget amendment, up to the year 2002, and maybe it will have to go even beyond that.

But it makes a very important point. For those who are claiming that before we pass this balanced budget amendment and submit it to the States that there ought to be a right to know what we are going to do for the next 7 years. We have already known what the President is going to do. There are going to be $190 billion deficits for each of those years or more. And I am willing to bet anybody right now it is going to be more if this balanced budget amendment does not pass. Those deficits are going to be a lot higher.

I think the burden is on the President and on the opponents of this balanced budget amendment to show where they are going to cut the budget. After all, for most of these last 60 years, Democrats have been in power. I think the burden is on them. They have never once shown us how they will get to a balanced budget without a balanced budget constitutional amendment. I think they have to show how they are going to cut the budget, especially since most of the opponents are saying that the balanced budget amendment is unnecessary. Why, we should just balance it now. I have heard that for 19 years. I have heard that for 19 years, and we are no closer to balancing the budget today than ever, and the President's announcements today in the New York Times article indicates that is true. There are some rosy scenarios and economic projections by the White House that they might do better than $190 billion a year but they pretty well admit it will be at least $190 billion a year over each of the next 10 years.

Is that the legacy we want to leave to our children, to our grandchildren? Is that the message we want to send to America? It certainly is the message that is being sent, that, if you do not have a balanced budget amendment, is what we are going to do? This is the best the President can do. Frankly, if he does that well under current circumstances with the Congress unwilling to help him and without the mechanism in place giving the incentives to help, then I have to commend him that he is doing better than most. But is it good enough for our children? Is it good enough for our grandchildren? Is it good enough for the future? Are America's hopes and dreams being taken away because we are unwilling to do what is necessary? I want to tell you. It is.

I want to tell you that article in the New York Times is devastating to those who are arguing against the balanced budget amendment. I have to say that it is time for us to put things in order and do what is right.

I yield the floor. I know the Senator from Maryland wants to talk.

Mr. DASCHLE. Mr. President, the majority leader and I both have amendments that we would like to lay down. It will take but a matter of a couple minutes and we could then proceed with the Senator's address.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Would that be acceptable to the Senator from Maryland?

Mr. SARBANES. I am obviously not going to object to that request from the minority leader.

Could I ask the majority leader what is his intention with respect to debating this matter today and next week? Because I could just as easily withdraw from the field and turn it over and then I will make my speech next week sometime.

Mr. DOLE. I say to the Senator from Maryland, I think this would be about a 1-minute operation here. We are not going to debate any amendments. We are just going to lay down the amendments and debate those later this afternoon and on Monday. We have not yet decided when the vote would come or a motion to table in relation thereto, whether it would be on Tuesday, or I think the Democratic leader was hoping it might be on Wednesday. So we will be discussing that.

But we think we have had 5 days now of debate. I must say, it has been pretty good debate, very few interruptions with quorum calls. But I think we are now at the point where we want to start moving on these amendments. It seems to me the American people want a balanced budget amendment, and they are right. There will be plenty of time for debate. But we are not going to let this stretch out for another 3 weeks if we can help it.

I will try to accommodate the wishes of the Democratic leader when the vote comes on this issue.

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

Mr. SARBANES. What is the order?

The PRESIDING OFFICER. The Democratic leader.

Mr. SARBANES. What will happen after the conclusion of this recognition?

The PRESIDING OFFICER. The Senator from Maryland will be recognized.

Mr. SARBANES. Was that part of the request?

The PRESIDING OFFICER. It was.

Mr. SARBANES. I thank the Chair.

MOTION TO COMMIT—AMENDMENT NO. 231

(Purpose: To require a budget plan before the amendment takes effect)

Mr. DASCHLE. Mr. President, I move to commit House Joint Resolution 1 to the Judiciary Committee, to report back forthwith with the following substitute amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] moves to commit House Joint Resolution 1 to the Judiciary Committee to report back forthwith with amendment numbered 231.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the motion and amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification. The article shall be submitted to the States upon the adoption of a concurrent resolution as described in section 9 of the article. The article is as follows:

''ARTICLE —

''SECTION 1. Upon the adoption by the Congress of a concurrent resolution on the budget establishing a budget plan to balance the budget as required by this article, and containing the matter required by section 9, 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.

''SECTION 9. (a) In order to carry out the purposes of this article, the Congress shall adopt a concurrent resolution setting forth a budget plan to achieve a balanced budget (that complies with this article) not later than the first fiscal year required by this article as follows:

''(1) a budget for each fiscal year beginning with fiscal year 1996 and ending with that first fiscal year (required by this article) containing—

''(A) aggregate levels of new budget authority, outlays, revenues, and the deficit or surplus;

''(B) totals of new budget authority and outlays for each major functional category;

''(C) new budget authority and outlays, on an account-by-account basis, for each account with actual outlays or offsetting receipts of at least $100,000,000 in fiscal year 1994; and

''(D) an allocation of Federal revenues among the major sources of such revenues;

''(2) a detailed list and description of changes in Federal law (including laws authorizing appropriations or direct spending and tax laws) required to carry out the plan and the effective date of each such change; and

''(3) reconciliation directives to the appropriate committees of the House of Representatives and Senate instructing them to submit legislative changes to the Committee on the Budget of the House or Senate, as the case may be, to implement the plan set forth in the concurrent resolution.

''(b) The directives required by subsection (a)(3) shall be deemed to be directives within the meaning of section 310(a) of the Congressional Budget Act of 1974. Upon receiving all legislative submissions from committees under subsection (a)(3), each Committee on the Budget shall combine all such submissions (without substantive revision) into an omnibus reconciliation bill and report that bill to its House. The procedures set forth in section 310 shall govern the consideration of that reconciliation bill in the House of Representatives and the Senate.

''(c) The budget plan described in subsection (a) shall be based upon Congressional Budget Office economic and technical assumptions and estimates of the spending and revenue effects of the legislative changes described in subsection (a)(2).''.

AMENDMENT NO. 232

Mr. DOLE. Mr. President, I send an amendment to the desk to the Daschle motion to refer.

The PRESIDING OFFICER. The clerk will report. The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 232.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered. The amendment is as follows:

Strike all after the word ''forthwith'' in the instructions and insert the following: ''H.J. Res. 1, and at a later date the Judiciary Committee, after consultation with the Budget Committee, shall issue a report the text of which shall include:

''This report may be cited as the ''Need To Lead Report.''

''If Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, within 60 days thereafter, the President of the United States shall transmit to the Senate and the House of Representatives a detailed plan to balance the budget by the year 2002.''

AMENDMENT NO. 233 TO AMENDMENT NO. 232

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report. The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. Dole] proposes an amendment numbered 233 to amendment No. 232.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment reads as follows:

Strike all after H.J. Res. 1, and insert the following: '', and at a later date the Judiciary Committee, after consultation with the Budget Committee, shall issue a report the text of which shall include:

''This report may be cited as the ''Need To Lead Report.''

''If Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, within 59 days thereafter, the President of the United States shall transmit to the Senate and the House of Representatives a detailed plan to balance the budget by the year 2002.''

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. I thank the Senator from Maryland.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, what is the parliamentary situation? Are we on the balanced budget amendment?

The PRESIDING OFFICER. We are on the balanced budget amendment.

(Mr. GRAMS assumed the chair.)

Mr. SARBANES. Mr. President, I very strongly believe that adding a balanced budget amendment to the Constitution of the United States would be both economically unwise and constitutionally irresponsible. The amendment would have the substantial risk of promoting instability, retarding economic growth, and shifting the basis of our democracy from majority to minority rule. The amendment raises very difficult and unanswerable questions concerning implementation, inviting fiscal paralysis or court intervention in the conduct of economic policy, or both.

There is nothing in the Constitution today that prevents the President from submitting, or the Congress from passing, a balanced budget. Tampering with the Constitution is no way to restore a sense of fiscal responsibility to our system. Instead, it is yet another device to put off hard decisions until some unspecified point in the future. I note that in August of 1993, when we passed the major deficit reduction package, many of those who are now so strongly pushing the balanced budget amendment to the Constitution voted against a good, strong dose of deficit reduction.

I want to address some of the analogies that are made with respect to this proposal. Support for the balanced budget amendment is often based on the claim that since State and local governments are required to run balanced budgets, the Federal Government ought to do the same. Not only is this argument wrong factually—most States and local governments run deficits under the accounting principles used to compute the Federal budget—it also fails to comprehend the different responsibilities of the Federal and State governments.

The State analogy is superficially attractive. Most States have some form of balanced budget requirement, either statutory or constitutional. But most States maintain capital budgets, which are not subject to the balancing requirement. Others have developed off-budget funding mechanisms to circumvent the balancing requirement, and some use accounting rules which count some form of borrowing as ''revenue'' for purposes of the balanced budget requirement.

The first point to make is that if the State and local governments kept their books the way the Federal Government keeps its books, they would not have balanced budgets, because they have capital budgets financed by borrowing. They specifically provide that capital projects are going to be paid for by borrowing money. The rationale for that, of course, is a good one. You are investing in a capital asset which you will use over a period of many years and, therefore, it makes sense to borrow in order to build it now, have its use over time, and pay it off over time.

The official data on the debt incurred by State and local governments give a very different picture from the often-used assertion that State and local governments balance their budgets. In fact, the figures on this chart shows that the total debt of State and local governments has been growing. In 1972, State and local debt was a little under $100 million. Twenty years later this debt was almost $1 trillion.

How did this happen if State and local governments have to balance their budgets? How is it that their debt increased? Everyone says, ''You ought to balance your budget at the Federal level. The State and local governments balance their budgets.'' But, in fact, their debt load has been increasing.

There was a hearing held only about 10 days ago before the Joint Economic Committee. Two Governors testified that having a balanced budget requirement at the State level assured them a good credit rating. Why do they need a good credit rating if they always balance their budget? They need a good credit rating because they are borrowing, and they plan more borrowing. Under questioning, the Governors also had to acknowledge they are only required to balance their operating budget, and that they make active use of a capital budget for which borrowing is permitted.

We do not have a capital budget at the Federal level. Yet, the balanced budget amendment to the Constitution would require that we bring the entire budget—what others divide into operating budget and capital budget—into balance—something that State and local governments do not do. As a matter of fact, businesses and individuals—except for very wealthy individuals—do not do it.

How many individuals do you know who can buy their house out of cash, or buy an automobile out of cash, or buy a heavy consumer appliance out of cash? Most people make such purchases by borrowing, and throw their budget out of balance.

Second, we should not put the fiscal policy of the National Government into the same constraint as State governments. No national government in the industrialized world has a constitutional requirement to balance its budget. This is because national governments have responsibilities for the overall performance of the nation's economy, which requires them to use fiscal and monetary policy to encourage economic growth and to moderate the destructive effects of business cycle fluctuations.

A constitutional amendment requiring a balanced budget each year would not allow for fiscal policy changes over the business cycle. It would eliminate half of the macroeconomic policy apparatus. It would force the Government to try to rely entirely on monetary policy, to promote the dual objective of adequate growth and price stability.

A rigid balanced budget requirement would have its most perverse effect during recessions. It would require the deepest spending cuts or tax increases in recessions when revenues automatically fall far short of expenditures. We have learned over the last 50 years how to be more flexible with fiscal and monetary policy in responding to business cycle downturns. As a result, we have experienced significantly less violent downturns than before. This chart, which I consider very important, illustrates the moderation of downturns that have accompanied the more flexible fiscal policy of the last 50 years.

This chart shows the movement in real gross national product since 1890 as a percentage of GNP.

This chart shows that we used to have violent fluctuations in our gross national product prior to the creation of economic stabilizers. We had a boom-and-bust cycle. The economy would come down so far that we would have negative growth, down in the 10-percent range.

The decrease here is the Great Depression. But look at these other large fluctuations from boom to bust—the so-called great panics.

In the postwar period, because we have used fiscal policy as an automatic stabilizer in order to offset the downturns, we have managed to avoid these very deep declines in gross national product, and the very high unemployment rates that we experienced as a consequence of the boom-and-bust cycle and these great panics.

Mr. President, the proposed amendment to the Constitution does not require a balanced budget over the business cycle—it requires it each and every year. I emphasize the point—this constitutional amendment requires a balanced budget in each fiscal year.

The question then is, how do you deal with an economic downturn? Because I think it is clear that if you start into an economic downturn and you try to balance the budget, you only drive the economy further into a recession.

That is what used to happen. As the chart demonstrates, we had these wild fluctuations, we had these huge drops in GNP, 10 percent negative drops in GNP through the first part of this century. We had a boom-and-bust cycle. You do not have to read much American history to have an appreciation for that.

What did we do that improved the situation so we did not always incur this particular problem? In the post-World War II period, we were able to avoid the steep negative drops in GNP. We still get fluctuations in GNP, but GNP was almost always in the positive range and the boom-bust cycle was substantially diminished. This occurred because we put into place what are called fiscal stabilizers.

When the economy would go into a downturn people's personal income would drop, we then had a loss in tax revenues and we started paying people unemployment insurance, nutrition and health supplemental programs, and so forth. So we stabilized their after-tax income while their gross income was dropping. We managed to hold up their after-tax income. This was an offset to the decline in the economy, and as a consequence, we experienced much less violent economic downturns.

If we start into a downturn, people lose their jobs, and tax revenue declines. A larger number of people receive unemployment insurance and other income support programs because they are out of work. These programs help them sustain their families. As a consequence of the downturn in the business cycle, we start running a deficit in the budget.

If at that moment, in order to comply with the balanced budget amendment, we have to take action to eliminate the deficit, namely, cut spending and raise taxes, we are only going to depress the economy even further. That would turn an economic downturn into a recession and a recession into a depression.

The automatic stabilizers worked in order to offset this economic downturn for families so that their after-tax income was not as harshly hit as their gross income. Without those income stabilizers, any downturn, will be intensified and exaggerated, and we will have a far worse economic situation.

Third, let me emphasize we are considering changing the Constitution, our fundamental doctrine. The Constitution has been amended only 27 times over the 206-year history of the Republic. Ten of the amendments came right in the beginning in the Bill of Rights. Effectively, it has been amended only 17 times in 206 years. Immediately after the Constitution was written, they adopted the first 10 amendments as the Bill of Rights. It was a condition of the ratification of the Constitution by certain of the States. In other words, they were not prepared to ratify it unless they were assured there was going to be a Bill of Rights.

Over the next 205 years, we have amended the Constitution only 17 times. Obviously, that means it is not a matter to be taken lightly. It is not a matter to be done for political expediency. It is obviously a matter whose consequences and implications need to be very carefully thought through.

I have tried to address the analogy that is made with respect to this balanced budget proposal with State and local governments, private individuals, and businesses. This argument, ''Well, everyone else balances their budget, why do we not balance ours?'' I pointed out that there is no capital budget at the Federal level, unlike State and local governments, unlike businesses, and unlike what is the practice of most individuals and families.

After all, only the very, very wealthy can purchase all of their capital assets out of cash. The overwhelming percentage of Americans do not balance their budget every year. Millions of Americans are buying homes by running a huge unbalanced budget the year they make the purchase. They go out and borrow money in order to do it. No one claims that is not wise, assuming the amount of the mortgage bears a reasonable and proper relationship to the amount of their income.

The reason it is prudent to borrow in this case is that they can sustain the payments over time and have the use of the capital asset now. Everyone says we want to encourage homeownership and try to make it easier for people to

buy homes. We have one of the highest homeowning rates in the world. It has worked very well. Businesses do the same thing. Businesses make capital investments. They set up a part of their budget for capital investments, and then they borrow the money. They may have more debt now than they had 10 years ago, but as a consequence of those investments, they have expanded the company, they have increased their sales, they have increased their profits. They are in a stronger position today than they were.

We have even reached the point where we regard it as wise on occasion for people to borrow in order to get an education, because it enhances their earning power and the enhancement of their earning power will more than cover this debt which they incur in order to obtain an education.

I once said to someone, ''Would you rather be someone who had $50,000 in income and 2,000 dollars' worth of debt or $5,000 in income and 1,000 dollars' worth of debt?'' I have yet to find someone who would not rather be the person with $50,000 in income and $2,000 in debt. I say, ''How can that be? You have 2,000 dollars' worth of debt, the other person has 1,000 dollars' worth of debt. You have more debt.'' And they say, ''Yes, but I have much more income. I have 50,000 dollars' worth of income and the other person only has 5,000 dollars' worth of income. My ability to handle 2,000 dollars' worth of debt with $50,000 income is far better than their ability to handle 1,000 dollars' worth of debt with $5,000 income.''

So occasionally we can incur debt for worthwhile purposes. Debt incurred for productive investment that enhances your capabilities, enhances your economic output and your economic productivity can be wise.

Second, I talked about fiscal stabilizers and how we have succeeded, to some degree, in offsetting the wild fluctuations in the business cycle so we no longer get these deep depressions with very large percentages of the population thrown out of work.

Now, third, I want to talk about the lack of wise choice among spending categories that I believe would be prompted by a balanced budget amendment. I believe it would encourage irrational economic policy by not allowing important distinctions between different types of expenditures. In the version of the amendment that is before the Senate, all outlays are lumped into a single aggregate which cannot exceed the aggregate of total revenues. Economists recognize, however, that different types of spending have different effects on the economy and they ought to be treated differently in the conduct of fiscal policy. Let me give just a couple of examples.

Take Social Security and unemployment compensation. Both of these programs are designed to build up surpluses in advance of anticipated needs for spending. In Social Security, we build up a surplus to provide for the retirement of the baby boom generation. So at the moment we are accumulating a surplus in the Social Security trust fund. The unemployment insurance trust fund builds up surpluses during good times to pay for benefits during recessions.

Under the balanced budget amendment these programs could continue to build up surpluses in advance in anticipation of needs, but those surpluses could not be used as a balancing item against future expenditures.

We have a conscious policy of building up the trust fund balances. The intention is to use them at a later point. That is a responsible budgeting policy. Yet, if you have an amendment that requires a balanced budget every year, you could not draw down those surpluses in later years because that would be an excess of outlays over revenues. So this requirement would fundamentally undermine the economic prudence which is associated with anticipatory budgeting.

I am not sure people have really thought this through. You would have under the proposal a requirement each year that the budget has to be in balance. You have built up the trust funds with the intention of using the surpluses in the outyears. The outyear comes. You cannot draw the fund down because you would have an excess of outlays over revenues in that year, which is what the amendment prohibits. The amendment says, ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.'' So you would be stymied from using this trust fund which had been built up for the very purpose of being used in the outyears as part of prudent anticipatory budgeting.

Amending the Constitution would also encourage irrational economic policy by failing to allow for important distinctions between types of spending. The amendment fails to separate investment spending from spending for current consumption.

Running deficits to finance current consumption during expansionary periods is unwise for it shifts onto future generations of taxpayers the task of funding today's spending. In other words, it is not a prudent policy to borrow to fund current consumption because what you are doing is consuming today and placing the burden on tomorrow's generation. But capital investment spending as distinct from current consumption is a different matter. Today's capital investment increases the rate of growth in the economy, yielding a larger stream of future income. Because of the possibility of enhanced future income, it makes economic sense to finance some portion of capital investment with borrowed funds, in effect claiming part of that future income stream to finance the current investment.

The balanced budget amendment does not recognize this important economic distinction between consumption and investment spending and would require all investments to be fully funded with tax revenues in each fiscal year. If households were to follow such a budget strategy and never borrow, only a tiny minority of American families would own houses and far fewer Americans than is currently the case would own automobiles or major appliances. If businesses were to follow such a strategy, they would soon be driven from the marketplace by those businesses willing to borrow in order to finance prudent and productive new capital investment.

So a balanced budget amendment which makes no distinction between consumption and investment would in effect undercut our ability to accelerate the pace of national investment. In fact, it is my strong view it is almost certain that investment spending by the Federal Government would bear much of the burden of trying to move toward a balanced budget if this amendment were to be put into place.

Let me turn to the disruption that I think would be caused by this balanced budget amendment. None of the proposals for a balanced budget amendment contains any detail concerning how such provisions would be implemented or enforced.

They have general articles.

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

I understand in the debate in the Judiciary Committee they said that the estimates can be off by 2 or 3 percent.

I do not quite understand how you would square that with the requirements of the amendment, and I think it reflects some of the lack of rigor in analyzing this proposal.

Fiscal policy is a complex task, and I think it would be disrupted or, indeed, paralyzed by struggles over implementing a vague constitutional balanced budget requirement. This version of the balanced budget amendment that is before us states: ''Total outlays shall not exceed total receipts for that fiscal year.''

If revenues unexpectedly fall short of expectations, would this provision mean that the Government would have to close down toward the end of the fiscal year in order to keep outlays from exceeding receipts? Would we have to stop paying benefits to Social Security recipients, to veterans, or abrogate contracts under agricultural stabilization programs? To what extent would the President's ability to respond to a national security problem be impeded and undercut by this provision?

The proposal says that the provisions can be waived ''for any fiscal year in which a declaration of war is in effect,'' or they ''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 joint resolution, adopted by a majority of the whole number of each House, which becomes law.''

The Congress takes a month recess in August. Congress is gone. Let us assume we have reached a magical state here and we have a balanced budget. You cannot throw it out of balance. You are prohibited from doing that by the Constitution. There are those who said, we are going to have this flexibility here.

The Congress is gone. A national security threat emerges. The President has to respond. The necessity to respond requires the President in effect to make expenditures beyond what had been projected. The consequence of doing that, of course, is to throw the budget out of balance. You have just violated this provision in the Constitution. How do you address that situation?

The lack of clarity, of precise meanings, would also certainly in my judgment lead to court involvement in both defining and implementing economic policy. Although the amendment is silent as to which parties have the standing to bring suit against the Government for enforcement of the amendment, arguably any aggrieved taxpayer would have standing to sue if they believed the amendment was being violated. And although no one can state with certainty what role the courts will play in interpreting the amendment, I think it is reasonable to expect ample opportunity for litigation in court interpretation of such terms as outlays, receipts, and debt.

So, in addition to shifting the debate on fiscal policy from the President and the Congress to the courts, this amendment raises the real possibility that the courts would eventually be required to interfere with the management of fiscal policy just as they have on occasion taken over the management of school districts or of prison systems. Managing fiscal policy is not an appropriate job for the courts, yet passage of this amendment would accelerate a trend in this direction begun when the Supreme Court declared unconstitutional one of the enforcement provisions of the first Gramm-Rudman budget legislation.

Concern over the obvious economic damage which could be done by a rigid implementation of the balanced budget amendment has led its supporters to create the so-called escape clause, to permit a suspension of the balanced budget requirement in time of war or upon a three-fifths vote of the whole number of each House.

I might note this requirement of the whole number means that you have to produce 60 votes in order to do it. An abstention or an absence would be a negative vote. The requirement to increase revenues says ''approved by a majority of the whole number of each House.'' In other words, it would need 51 affirmative votes. Suppose you had 8 or 10 Members missing. It is not a majority of those present and voting, it is a majority of the entire membership of the body.

The override provision raises two questions. First, I find it hard to understand the logic of waivable principles in the Constitution. In fact, it seems to me a very strong argument why this should not be in the Constitution. The Constitution is designed for statements of fundamental principle, not of matters to be waived away. The three-fifths override provision contained in the proposal before us is essentially a statement that budget balance is not an enduring principle but a matter of current judgment. No other constitutional principle—free speech, individual rights, equal protection—can be waived by a three-fifths vote of both Houses. We do not have other provisions in the Constitution that are waivable.

Second, such a waiver provision shifts the balance of power from majorities to minorities in our society, violating the democratic principles upon which our Government is based. A three-fifths supermajority requirement effectively gives control over fiscal policy to a minority in either House. In other words, a minority in only one of the two Houses has the deciding power. I submit this is not what the framers of the Constitution had in mind when they established our democratic form of government.

Writing a balanced budget requirement into the Constitution will undercut countercyclical economic policy. It will undermine our ability to make the capital investments in the future strength and productivity of our economy, it will burden the Constitution and the courts with issues which should properly be decided by the President and the Congress, and it will shift the principles of our democracy from majority to minority rule.

Gladstone, the great British statesman, regarded the Constitution as the finest document of government devised by man, and I think there are many, many who share that opinion. The Constitution is not something to be dealt with lightly. It has not been dealt with lightly over the course of our Nation's history. As I indicated earlier, after the 10 amendments of the Bill of Rights passed immediately after the establishment of our Republic, the Constitution has been amended only 17 times in the succeeding 205 years. The Constitution is a relatively brief, general statement, defining our framework of government and defining the political and civil liberties of our citizens. It does not establish any specific domestic policy, foreign policy, or economic policy. We do not write the substance of policy into the Constitution. We leave that to be determined in the interplay between the President and the Congress in the enactment of legislation. We do not take substantive policy and place it in the Constitution. Because of its focus on universal principles the Constitution has endured for over 2 centuries, despite dramatic changes in American society.

In thinking about amending this document we need to proceed with great caution. The desire to put balanced budget economic policy into the Constitution is frequently justified in the name of political expediency. It is said, ''We have to do this. This is the only way we will be compelled to come to grips with the problem.'' Obviously the question of whether in our fiscal policy we are asking future generations to pay for today's consumption is a very important question. In fact, I have voted in this body for both tax increases and spending cuts designed to achieve deficit reduction. But this proposed constitutional amendment is a promise to do something about the deficit in the future, masquerading as a tough choice today.

We do not need more masquerades and promises. We need to attack the deficit problem directly. We did that in August 1993. In fact, the U.S. performance now in bringing down the deficit is the best of any of the major industrial countries. The United States has a lower fiscal deficit as a percent of GNP than Germany, Japan, France, Canada, the United Kingdom, and Italy.

Proponents of this amendment have been citing a CBO study which was projecting incredible runup in the deficit in the future. In fact, that very study projected that the deficit ratio to the GDP at this point would be 6.8 percent. In fact, it is at 3 percent. So the program that was put into place in August 1993 was a real measure to reduce the deficit, and it has had a real impact.

Let me close with this observation. Much of today's alienation of voters from their government comes, I believe, from the practice of passing hollow laws, laws which purport to change things but which through loopholes and waivers result in nothing really happening.

I submit to my colleagues that if hollowing out the law creates political cynicism and alienation, imagine what hollowing out the Constitution would do.

Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the Senate is not now at this moment debating directly the merits of House Joint Resolution 1, the balanced budget amendment. By reason of actions taken by the distinguished Democratic leader and the distinguished majority leader, the issue before the Senate of the United States at this moment is an amendment proposed by the majority leader to a motion proposed by the Democratic leader on the duties respectively of the President and of the Congress of the United States in reaching a balanced budget. The leader of the Democratic Party proposes to add to the Constitution a longer set of sections than the balanced budget amendment itself, a detailed set of instructions, the fundamental basis of which

is that the balanced budget amendment will not even be submitted to the States until there is, in effect, a binding 7-year budget leading to a balance in the year 2002 and overriding the judgment of all Presidents and all the new Congresses which will be elected between the day on which we are engaged in this debate and the year 2002.

The obvious purpose for requiring such a totally unprecedented move is to obscure the debate over general principles; that is to say, is our present fiscal system broken? Do we need to take drastic action to enforce a discipline on Congress and on the President to balance the budget? Or to the contrary, is the status quo quite satisfactory? It is to obscure that debate in the details of a hypothetical attempt to see 7 years in the future and say today precisely how the budget will be balanced 7 years from now. The hope, of course, is that a large number of elements in any such proposal could be presented as unacceptable to the American people, and, therefore, undercut the willingness of the States to balance the budget.

In response to that attempt to hide, to disguise the true issue before the body, the majority leader has in a much simpler substitute amendment proposed that if this constitutional amendment should fail of adoption, should the judgment of this body be that the status quo is just fine, that we do not need any change, the majority leader has proposed to direct the President of the United States this year to submit a proposal to Congress stating how he would balance the budget.

The majority leader has made this proposal, of course, because so many of the Members of this body on the liberal side of the debate have given eloquent lip service to the ideal of balancing the budget but have said at the same time, ''Not this way. Do not touch the Constitution. Do not make any fundamental changes. Just go ahead and do it.'' But on this, the fifth day of this debate, not one of those Members has come up with a single detail outlining how he or she would reach that goal without the stimulus, without the discipline of a change in our Constitution. Each of those Members has defended eloquently the status quo. Each of those Members has said that we do not need a fundamental change. Each of those Members have spoken about tough votes, discipline, political courage. But in each case, depending on how long the Member has served, each of those Members has voted consistently for budgets which would never result in a balance in what we take in and in what we spend.

So the majority leader's proposal is one of great simplicity and great logic. If somehow or another there is any duty on the part of the proponents of change of constitutional discipline in this connection to say how they would solve the problem, is there not an overwhelmingly greater reason to require of those who say no change, keep the status quo, to tell us how they would reach this goal, a goal which quite obviously has not been reached in the last year, in the last decade, in the last several decades?

Personally, I believe that the majority leader's amendment is designed far more to outline the absurdity and the lack of reason behind the Democratic leader's amendment than it is to become a serious part of the fiscal discipline of this Nation. I do not believe the President of the United States can come up with a detailed item-by-item proposal to balance the budget some years after he will cease to be President of the United States.

I regret that all we hear is that the budget that he comes up with next week will include figures indicating that the budget of the United States will never be balanced pursuant to the policies which he proposes. But I do not think that this Congress, on the recommendation of the President, should adopt unchangeable policies 7 years in advance.

Well, if the President should not be required to engage in such an activity in the year 1995, how much less reason is there not only for the proponents of this amendment to follow such a discipline but to include that discipline in the Constitution of the United States of America?

Mr. President, can you imagine our basic constitutional document referring to sections in the Budget Act of 1974 and speaking of reconciliation bills, talking of details which are enshrined in our statutes, statutes which can be changed by this Congress at will? Can any individual seriously state that he or she would include two extra pages of detailed verbiage in the Constitution of the United States, all of which will become anachronistic before the constitutional amendment is ever ratified by the various States?

No, as a matter of policy, the proposal of the Democratic leader is overwhelmingly flawed. It is, by greater measure, his duty in defending the status quo to tell us how he would reach our common goal than it is the proponents of this amendment. So his proposal is flawed as a matter of policy. I have also pointed out, Mr. President, that his proposal is flawed as a matter of aesthetics, a very important branch of aesthetics—the way in which we treat our Constitution.

The last speaker on this floor, the distinguished Senator from Maryland, has talked at length and in detail about why we should not include the general proposition about how to balance the budget and a set of supermajority requirements in the Constitution. Yet, I warrant, he intends to vote in favor of the motion made by the leader of his political party to include in the Constitution the most minute detail in reference to evanescent statutes.

Finally and overwhelmingly, Mr. President, the proposal of the minority leader should not be adopted because that proposal itself is blatantly, openly, and obviously unconstitutional. It is, Mr. President, unconstitutional on its face. Article V of the Constitution, which we are all bound to obey and to serve, states in relevant parts:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, which shall be valid when ratified by the legislatures of three-fourths of the several States.

The proposal of the distinguished minority leader says: ''The article''—that is to say the entire proposal with which we are dealing—''shall be submitted to the States upon the adoption of a concurrent resolution as described in section 9 of the article.'' In other words, it proposes something which has never happened in the history of this Republic—that this Congress, in solemn convocation, by two-thirds vote can propose an amendment to the Constitution of the United States which will not go to the States, which will sit here and wait for the Congress to pass another very detailed concurrent resolution, which it may or may not do.

Mr. President, that is, in absolute clarity, not what was intended or mandated by the people who wrote our Constitution in 1787. Either we pass a proposal in the form of a constitutional amendment, which goes immediately to the States of this Union for their ratification or rejection, or we do not. We cannot pass a proposed constitutional amendment which we say will only go to the States if it snows on Easter. We cannot set conditions on the submission of an amendment passed by two-thirds of the two bodies of Congress that will be submitted to the States only upon condition. Either it goes or it does not.

Mr. President, I take—as I know all other 99 Members of this body do—my constitutional responsibilities very seriously. In fact, much of the debate against this basic proposition has to do with the respect that the opponents to this proposed amendment have for the general terms and general political philosophy of the Constitution, to which they believe no amendment should be added that relates to fiscal policy. And I can respect that fervor to defend this Constitution. But to place before us a proposal, not only a proposal with all of the details that were included in the motion of the Democratic leader, but to do it in a fashion which ignores the very method of amendment outlined in article V of the Constitution of the United States, Mr. President, that is wrong, it is unconstitutional, and it should be rejected out of hand.

I hope that, at some point during the course of this debate, a Member deeply concerned with the Constitution—perhaps the majority leader himself—will raise a constitutional point of order against the underlying motion of the leader of the Democratic Party. If any Member does so, of course, as the Presiding Officer recognizes, neither he nor the individual sitting in his seat at

the time at which that point of order is made will rule on it. Such a point of order is submitted to the Members of this body for their consideration and for their vote. And I, for one, am convinced that every Member of the body would be required, by the oath that a Senator takes, to sustain that point of order and to dismiss this motion, this attempt to disguise what the real issue is before us, to dismiss it out of hand and to return this body to a debate over first principles, over whether or not it is important in discharging our duties to the people we represent today and to generations still to come, that we not continue to pile debt after debt upon their backs; or whether, on the other hand, the status quo is satisfactory. That is the true debate, and until we have voted on House Joint Resolution 1, I trust in exactly the form it was passed by the House of Representatives, we will not have carried out our duties. But an interim duty, Mr. President, is to reject the proposal both in its original form, and as amended by the majority leader, on the clear and absolute basis that it violates the Constitution of the United States.

That debate should not take a great deal of time, Mr. President. I suspect it will take some period of time. I suspect there will be a great deal of oratory as to why the policies contained in the proposal of the Democratic leader are a good idea or are a bad idea. I have already spoken several times on that general issue. That is a reasonable debate. But the proposal before us is not a reasonable proposition. It violates the Constitution of the United States, Mr. President, and it should be dismissed as such.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Washington [Mrs. MURRAY] is recognized.

Mrs. MURRAY. Mr. President, I rise today in opposition to amending our Constitution with a balanced budget amendment. When I came to the Senate 2 years ago, I requested a seat on the Budget Committee. I wanted to learn firsthand how our budget is formed and to help steer this country's spending priorities. It is a big task.

As a nation, we accumulated more debt in the decade of the 1980's than we had in the previous two centuries. It is time for common sense, rational solutions. It is time for us to provide leadership with level headed, moderate decisions even if they are based on tough choices. The balanced budget amendment is not common sense, it is not level headed, it is not rational, and it will not achieve what it claims to do. Instead, what we need are real solutions, real cuts, and real decisions that make sense for the American people.

For example, we have reduced our deficit in a substantial way in the past 2 years. We have had to make some very tough choices. As an appropriator, I have had to say ''no'' more often than ''yes'' to programs that I support. We all know we just do not have a lot of money to go around.

So, Mr. President, no one needs convincing that we need to tighten our belt. What we do need is a workable, responsible solution. This resolution will not achieve what some in the Senate would have you believe, nor what the American people want. It will make a mockery of a document which is the very essence of our democracy.

Mr. President, our Constitution is a living document. In the course of history, we have had to change it and when we have amended the Constitution in the past we have acted to expand people's rights, to make this country more equitable for the little guy, to give ordinary Americans a stake in our society.

Look how we have amended the Constitution in the past. The first amendment, one sentence long, ensures our freedom of speech. The second amendment, just one sentence long, maintains our right to bear arms. The 13th amendment, one short sentence, abolishes slavery. The 19th amendment, again one sentence, gives women the right to vote. The 24th amendment, one sentence long, abolishes the poll tax. And the last time the American people amended the Constitution was in 1971 with the 26th amendment—and we did so with one sentence—we gave all Americans over the age of 18 the right to vote.

Mr. President, clearly when we have amended our Constitution in the past we did so to expand people's rights. This document, this Constitution and its Bill of Rights, is too important to attach pieces of legislation to it. The so-called balanced budget amendment does not fit the profile of previous amendments and, even worse, Mr. President, it is a promise to the American people that is too good to be true.

Mr. President, words on a piece of paper cannot balance our budget. Legislators, like those of us here, can and should. And let us think about what will happen if we take the flexibility out of our economic decisionmaking.

I ask unanimous consent that the text of an article from the Washington Post be printed in the RECORD.

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

[From the Washington Post, Jan. 22, 1995]

ANY WAY ITS PROPONENTS SLICE IT, BALANCED-BUDGET AMENDMENT IS BALONEY

(By Hobart Rowen)

The case against a constitutional amendment to balance the budget is overwhelming. It has been hyped by Democrats and Republicans alike as the only way to force reluctant congressmen to make tough decisions, and there is no doubt that a large segment of the public has come to believe this propaganda.

But the truth is that an amendment to the Constitution for this purpose is bad economics, bad budget policy and bad constitutional policy. By itself, such an amendment would cut neither a dollar nor a program from the federal budget. As Office of Management and Budget Director Alice S. Rivlin told the Senate Judiciary Committee on Jan. 5, ''most of all, it evades the hard choices needed to achieve real deficit reduction.''

Why is the constitutional amendment bad economics? In an interview, Council of Economic Advisers Chairman Laura D'Andrea Tyson points out that the beauty of the present fiscal system is that it contains automatic stabilizers that moderate economic activity whenever business activity weakens. Thus, when workers lose jobs, unemployment compensation rises and it cushions the slide. If business profits are off, then tax liabilities decline. These events boost the government deficit, thus offsetting to some degree the decline in the private sector.

''But the balanced budget amendment would take away these automatic stabilizers when the economy is slowing down,'' Tyson said. It would force the government to raise taxes or cut spending to cover the increasing deficit that a slowing economy was generating. Rivlin puts it this way: ''Fiscal policy would exaggerate, rather than mitigate, swings in the economy. Rescissions would tend to be deeper and longer.''

Meanwhile, the House Republican version of the amendment wrongly (and possibly unconstitutionally) requires a three-fifths majority of each house of Congress to increase revenue, run budget deficits or increase the public debt. There is supposed to be a safety valve to permit a deficit in time of real economic weakness. But who in Congress is a good enough forecaster to sense when the safety valve should be opened? As Rivlin said, in all likelihood, ''the damage would be done long before we recognize that the economy is turning down.''

Why would the amendment also be bad constitutional policy? Not only would it put fiscal policy, as outlined above, in a straitjacket, it would denigrate the document that deals with the big issues—individual rights, the system of separation of powers, the ultimate guarantor of our system of liberties in effect since 1776. It would force the courts to adjudicate disputes certain to arise.

Meanwhile, what are the hard choices being avoided? The Republicans who are pushing the ''Contract With America'' freely concede that to balance the budget by the year 2002, as called for by the amendment, would cost $1.2 trillion in cuts in the various big entitlement programs—Social Security, Medicare, Medicaid and other pensions. But they aren't prepared to make them. Rep. Richard K. Armey of Texas, House majority leader, said forthrightly that if members of Congress understood the full dimension of what is involved, ''they would buckle at the knees.''

But wait, there's more than $1.2 trillion involved: Because of the new tax cuts and other ''reforms'' proposed in the Republican ''Contract,'' there is an additional $450 million that would have to be found by 2002—making a net reduction of $1.65 trillion.

But the story isn't over—and this is the most significant missing piece.

The bland assumption is that if somehow a miracle is accomplished—the huge $1.65 trillion cuts are made to balance the budget by 2002—the budget will continue to be in balance. Not so! The dirty little secret is that within a few years after 2002, as the Kerry-Danforth entitlement commission report showed, the workplace demographics begin to explode, and with that, the budget deficit. Fewer workers in the labor force supporting Social Security pensioners will drive the Social Security trust fund deep into the red. Once again, the budget will be unbalanced, perhaps more so than before—and the game must start over again.

Clearly, the balanced-budget amendment is bad business. Congress should reconsider the

whole plot. The real goal, in the first place, should not be to balance the budget but to balance the economy. The deficit needs to be cut back sharply, but to aim at a balance in 2002 or 2012 is self-defeating. There will be some years ahead when the nation may need to run a deficit—and it shouldn't be afraid to make such decisions.

The need now is to put aside the gimmickry, forget the constitutional amendment and for the Clinton administration and the Republican Congress to attend to business. A little maturity, please!

Mrs. MURRAY. This article describes the thoughts of my friend the Chair of the Council of Economic Advisers, Dr. Laura Tyson, and those of the Director of the OMB, Dr. Alice Rivlin, who tells us that with this amendment: ''Fiscal policy would exaggerate * * * swings in the economy. Recessions would tend to be deeper and longer.''

''Recessions would be deeper and longer.''

Mr. President, everyone I speak to these days—whether it is grocery store clerks or attorneys, farmers or Boeing machinists—everyone tells me their biggest fear is losing their job. Everyone fears the return of the dark days of recession. So why are we adding to the anxiety that is already out there?

Budget cuts mean job cuts. If we handle our fiscal policy with common sense, I believe we can reduce our deficit in a sensible way that minimizes job loss. But if Dr. Tyson and Dr. Rivlin are correct—and I believe they are—this radical approach will throw millions of Americans out of work and at the same time cut job training programs.

Mr. President, we do indeed face some tough challenges today, and one is to ease the feeling of insecurity among our Nation's work force. It seems pretty clear to me that this resolution will only make those fears a reality.

Another challenge we face is to return hope to America's youth. When I talk with kids who belong to gangs, they tell me they join these groups because at least there someone cares about them. They believe they will have no opportunity in this country.

Mr. President, I hear the same pessimism from teenagers around my own kitchen table.

So how will a wildly fluctuating, uncontrollable economy be in the interest of our youth?

And yet, Mr. President, I have sat here and listened to the proponents of this resolution talk about how amending our Constitution in this way will help our children. What will help our children is reducing our deficit, and everyone agrees with that.

But, again, this resolution alone does not get us there. It will not help our children. It will not tell them that they will have a job. It will not tell them they will have food on their table. And it will not tell them that they have parents who care. It will provide no sense of security. And, in fact, I believe it will teach our children a dangerous lesson.

There is nothing wrong with responsible borrowing. That is the backbone of our financial service industry—savings and investing. After all, how many American families could afford to buy their homes without a mortgage or send their kids to college without a student loan?

This resolution destroys the American dream. It tells our kids, if they come from a family that cannot afford to pay cash for a home, they should not try. It teaches them that investment—even if it means borrowing for education—is not an option.

Mr. President, let us think about the effect of this resolution on the little guy. Let us talk a little bit about how this resolution will affect the average Americans in neighborhoods across their country.

I heard the ranking member of the Budget Committee, my good friend, Senator EXON, on the floor a few days ago. The Senator from Nebraska supports this resolution and that is why I really appreciated his speech earlier this week.

My friend from Nebraska outlined some important points for all of us to consider. He went through an economic analysis the staff of the Budget Committee prepared, and this analysis puts the abstract words of this resolution into perspective.

Now, as you know, Mr. President, the proponents of this resolution tell us we must have a balanced budget in the year 2002, but they refuse to tell us how we will achieve that balance. They will not level with the American people about what they are going to cut and what they will eliminate. And, Mr. President, the American people do have a right to know.

Two days ago Senator EXON explained how the politics and the economics of this issue join to make a very scary situation possible. If we pass this resolution with an exemption for Social Security, defense, and some other sensitive programs, and if we still enact all the tax cuts in the Contract With America—and all of that is possible—we will see a 50 percent across-the-board cut in all other programs.

Is this responsible budgeting? Is this rational? Is this common sense?

If we put this resolution into action, Mr. President, agricultural programs could take a 50-percent cut. So would highway funds. We would lose half of our education and job training money and we would lose half of our student loans.

If the Constitution is amended in this way and Congress actually acts on it, the cleanup of Hanford nuclear reservation in my home State is in jeopardy. That is not the way we return security to this Nation, Mr. President. And it is not how we restore hope to our children.

Mr. President, I read yesterday morning's paper about the Washington, DC, budget crisis. Clearly the leaders in the District must work to balance their budget. But look where the first cuts were made: On programs affecting our children and their access to valuable educational resources.

We will see the same thing here. The radical cuts this amendment will demand will fall squarely on the backs of the most vulnerable in our society—our children, our elderly, our disabled, and those in most need of our help.

Just in my corner of the country alone, this amendment and the other provisions of the Contract With America will mean that by the year 2002, education programs will be cut by $474 million each year. Transportation will be shortchanged by $161 million. Federal Medicaid reimbursements in the State of Washington will be reduced by $1 billion. Federal economic development assistance will be reduced by $27 million.

These are not just numbers. Behind the statistics are millions of dollars, are the faces of millions of Americans: My elderly next-door neighbor with a heart problem who depends on Medicaid; my friends who sit in traffic jams daily on I–95 in Washington, commuting to their jobs; the kids in my sister's sixth grade classroom in Bellingham, WA; the people who are just getting back on their feet in our hard-hit timber communities. Taken as a whole, the plans before us will total a reduction to my home State of $6.7 billion. That, Mr. President, is real money, real people, and real needs.

Mr. President, at a time of uncertainty for all of our working families, we find this resolution will hurt our workers. The economists at Wharton predict Washington State will lose 209,000 jobs the year after this amendment takes effect. They predict my State will experience a 15-percent drop in total personal income. They tell me the hardest hit will be the manufacturing sector, especially those in the aerospace industry, which is already experiencing massive job losses. Again, I ask, is this common sense? Is this responsible budgeting?

One last word, Mr. President. I have heard many people in this body talk about the need for fiscal self-discipline. Many Americans understand that need and indeed practice it in their own daily lives. That is what Congress needs to do.

I know what it is like to sacrifice. I know how it feels to tell my kids no. And I know what tough choices are. I come from a family which is used to sacrifice and financial discipline. Mine is just like every ordinary American family. My grandparents fought a world war and survived the Great Depression. My family has ridden out nasty recessions, and now after we have survived all this, we are telling future generations, ''You have no say in determining your future. The United States is going to decide the budget of the 21st century in 1995.''

We need to keep things in perspective, Mr. President. We need to remember where we have come from when we

consider where we are going. We need to deal with jobs, violence, and the health of our Nation. But solutions to those challenges are not found in this so-called balanced budget amendment or, frankly, in any 10-second sound bite. We do not need to amend our Constitution this way and put the future of our Nation in a precarious position. We do need to be sensible legislators by proposing real solutions that bring fiscal responsibility to our budgets.

Thank you. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

THE RIGHT TO KNOW ACT

Mr. DASCHLE. Mr. President, for the past several days, Republican and Democratic Senators alike have said they support the goal of a balanced Federal budget. Indeed, so do I.

The idea of a balanced budget, in the abstract, has universal support.

But if one thing is clear, it is that no budget is balanced in the abstract. Budgets are balanced in the context of existing circumstances.

Today, the political circumstances are very clear. The elements of the Republican Contract With America are the priority for action. There is a lot of fine print in the contract. But there is no doubt about the central selling points: A tax cut, a defense increase, and a balanced budget amendment to the Constitution.

That is what our Republican colleagues campaigned on: Cutting taxes, increasing defense, and balancing the budget while protecting Social Security.

It is a bold program. It is also the echo of an earlier program. Republicans campaigned in 1980 on a program of cutting taxes, raising defense spending, and balancing the budget.

In 1980, Republican candidates won a majority in the Senate, in part by campaigning on that program. President Reagan won the White House.

The bottom line on the chart beside me illustrates the campaign promise. A budget gradually coming into balance by 1983. It is based on the Reagan economic plan announced in 1980 in Chicago.

What happened?

That is illustrated by the top line on the chart beside me.

Instead of balancing the budget by 1983, or even by 1984, the campaign promises led to the highest Federal deficits in history. Within 12 years, those campaign promises helped quadruple the national debt.

From $69 billion in the last Carter budget, deficits rose until they almost quadrupled in the mid-1980's. By the end of the Reagan years, our debt had tripled. Subsequently, the 4 Bush years added another $1½ trillion to the debt.

The chart beside me tells the story. From a $69 billion deficit in 1980, the last year of President Carter's term, the deficits kept rising. From 1993, deficits have begun to fall. For the first time in half a century, deficits will come down 3 years in a row.

How did we change course?

Democrats changed the course. We made the unpopular choices that have to be made if you are going to reduce the deficit. We did not try to duck the bullet. We bit the bullet, twice.

In 1990, Democrats worked with President Bush and crafted a deficit reduction package that capped all discretionary spending. In the face of adamant opposition for practically the whole year, we produced $500 billion in deficit reduction—real cuts in a deficit that was then spiraling out of control.

In 1993, we did it again. In the face of adamant Republican opposition, we passed a program that achieved another $500 billion in deficit reduction over 5 years. We passed the 1993 budget without the help of a single Republican vote, in the face of fierce denunciations and wild predictions of economic ruin.

Action by Democrats resulted in real deficit reduction. Opposition from Republicans: but no deficit reduction.

To paraphrase former President Reagan, ''Here they go again.''

They want to cut taxes, increase defense spending, and balance the budget.

In 1980, someone asked Representative John Anderson of Illinois how you could cut taxes, increase defense spending, and balance the budget.

He gave the only coherent answer possible. ''With mirrors,'' he said.

He was right. All the indignant talk to the contrary does not alter the facts. And the facts are as I have stated them.

Democrats have taken the lead twice in the last 5 years, in the face of intense partisan denunciations, to do what has to be done to bring the deficit down.

We have done it twice, not with mirrors, but with realistic and difficult choices among competing demands from States, cities, businesses, and individuals, who all want their programs protected, who all claim tax relief, who all have good arguments on their side.

It is that history of the last 14 years that makes us so adamant about the Right To Know Act.

The Right To Know Act is essential. Americans have the right to know whether we are about to take another riverboat gamble with their Nation's economy. That is what the Republican Senate leader called it back in 1981. He was right. It was a riverboat gamble. And we lost.

Our State Governors have the right to know how much of the dollar responsibility they will be left holding when the dust settles.

Our city mayors have the right to know how much their budgets will shrink.

Americans have the right to know about program changes that will directly affect them.

Families with elderly parents have the right to know if Medicaid or Medicare will be slightly modified or deeply slashed.

People planning college for their children have the right to know whether or not they can count on student loans.

Realtors have the right to know if VA home loan conditions are likely to be changed or if FHA-backed loans will shrink.

General contractors have the right to know if Federal construction projects will shrink dramatically.

Communities across the South have the right to know if NASA's space program will be cut, and how their job base will be affected.

People in Washington State and South Carolina have the right to know if the nuclear plant cleanups will stop.

People who live in the Tennessee River Valley have the right to know if TVA is going to disappear.

I have been part of the Democratic majority which has twice already stepped up to the plate and reduced the deficit by $500 billion each time. I know it is not easy to cut spending. But a majority of Democratic Senators has done it. We are prepared to do it again.

But we want to know what we are doing. And balancing the budget in the context of the Contract With America will be extraordinarily difficult.

How difficult is revealed by the chart here. The bottom line on this chart shows the cuts that must be made in spending as we begin to move toward a balanced budget this year.

The center line shows the CBO baseline budget. That is what will happen to spending because of demographic changes and estimated inflation rates over the next 7 years. The distance between the bottom line and the center line represents $1.2 trillion.

That is how much must be cut from the budget over the next 7 years.

The top line shows how much spending will be affected if the Contract With America, with its tax cut, is passed. It does not include defense spending increases.

If the contract's promised tax cut is passed, we will have to cut $1½ trillion from the budget over the next 7 years.

Some are claiming that modest across-the-board cuts in everything can achieve a balanced budget without any serious dislocation to anyone.

Before we accept that claim, let us look at it.

A simple across-the-board cut that would produce a balanced budget by 2002 would be a 13-percent cut. But that includes everything, including Social Security.

If, as the Contract With America says, you take Social Security benefits off the table, then everything else would have to be cut by 18 percent. That includes everything, including defense, which the contract says should be increased.

But if you remove defense along with Social Security, then everything else has to be cut by 29 percent. That would mean cutting a fifth out of Medicare, for example.

But, if you want to pass the tax cut in the contract, and you do not want to cut defense or Social Security, then everything else has to be cut a full 30 percent. That would mean 30 percent out of Medicare, 30 percent out of the space program, and 30 percent out of veterans benefits.

If you wanted to exempt veterans' benefits, because they go to the 27 million men and women who fought our wars and to the dependents of those who died in our wars, everything else would have to be cut by 31 percent. That would mean a 31-percent cut in pensions that people have earned, like the men and women of our armed services and those employed by the Federal Government.

But if you wanted to exempt retirement benefits, because people have earned them, everything left would have to be cut by more than one-third, by a 34-percent reduction. That would include Medicare, Medicaid, the FBI, the Immigration Service, school lunch programs, college aid, medical research, the Coast Guard—everything.

If you took Medicare off the table, because it is an integral part of the Social Security system, then everything else would have to be cut in half.

In other words, if the contract's tax cut is passed, if defense is protected, and the retirement benefits of veterans, servicemen, and civil service workers are protected along with Social Security and Medicare, every other function of Government must be halved to achieve a balanced budget in 2002.

It is that calculation by the Congressional Budget Office that makes it clear that the claim of modest, very minor pain from across-the-board cuts grossly mistakes the reality.

The reality is that we cannot magically not count inflation for Federal spending purposes and still end up being able to hire the same number of border guards, the same number of VA doctors, the same number of FBI agents, and so on in 7 years' time.

Nor can we pave the same miles of highways, rebuild the same numbers of bridges, build the same space station, provide the same research grants or do anything else if we have half as much money in real terms with which to do it.

I want everyone to think back to what they earned in 1987. And I want them to consider how they would like to live on that amount today. That is what it means not to adjust for inflation.

That is why the right-to-know amendment is critical. We all know that we will not bring the budget into balance by simply not allowing for inflation. The numbers demonstrate it.

In the most modest example, if Social Security is off the table, if the contract's tax cut is passed, if defense is protected, everything else will be cut by 30 percent That is neither moderate nor modest—and it will not be done that way.

The way it will be done is by cutting programs. The question is, which programs? That is what we have a right to know.

In 1981, when the deficit spiral first started up, President Reagan called for a second round of cuts in September of that year. He came up very short. He asked for $16 billion in cuts. He got $3 billion.

There was just as much indignant denunciation of waste, fraud and abuse in 1981 as there is today. There were just as many Senators willing to speak in the abstract about the importance of cutting spending. There was just as much resistance to a tax increase.

Human nature has not changed in 14 years. All the same claims were made: That easy across-the-board cuts could be made that would be pretty painless; That we would be able to protect the social safety net; that no one would be hurt.

This city recently played host to two groups of persons who came here to tell us that it did not work that way. The State Governors were here this week. The mayors of our cities were here last week.

Both groups were unanimous in opposing any more cuts in the funds that support State and local services. We passed the unfunded mandates bill recently, by a very wide margin.

Why? It is not because Congress decided in the last couple of years to force the States and cities to do useless things. It is because past cuts made in State and local programs are forcing the States and cities to absorb more of the program costs which used to be offset with Federal dollars.

It is no wonder the Governors and mayors are insisting that any balanced budget amendment be accompanied by strict language to keep Congress from passing responsibilities on to the States and cities.

The trouble is that this is a guarantee that cannot be made. We cannot assure States and cities that a balanced budget will not pass the costs on to them. To see why, look at the figures.

This pie chart shows how the Federal tax dollar is spent.

Mr. President, 14 percent is spent on net interest. That cannot be cut. It is a legally enforceable obligation to the holders of Government bonds.

Then 21 percent is spent on Social Security. Even Republicans say they will not cut Social Security.

So 14 percent plus 21 percent equals 35 percent.

Defense spending accounts for another 17 percent of the Federal tax dollar; 35 plus 17 equals 52.

In other words, 52 percent of all spending will not be cut.

That leaves 48 percent of spending to absorb all the cuts. The 48 percent includes, unfortunately, all the grants to States and localities. All the cutting will come from 48 percent of the spending.

The next chart shows us what that 48 percent of cuttable spending consists of.

Right away, we see that 19 percent of our cuttable dollars is spent for functions that cannot easily be cut: Veterans programs, military retirement, civilian retirement, the Immigration Service, the FBI, federal prisons, the federal court system, and so on.

The Speaker of the House has said he wants to see the number of immigration agents doubled. Our Republican colleagues intend to toughen a crime bill that will presumably increase our prison population. We cannot cut the Federal court system significantly. I have not heard any of my Republican colleagues say we should seriously cut the VA hospital system.

So it is reasonable to say that this 19 percent reflects activities that are not going to be slashed by 30 percent or more. But if I am wrong and there is a plan to cut military retirement by a third, I think we ought to know that. If there is the view that we should cut back VA pensions or hospitals by 30 percent, I think we have the right to know that.

In any event, that 19 percent of our 48 percent of on-the-table-for-cutting is the smallest piece.

The next biggest piece of that 48 percent of cuttable spending is Medicare.

A couple of days ago the Speaker talked about rethinking Medicare from the ground up. He said he wanted to provide more choices to retirees. I did not understand what he meant. The Medicare program today lets every participant choose his or her own physician, choose his or her own specialist.

If what the Speaker really meant was that we should rethink Medicare to limit the choices of Medicare recipients and force them into managed-care programs to save money, I would be willing to debate that. But I definitely think it is something we have the right to know.

There are working families in this country who depend on Medicare and Social Security to provide the fundamental security for their parents, so they can focus their funds on helping their children through college. If Medicare is going to change dramatically in the next few years, these people have the right to know that, so they can plan for the possibility that their parents will need financial help.

The next category of programs in our 48 percent of cuttable dollars finances things like unemployment insurance, nutrition aid, such as food stamps and school lunches, all our health research, environmental cleanup, energy, scientific research, space programs, aid to elementary and secondary schools, college tuition aid, our embassies, wildlife conservation, the parks, all our farm programs, all our transportation programs. Mr. President, 29 percent of our cuttable on-the-table 48 percent is spent for those things.

Clearly, they are going to be cut. Some might claim that things like

medical research grants to universities will not affect States and cities. I think Governors and mayors know better.

Unemployment insurance affects every community that loses a plant or is in a transitional phase. Smaller communities would go under without the stabilizing effects of unemployment insurance to laid-off workers. I do not think it is easy to cut this by 30 or more percent.

If we cut the space program by 30 percent, people now employed in its operations will lose their jobs. This is Federal spending, all right. But it is not spent in Washington. It is spent in the cities and communities where the aerospace industry is concentrated.

The Food Stamp Program provides a 100-percent federally funded floor for low-income workers and welfare families alike. That lets poorer States, like Mississippi, keep their welfare benefits low without having to risk outright malnutrition. Food stamps give minimum wage workers added buying power. Small businesses in lower income areas know their workers' minimum wages will be augmented by food stamp income.

Farm State Governors should be attentive to the fact that this sector of spending includes all farm spending. It would be cut by a minimum of 30 percent.

Of course, if the two sectors I mentioned earlier are not cut by 30 percent, the cuts here would have to be heavier.

In other words, if we do not cut 30 percent from veterans, military retirees, prisons, courts, border control, and Medicare, these other programs will have to be cut more to compensate.

And so we come to the final share of our 48 percent of cuttable spending: The 30 percent that comprises State and local grants. This is the largest category in the cuttable spending programs that would be on the table.

In each one of these categories, whether it is Medicare, whether it is the Federal functions ''unlikely to be cut,'' whether it is ''all other'' Federal programs—in the green—or State and local government grants, the point is that no mayor, no Governor ought to think that in some way we can protect this orange part and take all the other cuts in Federal funding out of the blue, the red and the green. It just cannot happen.

That is what we are really asking our Republican colleagues to share with us. If indeed that is the case, if indeed we can give assurances to mayors and Governors that this 30 percent can be protected, how do we get down to that $1.5 trillion deficit reduction target we are going to have to get down to by the year 2002?

I realize that earnest assurances have been given to mayors and to Governors that the Congress will not cut State and local grant aid. But I can only refer to what I know has been done before, when similar choices were faced in the Congress. And based on that experience, I have to say that this is a guarantee that cannot be made.

As a matter of fact, it is a guarantee being made by those who have no power to make it. One Congress cannot bind the next, no matter how fervently one Congress feels about something.

The 105th Congress will have new Members. Economic circumstances undoubtedly will have changed.

Even before the 105th Congress is sworn in, a Presidential election campaign and Senators' own reelection efforts will influence the shape of the debate, as elections always do.

So any Governor or mayor within reach of the sound of my voice should take this warning to heart.

No one can guarantee that aid to States and localities will not be cut.

In fact, I can just about guarantee the exact opposite. Direct aid, such as payments for highway paving, and indirect aid that is spent by residents of States and cities will be cut.

The only way to have a guarantee against cuts for State and local governments is to write it into the Constitution as part of this balanced budget amendment. But our Republican colleagues have said that the measure before us cannot be amended.

So they have asked the Governors to take it on trust. I say that is exactly what the Governors cannot afford to do.

And that is why the right-to-know language is crucial. It would let us know, before we begin to cut, how State and local budgets will be protected. It would let us know, before we begin to cut, how State and local budgets will be affected.

It is the only responsible and fair way to explain to our Governors and mayors and the people who live in our States and cities what this proposal will ask of them. It will not be painless. It can be made rational. But it can only be done rationally if everyone affected knows what is at stake.

The chart here indicates the average makeup of State budgets. It is an average, not a mirror image of one particular State, and there are variables from one State to another.

But it provides the broad picture.

State general revenue sources in 1992 were made up, on average of: 17 percent, general sales taxes; 17 percent, charges and fees; 17 percent, personal income taxes; 22 percent, other taxes; 2 percent, payments by local governments.

But all those taxes and fees and payments total 75, not 100 percent. That is because, on average, 25 percent of State budgets consists of Federal grants.

This chart shows a breakdown of those Federal grants to State and local governments.

Forty percent are for the Federal share of Medicaid costs. The single largest cost the Medicaid Program pays is the nursing home care of elderly Americans.

Here, 24 percent of Federal aid to the States consists of income security programs: the Federal share of welfare, low-income housing programs, school lunch and breakfast programs, nutrition for women and infants.

Fully 64 percent of Federal aid to State and local governments goes for income support and Medicaid.

Sixteen percent of Federal aid to the States is in the form of money for elementary and secondary schools, training and employment programs, special education programs, foster care and adoption.

Eleven percent of the Federal grant dollar helps finance highway construction, improvement and maintenance, airport construction and transit assistance that helps reduce congestion in our cities.

Nine percent of Federal aid covers all other programs: community development block grants, safe drinking water and wastewater treatment, justice assistance programs, aid to other health programs like public clinics and mental health clinics—all the other grant programs.

Each and every category of this aid stands to be cut. It is all part of the 48 percent of cuttable Federal spending if we protect Social Security and defense. No part of any of these programs has any assurance of being held harmless.

And if other programs, not shown here, but which directly affect State and local economies, are not cut at all—veterans benefits, military pensions, civil service pensions—then the cuts to these grants will have to be heavier than 30 percent.

My next chart is a map of the United States. It shows, in the estimation of State budget officers, the percentage of each State's budget the State budget officers calculate is made up of Federal dollars.

The percentages vary quite a great deal. Mississippi, for instance, is shown as depending on Federal dollars for 41 percent of its budget. Texas is shown as depending on Federal dollars for 27 percent of its budget. Some States, like Oregon, show a relatively light 16 percent in Federal dollar share. Others like New Hampshire show a 34 percent reliance on Federal dollars.

In fact, the only State which shows less than 15 percent of its budget from Federal dollars is Hawaii.

The next map shows the Treasury Department's estimate of the budget shortfall each State would face under a balanced budget amendment, assuming a 30-percent cut in grants to State and local governments.

Again, some States would be harder hit than others. My State of South Dakota would be hit by about 25 percent; Montana, almost 20 percent; Arizona, New Mexico, Utah, California, around 10 percent; Louisiana, almost 30 percent. Many of the Southern States, many of the smaller States, of course, are hit harder than some of the larger States.

Texas' budget would fall 14 percent short. Mississippi would face a shortfall of almost 21 percent. Tennessee

would face a shortfall over 19 percent. Wisconsin would fall short over 10 percent, Michigan just over 13. But clearly, stated another way, to maintain current levels of services, these figures depicted here, showing the loss of revenue from the Federal Government could also be the kinds of tax hikes that would be needed to offset those cuts, were they to occur in the coming several years.

Those budgetary shortfalls are the ones that States would face directly from a balanced budget. They don't include the additional spending cuts that would be triggered by the Contract With America to pay for its tax cut and keep defense off the table.

Let me emphasize that. The figures that we have here do not include what would happen if we kept defense off the table and passed the tax cut that is currently envisioned in the Contract With America. So for South Dakota that figure would go up proportionately with the additional cuts required to pay for those additional expenses.

Instead of a 14-percent shortfall, Texas would face a 19-percent shortfall. Instead of 13 percent in Michigan, it would be 18 percent. Instead of 12 percent in New Jersey, it would be 17½, and so on.

With a balanced budget based on the Contract With America plan, State budget shortfalls are going to go up dramatically. With the Contract With America, with South Dakota, we are no longer at 25 percent; we are at virtually 34. In Iowa, we are not at the figures we were before; we are up at 15. In Illinois, we are up to almost 16 percent. In Louisiana, we are almost up to 40 percent of the overall budget.

So I urge my colleagues to appreciate the consequences of what we are talking about as we debate the balanced Federal budget and the ramifications of that budget over the next 7 years. Many of us have supported a balanced budget amendment. Many of us would like to do so again. But if we are going to do it, it has to be a rational approach. It has to recognize that there are very complicated circumstances that we all must confront if we are going to do it right, if we are going to explain to the American people the ramifications of the Contract With America, the ramifications of bringing a $1.2 trillion deficit down to size by the year 2002, the ramifications of maintaining current projected levels of defense spending over the course of the next 7 years, the ramifications of trying to include, in some way, protections for veterans and military retirees.

All of those issues are directly confronting each and every Member of the Congress today as we consider what must be done over the course of the next 7 years to accomplish what we all say we want.

I urge my colleagues to make themselves familiar with these numbers, because these are the real world effects of the Contract With America style balanced budget. These are the cuts in State budgets that would be required, or, alternatively, the increases in State taxes.

Those who have made verbal assurances to Governors that the balanced budget amendment combined with the Contract With America will not affect State budgets are, in essence, saying that it is possible to cut taxes, increase defense spending, reduce overall Federal spending by one and a half trillion dollars in 7 years without having any substantial effects.

I do not see how we can do that. I do not know how we can expect the American people to believe that we can do that. I do not think we can expect the Governors and the mayors, who themselves have to deal with budgets on a yearly basis, to understand the difficult choices that have to be made if we do what we all want to do, what we say we must do, and then say to them: Believe it. There are no painful choices here. We can simply do it with a modest cut across the board.

That is what the right-to-know amendment addresses, Mr. President. It simply says let us clearly set out a budgetary path that will lead us to that balance by the year 2002 in a way that all affected people—Governors, mayors, business people, working families, everybody—can understand.

That is why the States and the American people need to know what this will mean.

And that is what the right-to-know amendment would achieve. It would require us to clearly set out the budgetary path that will lead to balance by 2002. That way, all affected persons will be able to see what it will mean to them.

I have here in my last graphic of the day—and it is my last—a typical blood-drive thermometer. As you will note up here is the $1.5 trillion that is required if we accomplish what we want to accomplish in the year 2002.

When the spending cuts reach this level—one and a half trillion dollars—we will be close to our target and well on the way to balancing the budget. Twice in the past 5 years, Democrats have shown that we can cut the deficit. We have passed $500 billion deficit reduction packages twice. In any decade except this one, we would have finished the task, today we have a quadrupled national debt. So it's going to take more than that.

For the efforts we have already made, Democrats have been denounced and our work has been misrepresented to the American people. Predictions of economic gloom worthy of the Great Depression were heard on this floor less than 18 months ago when we passed the President's budget, the second installment of our deficit reduction effort.

Throughout last year Americans were falsely told their taxes had been raised. The only people whose taxes rose were the top-earning 1.2 percent of the entire population. No family earning less than $100,000 a year saw their Federal income taxes rise. Let me repeat that: No family who earned less than $100,000 a year saw their Federal income taxes rise as a result of our deficit reduction package.

But misrepresentations of fact were also common the first time that we faced the miracle of the mirror: The budget that would be balanced while taxes were cut and defense spending increased.

That miracle of the mirror turned into the miraculous exploding national debt.

But the right-to-know amendment is not a magic mirror. It's the mirror of reality that must be held up to these promises before we change our Constitution and ask our States to take another riverboat gamble with their futures.

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Ohio.

Mr. DEWINE. Mr. President, let me try briefly to respond to some of the very eloquent comments made by the distinguished minority leader of the Senate and also respond to the amendment that he offered earlier today.

The Senator points out very correctly that we are beginning to make some progress in regard to balancing our budget. For 3 years in a row we are beginning to move clearly in the right direction. What I believe, though, the Senator did not point out is that the Clinton administration's own projections will indicate that while progress is now being made, when we go to what those here in Washington refer to as the ''outyears'', the 4th, 5th, 6th, 10th year from now, the projections are that the deficit goes up and up and up and up. That was confirmed, Mr. President, in an article in the New York Times this morning, which my colleague, the distinguished Senator from Utah, has already referenced earlier today.

Let me, if I can, Mr. President, quote a brief part of this article. The article has to do with President Clinton's upcoming budget. I quote:

> Although his budget message boasts that his economic policies have sharply reduced the deficit from record levels, he says the deficit will probably stay in the range of $190 billion through the year 2005.

The year 2005, Mr. President, according to this article, citing the administration's budget that will be submitted next week.

Mr. President, if there ever was an argument eloquently made in favor of the need for having a balanced budget amendment, that argument was just made by President Clinton in this budget—at a time when everyone agrees that we need to move forward meaningfully to balance our Federal budget, at a time, Mr. President, when really the only debate on this floor is not whether we need to have a balanced budget; the only debate is whether we are going to just go ahead and do it and tell the American people, ''Trust us to do it,'' or whether we are going to

pass a constitutional amendment which compels Congress to do it.

That really is the only debate, and that is the climate that the President will be submitting—a budget which shows really no meaningful progress. The amendment we are talking about, Mr. President, says that we would have a balanced budget by the year 2002, which seems like a long way off.

According to this article in the New York Times this morning, the President's own budget, or own estimates, will show that even by the year 2005, we will not be moving in the right direction.

Mr. President, we have had good intentions. Everyone has good intentions. Yet, under Republican Presidents we have had a huge deficit. Under Democrat Presidents we have had a huge deficit. Under a Republican-controlled Senate we have had deficits, and under a Democrat-controlled Senate we have had deficits.

It is clear, Mr. President, that good intentions are not enough. The American people, I believe, clearly understand that. The distinguished Senator, the minority leader, talked about the right to know—an interesting term. I agree that the American people do have a right to know. But I think what they really have a right to know is that finally—finally—this Congress is going to pass a constitutional amendment and send it out to the States, and if that constitutional amendment is ratified, then finally we will have the ability to balance the budget and this Congress will be compelled to balance the budget.

Mr. President, let no one misunderstand what this debate is about. This debate, we can anticipate, will go on for some time. We have been at it a week now, and I am sure we will be 2, 3, 4 weeks still debating it. There will be many issues that will be raised. We will talk about Social Security, we will talk about the right to know, and we will talk about all kinds of different things.

Let no one mistake what really is at stake. In 1992, the American people voted for change. They said, by their votes, we want to change the way Government works; we want to change particularly the way Washington works or does not work. In 1994, people voted for change again. If in this political climate this Congress cannot pass a constitutional amendment, then when in the world are we going to be able to pass one?

Mr. President, Members of the Senate, the time is right, the time is now, the opportunity is here. If we do not seize this opportunity, and if we allow the naysayers, who can come up with 25 reasons why not to do this, to have their way, I honestly do not know that we will ever be able to do it again. I do not know that we will ever have the opportunity.

The distinguished minority leader also stated that this must be a bipartisan effort. That, I say, is absolutely correct. It has to be a bipartisan effort. Not only the passage of a constitutional amendment, because those of us on this side of the aisle—certainly if you count, we do not have two-thirds on this side. We have to have many Democrats involved, many Democrats who will vote ''yes,'' not just a bipartisan effort to pass the constitutional amendment. We also will have to have a bipartisan effort to balance the budget year after year and to begin to move toward that balanced budget and to make the very, very difficult decisions that we will have to make.

That is why, Mr. President, I believe that the argument about the right to know does not really make a whole lot of sense. Those who use this argument are, in essence, saying that the Senator from Ohio—for example, whatever I say on the Senate floor about how I want to balance the budget, that will be law, or whatever the distinguished majority leader says, or the Senator from Oregon. The fact is, no matter what is said at this point, the reality is that it will have to be a bipartisan effort and that democracy will work, and we will go through the gut-wrenching process that we have to, on this floor, move year after year toward that target goal that we have to meet in the year 2002.

So to say that we are going to stop and we cannot pass a constitutional amendment because some of the proponents are not able, or are not willing, to say that for the next 7 years this is what our budget will be every single year, seems to me to be wrong and a misplaced argument and not really to be leveling with the American people.

Mr. President, yesterday there was a poster on the Senate floor with the words ''Trust me'' on it, as if somehow the supporters of the balanced budget amendment were hiding the truth from the American people; that if the American people ever found out what a balanced budget would really mean, they would be strongly opposed to a balanced budget.

Mr. President, I do not think anyone in this country today really thinks that balancing the budget is going to be easy. The distinguished minority leader had some very interesting charts, although I am not sure I followed every detail of each chart. But my summary of the charts would be simply that they demonstrated very clearly that balancing the Federal budget, to achieve the goal by the year 2002, is not going to be easy. The minority leader is right. It is going to be very, very difficult. But is that an argument for not doing it? Is that an argument for not setting the standard? Is that an argument for not saying and putting into the Constitution that, yes, by the year 2002 we will achieve this goal, and that is our vision and that is what we want to do? I think not.

The opponents say that we need to spell this out. Mr. President, is it really appropriate to spell out beforehand all of the details and ramifications of a constitutional provision? I contend that it is not. Mr. President, the Constitution is a document about basic principles. It does not write our laws. It creates a process under which legislatures can write the laws. In this case, it is a process by which the U.S. Congress can write the laws.

Let me give you a few examples. Article I, section 8 of the U.S. Constitution says:

> The Congress shall have Power To lay and collect Taxes * * *

Mr. President, that provision does not set the marginal income tax rate. It does not decide whether there should be accelerated depreciation or investment, plant and equipment.

Mr. President, the Constitution also says that Congress has the power ''To raise and support Armies * * *'' It does not say what percentage of the gross national product ought to go to defense. Working out these details is a task for the democratic process. That is what democracy does. That is what democracy is all about. That is why we have a Congress.

What the Constitution does is set the ground rules so that we can act. The Constitution empowers the Congress.

Mr. President, it is also true that for 25 years, the democratic process, without a balanced budget amendment, has not succeeded in balancing the Federal budget. That is why the American people, by an overwhelming margin, are demanding the process reform known as the balanced budget amendment.

A few days ago, Ohio's Governor, George Voinovich, proposed a balanced budget, as do the Governors in all of the States. Very soon—in a couple days—President Clinton, as we have seen this morning, is going to be sending us a budget that clearly is not balanced, not only for this year, but it is not giving any indication that we are going to be balanced by the year 2005.

Mr. President, what is the difference? Why can Governor Voinovich do it in Ohio when the President cannot do it here?

Quite frankly, Mr. President, it has less to do with the occupant of the Governor's office or the occupant of the Oval Office than it does with the basic facts. The difference is because Ohio's constitution, like the constitution in many States, says the Governor has to balance the budget—has to balance the budget. Consequently, the Governor, State legislatures, and their constituents have to work out the details for a balanced budget every single year.

Mr. President, as someone who has served in the Ohio Senate, as someone who has served as Lieutenant Governor, let me tell you and other Members—and I am sure everyone knows and we have many Members here who have served in a legislative body or have been a Governor—that that is a process that is not very easy. It causes some heartburn and causes some hard feelings and is very, very difficult. But State legislatures do it and Governors

do it because they have to. They have no choice. They have to do something that the U.S. Congress has not done, frankly, something that Congress has resisted doing, for most of our lifetime. The State of Ohio has to make choices. The State of Ohio has to set priorities. They have to do it. And, Mr. President, when you have to do something, you can. When you have to do something, you can.

We need a constitutional order that allows our National Government to do the same thing—to make choices and set priorities for the Federal budget. This is not something the American people wanted to do. None of us likes to be here debating this. It is not a pleasant task. It is something, though, that the American people are convinced that we have to do, really as a last resort. The other ways just did not work.

The balanced budget amendment is not, as the opponents contend, a straitjacket for democracy. Rather, it is a tool—a tool we can make use of to make democracy work.

All Senators, even those who are opposed to this constitutional amendment, are going to be involved in the process of writing the balanced budget itself. Are these Senators saying that if we pass the balanced budget amendment they will somehow be unable to participate or will not want to participate? I think not.

Further, Mr. President, if we were to give specifics with those, would those who oppose this be wedded to our specifics? Would they have to live by what we expressed with our original intent in passing the amendment? Of course not.

But what will happen if the balanced budget amendment does pass and it is ratified by the States? Well, one thing that will happen is that we will have to balance the budget. We will have to do it. The opponents will finally be forced to come forward with their own specific proposals, and so will we. The American people will see their spending priorities and the American people will see our spending priorities. Then the debate will begin.

I believe, Mr. President, that this amendment is precisely what we need to bring everyone to the table and to get serious about deficit reduction.

Mr. President, Senators have also been issuing a rhetorical challenge. They said, ''If we want to have a balanced budget, why not do it now? Why wait for 8 years?''

Well, my response to that is, first of all, those two options, the options we are talking about of having a balanced budget amendment and having a balanced budget, are certainly not mutually exclusive. We can pass the balanced budget amendment and get to the work immediately on balancing the budget. Indeed, the harder we work over the next couple of years the easier it will be for us to balance the budget once the amendment actually does in fact go into effect.

Mr. President, we need, however, to create a process that will force everybody to participate in making these choices. Out in this country, in the real America, nobody, nobody, Mr. President, believes that we will ever balance the budget without a balanced budget amendment. But once we pass the amendment, doing nothing will no longer be an option. We will have to deliberate, to make the best choices we can and be judged by the American people on the results we produce.

The current process simply does not work. We need to fix the process. And that is why we have a procedure for a constitutional amendment. It is spelled out in article V of the Constitution that says:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution.

And those amendments:

> * * * shall be valid * * * when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof.

Mr. President, that is what the Constitution says. The Daschle amendment attempts to create a brand-new constitutional requirement between the approval by two-thirds of Congress and the approval by three-fourths of the States. This amendment tries to put in an unconstitutional stop sign, another hurdle to go over. It says that Congress has to do something else, that Congress has to write a balanced budget before the amendment goes to the States.

But, you know something, Mr. President, even if we pass the Daschle amendment, the Daschle amendment is really a dead letter. It has no effect, because the Constitution is clear—Congress approves, then the States approve. There is nothing in between. There is no stop sign in the Constitution between those two stages of the amendment process.

This amendment was described earlier on the floor as being blatantly unconstitutional, unconstitutional on its face. I think clearly, Mr. President, it is.

Mr. President, we can try to pass a statute creating a new requirement. But that statute cannot, under basic constitutional law, that statute cannot change the Constitution itself. We have amended the Constitution 27 times in this country's history. In each of those 27 cases, and in the 5 other cases when amendments were proposed but not actually ratified, we have followed this basic constitutional process. We have not had recourse with the kind of gimmick that is embodied in this particular amendment.

Of course, if Senators who support the Daschle amendment do not like what the Constitution says, they can try to amend the Constitution. Then we can have a debate on that. But under the Constitution that we have, this amendment, the Daschle amendment, is unprecedented. Not only is it unprecedented, it is unconstitutional. And, make no mistake about it, it is a killer amendment. It is an amendment that, quite frankly, will have the effect of protecting the status quo.

Why, Mr. President, are we having this debate on the Daschle amendment? We are having it because I believe some do not want to see the amendment ultimately passed. I think that is too bad. I think that whether they intend that or not—they may not intend that—but that would be the ultimate effect of the passage of this amendment. I know that the gentleman, the minority leader, is certainly well-intentioned, but I believe that would be the unintended consequence.

Mr. President, in the 1994 elections the American people demanded change. They demanded it. Eighty percent of them support a balanced budget amendment. They support it because they know that under today's process Congress is simply incapable of creating the kind of change the American people want. That is why Americans are insistent on the balanced budget amendment. Nothing symbolizes fundamental change more for the American people than the passage of the balanced budget amendment.

Mr. President, I will vote against the Daschle amendment because I believe it is harmful to this amendment. I will vote for the constitutional amendment and for the fundamental change demanded by the American people. I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Thank you, Mr. President.

Mr. President, this debate is the defining moment for the American people, if we are going to turn this escalation of debt, if we are going to turn away from this and protect our children and our future generations. This is it. This is the moment.

If we defeat this amendment to the Constitution, then we are on the fast track to economic destruction of the United States of America. People must understand that. Those who would use the dilatory tactics to delay this amendment or to put killer amendments on this amendment, must understand that. And the American people out there who are serving as the constituents of those Senators must also understand that.

This is the defining moment. This is it. There will not be another chance to pass an amendment to balance the budget to the Constitution of the United States of America. It will not happen. We have been trying for years.

I ran for Congress the first time in 1980. I ran on a balanced budget amendment then. I have been running on it ever since. I have been campaigning for it, both in my campaigns, as well as a Member of the U.S. Senate and the House of Representatives before that, trying to get to this moment. We are here. The House of Representatives by

a vote of 300 to 132 passed it. It is now lying before the Senate. This is it. People must understand that. There will be no tomorrow for this amendment if we defeat it today. It is over. The American people, 80 percent of whom—some polls are higher than that—support this amendment.

We must understand the significance of this debate and how important it is. The focus of the last elections, the focus of those elections, the midterm election, in 1994, was change. ''We are sick of it,'' the American people said. ''We are tired of business as usual.'' ''We are tired of politics as usual. We want this country changed. We want the direction of this country changed.'' That is what they voted for—Democrats, independents, Republicans. They voted to change this country.

One very important aspect of that change was a balanced budget amendment to the Constitution. They spoke loudly, and they spoke very clearly. They want Washington to turn away from—frankly, I cannot think of a better way to say it—the disgusting habit of piling up debt on our children, deficit spending, and increasing the national debt.

It imposes an enormous and unconscionable responsibility on our children. Not only our children, all future generations. We must realize that the national debt right now is almost $5 trillion. If we borrow at 8 percent, that is $400 billion when we get to $5 trillion—$400 billion a year in interest on that debt. It will get to the point in a very few years, less than 15 years, when the national debt is so big that we will not even have enough money in revenues to pay the interest on that debt.

When that happens, it is over. We default. Or we print money, and we print so much of it that we need to take a wheelbarrow of money with you to go to the grocery store to buy a loaf of bread. Think it cannot happen in America? That is what we thought in South America, not too many years ago. It can happen. It will happen.

I heard the distinguished minority leader talking on the floor a few moments ago about all of the horror stories out there, all these terrible things that are going to happen. All of these budget cuts. That is the point. If we do not have the amendment, that is all we will ever hear—one horror story after another about who will get cut, who will lose money, how much are the States going to lose in their States, how much is Medicare going to use, how much is Medicaid going to lose, how much is defense going to lose. Over and over again. That is the point. That is why we need the amendment, because we will not get the budget balanced because we will hear speeches like that time and time again as we have heard overwhelmingly over the past 30 years, if not more.

The election of 1994 was a mandate. ''We have had enough of that,'' the people said. ''We have had enough talk. We want a balanced budget amendment to the Constitution of the United States because you won't do it without the amendment.''

There can be no doubt about that. There are 11 Members of the class of 1994. Mr. President, the distinguished Senator sitting in the Chair at this moment is one of those, from Tennessee. They heard the message. That is why 11 new Senators are here, all of whom—all of whom—support this amendment.

In demanding change in 1994, the American people said, ''We are not only concerned about America's economic future, not just that. We are concerned about America's moral future.'' That is what they said. It is immoral to pass this debt on to our future generations. How can anyone—any American citizen, I do not care whether they are a Medicare recipient, Medicaid recipient, defense contractor, I do not care what you are or who you are or in what livelihood you have, what you do for a living. How can a person in good conscience say I am willing to break the bank of the United States of America and pass on my debts to my kids? Do parents want to pass their mortgage on to their children? Or would parents rather pass their home on to their children? Think about that. That is really what is at stake here.

We hear all this rhetoric about all the horror stories. Let me tell Senators what the horror stories will be if we do not do it. There will not be anything in the Social Security trust fund. There will hot be anything for Medicare. There will not be anything for Medicaid. There will not be anything for national defense because there will not be anything left. It will be gone.

No less an authority than the distinguished author of the Declaration of Independence himself, Thomas Jefferson, spoke about this. He spoke, he even thought ahead about this type of debate that we are having right here. He said this:

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

Thomas Jefferson, the author of the Declaration of Independence. I am amazed, as I serve in political office, the number of times I hear our distinguished colleagues come down on this floor not only here in the Senate but in the House, but even in the courts where decisions are made interpreting what our Founding Fathers said. I think our Founding Fathers would probably turn over a few times in their grave, maybe even do a rapid spin in their grave when they hear this stuff. Thomas Jefferson knew what he was talking about. He knew this could happen. He was against it.

Let me tell Members why it is immoral. A couple gets married. They decide to have a baby. In making that decision to have a baby, do they also plan where the baby will go to college? Do they plan where they are going to live to have that baby for 20 years? Do they plan the meals for that baby for the next 20 years? Do they plan the schools? Do they get the pencils and books and notebooks ready and the homework ready for each assignment before they decide to have the baby? That is what Senator Daschle's amendment is saying. Lay it out. Lay it out completely. We cannot do that. It is irresponsible. It does not make sense. Know what the problem is? We will not make the decision. That is the problem.

Another example. Take 50 American citizens, any citizens, anywhere in the United States. Put them in a room and say, ''OK, do you agree we should balance the budget?'' If the answer is ''yes,'' you set about doing it. You may not like it, one person may not like what the other guy says cut, but you do it. You make the decision to do it. We have not made the decision. That is the bottom line. That is what our colleagues over there are saying. We have not made the decision.

Indeed, we do not want to make the decision. That is why they are being dilatory. That is why they are delaying. Frankly, it is an insult to those on their side of the aisle who have been distinguished in their leadership for this amendment, like Senator SIMON, Senator HEFLIN, Senator MOSELEY-BRAUN, and others.

In that declaration, Jefferson wrote majestically, very majestically, about inalienable rights with which man is endowed by his Creator and among those are life, liberty and the pursuit of happiness.

Can any one of my colleagues doubt that a crushing burden of national debt on our children infringes on their God-given right to pursue happiness? Right now every single American baby, born as I speak, is born some $17,000, $18,000 in debt because that is your share, each person's share of the national debt.

Lest there be any doubt where Thomas Jefferson would have stood on the balanced budget amendment, that doubt ought to be laid to rest by the following statement he made in 1798:

> I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our Government to the genuine principles of its Constitution. I mean an additional article taking from the Federal Government the power of borrowing.

Taking from the Federal Government the power of borrowing.

How right Jefferson was. If you want to modify it a little bit, if you want to borrow, pay it back. Pay it back. That is what every single American has to do. Borrow money; pay it back. Do not pay it back; go to jail or lose your home or whatever it is that you put up for credit.

But we are asking our children to pay the cost—selfish, immoral, unconstitutional, in my opinion. According

to Jefferson it would be. If we put it in the Constitution, it will be unconstitutional. That is why they do not want it in over there, because then they cannot play politics anymore, because then the decision has been made in the room and then we have to sit down and do the job. But we will not even sit down and do the job without the amendment. That is the issue.

Now, when you go to buy a home, you go to the bank. You borrow money. You buy your home. And if you are smart, you will get some type of insurance, mortgage insurance, so that if you die, your mortgage will be paid off and the home will be left to your children or your spouse, whatever the case may be.

But that is not what we are doing here. What we are doing here is, to use an analogy, we are buying a house, and what we are saying is I am not going to go to the expense of buying mortgage insurance. Hey, I am going to go buy myself a new car; I am going to go to Hawaii. I am not going to buy mortgage insurance. That costs too much money. I am going to make my kids cosign the note. I am going to make my wife cosign the note so if anything happens to me, they have to pay for it, not me. This is the now generation. I am going to have a good time. I am going to do my thing. I am not going to be responsible for this. Let my kids pay for it.

That is exactly what we are doing, and we have been doing it. The American people know it, and they are sick of it. That is why they voted the way they did in 1994. I cannot believe that some of my colleagues on the other side of the aisle have not gotten that message yet. I will tell you, I predict, if this amendment goes down, they are going to get the message in 1996, loud and clear.

Mr. President, there can be no doubt that the fate of this amendment, the fate of this amendment rests in the hands of about 12 or 15 Members on the other side of the aisle. That is the fate of not only this amendment to the Constitution, it is the fate of the United States of America.

In a few days, perhaps a week, 2 weeks, whenever it happens, we are going to be standing right here and we are going to be called. The clerk is going to say, ''Mr. SMITH,'' and I am going to stand up, and I am going to vote ''aye.'' And the clerk is going to call other names. Those who are going to say ''nay''—and there will be many—do so at great peril because when those nays are tabulated, if we do not have the 67 votes that we need and this amendment goes down, the economic future of the United States of America and indeed the moral future of the United States of America is imperiled.

I say again, it will be a long, long time, Mr. President, before we ever get back to it because I envision the consequence of this as being something along these lines. President X 20 years down the road, 50 years down the road—I do not know when it will be—will stand up and do a press conference and he or she will say, ''My fellow Americans, I regret to inform you today that the United States of America must default on every single obligation it has because we cannot pay our bills.''

I hope and pray that we do not subject our children and our grandchildren in any future generation to that press conference or any President to have to deliver it. I truly hope that does not happen. And it does not have to happen. We must make the decision. If you listen to the remarks of our colleagues, well-intentioned, it is a dilatory attempt to obfuscate the issue, to get away from the focus.

What do we hear? Oh, we are going to cut Social Security. We are not going to cut Social Security. Or we are going to cut off money to this State or that State and we are going to cut this and we are going to cut that.

Something has to be cut to balance the budget. The alternative is pass on the debt. And pretty soon—it might be 100 years, it might be 50 years; no one knows for sure, but it is not going to be too many—100 percent of our budget will be interest on the national debt.

In the year 2013, according to a bipartisan commission headed by Senator BOB KERREY and one of our former colleagues, Senator Danforth, they say by the year 2013 100 percent of our budget will be spent on interest and entitlements if we do not change it. It is immoral.

Sixty-seven votes, that is what we need. Now, many of my colleagues on the other side of the aisle are very proud of Thomas Jefferson, the founder of their party, and I implore them to listen to him. Listen to the founder of your party. He is right. He believed it was immoral for one generation to saddle another generation with its debt. Mr. President, he said that he wished it were possible to obtain a single constitutional amendment that said the Government did not have the power to borrow money.

It is not just Jefferson to whom our colleagues should listen. Let us jump up a little bit to Andrew Jackson, a pretty famous Democrat. Even though I am a Republican, he is one of my favorites—from Tennessee, I believe.

''Once the budget is balanced,'' Jackson said, ''and the debt is paid off, our population will be relieved from a considerable portion of its present burdens and will find not only new motives to patriotic affection, but additional means for the display of individual enterprise.''

Another great Democrat, Woodrow Wilson, spoke even more clearly on that issue, on the balanced budget amendment. This is what he said:

> Money being spent without new taxation and appropriation without accompanying taxation is as bad as taxation without representation.

It is as bad as taxation without representation.

Wilson was the only President—I believe I am right—who had a Ph.D. in government. As a student of government, Wilson knew that the American revolution was sparked by a moral uprising against taxation without representation, which was imposed by the British on the American colonies. Thus, it can be said that to liken deficit spending to taxation without representation was perhaps the strongest possible denunciation that Wilson knew how to make. It is pretty heavy company, to put it in the company of taxation without representation.

This should not be a partisan political issue. It has not been a partisan political issue. Senator CRAIG and Senator SIMON have worked together side by side on this issue for years. It is not a partisan issue. Why are we making it a partisan issue? The American people said to us: Work together. This is the time to work together for the good of the country. This is a perfect example, the best example I have seen in any item we have had, with the possible exception of the vote on the Persian Gulf war, to say we are going to get together in a nonpartisan way and do what is good for the country for a change. I am proud to have the support of my distinguished colleague, who is on the floor now, Senator SIMON, and Senator HEFLIN, and Senator MOSELEY-BRAUN, and others—I am proud of it and I am proud of them. It is not partisan.

On the House side, I think it was 72 Democrats who voted for the balanced budget amendment, including a young Democrat from Massachusetts by the name of JOSEPH KENNEDY II. That is a pretty famous name in American politics.

None of us are going to serve here forever—God forbid we ever serve here forever. When we leave—I speak for myself—when I leave, I would like to be remembered not as some partisan politician who opposed everything the other party was for, but as somebody who tried to be a statesman, who tried to do what was right for his country.

I am standing now in front of the desk used by Daniel Webster—Daniel Webster's desk. His name is inscribed in it in the drawer. It is one of the few original desks in the Senate. He was one of the greatest orators of all time. He served here at a time prior to the Civil War when the debate was hot, and many times he stood in the Chamber of the U.S. Senate and spoke out forcefully on various issues.

But when you stand before the desk of someone who has served here before you of the stature of a Webster, you know the time is fleeting. You are only here for a little while. It is a very insignificant time. This is not my seat. This is a seat that belongs to the people of New Hampshire. That is whose chair this is; that is whose desk this is. It is not mine. I am only going to be here for a short time. Somebody else will fill it. Regardless of when I leave, there will always be somebody there.

But the vote we cast on the balanced budget amendment will be one of the most important votes I believe I will cast in my time here, because it affects the future of our country.

I say to my colleagues with the greatest respect, those on the other side—the reason I keep saying ''those on the other side'' is because we have, I believe, 52 or 53 of our colleagues who are for this amendment. So the balance is held by a few on the other side of the aisle. I say to you in all good conscience, vote to be worthy as a successor of Thomas Jefferson. Be worthy of that. Honor your party leader. Make a vote that you will be proud to talk about, to place in the center of your legacy to your posterity, a vote in favor of a balanced budget amendment.

I would like to focus briefly—and then I will yield the floor—on the amendment offered by the minority leader, Senator DASCHLE. This is basically an amendment to an amendment to the Constitution. It is a killer amendment. It is going to kill the amendment, if it passes, because it is unconstitutional. It will be challenged. It will not work. You cannot put something between what the Congress passes and the State legislatures before they approve it. That is unconstitutional—everybody knows it. So why is it up here? It is up here because some on the other side do not want to make those hard choices. They do not want to make the choices. They know they do not have to make the choices if we do not pass this amendment. That is the point.

We can talk forever. That is all we do around this place is talk. It is time to act. We have to pass the amendment or it will not get done.

You say that is not true? I heard the distinguished minority leader say that is not true. We need to make the tough decisions. The Senator from Washington, while I was in the chair a short while ago—we can make the tough decisions. Let me just comment on the tough decisions.

In 1921, we passed a statute and it required the President to make recommendations to Congress whenever there was an estimated deficit or surplus.

In 1964, we passed the Revenue Act of 1964, a sense of the Congress to balance the budget.

In 1978, we passed the Revenue Act of 1978. It called for a balanced budget by the year 1982.

The Bretton Woods agreement, in New Hampshire in 1978, known as the Byrd amendment, required a balanced budget by fiscal year 1981.

In 1978, we passed the Full Employment and Balanced Growth Act of 1978, the Humphrey-Hawkins Act, including a provision calling for a balanced budget.

In 1979, we passed a temporary increase in the public debt limit and it required Congress to balance the budget. We called on the Budget Committees and the President to produce balanced budget plans.

In 1980, the Bretton Woods Agreement Act of 1980, the Byrd amendment, reaffirmed Congress' commitment to a balanced budget by fiscal year 1981.

In 1985, we passed a Balanced Budget and Emergency Deficit Control Act, better known as Gramm-Rudman-Hollings. What happened to that? The rest is history.

In 1987, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 revised Gramm-Rudman-Hollings and set the deficit targets to require a balanced budget by the year 1993.

And finally, the Budget Enforcement Act of 1990, which revised maximum deficit targets to reduce the deficit $83 billion by fiscal year 1999.

Here we are. We started in 1921. We have all these wonderful acts we have passed requiring all these balanced budgets, and we are almost $5 trillion in debt.

What more proof do you need than that? How much clearer can I make it than that? It does not work. Congress will not do it—period. That is why we need the amendment.

If I did not think we need the amendment, I would not be for the amendment. I wish Congress had done this. I wish they had balanced the budget. I wish they had the guts to come up here and do the job. I wish they had done it in 1921, 1985, 1987—all those years I mentioned. But they did not.

Republican Presidents, Democratic Presidents all through the years, and Republican Congresses, Democratic Congresses—there is enough blame to go around. There is plenty of blame to go around. We did not get the job done and we are never going to get it done because we are going to hear all these horror stories. This is what you are going to hear next week: The Republicans will not exempt Social Security; we will not exempt Social Security from the balanced budget amendment and therefore we want to cut Social Security.

You cannot exempt Social Security. Do you want to put Social Security in the Constitution? You cannot do that because do you know what will happen? Everybody will put everything under Social Security. We will probably have aid to some of our States in the Constitution—we will put that under Social Security. We will put anything you can think of that you want to protect, stick it under Social Security. And what will happen? We will drain the Social Security trust fund.

So those who say this amendment exempting Social Security is going to save Social Security are dead wrong. Those out there lobbying in favor of it are also wrong. I say to my senior citizen friends out there, beware of a wolf in sheep's clothing, because it is going to destroy Social Security, it is not going to save it. The way to save Social Security, believe me, is to pass this amendment to the Constitution of the United States requiring a balanced budget. That is the way to save Social Security. We cannot get there without the amendment because people will not do it.

If people over the years really wanted to do it, if the moral argument does not turn you around, what will? If knowing that your children are going to have to pay for what we are doing does not turn you around, what will? The answer is nothing.

I saw the charts that the minority leader had up there. He had a chart that said that if in order to balance the budget, if we take defense, Social Security, and interest on the debt, which we cannot until we reduce the debt, and exempt them, which everybody says we have to do, then Medicare has to take a hit, the IRS has to take a hit, the Immigration and Naturalization Service has to take a hit, the FBI has to take a hit, Medicaid has to take a hit, veterans have to take hits, and retirees have to take hits. Put them all up there. Scare everybody to death. But when we go broke, what is there for the veterans? You have a family. You invest. You open up a business. You fall on hard times, and you loose the business. The bank is not going to do it. The bank says they need the collateral and they need it now. You are a year behind. It is gone. That is the way it works. So what is left then? Nothing.

We have to have the courage to take this issue on. We should not be debating and talking about how hard the cuts are going to be. Of course, they are going to be hard. They are going to be very hard. They are going to be very painful. The American people want to know the truth. They deserve to know the truth. We ought to be telling them the truth instead of politicizing this thing on the floor of the U.S. Senate hour after hour talking about how terrible these cuts are going to be. Of course, they are going to be terrible. They are not going to be as terrible as the consequences of going bankrupt and defaulting on every single loan, and every single fiscal obligation we have. Nothing is worse than that. That is what is going to happen. That is exactly what is going to happen, my colleagues.

So if you assume that under this right-to-know provision, as sponsored by the minority leader, if we assume that we have to have the right to know everything—that is, we have to know where that baby is going to live, where that baby is going to go to school, what meals that baby is going to eat, and where that baby is going to go to college before we have the baby—if we have to do that, then we are not going to get there; period. You are not going to have the baby. You will be so frustrated.

That is exactly what we are talking about here. They are not going to do it. We are not going to balance the budget. We are not going to do it without the amendment. How much more proof do you need than what I have given

you? We will not balance the budget until we get the amendment and are required to do it. We have had plenty of time.

I was very excited when I came here in 1985 to the Congress of the United States and shortly thereafter the Gramm-Rudman-Hollings balanced budget amendment passed. Warren Rudman, the Senator from New Hampshire—with a lot of fanfare, and a big deal. We are going to balance the budget, and have it laid out. It is right. True. We had it laid out. What happened? We voted to change it, change it, roll it back and roll it back, and we piled up $2 or $3 trillion since then. We are going to keep right on piling it up.

I tell you. If we lose this vote sometime this month, when we have this vote, if we lose it, somebody is going to be standing here at Daniel Webster's desk some years from now looking at a $12 trillion debt. Then what are we going to do? That is what is going to happen.

I urge my colleagues in the strongest way that I possibly can, out of moral concern—moral concern, forget the economics, forget the politics—moral concern, I urge my colleagues to please consider the damage you are going to do to future generations in this country without this amendment. If we do, then we can get the job done. Without it, I would be the first person to stand up here and say we cannot, and we will not. We have to do it with the amendment. Putting something in between passage of this amendment on the floor and the State legislatures, three-quarters of which have to ratify, is unconstitutional. It is dilatory. It is not going to work. It is obfuscating the issue.

I urge my colleagues to step up to the plate, and do what is right for the country. Put the politics aside. Tell the truth to the American people that we cannot afford not to have this amendment because we cannot afford not to have a balanced budget.

Mr. President, I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

I wanted to compliment the Senator from New Hampshire for the fine speech. I was here to listen to the majority of it. I think his comments on having the baby are very appropriate. We have one on the way. It is due in July. If I were to sit down and think about all the bills I had to pay and all the things I have to do, all the things—maybe I could play golf, do all these things I really do love to do, wonderful things in my life that I have to give up for that baby—I might sit there and selfishly think I had better not have that baby. But you have to look at the other side. All the joy that it gives you in providing for the future, all the love and support that you are going to get from that child and the wonderful relationship, and knowing that you are doing something to preserve the long-term future of our country. The birth of that child which you will nurture and bring up to being a responsible citizen of this country, it is exactly the same. We have that same responsibility to this country as I do to this child, to bring them up in a sound, responsible fashion to lead for the next generation to make a contribution, to give them the chance.

So I think the Senator's analogy hits right on point. It is one that obviously my wife and I have. When we found out that she is pregnant, we were just overjoyed—overwhelmed at times given the cost—but overjoyed with the opportunity to do something for the future, to make our mark. We have a chance right here to make our mark. We have a chance to make our mark right here.

The minority leader's right-to-know proposal, I think, is one of the most dastardly amendments that we could consider because it really does focus on the wrong thing. I hear so many say, ''Well, we have a right to know how you are going to get to a balanced budget.'' No, no, no. You are wrong. We have a right to know how you are going to get to a balanced budget. That is who has the right to know.

You see, those of us who are for the balanced budget must get to a balanced budget. We have to. We signed up. We say we are going to do it. We are going to be required in the Constitution to do it. We do not have to show you that we are sincere about getting to a balanced budget because we pledged to do it, and we are going to put it in the Constitution to make it.

It is those who come to the floor who sign the right-to-know pledge who say they are for a balanced budget who have the obligation to come to this floor and say, ''How are you going to do it without it?'' They are the people who have the burden to come forward and say how are we going to make this happen given the fact that we do not have the balanced budget amendment. You show us or do not come to this floor and say you are for a balanced budget but you are not for a balanced budget amendment. Unless you can show us how you are going to get there, how this Senate and this Congress are going to work together to put together a balanced budget by the year 2002, unless you show us that you are serious about getting there, then do not come and ask us how to show it. We are making that commitment. We are showing you by this vote that we mean business.

I know a lot of Members are going to come here and say they are for a balanced budget. My question to them is, ''When? Next year, 2002, 2005, 2010?''

That is the real issue. I hope that we can get back to the real basic core of this debate, which is whether we are going to put in place the obligation for us to make sure that those children that the Senator from New Hampshire was talking about are going to have a secure and safe financial future.

Mr. CRAIG. Will the Senator yield?

Mr. SANTORUM. I am happy to yield.

Mr. CRAIG. The Senator is so accurate about what he says about where the obligation rests. Those of us who have championed the cause of a balanced budget amendment and have argued that—and I think all of us currently on the floor have agreed in the text of the current balanced budget amendment.

Within the next 48 hours the President of the United States—who stood on the floor of the other body for the State of the Union about a week ago and announced the concept of a balanced budget, and said, ''Show me how to balance it''—will be introducing his new budget. That new budget has $190 billion in deficits as far as the eye can see. This President with a straight face is going to look the American people in the eye and say I am going to put at least another trillion dollars to that $5 trillion debt that our colleague from New Hampshire just spoke about.

That is responsibility? No, it is this President's obligation and his party's obligation—or at least those who are advocates of this new amendment that has just been proposed—to come up and say, here is how we get it done under our vision, because if they are committed to trillions of dollars more of debt structure, they are in fact being irresponsible.

I thank my colleague for yielding. I think he is so accurate in those observations. I congratulate him on his tremendous strength and support of this issue.

Mr. SANTORUM. I thank the Senator.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, the Senator from Tennessee seems to be stuck presiding whenever I am speaking here. He has my sympathy.

I want to slightly differ with my friend from Idaho in that I think, to the President's great credit, in 1993, he did come forward with a program to move that deficit down. The problem is that was a brand new President in a honeymoon period, with both Houses of Congress in his corner. It was a first step. But there is no indication that we are willing to make further steps, and that is why we need the constitutional amendment. And my colleague from Idaho and I agree on that.

Senator SMITH mentioned that a large majority of Americans are for this, and he also said we are going to have to make some hard choices. What is also true is, according to the Wirthlin poll, that while 79 percent of the people in the United States are for this, 53 percent believe they are going to have to sacrifice if we get it. The American people understand that. But they also, in some vague way—they may not know the General Accounting

Office statistics, but the General Accounting Office says if we are willing to sacrifice a little, by the year 2020, our children and grandchildren can experience a 36 percent increase in their standard of living. That is powerful. That is what we ought to be looking at. So I can sacrifice a little—and I have said this half a dozen times, and you are going to hear me saying it again—I have to sacrifice a little so that my grandchildren can have a better future. That is what it is all about. Are we willing to do that?

Earlier today, one of our colleagues asked, ''What do we do if we have a recession?'' That was implying that we are not able to respond if there is a recession. But what do we have to do if there is a recession and all of a sudden outlays exceed receipts? First of all, we are implementing legislation—we made clear in committee, and we will make clear in the legislation that there has to be some flexibility in a $1.6 trillion budget. You cannot, right down to the dime, work things out. The best way to protect against that is what has been suggested by Alan Greenspan and Fred Bergsten, and some of the others, that is building up a surplus so if there is a dip in economy, you are not in a deficit situation.

The second thing we will make clear is that if it is within 3 percent of being balanced—so on a $1.6 trillion budget, that is $48 billion—if you are $38 billion or $30 billion in the red, that is considered a balance, but you shift that over to the next fiscal year. So you have that option.

Third, we can simply, with 60 percent of the Senate and 60 percent of the House, vote to have that amount in deficit. So there are really a number of options, and the idea that we are frozen and we cannot do anything in a recession—it is very interesting that in past recessions, we have extended unemployment compensation for the people of Pennsylvania, for the people of Tennessee, for the people of Maryland, for the people of Illinois. And in these recessions—it is very interesting—I have been able to find only one time, I say to my colleague from Maryland who spoke on this, when we did not get 60 votes for an extension of unemployment compensation. That was in 1982.

Listen to those votes: 92–8, 92–1, voice vote, 75–18, 84–10, 84–16, 61–36, voice vote, voice vote, 86–14, 85–10. It is clear that we have the ability to respond.

(Mr. SANTORUM assumed the chair.)

Mr. SARBANES. Will the Senator yield on that point?

Mr. SIMON. I will be pleased to yield, but I will yield only for a question, and I want to retain my right to the floor.

The PRESIDING OFFICER. The Senator has the right to yield for a question.

Mr. SARBANES. I say to the Senator, is he talking about extending unemployment benefits?

Mr. SIMON. Yes, which we have done in recessions.

Mr. SARBANES. But, by definition, Mr. President, the extension of the unemployment benefits is a crisis response to the fact that we find ourselves in a fairly serious recession. The fact of the matter is that we start running deficits related to the developing unemployment situation well ahead of the crisis which surrounds extended benefits. The increased payments under the regular unemployment insurance system would provoke the application of this balanced budget amendment.

The Senator says if we get in a serious economic situation, surely 60 Members will vote to waive this provision. I do not want to argue whether they will or will not. You have no guarantee that they will and, in fact, a minority may not want to make that adjustment. I will leave that to one side, because the Senator from Illinios is talking about acting once we are ''in the soup,'' so to speak.

The way these fiscal stabilizers are established, as soon as the economy begins to weaken, we begin to go out of balance in order to compensate for weak economy. That is the success we have had for the last 50 years in offsetting the business cycles. This chart shows the fluctuations in GDP since 1890. Look at the fluctuations we used to have, the boom and bust cycles we had in this country. We have been able to control this through the use of fiscal stabilizers.

Mr. SIMON. I yielded to my colleague from Maryland for a question. I would be happy to have his question here.

Mr. SARBANES. Mr. President, the question is simple: How are you going to avoid these boom and bust cycles?

Mr. SIMON. The answer is that we are not going to eliminate economic cycles in this country. There are going to be dips. I favor automatic stabilizers, and we have some. Unemployment compensation is one. Social Security is another. It is a very solid stabilizer.

I favor creating more that are automatic stabilizers in this kind of a situation. But, Mr. President, I point out to my colleague—he was not on the floor when I said that we can build some small surpluses in.

Former Assistant Secretary of the Treasury, Fred Bergsten, whom the Senator from Maryland knows well, says we are frozen by our deficits from responding. That is why we could not, even with a brand new President, and both parties of Congress of his party, pass a $15 billion job stimulus program, because we saw this huge deficit.

Fred Bergsten said, build in a 2-percent surplus and then have some automatic programs that kick in when unemployment goes above a certain level in Pennsylvania or some other place. That makes infinitely more sense than what we are doing now. And if we continue on the present path, we are inviting economic chaos.

I point out further to my colleagues here that the Investors Business Daily had this substantial item I put in the RECORD the other day pointing out that this idea that we stabilize the situation and we reduce recessions just does not work. The National Bureau of Economic Research came out with a paper recently, written by two University of California economists, which says, ''Our main finding is that monetary policy has been the source of most postwar recoveries,'' as it has been of this recovery.

When those interest rates went down—thanks, I say, to Bill Clinton and his courage in facing this recession—our economy picked up.

And Data Resources, Inc., says, if we pass this, when we balance the budget we are going to have a 2.5 percent reduction in interest rates.

But here is what the University of California economists say:

> Our main finding is that monetary policy has been the source of most postwar recoveries. While limited fiscal actions have occurred around most troughs, these actions have almost always been too small to contribute much to economic recovery.

Mr. SARBANES. Will the Senator yield on that point?

Mr. SIMON. I will not yield at this point.

Mr. SARBANES. OK.

MR. SIMON. An article in the Public Interest by an economist named Bruce Bartlett makes the same point, but my colleague from Maryland may not believe them.

Here is the report of the Joint Economic Committee of the Congress. One of the members of that committee is a fellow named Paul SARBANES. Here is Lloyd Bentsen speaking, as he says, clearly in a consensus for both parties in the joint economic report. Here is Lloyd Bentsen's language:

> Examining actions taken to combat these economic slumps over the last 35 years, the committee is convinced that Government responses too often have been too late and too ineffective to influence recessions.

Do not take my word for it. Do not take the word of all these economists. This is Lloyd Bentsen, not a Republican—nothing against my Republican colleagues—chairman of the Joint Economic Committee, in behalf of the joint committee, and, as he says, it is the consensus of that body—that includes Bill Proxmire, Abe Ribicoff, Ted KENNEDY, George McGovern, Paul SARBANES, Jack Javits, Bill ROTH, Jim McClure and Roger Jepsen on the Senate side, plus a number of people on the House side, including someone both of us respect a great deal, Henry Reuss, who for many years was a Member of the House and was chairman of the Banking Committee and a very distinguished Member.

Mr. SARBANES. Will the Senator yield, since the Senator mentioned me?

Mr. SIMON. Yes, I am pleased to yield. I wanted to make that point.

Mr. SARBANES. First of all, I agree with that statement. The response has often been too little and too late, which only underscores the problem as set out by the Senator earlier.

He said, ''Surely if we go into a recession, we will join here to waive the requirement and make the extended unemployment benefits available.'' The fact is we have done that too late.

What the Senator is not recognizing is that the way the stabilizers work now, they kick in as soon as the economy slows down. We then start running a deficit. Under the balanced budget amendment, we would not be able to do that. You would not be able to run the deficit until you convene and got your 60 votes in order to do the waiver. By that time, you are on the downward slope.

Mr. SIMON. I reclaim my time.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. SIMON. I reclaim my time to point out there is absolutely nothing to prevent us from responding.

There is something to prevent us from responding irresponsibly, and that is what we have been doing. We have been saying, basically, ''The heck with our children and our grandchildren and future generations. We are going to give a political response.''

Now, there is no question we are going to have to make some hard choices, but I think it is essential that we make those hard choices. And I think, whether it is the Senator from Maryland or the Senator from Tennessee or the Senator from Pennsylvania or the Senator from Illinois, we have to keep in mind what the GAO says, and that is if—and they use the year 2001, this was a June 1992 report—by the year 2001, we balance the budget, by the year 2020 there will be a 36 percent increase in the standard of living of all of our people.

Mr. THOMPSON. Will the Senator yield?

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

Mr. THOMPSON. To make sure I understand, in answer to the question of the Senator from Maryland as to how this amendment would operate, he is under the impression, apparently, that we would have difficulty in responding, as he suggested, because it might put us in a deficit situation.

I am wondering whether or not, however, the Congress would have the opportunity subsequent to that action any time within that fiscal year to come up with a three-fifths vote and, in effect, ratify the previous action. In other words, does the Senator subscribe to the concern of the Senator from Maryland or is this an answer to that?

Mr. SIMON. There is no question that is one of the options. I would add, Data Resources, Inc., says if we adopt this, we are going to create 2.5 million more jobs in this country.

Mr. SARBANES. What is the option on responding to the recession?

Mr. SIMON. In response to the question of the Senator from Tennessee, Mr. President, it is that we face basically three options. One is to build in a surplus, which I favor and which others have indicated they favor so that you have this cushion.

And maybe there are really four options.

The second is to build in additional automatic stabilizers so that you build up a fund and if you have a dip in employment in Tennessee, the President would be authorized to immediately launch some projects there.

Mr. SARBANES. Will the Senator yield on that point?

Mr. SIMON. Let me finish responding to your question and the question of the Senator from Tennessee.

The third option is that we build in, as we have discussed in committee, because you cannot balance everything down to a dime, that in a $1.6 trillion budget you might have a 3 percent leeway where that could then be shifted over to the next fiscal year.

And the fourth option is to get more than the 60 votes. And we have shown over and over and over again we have the ability to do that. And we have done that, you know, for earthquakes in California, for storms in Florida and Louisiana, for floods in Illinois and Missouri. We have done that over and over. So I do not think that is a great problem.

Mr. THOMPSON. Will the Senator yield?

Mr. SIMON. I yield to my college from Tennessee.

Mr. THOMPSON. As I understood the concern of the Senator from Maryland it is that for each action anywhere within the fiscal year we would have to get a three-fifths vote together immediately to take any action. However, I was under the impression that that was not the case; that subsequent to any action, any time within the fiscal year, Congress would have the option to ratify the action or perhaps take other measures that might counterbalance it. In other words, there would not be a succession of crises all along the way. The obligation would be to have a balance at the end of the fiscal year.

Mr. SIMON. Mr. President, it seems the obligation to have a balance at the end of the fiscal year—I would have to say someone might have a point of order at some point. If someone wanted to launch a $100 billion program, and that clearly would create a deficit situation.

Mr. THOMPSON. Even though technically we would not know, even then.

Mr. SIMON. That is correct. So ultimately we are at the end of the fiscal year.

Mr. SARBANES. Will the Senator yield on those points?

Mr. SIMON. I will be pleased to yield for a brief question.

Mr. SARBANES. Maybe I will reserve and answer the Senator's points, point by point. I thought the Senator might prefer an exchange, but if he wants to do it that way it is fine by me.

Mr. SIMON. Mr. President, I want to touch on one other point, and then I will be leaving the floor here.

The question has been mentioned about capital budgets, and that States have capital budgets. Now, frequently, States have to. But I also have to add, and I say this as a former State legislature in Illinois, frequently States take advantage of this.

The State decides—in Illinois—does not need to have bond issues. We are now spending huge amounts of money on interest. We do not call it deficits but we issue bonds. It is not wise. The biggest capital budget in the history of humanity, not just the history of our country, has been the Interstate Highway System. It was proposed, to his credit, by President Eisenhower. But President Eisenhower said, ''Let's issue bonds to pay for it.'' And a distinguished Senator from Tennessee, the father of our Vice President, Senator Albert Gore, Sr., said, ''Let's not issue bonds. Let's do it on a pay-as-you-go basis, and let's increase the gasoline tax.'' And we did it.

As of about a year ago the estimate was that we saved about $750 billion in interest because of that. What project is there that the Federal Government does today that requires that we have to issue bonds? The biggest single thing we do is a nuclear carrier. That will cost about $6 billion. We will say inflation goes up to $8 billion, pay for it over a period of 4 to 6 years. In a 1.6 trillion budget, we can do that.

Second, it is very significant that we were putting a lot more money into capital investments when we were not paying $300 billion-plus for interest. Our investment budget has gone down with these deficits, not up. Our fiscal imprudence just does not make sense.

The General Accounting Office has said we ought to divide our budgets into investment and consumption. The General Accounting Office also warns against using capital budgets as an excuse for deficits. It would be a great mistake to follow that line.

There is no question, Mr. President, if we have the courage to adopt this amendment, we are going to face some tough choices. And we are going to have to squirm. And we are going to have to cast some unpopular votes. If balancing the budget were popular, we would have done it a long time ago. It is popular in concept but as soon as I say, ''We will have to step on your toes in spending,'' then, all of a sudden, it does not become popular.

I would add one other point: My friends who say we can balance the budget without a constitutional amendment—first of all, they gave that speech in 1986 when we failed by one vote. Then we had a $2 trillion deficit. Now it is $4.7 trillion. We have an obligation to spell things out, and I think we should spell out, in general terms. Not as suggested precisely by Senator DASCHLE's motion. But I think in general terms we do have an obligation. I think we should move on that right after this is adopted.

But if we have an obligation, so do our friends who oppose this, who say

we can do it without a balanced budget. We have this advantage. The most conservative estimate on savings on interest with the adoption of this is by the Congressional Budget Office. They say we can save $140 billion in interest. Data resources, Inc. is talking about $500 or $600 billion in savings. Plus when interest goes down, revenue goes up.

We are talking about how we, because we exercise some discipline, can build a better future for our country.

I am never going to be a candidate for anything again, Mr. President. Maybe I will run for the local school board or something like that, but I will not run for the Senate. I will not run for Governor. I will not run for President. I am interested in doing something for the future of my country. Here we have a chance to do it. Let Members not miss this opportunity. I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I thank the Chair. Mr. President, I want to comment on a couple of points that have been made.

First of all, on the capital budget issue, most economists estimate that of the current official budget, anywhere from $125 to $200 billion—depending on the standard used of what we spend—would be a capital expenditure if we had a capital budget.

It is important to understand that because what the Senator from Illinois and his adherents are pushing for here is to balance the budget, encompassing what State and local governments or businesses would treat as a capital budget.

These are the items that any prudent, well-run business or State and local government would say represent investments in the future. These are assets that have a long useful life, and therefore it is reasonable to provide for them by borrowing and then amortizing the expenditure over the life of the asset.

That is what individuals do. In fact, most people, when they buy a home do not balance their budget in the year they buy the home. They go very deeply into deficit. Only those who can pay for the home out of cash are able to say that they are not incurring a deficit in that year. If they were bound by an amendment such as the one we are talking about here, they would not be able to do that.

Most people, assuming that the size of the mortgage they are getting bears a proper relationship to their income and their employment prospects, regard borrowing as a prudent thing to do. In fact, we say to young people,

> You ought to go ahead and buy a home. You have enough income to sustain the mortgage payment and you have the use of this asset. You would be building up home equity instead of paying rent. Why not go ahead and do it?

Businesses make this type of investment decisions. They go out and borrow in order to enhance the productive capacity of their businesses.

We do have the problem whether at the Federal level we are incurring the deficit for consumption or investment. I think if it is being incurred for consumption, there is a very strong argument against doing that because we are enhancing today's living standard by throwing the burden on tomorrow.

I heard the Presiding Officer talk about the responsibility he feels toward his offspring that is coming, and that is a reasonable statement to make. However, if it is an investment that is being made for the future, borrowing may be a very smart thing to do. Is it imprudent and irresponsible to incur a reasonable amount of debt in order to educate your children?

Suppose you cannot afford at the moment the full cost of your child's education out of your current income flow? But you know that if your children are educated, their earning capacity will be enhanced. I am able to carry this obligation over time if I treat it as a capital asset and amortize it. I think most middle-class people do that in meeting the college or professional school costs of the education of their children.

This distinction is made at the State level—the States would not balance their budgets if they kept their books the way the Federal Government does. Most States have an operating budget which they are required to balance. They have a capital budget which they fund by borrowing. They are very explicit about borrowing.

We had two Governors who testified only 10 days ago that having a balanced budget requirement at the State level helped them to maintain a good credit rating.

Now, why do they need a good credit rating if they are not borrowing? They have a balanced budget requirement and which is helpful to them in maintaining a good credit rating.

The reason you are concerned about having a good credit rating is because you are borrowing. They acknowledged under questioning that only the operating budget must be balanced, and they make active use of a capital budget for which borrowing is permitted. So this obligation you are placing upon the Federal budget would be the equivalent of saying to every State you must balance not only the operating budget but you must fund the capital budget out of current revenue. It could be the equivalent of saying the same thing to private business or to individuals. If we had capital budgeting at the Federal level now, the deficit problem would be very significantly diminished, because a fair amount of what we are spending are on capital items which under any reasonable capital budgeting approach would have been placed in the capital budget, and in most places then financed through borrowing.

That is why these Governors want to have a good credit standing. I have a State that runs a very responsible fiscal policy, and they are one of five States with a AAA bond rating. That is important to us. But the fact is that we are still borrowing in order to carry out our capital projects. We get a very good interest rate on doing that, better than most States, but we are still not doing the capital budget out of current revenues.

Now, let me turn to the problem about economic downturns, and whether they will be precipitated into a recession and in turn a depression.

What we have managed to do is build into the workings of our fiscal policy automatic stabilizers. If the economy declines, we lose revenues because people lose their jobs, they are not paying taxes, and we also increase expenditures because they receive income support payments—unemployment insurance, food and medical supplements—in order to sustain their family. The consequence of the increase in expenditures and the reduction in revenues is that you get a deficit.

Now, if you try to eliminate that deficit as the economy is moving downward, you are only going to drive the economy down further. You are going to push it down into the hole. This is what happened all through the last century and through the first half of this century.

Mr. President, I invite your attention to this chart about the percentage change in our gross national product beginning back in the 1890's and coming forward until today.

This drop is the end of World War II. It was after World War II, learning from the experience of the Great Depression, that we built in these automatic stabilizers which, when the economy went soft, would in effect seek to offset that deterioration by compensating aspects in the Federal budget.

What has happened because of that is that we now have been able throughout this postwar period to avoid the very deep boom and bust cycles that we previously had experienced.

We still get some fluctuation in the business cycle, but we have been able to diminish them very significantly. There are tremendous economic benefits that flow from a more stable business cycle.

The question becomes how are you going to address that situation as it develops? My friend from Illinois says we will get together and 60 votes will certainly waive the requirement and we will then incur the deficits which need to be incurred to offset this.

He then, quoted from a study which said that the use of fiscal policy had been too late and too little, generally speaking, in the post-World War II period. And I indicated to him that I agreed with it had been too late and too little.

It has been too late and too little without the constraint of a balanced budget amendment and without the requirement of a supermajority to have a more responsive fiscal policy, it defies logic and rationality to anticipate

under this changed circumstance that the action is going to come earlier and in greater quantity than heretofore experienced.

Mr. THOMPSON. Will the Senator yield on that question?

Mr. SARBANES. Sure.

Mr. THOMPSON. Does the Senator believe that we have been too late and too little because of just a willful refusal to address it or perhaps because of Government's inability to fine tune the economy and to predict where it is going to be even a short place down the road?

Mr. SARBANES. I think at the moment we have a certain stabilizing benefit that comes automatically. For instance, the unemployment insurance plan. But it is limited. Then we go into a downturn, and we say we have to extend the unemployment insurance benefits. But by the time you reach that point, you are on the downward slope and you look around and you have a pretty serious situation on your hands.

Now, as we start on the downward slope, we often do not recognize it at the time. The automatic stabilizers start working right away.

It is my own view we would not admit or recognize a situation that required a response in time. In fact, I doubt even if we can get a majority requirement early in the downturn. I will not argue for the moment whether later, when things are really falling to pieces all around you, whether you can get the 60 votes or not. Some think you would have difficulty doing it even then. I am focusing on to what extent you get on this slope and how much momentum begins to build in a downward direction before you are able to check it.

We have done a pretty good job here in the post-World War II period. We get ups and downs, but only in a couple of instances have they actually crossed into negative growth. So we have been able to keep the economy in essentially a positive growth mode with varying degrees of ups and downs and stability. But this is a marked contrast of what we used to go through.

Mr. THOMPSON. If the Senator will yield for a moment? Is it the Senator's understanding of the constitutional amendment proposed that, if early in the fiscal year a need was perceived to take such action as the Senator just described, that there must be an immediate vote with a 60 percent majority at that time? Or could that vote be taken at a subsequent time within the fiscal year?

Mr. SARBANES. That is a good question. I do not think the amendment fully answers that question. I think one might well go into court and assert if we had taken measures to incur a deficit, that in effect would end up violating this provision and ought to be restrained by court. Whether a court would pick up on that I do not know.

I take it the Senator's argument is we could do it in June and we would have until September 30, somehow, to work this thing out. The trouble with that is the recessions do not turn around in a quarter or two quarters. Once you get on a downward trend it takes a little bit of time to come back up. You are fighting to hold it back.

The point I make to my distinguished colleague is the more momentum that builds up in a downward direction the harder it is to check it and bring the economy back. It is always better to respond early because usually that means you can address the situation with a lesser amount than will be required later when the economy is driven deeper into the hole.

So I understand the point the Senator is making. I do not know the answer to it. But even if one were to answer it in the direction in which he presupposes, I do not think it helps very much because we are going to come up against that fiscal year before long and then we are going to be faced with an absolute crisis: What to do prior to the end of the fiscal year, in terms of the amendment. This amendment does not require a budget balance over the business cycle.

Mr. THOMPSON. Suppose——

Mr. SARBANES. A budget balance over the business cycle would have more rationality to it. It still does not address the capital budget point.

Mr. THOMPSON. Pardon me. The underlying question—we will set aside the previous question. I am sure others can address that in terms of when the vote must be taken or whether or not there is any leeway. My impression is that there is probably substantially more leeway under this amendment than the Senator believes that there is.

I guess my underlying concern is, and question is the extent to which the Government has had success in fine-tuning the economy by fiscal policy?

It seemed to me the Senator from Illinois was very persuasive, and the economists he quoted, of the proposition that we have not been very successful along those lines and that it, in fact, has had to do with monetary policy more than fiscal policy which would not be addressed by the concern of the Senator.

Mr. SARBANES. My answer to that is it depends on your definition of success. I happen to think that the fiscal stabilizers in the post-World War II period have been a success. And I think it is a consequence of a combination of fiscal and monetary policy.

It is the same process used by other countries. It is not as though I am putting for an analysis something that is only used by the United States and not used by others. Countries have sought to avoid what they experienced, which of course culminated in the Great Depression in 1930's when we had an absolute collapse with respect to our gross national product. We had a 15-percent drop in gross national product.

Franklin Roosevelt came in and he said we are going to balance the budget. Hoover was running deficits in the budget. Everyone said you have to balance the budget. Hoover tried to balance the budget unsuccessfully. The effort to balance the budget, I am asserting here, in those economic circumstances, worsened the economy.

Roosevelt came in and said we are going to balance the budget. Then they got in there and they came to realize if they tried to balance the budget in those economic times they were only going to worsen the state of the economy. More people would be out of work. There would be less purchasing power and the spiral would continue to go downward. That is when they moved in a different direction.

I am not arguing you should have unrestrained or unlimited deficits. Obviously you need to be very prudent. I am trying to make the point, first on the capital budget, that this amendment requires you to pay out of current income for items that virtually everyone else in the economy pays on a capital basis. In other words they borrow it and pay for it and they regard that as a prudent measure.

Second, I do not think the amendment permits the flexibility necessary during economic downturns. It says ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year,'' unless you use the escape clause.

This also means you cannot do anticipatory budgeting. We now have a concept that we build up a surplus in a trust fund and then use it in difficult circumstances. That is what we do with unemployment insurance. So when the economy is running well, the income into the unemployment trust fund is greater than the outgo from the trust fund. We build up a balance in the trust fund. The thinking is that then when we hit a tough economic time in which the payments out will exceed what is flowing in, we will use up the balance in the trust fund that we have built up.

This amendment would not allow you to do that because in the outyear, it makes no provision for having outlays in excess of receipts. If everything else was in balance and you sought to pay out of the trust fund, your outlays would be exceeding your receipts; total outlays and total receipts. So you would be in a jam as a consequence.

Again people say, ''We are going to waive that. We are going to give the supermajority vote.'' I am not sanguine about that, even if the issue is put to us. But the point I made earlier is that these things happen early on and now we get an automatic response. In the future you would require a discretionary response. I have very serious doubts that it would come early enough and responsively enough to avoid this kind of development.

Mr. President, I want to turn to this GAO study that the Senator from Illinois has been citing from time to time. This was a study in which the GAO had four alternative scenarios, one of which was an absolute scare scenario that any rational person would have been

traumatized by. This report, incidentally, is being used in the discussion here as a support for the balanced budget amendment.

Prof. Sidney Winter, of the Wharton School of the University of Pennsylvania, Chief Economist of the General Accounting Office, when the 1992 report, ''Budget Policy, Prompt Action Necessary to Avert Long-Term Damage to the Economy'' was prepared for the Congress made the following statement about his views on the balanced budget amendment to the Constitution.

A balanced budget amendment is an amendment that would risk converting some future economic downturn from recession to depression. For that reason, a constitutional amendment is the wrong tool for long-term budget discipline. The right tool is the Budget Enforcement Act of 1990, as amended, which is the only tool the Congress really needs.

Last year, after my colleague from Illinois quoted the GAO report, we wrote to the GAO asking some questions about the assumptions of this June 1992 report, and also asking about the current long-term deficit outlays. They, in their response last year to me, stated that they developed four scenarios to show the implications of various fiscal policies in dealing with the deficit. These scenarios were projected out to the year 2020. One scenario was doing nothing and allowing the deficit and cumulative debt to grow unchecked. This was a report in June 1992.

So this report actually was before the August 1993 deficit reduction program, which was passed by the Congress at the recommendation of the President.

So the scenarios were: One, doing nothing and allowing the deficit and cumulative debt to go unchecked. That is the scenario which is constantly cited by my colleague from Illinois. In other words, he takes that scenario and what it said, and says, ''My God, look at this.'' The fact of the matter is that the scenario has already been rendered irrelevant, its assumptions not warranted, by actions taken by the Congress since the report in June of 1992 and up to this time.

The second scenario was holding the deficit to 3 percent of gross national product. The third was achieving a balanced budget early in the next century, and maintaining balance thereafter. And the fourth was achieving a balanced budget and then moving in the surplus.

The letter then goes on and says:

You ask whether our analysis considered the costs or benefits of adopting a balanced budget amendment to the Constitution. It did not.

I repeat that. ''It did not.''

The GAO has long supported making the hard programmatic policy choices that would lead the country to a more balanced budget. We have not endorsed the balanced budget amendment to achieve this goal.

We then asked them about the current deficit outlook. This is what they said:

With regard to your question about the current deficit outlook, it has indeed improved in the 2 years since our 1992 analysis. In the Omnibus Reconciliation Act of 1993, the Congress and the President have taken action that the Congressional Budget Office estimates will reduce the deficit by $433 billion from 1994 through 1998.

Actually, the figures are turning out better than that.

The CBO now projects the deficit will be 3.1 percent of gross domestic product in 2003, down from its projections of 6.8 percent a year ago. These recent improvements in the deficit obviously would affect the starting point used in our 1992 report, which would in turn alter the outcomes of the four scenarios we outlined years ago. At least through 2004, CBO's projections indicate that we have steered away from the path projected in the no-action scenario.

So here is what happened. They projected a no-action scenario path, and on the basis of a no-action scenario path, you had great difficulty. In fact, we took action, and as a consequence of taking action, they were projecting last year the deficit would be down there 6.8 percent of GDP to 3.1 percent of GDP.

Obviously, more needs to be done. But the point that needs to be made is this absolute scare scenario that has been cited again and again is no longer applicable because the assumptions upon which it was based no longer hold.

In fact, they went on and said in the letter:

In the 2 years since we have developed the model, new information has become available that shows somewhat higher productivity, lower Federal interest costs, and higher labor force projections. We believe these changes could work to improve the long-term deficit outlook to some extent.

So, Mr. President, I want to underscore that the dynamics of this situation are such that the changes we have made have in fact had a very beneficial effect. The United States now ranks the best among the G–7 industrialized countries, in the ratio of the deficit to its gross product. That was not the case before; that was not the case before the August 1993 legislation. But as a consequence of that and the deficit reduction that has followed the 1993 Omnibus Reconciliation Act, what has happened is the economy has grown, and grown in a very steady and encouraging way. The deficit has come down, and the ratio of the deficit to the gross product has improved markedly, as this letter said—and this letter was in the first part of last year—projected down from what was projected as 6.8 percent to 3.1 percent.

So this is all by way of making the point that, first, we are making progress; second, as to the scare scenario that is constantly cited to say we absolutely have to adopt this balanced budget amendment because things are just worsening, worsening, worsening, is in fact wrong, things are improving. There is more that remains to be done. But in my judgment, to try to do them through an amendment to the Constitution is not the way to go.

Actually, I agree with the GAO, whose report is being cited as a justification to enact this constitutional amendment. And the GAO itself says:

The GAO has long supported making the hard programmatic policy changes that would lead the country to a more balanced budget. We have not endorsed a balanced budget amendment to achieve this goal.

There are real problems that are inherent in this amendment. Economic downturns would be exaggerated and become recessions. We make no provision for a capital budget, and therefore, there would be a real question of whether we would be able to do the kind of capital investment for the future strength and productivity of the economy, which everyone in a dynamic society is doing. There is a great concern that this matter would be thrown into court; we may have the judiciary making basic budget decisions which ought to be made by the President and by the Congress.

I hope it is not anyone's intention here to shift these issues into the courts. The Constitution does not have particular, substantive policies in it. Those are left to be worked out by the President and the Congress. The Constitution is a framework to define how we reach decisions, and it also guarantees the liberties of our citizens.

I think that this amendment has a very substantial risk of promoting instability and retarding economic growth. I very much hope that, upon reflection, perceiving the problems that are connected with locking a matter of this sort into the Constitution, my colleagues will not move to send this proposal to the Senate.

(Ms. SNOWE assumed the chair.)

Mr. THOMPSON. Will the Senator yield for a question?

Mr. SARBANES. I am happy to yield. I am more than willing and anxious to explore these matters with my colleagues.

Mr. THOMPSON. I appreciate that. The Senator from Maryland has had a long and distinguished career with these budgetary matters, and I want to have the benefit of his insight, because it is certainly different than the insight I have.

I get the impression from the Senator that we made progress in 1993, and that is indicative of the fact that we can continue to do that and we will really have no big problem.

Mr. SARBANES. No. I think we have a problem, but I think we have made progress and I hope we can continue to make progress. I do not think the recourse, as the GAO indicated, is this amendment to the Constitution.

Mr. THOMPSON. I wonder if we should not examine how much progress we have made and what the likelihood is of making the progress we are going to have to make. The 1993 budget arrangement, as I understand it, adds over $1 trillion to the debt. We have come to the point now where we are

using as a flag of success to wave a situation that actually adds over $1 trillion to the debt. As I look at the figures, CBO figures, they indicate that the deficit is going to go up to $222 billion in 1998, and will go up in the year 2004 to $421 billion.

The Senator rightfully points out that the deficit as a percentage of GDP has gone down. But I look and see that they project in the year 2020 that the deficit will be 21 percent of GNP. That is going to be along the time, or shortly after the time, the baby boomers start retiring and the demographics overwhelm us.

Mr. SARBANES. What are the assumptions of that projection? That nothing is done?

Mr. THOMPSON. You would have to ask CBO that.

Mr. SARBANES. I think I know the answer.

Mr. THOMPSON. Does the Senator disagree with the CBO analysis?

Mr. SARBANES. I think the assumption of the projection is a no-change scenario, just like an assumption of the GAO study which has been cited was a no change. GAO then, literally in less than 2 years from the time they made this projection, based on a no-change scenario, in effect, says that is now moot or irrelevant because important changes have been made and therefore the dynamics are very different.

The biggest problem on the deficit as we look ahead is the health care issue. If you look at the components of where they expect to have a deficit problem, it is in the health care field, and obviously we have a tough problem to deal with in health care. Despite not dealing with it last year, it is my understanding that most Members think something has to be done and it has to be addressed. What will be done and how is another open question. But there is obviously a matter there that has to be addressed.

Suppose I said to the Senator, well, we have a capital budget and we are going to have $150 or $200 billion a year in the capital budget—which would be $1 trillion over 5 years—of capital investment, just like a business would make a capital investment or State and local governments would; would the Senator be upset by that? Would he regard that as being imprudent, as sort of an irrational policy?

Mr. THOMPSON. My understanding is that it would represent only about 4 percent of our expenditures anyway. I am not sure it would make that much difference one way or another, frankly.

My other concern with the capital budget, of course, is the definition of a capital budget and how you defined it and whether or not everything all of a sudden would start to go into that budget.

Mr. SARBANES. I think that is a good point. Obviously, you would have to have careful definitions because, in fact, the way State governments or private businesses sometimes get into trouble is they put into the capital budget items that ought to be on the operating budget side and paid for through the current flow of income. But the fact that you have that problem at the margin in terms of definition and the possibility of abuse does not detract from the fact that very prudent people, as part of rational decisionmaking, use a capital budget and adopt a concept of paying for the capital budget by borrowing. And depending on the circumstances, it makes sense for the family, it makes sense for the business, it makes sense for State and local government, and it would for the Federal Government.

Mr. THOMPSON. I think the Senator's concern is well placed. I, for one, have been concerned that in this country for a long period of time we have refused to make any sacrifices, as far as consumption is concerned, and that the first things usually on the chopping block are things that benefit the next generation and that we ought to be spending more on what would probably be decided as capital items, infrastructure, things that will make our country stronger and more competitive and greater in future years and consume less. I happen to not think the Senator's concern would best be the approach to take to resolve that. But I appreciate the concern.

But getting back to, I think, the most fundamental concern, we can talk about a capital budget, we can talk about this would somehow restrict the Government from fine-tuning the economy, we can debate over whether or not the Government has had that much success in times past.

Mr. SARBANES. If I could interject, I think the impact of this would not be on fine-tuning. It would be on rough-tuning. In other words, I do not even think you would be able to do rough-tuning, let alone fine-tuning.

Mr. THOMPSON. All right. But the basic question to me, fundamentally, is whether or not we have a very, very serious problem that is going to turn into a catastrophic problem down the road or whether or not this is overblown; whether or not the entitlements commission, for example, the bipartisan commission headed by two very distinguished Senators, one from each party, whether or not they are wrong when they say in the year 2020 that a handful of programs and the interest on the debt is going to run us out of money and we are not going to have enough money for national defense, infrastructure, research and development, and all these other things. Whether or not the President, as I understand it, is wrong when his own projections show that around about 1998, even though we have made some progress in recent years with a massive tax increase—we cannot have one of those every time we want to make a little progress, in my estimation; anyway I will not argue you that point now—but the President's own figures show that the deficits skyrocket.

One of my colleagues used this chart. If we do not balance the budget, deficits will grow to more than 18 percent of GDP by 2030. I mean we have all seen these charts. And everybody—all the economists I have heard, the Concord Coalition, headed by two distinguished former Senators, one from either party; the distinguished Pete Peterson, a former Secretary of Commerce, in the recent book he has out—everybody that I have heard pretty much agrees that we have a very, very serious problem on our hands and that we are kind of fiddling while the country is burning around here.

Does the Senator disagree with that assessment?

Mr. SARBANES. In part.

What I would say to my distinguished colleague is you could have shown me a chart far worse than that one if you had done it before August 1993 and the adoption of the deficit reduction package.

Mr. THOMPSON. And I could show you a chart far worse than that one if we take it out into the future.

Mr. SARBANES. But what you are doing when you show me those charts is you are assuming no action. Just as in 1992, if you assumed no action, you would have shown a chart of great concern. We took action and, therefore, the situation was improved.

Now I am not asserting that the action taken thus far is a complete response to the problem. But I am trying to make the point that these scare scenarios are all premised on sort of doing nothing. We had one before. We did something. We got a very substantial improvement. We need to do even more in order to have further improvement.

And the hangup is essentially connected with the rising costs of medical care. If you break out the analysis and say, ''What is it that is growing that is going to create this problem in the future?'' It is the cost of medical care.

Mr. THOMPSON. I think we are narrowing the debate. I think we both pretty much agree that we have a very serious problem. I think where we finally perhaps disagree is the prospects of doing anything about that on the current course.

We have been talking about balancing the budget for years and years and we have been talking about fiscal responsibility. Every Member who gets on this floor to speak says they are for a balanced budget and every Member says they fought for fiscal responsibility.

As the Senator from Illinois pointed out awhile ago, the last time we debated the balanced budget amendment the same things were said. ''We made some progress. We are going to make more.''

We are going in the wrong direction. My concern is that we will take no action. My concern is that we will continue to do the wrong action that we have been doing for the last 70 years.

Mr. SARBANES. I say to my distinguished friend, I voted for the 1993

package and that was used against me in the last campaign. But I bellied up and I voted for a measure that had spending cuts and tax increases in an effort to try to do something real about the deficit. And I think it did do something real about the deficit. We need to do yet more.

But I think we need to do it that way and not to pass an amendment to the Constitution of the United States, which then carries with it all of these problems that I have been discussing.

I am essentially arguing that some of the concepts contained in this proposal are really counterproductive and will, in effect, be harmful to us. I am very concerned what will happen to investment. And I am very deeply concerned that we are going to go back to a situation in which the economy starts moving this way instead of what has happened in the postwar period.

One point on growth in the size of our current economy is $65 billion in goods and services. So if you get a drop like this, interestingly enough, not only are you going to have no growth and rising unemployment, but you are going to have an incredible deficit problem. In the end, you are going to break down because if you keep trying to correct the deficit problem in an economic downturn, you are just going to drive yourself deeper into the hole.

That is what happened, as I indicated earlier, first to Hoover and then to Roosevelt, until Roosevelt moved off it in an effort to come out of the depression.

Mr. THOMPSON. I thank my colleague.

Mr. SARBANES. Madam President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. I thank the Chair.

Madam President, the distinguished minority leader today introduced what he is calling a right-to-know amendment to the balanced budget amendment legislation.

Well, the Senator's amendment has at least one thing right: its title, because the American people certainly do have a right to know.

They have a right to know why Congress has spent this country $4.5 trillion into debt, and why it still keeps spending. They have the right to know how much their taxes will go up if the balanced budget amendment does not pass.

And, Madam President, they have the right to know what these higher taxes will mean to the kind of life they are trying to provide for their children and for their families if the balanced budget amendment does not become law.

That is what Americans have a right to know.

The question is not ''what happens if the balanced budget amendment passes?'' The question really is, ''What happens if it does not pass?''

The question is not, ''What will get whacked?'' The question is, ''What will get taxed?''

Madam President, without this amendment, taxes will go up. That has been the pattern over the past 30 years. Congress decides it needs another ornament for its Christmas tree of social programs, another rich chocolate concoction on its dessert tray, and it passes along the bill to the folks who can least afford to pay it, and that is the taxpayers.

There is no reason to think that Congress has changed its ways.

But do we really need an amendment to the Constitution to protect the taxpayers? My colleagues in this body who say we should not need a balanced budget amendment are right, because Congress should have the backbone to limit its spending and to set priorities, just as every Main Street American family does.

The good Senator from Maryland has been talking about borrowing.

If a family in St. Paul, MN, wants to buy a house, it works out a mortgage and a payment schedule that fits the family budget.

But eventually, that debt is repaid. It is not passed on to the next generation. That is what the vast majority of Americans do when they make a major purchase. That is not how the Federal Government works. It borrows the money without any kind of payment schedule. The debt continues to build, the payments keep being deferred, and the debt is passed down to our children.

Now, if that family in St. Paul decides it needs to tighten its belt, it does. But Congress simply goes out and buys a bigger belt. Congress does not have the backbone to restrain itself. It never has. Maybe it never will.

We will now look at the facts. Congress has spent more than it has taken in for 55 of the last 63 years. We have not had a balanced Federal budget since 1969 and deficit spending is now responsible for about 90 percent of the national debt.

For my colleagues who sometimes get lost in all the statistics, here is the reality of what the national debt means to average Americans. Every family of four owes $3,500 on just the interest alone on the national debt, and that means $3,500 less to care for our kids, $3,500 less to keep our families fed and clothed.

Those numbers are scary, but what is that interest based on? It is based on the debt, $4.5 trillion, a debt that equals nearly $20,000 for every man, woman, and child in this country today. Now, I have four children: Michelle, Tammy, Rhiannon, and Morgan. And I have four grandchildren: Wesley, Wyatt, Chelsea, and the latest, born just this morning, less than 12 hours old, and already his share of the national debt is nearly $20,000. All he has consumed is some air—free air that we take for granted. But he already owes more than $20,000 to our national debt.

We need the balanced budget amendment to force Congress to do what it should have done already. The American people agree. A large majority of them support the balanced budget amendment. A large majority say that they are willing to sacrifice some Government services in order to get this burdensome Federal deficit under control.

Madam President, I remind my colleagues who speak against the amendment that we would not be having this debate were it not for 30 years of irresponsible spending by this body, abuses that led to bloated committee staffs and expenses, and duplicative programs. A lot of what passed for Government spending in the last several decades was simply window dressing, window dressing for a very expensive shop in which the American people were sold a phony bill of goods on their own credit card.

Now, opponents have accused Members of being mean spirited and cold during these debates. But those are simple scare tactics tossed around by those who like the comfortable cushion of Government that they have been resting on for 30 years, but which has become a bed of nails for the American taxpayers. What is truly mean spirited and cold would be saddling the next generation with more deficit, more debt, and more uncertainty.

So, Madam President, the right-to-know amendment is a clever bit of propaganda, but it is dangerous legislation. We cannot strap the hands of future Congresses by carving in stone exactly how a balanced budget must be achieved. Three Congresses will come and go during the 7 years over which the budget will be balanced. Things change, needs will change, conditions will change. Each Congress needs the leeway to make its own budget decisions.

Now, if the Senate breaks the promise it made to the American voters last November and ultimately votes this legislation down, we, the majority party, must be prepared to take the next step. We have to show that we can submit a balanced budget. We have to show that we can live under a balanced budget. Many of my colleagues are committed to a balanced budget, but without this amendment. In working together, we must be prepared to prove we sincerely are interested in restoring fiscal sanity into the Federal Government.

My friend and colleague from Idaho, Senator CRAIG, has taken such a strong leadership role in this issue. It reminded me of a quote I would like to share:

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

That was Thomas Jefferson, almost 200 years ago, and yet the questions he raised during the founding years of this Republic are just as relevant today. And now it is time to answer the questions—not for me, not for my colleagues, but for our children and our grandchildren and, again, the newest member of my family, just 12 hours old, Blake, and the debt we are passing on to him. They have a right to know. They have a right to know we did everything within our power to help secure their future.

Thank you, Madam President. I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, parliamentary inquiry. Is there any time limit on Senators at this point?

The PRESIDING OFFICER. No, there is not.

Mr. DOMENICI. I do not intend, by that question, to leave the impression that I intend to speak a long, long time. I just wondered how much time I had.

I want to start my talk here with fellow Senators, and more importantly, with those people in the United States who are interested in what is going on. I want to say, particularly to the senior citizens of the United States, those who have spent their adult lives in our behalf, who have worked hard and diligently to make America a great country, I want to tell them what I think the Democrats are doing to their grandchildren and to their children's future by the tactics they are taking here on the Senate floor in an effort to defeat a constitutional amendment.

This is not said in any animosity or anger. It is because we are lodged in a very difficult war. Our war and our declaration of war is, we want to get rid of the deficit and we want the people of our country to back Members in that with a constitutional amendment. That is how we think we will win the war. If the war is declared in a constitutional amendment, and the people adopt it, then we will have at our side the full power of America saying, ''Enough's enough. We are going to see how it all comes out, but we will tell everyone right up front, the politicians, they are not going to have the luxury of spending beyond our means a few years down the line.''

First, I want to say to those who are listening, some make it sound like if this constitutional amendment is passed and we get to the year 2002, it does not make a difference what the condition of the world is, what happens by way of emergencies; we are going to have a balanced budget.

Now, it is not that at all. So I want to say to those Americans who are worried about themselves and their security or their pension program, this is a constitutional amendment that says, ''If you do not want to balance the budget, you have to bring the issue front and center; you can't hide it anymore. And secondly, you need 60 votes instead of a simple majority to add to the deficit.''

Now, let me explain the way it is structured. We will not wake up in the morning and say, ''We passed a budget and we can't do anything about it because we are going in the red $60 billion and we didn't know it.'' That will not happen, Madam President and fellow Americans, because at a point in time when we are supposed to be at zero and we get there, then whenever we exceed it, we cannot borrow any more money. We cannot make it any clearer. We cannot borrow any more money unless we bring it to the floor of the Senate and the House, and hopefully by that time, contrary to what we have today, Presidents will be on the side of the balanced budget because there will be a Constitution that says not just Republicans and a few Democrats that are supporting them are supposed to balance a budget; the law of the land, the Constitution, will say ''Mr. President, down there at Pennsylvania Avenue, you send up budgets that are in balance.''

Rest assured that Presidents are not immune. They are not going to send budgets up here, as the one we are going to get on Monday, that in the midst of very good times, cuts nothing and says: We did pretty well 3 years ago. We will leave everything alone while this happens.

This is a very good chart. I wish it were bigger so we could see it. While it has a lot on it, it is very descriptive of what will happen to our great country soon. Here is 1990, 1991, 1992; the budget is going up. The little red pile here is going up. Coming down a little, the so-called ''We are getting the deficit under control budget,'' that I heard my good friend from Maryland just say he voted for. Here it comes down a little bit; this is going to be the year 1996. It is coming down a little, if the President does not do anything.

Look what happens after that. Here we come up; it is not so far. Here we are at 2000; going up again by 2010. I say to those people in the United States that have little grandkids, now it is starting up about 2010, and about the time they are getting in high school, look what happens to it.

Now, frankly, there are those who will say, ''We do not need a constitutional amendment to fix this. We do not need one. We will just go about fixing it up, as we have.''

Let me read here. Do Members know how many times we passed statutes saying we are supposed to get to a balanced budget? I will count them here: 1921, 1964, 1978, 1978, 1978, 1979, 1980, 1985, 1987, and 1990 we passed this; in some cases, just passed others. We told the American people ''We have done it. We have done it.''

I was here when the great Senator, Mr. Byrd from Virginia, passed statute law, and it said we are not going to have any more debts, did it not? It said the law of the land is going to be balanced budgets. Ever since it was passed they go up. Is that not interesting? Is that not interesting?

That is what this shows. We have come to the conclusion—and thank God about 75 percent of Americans agree—that it will not happen unless it is the absolute, basic constitutional law of the land, unless we have up here in front of Congress and Presidents a law that says you do it; it is against the law unless you do that. That is what we think will get the job done.

Now, there are those who say we would like to do it another way, or let us just be patient. There are even those who have this list of economists of the United States, just a long list, I say to my friend of Tennessee, of all these American economists.

Well, frankly, the economists, when you put them in front of you at a table, most of them will say you have to get the deficit under control. And most of them will say it is a big, big problem. So if you are a political leader, you have a responsibility to do something about it, not just talk. And the economists, if you ask them, Mr. Economist, if there is no way to get there, and if the trend of our political leadership is our inability to stop the appetite to come to the Federal Government so we will try to solve problems by spending money, if it is that or a constitutional amendment, there are a lot of them who will say they do not like its rigidity, but we ought to get there.

Now, I try to tell everyone, including those who might be worried that with three-fifths vote in the Senate and House, if there is an emergency or if one of the major programs of our land temporarily went out of kilter, you can get the votes in the Chamber to break that budget for the circumstance that demands it. So that makes it rather rational.

You could even ask that list of economists that are against it that I hear some Democrats touted in the press galleries of this Chamber today, you could even ask some of them if the emergency is serious enough and three-fifths of the Congress votes to change it, does that not do away with a lot of your worries? And most of them would say yes, from the purely economic standpoint.

I have used this quote over and over, but I am going to wrap it into my comments today, and I have been talking about it. The quote I am going to read is from Laurence Tribe, whom the Senator from Utah knows, a very liberal constitutional professor:

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

Now, that is the constitutional amendment. We are going to tie our hands so this does not happen because, if this happens, not only will we destroy our children's legacy, but we will

tell you next week as we address economic issues as it relates to a balanced budget amendment, we will tell you in more detail the economics. But for now we can tell you that in about 10 or 12 years, if you do not get with it and tie our hands and hit us, hit all the elected leaders with a great big 2 by 4, which is addressed at their tendency to be mules, just address that so that they will do something, there will not be any money to spend on anything except paying for the national debt and paying for part of the population's entitlements. There will not be any National Government money for education, I say to the Senator from Tennessee, none. In fact, under one scenario there will not be any for the Defense Department, which is the only thing we could not send back to the States to do, in theory. It is the only thing we are totally obligated to do. The rest of what we do is optional. We elect to do much of it, but it is optional. But there would not be any money to do that if everything in the entitlements of our country is unchanged.

Now, what is rampant in America today—and you see the battlegrounds. I have just stated them for you. We declare war against the deficit. And when we declare it, we say let us win it. When we say let us win it, we say there has not been a way to win it before. So this war will be the amendment that says you cannot spend any more. That will be the declaration. That will be when you go to war.

Those who oppose it say they want us to go to war before we make the declaration of war. They want us to produce a 7-year balanced budget before the war has been declared, and what? And the President of the United States and Democrats and Republicans alike and every American has to be committed to that balanced budget.

Before that ever occurs, this amendment that they are offering here today, this resolution, let us be honest about it, it is not intended to do anything except kill the constitutional amendment. That is what it is for, plain and simple. They know, those who propose it, if you could draw a 7-year balanced budget today, you would not need the constitutional amendment. What are we going through all this for, if we could just sit down, a few of us—maybe the Senator from Tennessee could join me, we could have our Republicans on the Budget Committee and a few Democrats and write this 7-year balanced budget. We all tried that for so many years. If we could do it and it meant anything, then we would not be here asking these sovereign States of America to seriously consider changing our most sacred document, the Constitution.

Mr. HATCH. Will the Senator yield for a question on that?

Mr. DOMENICI. I will be happy to yield.

Mr. HATCH. Through the years, we have had a variety of plans proposed that would bring us to a balanced budget—Zero Deficit Plan, Concord Coalition, Senate Budget Committee Plan, Economic and Budget Outlook for Fiscal Years—a lot of others. You could just go through plan after plan. But they have never had the votes. Is that not really the problem?

Mr. DOMENICI. Not only they never have the votes, as soon as you have them all out there, they become political documents and whoever had the courage to put something down in them that was tough, the other side immediately turned down the plan and went to the public, and it became a war of who is not going to hurt this group or that group, and there goes the plan.

You are beginning to see what those who have this in mind intend of this document. They intend that. I would say for those on the other side who propose and regularly say they are for balanced budgets—the President said it in his State of the Union Address, we need a balanced budget, something like that—I would ask them to draft that 7-year document. Put the 7 years down and tell us how we are going to get there under your idea.

We do not see any forthcoming, and do not hold your breath, it will not be forthcoming Monday in the President's budget either. But at some point in time when a constitutional amendment is in effect, no President will escape sending a budget down here that is balanced. And that makes a big difference, because then we are in the war together. We are not Republicans in the war and Democrats on the sideline and a President who speaks it but not engaged.

For those who say, where is the detailed plan? I just want to tell you of the great achievements in our history that were tough, that you had to put everybody together on, that you had to muster all kinds of support, the biggest one might be the Second World War, just might be.

Is it not interesting, FDR took to the airwaves of the United States and declared war. Would it not have been nice if we would have said: Mr. President, you really know what is wrong with America. You know this is a danger to democracy and freedom. It probably will stop existing in the world. We know that with you, but how are you going to win the war? Put it all down. Write it up. What are we going to do the first 6 months? What are we going to do at the end of a year? What are we going to do at the end of 2 years? Do not declare the war until you have done all that. Right?

That is what is being said here and across America about a constitutional amendment. Do not declare the war and put everybody in this boat together to save America from this—do not do that. Tell us how you are going to get there, precisely, before in fact you pass the instrument of public support, the amendment, which is the equivalent of FDR's declaration of war.

As you think of how things go together, what happened after that declaration? People who did not have the least idea that they were supposed to do something for their country, did it. People who had no idea they were supposed to sacrifice, sacrificed. People changed their way of life because of that declaration. In fact, people went on ration plans, as I recall. I was young. A lot of things were raised and controlled because we had a real problem.

So I think we just ought to be honest with the American people and I want to be honest with them today. I have tried my dead-level best to be honest. The Democrats who are proposing that we not pass the amendment until we have the 7-year game plan—and I will talk about that in detail next week, on how much will be required to do what they have done, how many words they have changed, how many new demands they have put in, in a Constitution—but those who are on that side of this issue, they do not want a balanced budget. They can come down here, and clearly some of them may come and say Senator DOMENICI was not fair. I want one. They are saying if we want one, why do we not produce it? For those who want to get up here and say we do not want the constitutional amendment but we want a balanced budget, I challenge them. Tell the American people how you are going to do it. Right? Everybody gets up on that side of the aisle and says we do not want this—we want a balanced budget. How long are we going to be on the floor, 2 more weeks? We will ask our leader, if you want to start meeting over there we will give you another week, go meet and you tell us how you are going to do it. Because you are either not for it or you are telling us we will do it another way, just do not do it this way.

So I say to them do it your way. We anxiously await it. Put it on paper.

They will not do it. There is no question about it. First of all they would not have the courage to do it. Second, they would say it is useless to do it, nobody is going to buy it anyway this early. So what is left? What is left is what we are for and what we have been telling our people we are for.

Those people who are against this—I want to just conclude—they are for the status quo. They do not want to change anything. If they do not want to change anything then this will never get changed—this will never get changed. We will rock along and in good times we will not cut anything significant.

If ever there was a time to dramatically reduce the deficit spending, it is now. Guess what might have happened if we would have been reducing the deficit more, Madam President? We might not have had the interest rates go up. That is interesting. Ask some economists that, all those who are saying we need flexibility. If we reduce the deficit some more so there would not be so

much pressure out there, you might not have had the interest rates go up or they might have gone up less. It is the right time. If fact it was a better time to have done more 2 years ago, as we recommended to the President.

Those who are against this want to continue to do what they have been doing. I have alluded to the President's ideas that we will see in his budget proposal.

I want to conclude and say to those who are worried about how this is going to affect them, I want to suggest two things. Maybe—maybe you ought to think with us what is going to happen to you if we do not do it. If we do not do it. For every American who says I want to know what is going to happen to me, I want to see the plan—and those people are great Americans. And the organizations representing those people, the AARP—wonderful organization—but why do we not ask, and why do they not ask what will happen to us in the best sense of the word ''us,'' our kids, our neighbors, our friends, our families—what is going to happen to them if we do not do this?

Second, I want to seriously propose that once the constitutional amendment is passed—and I hope those who believe some of us in public life will listen attentively—the constitutional amendment will not determine your cause. It will not determine—the amendment for the balanced budget—it will not determine how your program is handled. It will not determine how your pension is handled. It will tell your political leaders get to a balanced budget. And before you ever get there, the issues will be joined on whether their cause shall be—whether Social Security's cause shall be secure; whether Medicare will be changed—because we will have to vote on those as we implement the constitutional amendment.

There will be ample opportunities to protect everybody's cause. But everybody knows you cannot keep them all like they are. So they all have to be ready to say let us talk. After we have this in let us have hearings.

Now some say, wait a minute, Senator DOMENICI, why do we not do that ahead of time? We try that ahead of time; we do not get anywhere ahead of time. We try it bipartisan and we leave some people out and it is dead. Presidents do not join and then they wait. And those who wait win and those who propose it lose. Just like this one. If we were to propose one without the President, we lose, we accomplish nothing. And we pulled a big hoax on the American people.

So I conclude that we are on the right side. We are on the right side if this is an American cause. If we are worried about our economic future and our children's future, there is no way to get where we ought to go by saying, at a point in time when a constitutional amendment is adopted, we are all in the same boat. And the boat is sailing—changing here and there—but it is sailing toward balance. And those who are interested in the future will join in trying to direct it in the right way, doing the least harm and doing the best that we can with the money we have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Madam President, first of all I want to thank the Senator from New Mexico for his remarks and for his inspirational leadership in this area. Those of us who have been following these matters know the Senator from New Mexico is not only the strongest advocate for fiscal responsibility but he has been a leader and an inspiration to all those who are concerned in this area. If we had the leadership and the knowledge and the courage of Senator DOMENICI more prevalent in this body we would not be here today, debating a constitutional amendment. But we are. Because we have not had that kind of leadership.

I would like to address, for a moment, the discussion that was had earlier concerning an amendment, the so-called right-to-know amendment. I was not here for most of the discussion that was led by the distinguished minority leader. But basically as I understand it, his position is that they think the American people have a right to know the details of this plan which they know as a practical impossibility and would be an irrelevance anyway. One Senator could not bind another and there are all kinds of plans floating around. All that is known but the point is yet made—the people's right to know.

I would like to make a couple of points about that. First of all, it occurs to me this approach assumes a great deal more ignorance on the part of the American people than is present. It assumes the American people, who overwhelmingly support a balanced budget amendment, think it can be done without any sacrifice whatsoever.

This amendment and this approach presupposes that the American people want a balanced budget amendment but they think we can go right along the same old way we have been going without anybody making any incremental adjustment in any program and still achieve a balanced budget.

I just came off the campaign trail. I can tell you that the people in my State know better than that. I can also tell you that I have never run across a grandparent or I have never run across a recipient of any of these programs, Medicare, Medicaid and so forth, I have never run across a person who is concerned enough to even be present around where there is a political discussion taking place who would not be willing to make some incremental modest adjustment if they thought it went to benefit their child or their grandchild.

We assume apparently in this body that the American people not only are ignorant but they are greedy, and that it does not matter that we are spending our grandchildren's birthright; it does not matter that we are bankrupting them; it does not matter that they have no representation and we are spending their money; that we are so greedy all we can concern ourselves with is the current list of goodies or the current list of programs or the current benefits that are now being received; and we cannot see past that and we will let the next generation take care of itself.

Madam President, I am not willing to concede that. How in the world can we come to the conclusion that is the kind of America that we have in this country? The American people are better than that. It is time that the Congress of the United States caught up to the American people. But let us talk a little bit more about the right to know.

The distinguished minority leader believes in the right to know. I believe in the right to know. It is kind of like the balanced budget. Everybody in this body believes in the right to know. Everybody in this body believes in a balanced budget. I think the American people have a right to know. Let us talk about the young people for a minute because there may be some young people out there—maybe just teenagers—who are just beginning to familiarize themselves with the process, who are just beginning to understand what is going on in this country, and are just beginning to realize that this is for them, this is for them and for their children. But they may not really fully understand some things yet.

They have the right to know that, if we do not make any more progress than we have made in the past, we are headed for economic disaster in this country. It is not even a matter of debate. You talk to any economist. You talk to anybody who has written on the subject. You talk to any congressional committee. We have all seen the charts. We look at what is right in front of us and say, ''Well, by George, we really were courageous. We passed the largest tax increase in the history of America a couple of years ago. So that is the kind of courage we show. We are going to spend the taxpayers' money again, and we do not have any problem.'' When everybody knows, even the administration's own estimate that in 1998—after the next Presidential election, coincidentally—it is going to go off the charts. These young people have a right to know that.

They also have a right to know, if they are listening to the eloquent remarks on the other side of the aisle about all we have to do is do what we did in 1993, it is ironic, I think, and somewhat indicative of the position that we are in in this country where a piece of legislation that adds over $1 trillion to the debt is used as a success story. But be that as it may, there have been several efforts in times past that have been alluded to earlier. But it is really significant. It cannot be

overemphasized enough when you go to consider what the alternative is if we do not pass a balanced budget amendment.

Can we do what the opponents of the balanced budget amendment say? We have to pull up our socks and do the right thing. I wish it were that simple. I wish it were that easy. Some of us probably would not have even run for office, if it had been that simple and that easy. But we have been talking about this, passing resolutions, making promises, trying to bind the President for 70 years.

Everybody was for a balanced budget back in 1921 to force the President to recommend one. In 1964, Congress got up on its feet and said we must do it soon. It is the sense of the Congress that we have to balance this budget in 1964. They actually balanced the budget after that. But even before the last balanced budget they were talking about it. In 1978, it became a matter of national policy. Are we to take that lightly? Is that something that just trips off the lips of folks around here? We state it is a matter of national policy, and they go on record in 1978. The deficit kept growing. The debt kept growing.

In 1978, Humphrey-Hawkins came back, and say it is a prioritization. We prioritize a balanced Federal budget. That was a good year. Apparently everybody had balanced budgets on their mind because it was obvious even then that things were getting out of hand. And if we did not put aside some of our short-term political considerations where every special interest group in America would descend on this town periodically and demand theirs, and the devil with the future generation, if we did not stop that way of doing business, we would be in big trouble. In 1978 they passed a law that required a balanced budget for the year 1981.

So what happened in fiscal year 1981? They had a $79 billion deficit for the very year they passed the law saying this cannot happen.

The Budget Act of 1974, they said we have the solution now. We have the answer to it now because Congress will have to come up with an annual budget resolution, and people will be afraid to vote for these large debts, these large deficits in a budget resolution. That was 1974. What happened? In 1975, the deficit skyrocketed again and continued on.

Gramm–Rudman-Hollings in 1985—we know what happened to that. It worked fine until the gravy train stopped, and a little bit of a lid was put on the pork barrel. So we had to make some adjustments, and effectively rendered it irrelevant. The 1990 budget deal, the deal to end all deals, did nothing to reduce the deficit. In 1993, we talked about it.

That is the only answer that I hear. From 1921 on, we have been trying our best, with everybody agreeing, that we had to balance the budget. And not only have we not balanced the budget, the problem continues to get worse as we sit here today, and as we discuss this. This is the good news. This is the good news. There are more people in the work force, more two-earner families. Before too long it is going to reverse itself. It is going to be the bad news. It is going to be the bad news with fewer and fewer people in the workplace supporting more and more people.

That is why we have to take responsible measures to protect Social Security. The balanced budget amendment protects Social Security. The most irresponsible thing you could do to elders on Social Security, including my mother, would be to let the status quo continue. There is not going to be anything for anybody a little bit further down the road.

The Democratic Senator from Nebraska and the Republican Senator from Missouri issued a report recently that said in the year 2020, I believe, we are going to run out of money. I am paraphrasing it a little bit. They were more eloquent than that. But they said a handful of programs and the interest on the national debt is going to take everything. Yet we continue down the same road.

The right to know? The young people have a right to know what is happening to them. There is a lot of talk about the stagnation of income over the last 20 years. Real income is not going up. What people do not talk about is for the younger folks, the younger working people starting out with their families. Since 1973, their income level has been going down and actually losing ground for these young people because of the tremendous debt which is sopping up the savings. And we cannot have investment without savings, and we cannot have growth without investment.

The economy is slowing down and people are feeling the loss of the American dream, the basic optimistic assumption that every young person growing up has had since this country began, and that was that if they worked hard, they would do at least as well or better than their parents. You talk to young people now and they do not feel that way. Young people have a right to know what is happening to them. What about their right to know?

The other side says they want the right to know what State is going to be cut. I think we ought to tell the young people what is going to happen to them. I think we ought to tell them how long the fight has been and the struggle has been and how fruitless it has been and how the Congress of the United States has ignored its own protestations, ignored its own laws, because it is so, so difficult, apparently, to do the right thing because of the political considerations and the political careerism that drives people to shortsightedly look toward the next election instead of the next generation.

People have a right to know what is going to happen. The real purpose of the right-to-know amendment, of course, is a scare tactic. It is designed to be able to point to some program that some group is going to be hurt by and have them descend on this town and pressure them and raise money against Members and try to scare everybody off, because there are certain groups who apparently are shortsighted enough to say if it means any reduction in my State, for example, that I will do anything rather than take any kind of reduction in my State. Never mind that it might work to benefit my State in the long run. Never mind that it might work to lower interest rates because we get a handle on this deficit, and that it will help my State or my municipality in its borrowings and the activities of my State. Never mind all that. If there is any scare tactic that might work, let us use it.

No, the real problem is that there are a lot of people who, for the first time in their lives, see a realistic possibility for the lid to get put on the pork barrel and the gravy train to stop on the tracks. That is what most of this is all about.

Finally, as long as we are talking about the right to know, I think if this body does not do the overwhelming will of the American people, they ought to have the right to know next election the people who were not willing to take the first step toward putting us in a position to avoid bankrupting our grandchildren.

Mr. HATCH addressed the Chair.

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

Mr. HATCH. I cannot begin to tell folks out there how much I appreciate these new Senators, who really realize how important it is to bring about change in the Congress of the United States. I particularly appreciate these last two who have spoken here today, Senator Grams and Senator Thompson. They know what the feeling is out there. They understand the American people are sick and tired of what is going on. They know that we have to do something about it.

Mr. President, I was very interested in how the Daschle amendment was brought to the forefront here today. I was absolutely astounded at the form of that amendment. That amendment is a trivialization of the Constitution of the United States.

As a matter of fact, the Daschle substitute amendment is unconstitutional. It is constitutionally defective. It sets forth a mode of promulgation for the balanced budget amendment that violates article V of the Constitution. Article V sets forth only two conditions for promulgation by Congress of a constitutional amendment. First, the amendment must be passed by a two-thirds vote of both Houses of Congress.

Second, Congress may specify the mode of ratification of the amendment. That is, Congress may specify either that the amendment is to be ratified by State legislatures or State conventions. These are the only constraints

that the Constitution attached to Congress in promulgating an amendment.

Any amendment that satisfies these conditions must be sent to the States for ratification. However, the Daschle substitute here would add another condition. Under the Daschle substitute, even after the balanced budget amendment has been passed by both Houses, it would not be submitted to the States until after ''the adoption of a concurrent resolution as described in section 9 of his substitute.''

In short, the Daschle substitute would impose a wholly new condition upon submitting the balanced budget amendment for ratification. The new condition violates article V of the Constitution. It would impose an additional hurdle on ratification by the States of a validly promulgated amendment. It would prevent the States from ratifying the amendment as quickly as they might otherwise do. There is no precedent for this new condition on promulgation, and it plainly violates the heralded article V of the Constitution.

As a matter of fact, under the Daschle approach, Congress could, for example, condition promulgation of a very popular amendment on the States first giving up their power to the Federal Government. If it is popular enough, the States might not even have any control over it.

Some of the opponents of the balanced budget amendment have expressed concern about amending the Constitution. Some of those who have always been against the balanced budget amendment have actually been concerned about amending the Constitution. It would be especially odd if these opponents supported the Daschle substitute, which seeks to amend the Constitution in an unconstitutional manner. The mode of promulgation of the amendment set forth in the Daschle substitute is unconstitutional, and everyone should reject that amendment.

Let me just make the case here for a minute and point to just some of the constitutional language. On the chart you will notice I have a big question mark after ''constitutional language.'' These are some of the new terms that the Daschle amendment has in it, statutory terms, terms that are interpreted by the Congress itself, that they are going to put into the Constitution and load up the Constitution, so there will be even more litigation.

''Aggregate levels of new budget authority.'' My goodness. Think about that. ''Aggregate levels of new budget authority.'' I will get into these in detail on Monday. I will just list them now. Here are the words ''major functional category.'' What in the world does that mean? It means anything Congress says it is. All of these mean anything Congress says. After we put it into the Constitution, Congress can manipulate these words and the definitions any way Congress wants to. That means the balanced budget amendment would not be worth the paper it is written on. It means we trivialize the Constitution with unconstitutional language and an unconstitutional approach.

''Account-by-account basis.'' These are accounting terms that we are going to write into the Constitution, in the sense of undefined accounting terms?

''Allocation of Federal revenues.'' What does that mean? What does ''reconciliation directives'' mean? We all know that in the budget process it means pretty much whatever the budget process says it means. That is continually shifting and changing.

''Section 310(A) of the Congressional Budget Act.'' Write the Budget Act into the Constitution? As much as many think the Budget Act is a good act, it is not the Constitution and it is not perfect. Some think it is a lousy approach to budgeting.

''Omnibus reconciliation bill.'' What in the world does that mean? This is language in the Daschle amendment that the opponents of this are bragging would help to protect the people out there. Give me a break.

The Congressional Budget Office? They are going to write the Congressional Budget Office into the Constitution? If there is any office I would not write into the Constitution, it would be the Congressional Budget Office. It is incredible. We will not just need lawyers to analyze the Constitution, we are going to need a group of accountants. Now, if you think lawyers are bad, think about that.

How about economic and technical assumptions? Oh, my goodness, what does that mean? Talk about language that is inappropriate for the Constitution.

And they even write Committee on the Budget into the Constitution. Now, some on the Budget Committee may feel that is a good idea, but in all honesty I do not see how any constitutional scholar would think that is a good idea.

This is trivialization of the Constitution. This is unconstitutional language. This is language that can be interpreted any way the Congress wants to interpret it or the Budget Committees wants to interpret it, or anybody on the floor of the Senate or House wants to interpret it, at any time they want to interpret it, in any way they want to interpret it.

How in the world can we put that type of stuff in the Constitution as though we are writing a mere statute. The reason the Constitution has been in existence and heralded by people all over the world and certainly every American and sworn to be upheld by all of us Members of Congress is because the Constitution does not get into statutory specifics, and it does not leave huge loopholes. It is subject to interpretation as it is, and sometimes the interpreters do not believe it.

But can you imagine the field day those who want to disrupt this country, those who really do not believe in the Constitution, those who really want to change things all the time, those who want to spend and tax more and more, can you imagine what this type of language will do to benefit them? And this is supposed to be a legitimate amendment? A legitimate good faith amendment? No. It is for one reason, and that is to try to defeat the balanced budget amendment. And the opponents would do it at any cost.

Now, look, let us get down to brass tacks. Since almost every Republican will vote for this, we need no less than 15 of the 47 Democrats over here to vote for it. That is what we need. We need 15 courageous Democrats to match the 72 courageous Democrats in the House. Those people will be heroes to all of us because they will make the difference whether the balanced budget amendment passes. Forget the better than 50 Republicans who will be voting for this. We will give the credit to those 15.

As a matter of fact, I do not care who gets the credit. I just want to get this fiscal house in order. And the only hope we have, after years of profligate spending, after years of unbalanced budgets, after years of people standing up in the Senate and saying, ''Let's do it''—I have heard that so much it makes me sick anymore—after years of that type of language, we know we are not going to get there without a balanced budget amendment.

So why do we not bite the bullet and do the things we have to do? Let us not trivialize the Constitution with junk like this.

Now, what does this mean? Well, we have two amendments to it saying if this amendment does not pass, then the President should have to come up with a 7-year plan.

Now, the President's budget will be here Monday. And it is going to have, by their own admission, according to the New York Times, no less than $190 billion deficits every year for the next 10 or 12 years. And that is assuming that all of the optimistic economic projections of the President and economic factors stay the same.

We all know that is unlikely, because already Senator KENNEDY has been on the floor today talking about increasing the minimum wage. Well, you do not increase something 20 percent and expect it not to affect inflation. Because if they push the minimum wage up from the bottom, you can well bet those at the top of that wage spectrum are also going to demand that same 10- to 20-percent increase.

What does that do? That increases inflation. That means the interest rates go up. That means that we pay more for this second highest item in the Federal budget, interest against the national debt. It means that $190 billion a year in deficits every year for the next 12 years is very optimistic. It means that for another 10 or 20 years without a balanced budget amendment we will not have any mechanism, not any, other than people saying we should do

it, to get spending under control. Except maybe increasing taxes.

Do you not think the American people are taxed to death? My gosh, wait until April 15 comes along. Some of the taxes in the President's tax plan, the tax increases do not even hit until this April 15. And I think people are really going to be upset when they find out it is not just the rich that are paying for all this. Everybody in America is paying higher gas taxes right now. They are paying higher gas prices right now. I saw a top premium gas last night for $1.40 a gallon. It was about a $1.18 when that tax bill passed.

What do you think causes those things to go up? Why, it is Government, by and large. And count on your gas prices, if we do not get a balanced budget amendment passed, count on your gas prices to start getting up around the European prices of $2 and $3 and $4 a gallon. Wait until America has to do that and our love affair with the automobile is going to be severely hampered. That is where we are headed. That is exactly where we are headed, in the same direction as those socialized economies all around the world which are paying through the nose because they have allowed Government to grow too large.

Mr. President, it is unbelievable to me that anybody would in any kind of sincerity put up an amendment that does this to the Constitution. It is unworthy of this body, in my opinion. Others can come out and argue for it if they want to.

But the fact of the matter is any amendment they bring up is an amendment to kill the balanced budget amendment. And there are some in this body who would do anything to keep on taxing and spending, because that is what they believe gets them elected. To me, it is time to quit worrying about elections and to worry about the country, and the balanced budget amendment makes us worry about the country.

Mr. President, we will have a lot more to say about this on Monday. But let me tell you what is going to happen. Senator DOLE has asked me to tell the Senate that if we have a full and good debate on Monday and probably Tuesday, we may be able to carry over the vote on this Daschle amendment for Wednesday. But if we do not have a good debate and we just waste time around here on Monday, then we will probably move to table the underlying Daschle amendment on Tuesday.

Some of our friends on the other side want to put it over until Wednesday so they can coordinate it with the President's press conference down at the White House, which, of course, is, in the opinion of some, geared to undermine the balanced budget amendment.

We can live with that. We think a good idea does not necessarily have to be afraid to stand up to any kind of withering criticism. It is not very withering after all, anyway.

But we are going to table this Daschle amendment. We have to table it. We could not for a minute allow this type of stuff into the Constitution of the United States, this type of definitional misuse of words.

Mr. President, that is basically what is going to happen this next week. We looked forward to Monday when we can debate this in earnest and go into some of these words and what they mean in detail.

Also talk even further, about why we need the balanced budget.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ECONOMISTS OPPOSE BALANCED BUDGET AMENDMENT

Mr. MOYNIHAN. Mr. President, this morning, in a room just off the Senate floor, a group representing over 450 of our Nation's most distinguished and respected economists—among them seven Nobel Laureates—gathered to express their profound and unequivocal opposition to a constitutional amendment requiring a balanced Federal budget.

Their conclusions, based not on partisan proclivities, but on decades of scholarly inquiry in the field of economics, deserve the full attention of the Senate. I ask unanimous consent that a portion of their remarks be reprinted in the CONGRESSIONAL RECORD.

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

STATEMENT OF HENRY J. AARON ON THE BALANCED BUDGET AMENDMENT

The economic, legal, and political arguments against the balanced budget amendment are powerful, and I hope that these arguments persuade enough Senators to defeat the amendment in the Senate. Nonetheless, it is possible that the proposed amendments will be sent to the states for ratification. My remarks this morning are addressed to state legislators. They can be expressed in one word: Beware!

Congress has elected not to include in the draft amendment any limit on the capacity of Congress to place mandates on the states. The reason is the supporters of the amendment knew that they could not count on enough votes to pass the amendment if such a prohibition were included. Why are members of Congress unwilling to include such limits in the amendment but instead are limiting themselves to procedural limitations, which they are free to change at any time?

The reason, clearly, is that members of Congress understand that they may wish to carry out policies for which they are unwilling to vote the taxes that would be required under the balanced budget amendment. They wish to reserve to themselves the power to force states and localities to carry out the Congressional will.

Let me be clear. I believe that unfunded mandates are often appropriate vehicles for federal action and I oppose including in the constitution prohibitions or major constraints on their use. But such mandates, on occasion, have been used abusively or inappropriately in the past. A balanced budget amendment make it quite likely that they would be used far more extensively in the future.

The public mood currently oppose activist policies by the federal government. But anyone with more than an ounce of historical perspective should recognize the political styles change. Should the states ratify the balanced budget amendment, Congress will predictably and inexorably turn to mandates on states and localities to carry out the Congressional will at such time in the future as the public mood comes once again to favor activist government, By forcing states to raise taxes to pay for mandated services, Congress will be able to claim credit, while state officials take the heat.

In plain English, the balanced budget amendment is a time-bomb that threatens to undermine state fiscal and governmental autonomy. State legislators, whether conservative or liberal, should act as custodians for their successors whose independence is vital for the health of the U.S. political system.

STATEMENT OF ISABEL V. SAWHILL

There are lots of reasons to be against a Balanced Budget Amendment to the Constitution. These have been well-articulated by my colleagues today.

However, in my view, there is only one big reason—and that is that a Balanced Budget Amendment is a dishonest means of achieving a worthy goal.

Let me be clear. I am all for balancing the budget. It is the single most important means we have to put the economy on a higher growth path and improve standards of living. But amending the Constitution will not get the job done. Only doing the job will get the job done.

To use a simple analogy, you can't lose weight simply by making a New Year's resolution to go on a diet. You can only lose weight by eating less or exercising more.

Let's have a debate about how fast and when we can safely take off the pounds. Let's also have a debate about whether we should eat less or exercise more. But let's not pretend that resolutions or changing a document as basic as the Constitution will solve the problem.

It substitutes process for problem-solving, pious words for specific deeds, public manipulation for restoration of the public trust.

Thank you.

STATEMENT BY PAUL A. SAMUELSON AND ROBERT M. SOLOW

We oppose the Balanced Budget Amendment because we believe it to be both bad government and bad economics.

At the most fundamental level we think that it is a grave mistake to involve the Constitution in the year-to-year making of economic policy. In this case, especially, when the mere definition of what is allowed and forbidden can never be unambiguous, it seems damaging and foolhardy to impose a constitutional mandate whose meaning will have to be adjudicated on a case-by-case basis by the courts. Federal judges who have better things to do will have to decide whether this or that accounting gimmick counts as revenue or outlay in calculating the balance of the budget. The infinite inventiveness of accountants can always stay one step ahead of the judiciary. It is astonishing that conservatives who think of themselves as strict constructionists can contemplate

embroiling the Constitution so directly in matters of everyday politics that should clearly be the province of legislation.

It is inevitable, and it is clearly intended, that the constraint imposed by the Balanced Budget Amendment will be used as an instrument of social policy by denying the Federal government the means to do things that a majority of Congress might otherwise wish to do. The result will be legislation by accounting decisions, reviewed by the courts.

More narrowly, the Amendment is bad economics. It puts more emphasis on the ritual idea of an annually balanced budget than it should have. There may be times when it would be best if the Federal Budget, however defined, should be in prolonged surplus. The Balanced Budget Amendment does not forbid this, but there can be no doubt that it works in the direction of favoring exact balance. The economy may not always suffer from inadequate national saving, as it does now. So there may be times when the Federal budget should be in deficit for a few years. We emphasize that we do not think this is one of those times, but we can not say it will never happen.

Many economists have pointed out how perverse the Amendment can be when the economy falls into recession. Then the appearance of a cyclical deficit is a desirable, functional event, not an undesirable one. At such a moment, the higher taxes or reduced transfers or lower expenditures that would be needed to restore balance will worsen the recession and do relatively little to reduce the budget deficit. Of course some escape mechanisms will be built into the amendment. But they will inevitably be slow, uncertain in their scope, and subject to manipulation by a minority. (This would be an obvious occasion for dissidents to challenge the accounting conventions in use.)

We are strongly in favor of a gradual, appropriately flexible program aimed at increasing the national saving rate by reducing the Federal deficit. This is a hard thing to do, given the voting public's desire to have public services and social programs without paying for them by taxes. But that is the sort of problem democracies have to learn to deal with in the ordinary way, by legislation and executive action. Getting the Constitution involved can only subvert our political system and endanger our economy.

STATEMENT OF JEFF FAUX,

Economists are famous for producing a wide variety of different answers to the same question.

Yet there are some things on which there is—although never a perfect consensus—wide agreement. The folly of a Balanced Budget Amendment to the Constitution is one of them. Even those who almost always disagree on budgetary and fiscal policies believe such an amendment would seriously damage the nation's ability to conduct sensible economic policy.

The Amendment would: make economic policy making more rigid, legalistic, and slow at a time when domestic and world markets are increasingly volatile and complex; cripple efforts to stabilize the business cycle; hamper the public's capacity for making long-term investments in human and physical capital; make it almost impossible to coordinate economic policies with other nations; and, put macroeconomic policy in the hands of the courts.

The Balanced Budget Amendment is an irresponsible act that will severely weaken the national capacity to cope with the economic problems of the 21st century.

STATEMENT OF LAWRENCE CHIMERINE

My name is Lawrence Chimerine. I am Managing Director and Chief Economist of the Economic Strategy Institute. I appreciate the opportunity to testify before the Joint Economic Committee on the advisability of a constitutional amendment to balance the federal budget.

In sum, my views are as follows:

a. While the Clinton administration economic and budget program enacted in 1993 has dramatically improved the deficit outlook, future deficits will still be unacceptably high without further policy actions. In particular, while the deficit is now falling, most projections suggest that it will start rising again in approximately two years, and will continue to rise substantially into the next decade.

b. Deficits do matter. In particular, cutting the deficit is the only reliable way to increase our anemic national saving rate in order to provide for higher investment in the long term—this is necessary to increase productivity, improve our international competitiveness, and to create a rising standard of living for most of our citizens. Cutting the deficit will also bring down real interest rates and reduce our dependence on foreign capital, both of which are also desirable in the long term.

c. There is no simple rule to guide future deficit reduction. My own view is that a multi-year deficit reduction program should be enacted as soon as possible to reduce the projected deficit in ten years by at least one-half, but to allow for delays of part or all of the policy actions if economic growth in any year is below a specified minimum level. This will avoid excessive fiscal drag at a time when the economy may already be weak, but at the same time will generate confidence in financial markets that significant future deficit reduction will occur in order to get the maximum impact on long term interest rates as soon as possible.

d. Despite my view that it is important that we bring down future budget deficits, I am strongly against enactment of a balanced budget amendment, for several reasons. First, striving for a balanced budget in the year 2002 may create too much fiscal drag, especially during the next several years when the effect of recent increases in interest rates and other factors begin to slow economic growth. Thus, it may not be good fiscal policy—at a minimum, it may be necessary to stretch out the period for reaching a balanced budget considerably. Secondly, it will be extraordinarily difficult to achieve a balanced budget in the year 2002 without decimating some major programs which are important for our economic and/or social well being, or without significant tax increases. This would be especially the case if defense, social security benefits, and some other entitlements, as well as the now large interest component of federal spending, are excluded from cuts—this would require extraordinarily large cuts in other programs. Since many of these programs affect the poor, many people will be badly hurt, or it will force state and local governments to sharply raise taxes in order to reduce their pain. Spending cuts are also likely to affect programs that are needed to help build for the future, including public infrastructure, support for research and development, education, etc.—this too would be unwise. Third, the requirement to balance the budget in every year would make the business cycle worse by requiring spending cuts or tax increases during recessions, exactly the opposite of sound macroeconomic policy. Fourth, it will likely result in budget gimmickry, such as the use of optimistic assumptions, putting programs off budget, etc. to reduce the difficulty in actually facing up to the spending cuts or tax increases that would be required. In the long run this could actually make future deficits even worse.

e. I am particularly concerned about consideration of a balanced budget amendment at the same time that there appears to be a head-long rush to enact sizeable tax cuts and to increase the defense budget, and to make it more difficult to raise taxes in the future. Needless to say, the huge revenue losses from the tax cuts now being proposed will make it even more difficult to even come close to balancing the budget in the years ahead, or even in fact to put the deficit on a downward trend. Furthermore, while no one likes tax increases, it is not desirable to reduce our future flexibility on the tax side because we may reach a point where tax increases are necessary in order to reduced budget deficits, or to fund vital programs.

THE EVOLUTION OF THE DEFICIT PROBLEM

Many still believe that the enormous deficits of the last fourteen years have been the result of overspending by Congress. However, today's massive deficits, as well as those during the 1980s, were directly attributable to the misguided economic policies that were implemented in the early 1980s under the banner of supply-side economics. Multi-hundred billion dollar deficits for as far as the eye can see were predictable at that time because:

1. The mythical spending cuts that would supposedly result from the elimination of waste, fraud, and abuse were enormously exaggerated from day one.

2. The incentive effects of supply-side tax cuts were inconsistent with most empirical evidence, and thus were enormously overstated.

3. Thus, not only did the big military spending increases and large tax cuts put massive pressure on the deficit, but the anticipated spending offsets, and the added revenues from economic growth, could never and did never materialize.

4. Furthermore, the explosion in health care costs and other entitlements have pushed the cost of those programs far beyond earlier expectations.

5. The problem was worsened by the use of extremely optimistic (and usually inconsistent) economic assumptions, understatement of program costs, budgetary gimmicks, etc. which enabled the Reagan administration to consistently present budgets that were projected to be in balance, when in truth there was virtually no possibility of that occurring.

6. Finally, the problem began to feed on itself. The inaccurate projections created an attitude of indifference and neglect which prevented any real solution to the deficit problem, thereby causing the national debt to skyrocket so that interest on the debt began to grow at an enormous rate.

BUDGETARY MYTHS

The move toward a constitutional amendment to balance the budget clearly reflects the frustration which currently exists in the Congress regarding the inability to effectively deal with the deficit problem, as well as an effort to find a way to avoid making the hard decisions. It also appears to be an indirect admission of guilt by the Congress that they in fact are also responsible for the budgetary mess. The real problem, as mentioned earlier, was the lack of leadership by the Reagan Administration during those years, and the spreading of a number of budgetary myths that perpetuated the inaction. As indicated earlier, these included the following:

1. Waste, fraud and abuse—the idea that multi-billions could be saved by eliminating waste, fraud and abuse in government programs—a painless solution that was absurd from day one.

2. Tax cuts would pay for themselves (even more than pay for themselves) because of

strong incentive effects which would create faster economic growth—there was no legitimate economic evidence to support the conclusion that the large tax cuts enacted in the early 1980s would have the huge impact on savings, investment, and work effort that had been predicted, nor would it produce the strong economic growth which underlied economic and budgetary projections at that time. As a result, it was clear that the tax cuts would result in substantial revenue losses, which is exactly what happened. The assertion by many that the problem is not on the revenue side because tax revenues actually increased as a result of the tax cuts of the early 1980s is inaccurate. Both personal and corporate income tax collections as a share of income and profits respectively are far below where they were a decade ago—total tax revenues are roughly at the same ratio of GNP as they were prior to the enactment of the supply-side program primarily because of the big increase in Social Security taxes enacted in the mid-1980s, and because of other tax increases enacted along the way.

3. We will grow our way out of it—this was another form of the argument stated above, which, as mentioned earlier, was insupportable from day one.

4. State and local budget surpluses will offset the Federal deficit—this too was a red herring which was employed by those who were belittling the deficit in the 1980s. State and local surpluses were never large enough to come anywhere near offsetting Federal deficits.

5. Deficits don't matter—when all the arguments mentioned above turned out to be wrong, it was asserted by the Reagan administration that deficits don't really matter anyway. They cited the economic expansion of the 1980s, despite the deficit, as proof. Of course, as many of us pointed out at the time, we were able to attract massive sums from overseas to help finance those deficits and extend the economic expansion—any reasonable expectation was that the flow of capital from overseas would eventually fade out, as has now been the case.

6. The deficit is due to Congressional overspending—once previous Administrations ran out of rationalizations, the blame shifting began. The truth is, however, that Congress has appropriated less money for discretionary programs (usually in defense) than the Administration asked for in ten out of the twelve years between 1980 and 1992. In fact, discretionary non-defense spending and grants-in-aid to State and local governments were cut substantially during the 1980s, not only relative to earlier current service projections, but as a share of the total budget, and as a share of total GNP. Many domestic programs have fallen sharply in real terms as a result.

We all know why the deficit is still huge and why the problem has not been addressed. It's because of dishonesty in the budgeting process, and lack of leadership from previous Administrations, which resulted in a series of proposed budgets which purportedly balanced the budget in ''out years'' based completely on mythical savings, extraordinarily optimistic assumptions, budgetary gimmicks, program understatements, etc. The problem was essentially assumed away. Perhaps Congress should have taken the lead on its own, but it was unrealistic to expect 535 Senators and Congressmen, each with their own constituents, to take the lead on a matter like this.

THE CURRENT DEFICIT OUTLOOK

The Clinton Administration and Congress enacted the most significant deficit reduction package in 1993 since the problem developed. The combination of spending cuts and tax increases enacted will reduce total deficits in the 1994–1998 period by almost $500 billion and will also reduce the level of the deficit each year beyond that time. Furthermore, unlike previous attempts to reduce the deficit, this is real deficit reduction—it was based on realistic economic assumptions and estimated impacts of the specific policy actions, so that the actual reduction in the future will closely match the estimates provided at the time the budget plan was implemented.

Unfortunately, however, the deficit outlook is still poor. While the deficit in the next two fiscal years will be about half of the near $350 billion annual level experienced in the early 1990s, in great part because of the new deficit package, as well as because of the economic recovery, virtually all projections indicate that the deficit will begin to rise again by fiscal 1997, and all continue to rise at a substantial rate into the next century. For example, the Congressional Budget Office is now projecting that the deficit will rise to over $400 billion in the year 2004, from the approximately $180 billion projected for fiscal years 1995 and 1996. These projections imply increases in the deficit to GDP ratio, and in the national debt to GDP ratio. In great part, this reflects the bottoming out of defense spending near the end of this decade, as well as continued increases in the cost of the entitlements. Furthermore, this horrendous deficit outlook is in reality even worse because it includes sizable surpluses from the Social Security trust fund—when these trust fund surpluses begin to be paid in benefits early in the next century, the unified deficit is likely to skyrocket unless steps are taken to reverse current trends.

CUTTING THE DEFICIT IS IMPORTANT

This outcome is unacceptable. It should now be clear that these enormous deficits do matter. They have already begun to slowly suck the vitality out of the U.S. economy by squeezing out productive investment, keeping real interest rates extraordinary high, increasing our dependence on foreign capital, reducing the effectiveness of fiscal policy as a stabilization tool, and by creating pressures on those Federal programs that are needed to help build our economy for the future. In my view, the urgency to reduce the deficit is even greater now than it was in previous years, for the following reasons:

1. Personal savings have declined since the 1980s, despite the supply-side incentives, thus reducing the supply of domestic savings.

2. The flow of capital from Japan, Germany, and other parts of the world, which helped fund our deficits in the 1980s when we were the world's major capital importer, has slowed dramatically. This is resulting from the fact that many of those countries are no longer generating surpluses at the same degree as they were previously, and because other parts of the world have become large capital importers as well.

3. A consensus is finally developing that the most critical need in the United States is to improve our productivity and competitiveness—we can no longer grow, as we did in the 1980s, by building empty office buildings and patriot missiles, and by leveraging the system, while long-term growth factors are deteriorating. It is clear that reversing the weak trend of productivity and improving our international competitiveness will require substantial increases in investment, including modernizing our capital stock, investing in education and job training, and rebuilding our infrastructure. High real long-term interest rates, largely caused by massive deficits at a time of lower domestic savings and a reduced inflow of foreign capital, will discourage some of our needed investment.

In effect, it is essential that we create invest-led growth in the United States in order to begin to build for the future. But to do that, the federal deficit must be gradually reduced in order to free up more of our savings to finance private investment, and to reduce real long-term interest rates. Furthermore, it is essential that government priorities be changed at the same time that deficits are reduced—clearly, more federal spending is needed for rebuilding the existing infrastructure and developing the infrastructure of the future, improving the quality of education, funding more non-defense research and development, and for other such programs that will both directly improve U.S. productivity, and help begin to rebuild the U.S. economy. The challenge of course is how to do both—across the board spending cuts, or any other method that does not result in the necessary change in priorities, will not be sufficient if our objective is to get the U.S. economy on the right course for the future.

A BALANCED BUDGET AMENDMENT IS NOT THE ANSWER.

Despite the urgency of reducing future budget deficits, I am strongly opposed to the enactment of a balanced budget amendment. In my judgment, it is simply another gimmick like those that have been implemented in the last six or seven years, beginning with Gramm-Rudman, which have had very little, if any, impact. It will not only be an ineffective tool in dealing with the problem, but in my view is simply a way to attempt to avoid what will be difficult choices, and place the blame for any unpopular spending cuts or tax increases on a mechanical formula rather than on Presidential or Congressional decisions. In brief, my concerns, are as follows:

1. Which budget is to be balanced? Is it the structural budget deficit, the unified budget deficit,the on-budget deficit, etc.? Should government investment be included or excluded? Answers to these and similar questions are not intuitively obvious.

2. It is likely to encourage even more use of optimistic forecasts, program underestimation, moving programs off-budget, and other similar techniques in order to avoid the tough decisions that will be needed to be made to actually balance the budget. Thus, the balanced budget amendment has the potential of making the budget process even more flawed than it was in the 1980s. We are also likely to see the adoption of more gimmicks that produce short-term revenue gains at the expense of revenue loss beyond the balanced budget period, which will simply make the long-term problem even worse.

3. There are times when a balanced budget may be undesirable. These may include periods of recession or slow growth, wartime periods, or situations when domestic emergencies might exist. In my view, it will be difficult to plan for all these contingencies in a balanced budget amendment, and any effort to offset these factors will be harmful to the economy. Furthermore, its goal of reaching a balanced budget in a relatively short period of time may create too much fiscal drag too rapidly.

4. In my view, if will probably make it more difficult for us to deal with our other critical budget problem, namely reorienting our priorities, because the tendency will be to look for the easiest ways of cutting the deficit, rather than those that are best for the economy.

5. What if, in fact, a balanced budget isn't achieved because the economic assumptions turned out to be incorrect, even if they were reasonable in the first place? How do we make adjustments for it? Who gets penalized? These are also difficult issues that would have to be covered.

6. Efforts to enact major tax cuts at the same time that the balanced budget amendment is being debated is the height of cynicism, especially the tax cuts that have been proposed in the Republican Contract with America. Those tax cuts would generate sizable revenue losses, especially in the out years, making what will already be an extraordinarily difficult task of substantial deficit reduction (let alone a balanced budget) in seven years virtually impossible without almost a near dismantling of government programs except for social security and national defense. This is the height of cynicism, as well as horrendously bad social and economic policy.

It is also important to remember that the Federal budget, by its sheer size, and because of its role as a stabilization tool, should not be considered in the same way as an individual state or local government.

HOW TO CUT THE DEFICIT

While additional long term deficit reduction is thus essential, this must be balanced with two other objectives. First, it is important that we do not further undermine the use of fiscal policy as a stabilization tool. In particular, it would be counterproductive to cut the deficit so quickly that we would dramatically weaken the economy when it is already operating below full employment. Second, we need to reduce future deficits in a manner that would not make it more difficult for us to deal with our other critical budget problem, mainly reorienting our priorities away from consumption and more toward public investment and other expenditures that are needed to support long term economic growth.

I suggest the following approaches an alternative to a balanced budget amendment.

1. Unfortunately, there is no precise rule of thumb or model simulation which can give us the optimum path for future deficit reduction. In my view, an appropriate objective would be to cut the $400 billion deficit now projected by CBO for 2004 in half—this would suggest that over the next 10 years the nominal deficit would be roughly flat, implying a gradual decline in the deficit in real terms, in the deficit as a share of GDP, and even more importantly, in the debt to GDP ratio. Such a target would imply putting in place approximately $15–20 billion per year of budget restraint for each year over the ten year period—in my judgment, with the safeguards I will list below, I think this is doable and will not create too much fiscal drag on the economy.

2. Spending cuts should be the top priority. In view of the large cuts in non-defense discretionary programs in the 1980s, and given the need to increase spending in some of these areas, it is unlikely that huge savings will be realized from this sector of the budget. Thus, spending cuts must come from additional reductions in military spending, from an effective health care cost control program, and from slowing the enormous growth in the entitlements, especially the pension and health programs. I would suggest that the concept of entitlements is no longer something that this country can afford. All of the so-called entitlement programs must be slowly converted to means testing, either by scaling back benefits for upper income and high wealth individuals and/or by increasing taxes on those benefits. We should reduce (not eliminate) benefits for those who could do with less—households and individuals with modest means should be spared. Furthermore, consideration should be given to further extending the retirement age for full benefits. Scaling back of health and pension benefits should not apply only to entitlement programs—public employees are now receiving extremely generous benefits which are no longer affordable. Finally, I would suggest that any reductions in social security benefits partly be earmarked for investments to build for our future, especially for education and other programs which benefit primarily younger people. In effect, we would be reducing benefits for the elderly to be used to make a better life for their children and grandchildren.

3. Deficit reduction must be fair. In particular, it is now well documented that most of the benefit of the tax cuts of the 1980s went to those in the upper income groups—in the meantime, large social security tax increases and budget cuts have significantly reduced after-tax incomes for many low and middle income families. This has only been partly reversed in the 1993 budget package. Thus, it is important that deficit reduction be structured in a way that the impact is greatest on those who can afford it. Many will make the argument that increases in taxes on upper income individuals will create huge disincentives for savings and investment and thus would be counterproductive—however, as we learned in the 1980s, these arguments are exaggerated. Furthermore, the economy can not function effectively when a large and increasing share of purchasing power and wealth is concentrated in relatively few hands—this holds down demand and thus will prevent long term growth.

4. The arithmetic is very clear—even with the phasing-in of entitlement reform and some additional cuts in defense and non-defense discretionary programs, some tax increases (not tax cuts) will be needed in order to reduce deficits to acceptable levels. The assertion that the problem is not on the revenue side because tax revenues have actually increased as a result of the tax cuts of the early 1980s is inaccurate. Both personal and corporate income tax collections as a share of income and profits, respectively, are below where they were a decade ago—total tax revenues are roughly at the same ratio of GDP as they were prior to the enactment of the supply-side program primarily because of the big increase in Social Security taxes enacted in the mid-1980s, and because of other tax increases enacted along the way.

In my view, increased revenues should come first from eliminating counterproductive tax expenditures (incentives, exemptions, etc.) now in place, and then secondly, if more revenues are needed, from increasing taxes in a progressive manner on activities that we want to consume less of. Thus, broadening the tax base and consumption taxes should be considered before across the board tax increases. In the former category, some candidates are the following: eliminating or scaling back the interest deduction on mergers and acquisitions; scaling back the deduction for corporate advertising expenses and/or for corporate entertainment; a lower limit on the mortgage interest deduction than is now in place; taxation of a portion of corporate health care insurance premiums (this may also be helpful in controlling health care costs).

5. Most importantly, I believe that to the extent possible, a multi-year program designed to bring about the amount of deficit reduction described above should be adopted as soon as possible. This would be desirable for several reasons. First, it would avoid having to go through the torturous process on an annual basis—the medicine can all be taken at once. Second, and more importantly, one way to reduce the effect of fiscal drag on economic growth is to bring interest rates down as quickly as possible, especially long term rates—this can be best accomplished if the markets believe that a credible program to reduce future deficits is in place. While easier Federal Reserve policy can also help, the Federal Reserve has lost most of its control over long term interest rates. Convincing the markets that the federal demand for credit will be dramatically reduced in the future will be a more effective way to bring down long term interest rates than an easier monetary policy.

6. It is possible to design a multi-year deficit reduction program that can allow some flexibility to deal with emergencies and recessions. This will prevent fiscal policy from worsening economic downturns. If these exceptions are truly limited, they are not likely to undermine the credibility of the long term program. I suggest that the deficit reduction program be accompanied with an ''escape clause'' in the form of a minimum level of GDP or employment growth, or a threshold unemployment rate, beneath which future installments of deficit reduction will be delayed or scaled back in order not to create an even weaker economic environment. This is particularly important since the current level of economic activity is so low that the economy is likely to be underutilized for many years.

MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that we now call up a period to transact morning business.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, 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.)

REPORT ON THE NATIONAL EMERGENCY WITH HAITI—MESSAGE FROM THE PRESIDENT—PM 8

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

To the Congress of the United States:

1. In December 1990, the Haitian people elected Jean-Bertrand Aristide as their President by an overwhelming margin in a free and fair election. The United States praised Haiti's success in peacefully implementing its democratic constitutional system and provided significant political and economic support to the new government. The Haitian military abruptly interrupted the consolidation of Haiti's new democracy when, in September 1991, it

illegally and violently ousted President Aristide from office and drove him into exile.

2. The United States, on its own and with the Organization of American States [OSA], immediately imposed sanctions against the illegal regime. Upon the recommendation of the legitimate government of President Aristide and of the OAS, the United Nations Security Council imposed incrementally a universal embargo on Haiti, beginning June 16, 1993, with trade restrictions on certain strategic commodities. The United States actively supported the efforts of the OAS and the United Nations to restore democracy to Haiti and to bring about President Aristide's return by facilitating negotiations between the Haitian parties. The United States and the international community also offered material assistance within the context of an eventual negotiated settlement of the Haitian crisis to support the return to democracy, build constitutional structures, and foster economic well-being.

The continued defiance of the will of the international community by the illegal regime led to an intensification of bilateral and multilateral economic sanctions against Haiti in May 1994. The U.N. Security Council on May 6 adopted Resolution 917, imposing comprehensive trade sanctions and other measures on Haiti. This was followed by a succession of unilateral U.S. sanctions designed to isolate the illegal regime. To augment embargo enforcement, the United States and other countries entered into a cooperative endeavor with the Dominican Republic to monitor that country's enforcement of sanctions along its land border and in its coastal waters.

Defying coordinated international efforts, the illegal military regime in Haiti remained intransigent for some time. Internal repression continued to worsen, exemplified by the expulsion in July 1994 of the U.N./O.A.S.-sponsored International Civilian Mission [ICM] human rights observers. Responding to the threat to peace and security in the region, the U.N. Security Council passed Resolution 940 on July 31, 1994, authorizing the formation of a multinational force to use all necessary means to facilitate the departure from Haiti of the military leadership and the return of legitimate authorities including President Aristide.

In the succeeding weeks, the international community under U.S. leadership assembled a multinational coalition force to carry out this mandate. At my request, former President Carter, Chairman of the Senate Armed Services Committee Sam Nunn, and former Chairman of the Joint Chiefs of Staff Colin Powell went to Haiti on September 16 to meet with the de facto Haitian leadership. The threat of imminent military intervention combined with determined diplomacy achieved agreement in Port-au-Prince on September 18 for the de facto leaders to relinquish power by October 15. United States forces in the vanguard of the multinational coalition force drawn from 26 countries began a peaceful deployment in Haiti on September 19 and the military leaders have since relinquished power.

In a spirit of reconciliation and reconstruction, on September 25 President Aristide called for the immediate easing of sanctions so that the work of rebuilding could begin. In response to this request, on September 26 in an address before the United Nations General Assembly, I announced my intention to suspend all unilateral sanctions against Haiti except those that affected the military leaders and their immediate supporters and families. On September 29, the U.N. Security Council adopted Resolution 944 terminating U.N.-imposed sanctions as of the day after President Aristide returned to Haiti.

On October 15, President Aristide returned to Haiti to assume his official responsibilities. Effective October 16, 1994, by Executive Order No. 12932 (59 Fed. Reg. 52403, October 14, 1994), I terminated the national emergency declared on October 4, 1991, in Executive Order No. 12775, along with all sanctions with respect to Haiti imposed in that Executive order, subsequent Executive orders, and the Department of the Treasury regulations to deal with that emergency. This termination does not affect compliance and enforcement actions involving prior transactions or violations of the sanctions.

3. This report is submitted to the Congress pursuant to 50 U.S.C. 1641(c) and 1703(c). It is not a report on all U.S. activities with respect to Haiti, but discusses only those Administration actions and expenses since my last report (October 13, 1994) that are directly related to the national emergency with respect to Haiti declared in Executive Order No. 12775, as implemented pursuant to that order and Executive Orders Nos. 12779, 12853, 12872, 12914, 12917, 12920, and 12922.

4. The Department of the Treasury's Office of Foreign Assets Control [FAC] amended the Haitian Transactions Regulations, 31 C.F.R. Part 580 (the ''HTR'') on December 27, 1994 (59 Fed. Reg. 66476, December 27, 1994), to add section 580.524, indicating the termination of sanctions pursuant to Executive Order No. 12932, effective October 16, 1994. The effect of this amendment is to authorize all transactions previously prohibited by subpart B of the HTR or by the previously stated Executive orders. Reports due under general or specific license must still be filed with FAC covering activities up until the effective date of this termination. Enforcement actions with respect to past violations of the sanctions are not affected by the termination of sanctions. A copy of the FAC amendment is attached.

5. The total expenses incurred by the Federal Government during the period of the national emergency with respect to Haiti from October 4, 1991, through October 15, 1994, that are directly attributable to the authorities conferred by the declaration of a national emergency with respect to Haiti are estimated to be approximately $6.2 million, most of which represent wage and salary costs for Federal personnel. This estimate has been revised downward substantially from the sum of estimates previously reported in order to eliminate certain previously reported costs incurred with respect to Haiti, but not directly attributable to the exercise of powers and authorities conferred by the declaration of the terminated national emergency with respect to Haiti.

Thus, with the termination of sanctions, this is the last periodic report that will be submitted pursuant to 50 U.S.C. 1703(c) and also constitutes the last semiannual report and final report on Administration expenditures required pursuant to 50 U.S.C. 1641(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 3, 1995.*

REPORT OF A PROCLAMATION TO AMEND THE GENERALIZED SYSTEM OF PREFERENCES—MESSAGE FROM THE PRESIDENT—PM 9

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

To the Congress of the United States:

The Generalized System of Preferences [GSP] program offers duty-free treatment to specified products that are imported from designated beneficiary countries. It is authorized by the Trade Act of 1974, as amended.

I am writing to inform you of my intent to add Armenia to the list of beneficiary developing countries for purposes of the GSP program. I have carefully considered the criteria identified in sections 501 and 502 of the Trade Act of 1974. In light of these criteria, I have determined that it is appropriate to extend GSP benefits to Armenia.

I am also writing to inform you of my decision to terminate the designation of The Bahamas and the designation of Israel as beneficiary developing countries for purposes of the GSP program. Pursuant to section 504(f) of the Trade Act of 1974, I have determined that the per capita gross national products of The Bahamas and of Israel have exceeded the applicable limit provided for in section 504(f). Accordingly, I have determined that it is appropriate to terminate the designation of The Bahamas and Israel as GSP beneficiaries.

This notice is submitted in accordance with sections 502(a)(1) and 502(a)(2) of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 3, 1995.*

MESSAGES FROM THE HOUSE

At 12:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House insists upon its amendments to the bill (S.1) to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local, and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statues and regulations; and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. CLINGER, Mr. DREIER, Mr. PORTMAN, Mr. DAVIS, Mr. CONDIT, Mrs. COLLINS of Illinois, Mr. TOWNS, and Mr. MOAKLEY as the managers of the conference on the part of the House.

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–341. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–348 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–342. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–349 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–343. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–350 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–344. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–351 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–345. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–352 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–346. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–353 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–347. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–354 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–348. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–355 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–349. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–356 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–350. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–357 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–351. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–358 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–352. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–359 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–353. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–360 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–354. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–361 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–355. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–365 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–356. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–367 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–357. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–368 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–358. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–369 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 178. A bill to amend the Commodity Exchange Act to extend the authorization for the Commodity Futures Trading Commission, and for other purposes (Rept. No. 104–7).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. HATCH (for himself, Mr. BAUCUS, and Mrs. FEINSTEIN):

S. 351. A bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities; to the Committee on Finance.

By Mr. PRESSLER:

S. 352. A bill to amend the Federal Water Pollution Control Act to establish a comprehensive program for conserving and managing wetlands and waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SIMON:

S. 353. A bill to clarify the circumstances under which a senior circuit court judge may cast a vote in a case heard en banc; to the Committee on the Judiciary.

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. SIMON, and Mr. BUMPERS):

S. 354. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing; to the Committee on Finance.

By Mr. ABRAHAM:

S. 355. A bill to provide that the Secretary of the Senate and the Clerk of the House of Representatives shall include an estimate of Federal retirement benefits for each Member of Congress in their semiannual reports, and for other purposes; to the Committee on Rules and Administration.

By Mr. SHELBY (for himself and Mr. COVERDELL):

S. 356. 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.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. BAUCUS and Mrs. FEINSTEIN):

S. 351. A bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities; to the Committee on Finance.

RESEARCH ACTIVITIES LEGISLATION

Mr. HATCH. Mr. President, I am pleased today to join with my friends and colleagues, Senator MAX BAUCUS, and Representatives NANCY JOHNSON and ROBERT MATSUI in the House, in introducing legislation that would extend permanently the tax credit for increasing research activities. The Omnibus Budget Reconciliation Act of 1993 temporarily extended this tax credit until June 30, 1995, when it is set to expire.

As the United States is shifting from an industrial based economy to an information and technology based economy, conducting research for tomorrow's products and methods is increasing in importance. In 1981, the Reagan administration and the Congress recognized this need, and the credit for increasing research and experimentation [R&E] activities was first enacted. Unfortunately, due to revenue concerns and uncertainty about its effectiveness, the credit was enacted with a sunset date of December 31, 1985. Since then, the credit has been extended four more times for periods varying from 6 months to 3 years.

Mr. President, this Nation is the world's undisputed leader in technological innovation. American know-how has given our Nation benefits undreamed of a few years ago. Research and development by U.S. companies has led the way in delivering these benefits, which enhance U.S. competitiveness as well as the quality of life for everyone. And, as the pace of change in our world quickens, the role of research has taken on increased importance.

The R&E credit has played a key role in placing the United States ahead of its competition in developing and marketing new products. Recent studies indicate that the marginal effect of $1 of the R&D credit stimulates approximately $1 of additional private research and development [R&D] spending over the short run, and as much as $2 of extra R&D over the long run.

Mr. President, the benefits of the R&D credit, though certainly very significant, have been limited by the fact that the credit has been temporary. In many fields, particularly pharmaceuticals and biotechnology, there are relatively long periods of development. The more uncertain the long-term future of the R&D credit is, the smaller the potential of the credit to stimulate increased research. This only makes sense, Mr. President. U.S. companies are managed by prudent business men and women. They evaluate their R&D investments by comparing the present value of the expected cash flows from the research over the life of the investment with the initial cash outlay. These estimates take into account the potential availability of tax credits. However, because of the uncertainty of a credit that has been allowed to expire 5 times in 14 years, many decision makers do not count on the R&E credit as being available in the long run. This, of course, means that fewer research projects will meet the threshold of viability and results in fewer dollars being spent on research in this country.

It is important to note that while U.S. investment in research and development has generally grown since 1970, our international competitors have not stood still. In fact, United States nondefense R&D, as a percentage of gross domestic product [GDP], has been relatively flat since 1985, while Japan's and Germany's have grown.

Unlike a few years ago, it is now not always necessary for U.S. firms to perform their research activities within the boundaries of the United States. As more nations have joined the United States as high-technology manufacturing centers, with educated work forces, multinational companies have found that moving manufacturing functions overseas is sometimes necessary to stay competitive. The same is often true with basic research activities. In fact, some of our major trading partners now provide generous tax incentives for research and development conducted in those nations. In some cases, these incentives are more attractive than the R&E credit the United States provides, particularly when the temporary nature of our credit is considered. Therefore, Mr. President, we are at risk of having some of the R&D spending in the United States transferred overseas if we do not keep competitive.

President Clinton, when campaigning for the presidency in 1992, recognized the importance of stimulating private R&D investment and called for a permanent R&E credit. I firmly hope that the President's fiscal year 1996 budget continues this commitment by providing for the permanent extension of the credit.

Mr. President, my home State of Utah is home to a large number of innovative companies who invest a high percentage of their revenue in research and development activities. For example, between Salt Lake City and Provo lies the world's biggest stretch of software and computer engineering firms. This area, which was named ''Software Valley'' by Business Week, is second only to California's Silicon Valley as a thriving high technology commercial area.

In addition, the Salt Lake City area is home to at least 145 biomedical firms that employ nearly 8,000 workers. These companies were conceived in research and development and will not survive, much less grow, without continuously conducting R&D activities.

In all, Mr. President, there are approximately 80,000 employees working in Utah's 1,400 plus and growing technology based companies. Research and development is the lifeblood of these firms, and hundreds of thousands more throughout the nation that are like them. A permanent and effective tax incentive to increase research is essential to the long-term health of these businesses.

High-technology companies are leading us into the 21st century. Research and development must continue or this industry will shrivel up and die. We cannot allow that to happen.

I am aware, Mr. President, that not every company that incurs R&D expenditures in the United States can take advantage of the R&E credit. For many companies, particularly in the defense and aerospace industries, declining research and development expenditures as a percentage of sales, which came about as a result of lower defense spending by the Federal Government, have put the credit out of reach. Thus, even a permanent credit, as currently structured, holds little or no incentive to increase research activities for these firms. Other companies find the current R&E credit less effective than it could be because of various problems inherent in the structure of the credit. In short, the credit, even if permanently extended, is not perfect. Congress should examine ways to improve it and to make it more effective in delivering incentives to increase R&D activity for all companies. I intend to explore various ideas to make the credit better. And, I invite my colleagues and interested parties to join me in this endeavor.

In the meantime, however, it is important that this Congress send a strong signal that the current credit should not be allowed to expire. This bill today is intended to serve as a benchmark. I urge my colleagues to show their support for the concept of a permanent R&E credit by cosponsoring this legislation. By the time we have the opportunity to consider a tax bill, probably later this spring, we hope to be able to offer improvements to the credit that all companies will find effective in encouraging the kind of research activities that will keep this Nation a leader in the technological developments that will lead us into the next century.

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. 351

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

SECTION 1. CREDIT FOR INCREASING RESEARCH ACTIVITIES MADE PERMANENT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 28(b) of such Code is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1995.

• Mr. President, it is with great pleasure that I join with my colleague from Utah, Senator HATCH, to introduce a bill critical to the ability of American businesses to effectively compete in the global marketplace. This bill will provide the economic incentive to encourage businesses to undertake the research necessary to develop the technical innovations required to increase the supply of quality jobs in the United States.

The legislation that we introduce today, and the companion legislation Representatives NANCY JOHNSON and ROBERT MATSUI are introducing in the House on this date, will make the R&D credit permanent for amounts paid for incurred after June 30, 1995.

For the past several years, essentially because of budget constraints, Congress extended the R&D credit on an sporadic basis. Corporations have been unable to count on the credit as a certainty in financing the multi-year development projects necessary to the economic well being of the companies particularly in a highly competitive, global market place.

The bill introduced today to permanently extend the R&D credit is only the beginning. Over the last few years, I have received the input of a variety of

business leaders and industry representatives concerning ways to facilitate additional investment in research and development. Included in this process were discussions with representatives of small and large businesses, new companies, and mature industries. As a result, I have concluded that additional modifications should be made to the R&D credit provisions to fulfill the objectives contemplated by Congress when it first enacted and subsequently modified the credit—fostering leadership in new technology, promoting the emergence of new businesses, aiding the conversion of the defense industry, and promoting an environment in which our Nation's companies can successfully compete with their foreign counterparts.

On March 26, 1993, I, together with our former colleague, Senator Danforth, introduced S. 666, The Research Development Enhancement Act of 1993. I believed at that time and continue to believe that S. 666 effectively addressed a number issues which, had the legislation been enacted, would have facilitated additional investment in U.S.-based research and development.

I look forward to working with my colleague, Senator HATCH, and with Members of Congress and the Administration to obtain a permanent extension of the R&D credit and to ultimately effect revisions to the credit to encourage American companies to invest additional funds in research and development.●

By Mr. PRESSLER:

S. 352 A bill to amend the Federal Water Pollution Control Act to establish a comprehensive program for conserving and managing wetlands and waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

THE COMPREHENSIVE WETLANDS CONSERVATION AND MANAGEMENT ACT OF 1995

Mr. PRESSLER. Mr. President, today I am introducing legislation that addresses a major concern of land owners and businesses not only in South Dakota but throughout the United States. The concern is wetlands.

Traveling throughout South Dakota and listening to the people, it is clear that wetlands are an issue on everyone's mind. More often than not, current wetlands policy is a burden on our farmers, ranchers, and business people. Problems with current wetlands policies have affected farmers and ranchers predominantly. However, current policies also are now affecting those who live in our cities and small towns. The bill I am introducing today would go far in establishing a policy that neither is burdensome nor imposes unwarranted costs and regulations.

And what are these wetlands concerns? The right to own private property is one. Compensation to property owners when land is taken away or when use of the land is restricted is another. Government-forced changes in farming and ranching operations are on everyone's mind. Current excessive penalties and fines could force young farmers and ranchers off the land. Obstacles to business expansion are another current concern.

Mr. President, the list of concerns goes on. These concerns are not imagined. They are real. Problems are occurring throughout South Dakota. In just one county in South Dakota—Kingsbury—nearly 20 percent of that county's farmland contains Government wildlife easement wetlands. However, Government officials have not notified farmers of those easements.

Seven possible wetlands violations were reported in Kingsbury County last year. Yet four of the seven operators charged had no idea there were wetlands easements on their farms.

In several cases, local officials quickly identified the problem, and notified the affected farmers. The farmers, unaware of any wetlands damage or violations, quickly repaired the disruption of their wetlands. Now these farmers are waiting for a ruling from Washington bureaucrats on what their penalty will be.

The penalties will not be light. Farmers have told me they are being threatened with fines as high as $515,000. Fines as high as $65,000 have already been levied.

Mr. President, I do not know any farm or ranch family that can afford to lose that amount of money. Efforts must be taken to ensure that any fine or penalty is in line with violations. Many violations are incidental and quickly repaired. Penalties should fit the crime.

Thousands of South Dakotans have written, called, or visited with me about the definition of wetlands and the rules and regulations designed to protect wetlands. Farmers, ranchers, business men and women, and individual South Dakotans have clearly identified one of the most important issues affecting their lives. They are concerned about the definition of wetlands and what guidelines should be adopted to protect them.

The bill I am introducing today addresses these wetlands concerns. My bill would create much-needed guidelines for identifying and delineating wetlands and creating a balance between growth and the protection of private property. Simply put, this bill puts common sense into our wetlands policy.

Current law is too broad, and it is causing to many problems throughout the country. Congress has never passed a comprehensive law defining wetlands. Without that definition, Federal agencies have been aggressively pursuing control over private property in the name of saving wetlands.

What the Government should or should not be doing in this area needs to be defined clearly. My bill does that. It provides definitions that protect true wetlands areas and protects the rights of private property owners.

My bill requires certain criteria to be met and verified before an area can be regulated as a wetland. Such an approach is more reliable in identifying true wetlands. It prevents field inspectors from mistakenly classifying dry, upland areas that are drained effectively as wetlands, and also eliminates a major source of confusion and abuse caused by current regulations.

Mr. President, I ask that an explanation of the bill be printed in the RECORD at this point.

Mr. President, I applaud my friend and colleague Senator BREAUX for being the leader on this issue during previous Congresses. Only through the kind of common sense and balanced approach proposed in my bill can the Nation's agricultural, business, environmental, and individual interests be addressed properly. Action is needed. I urge my colleagues to take a close look at this bill and join me in supporting this bill.

Mr. President, I ask unanimous consent that a copy of my bill and additional material be printed in the RECORD.

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

S. 352

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 ''Comprehensive Wetlands Conservation and Management Act of 1995''.

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) wetlands play an integral role in maintaining high quality of life through material contributions to the national economy, food supply, water supply and quality, flood control, and fish, wildlife, and plant resources, and to the health, safety, recreation, and economic well-being of citizens throughout the United States;

(2) wetlands serve important ecological and natural resource functions, such as providing essential nesting and feeding habitat for waterfowl, other wildlife, and many rare and endangered species, fisheries habitat, the enhancement of water quality, and natural flood control;

(3) much of the wetlands resource of the United States has sustained significant loss or degradation, resulting in the need for effective programs to limit the loss and degradation of ecologically significant wetlands and to provide for long-term restoration and enhancement of the wetlands resource base;

(4) because 75 percent of the wetlands in the lower 48 States is privately owned and because the majority of the population of the United States lives in or near wetlands, an effective wetlands conservation and management program must reflect a balanced approach that conserves and enhances important wetlands functions and values while observing private property rights, recognizing the need for essential public infrastructure, such as highways, ports, airports, sewer systems, and public water supply systems, and providing the opportunity for sustained economic growth; and

(5) the Federal permit program established under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) was not originally conceived as a wetlands regulatory program and is insufficient to ensure

that the wetlands resource base of the United States will be conserved and managed in a fair and environmentally sound manner.

(b) PURPOSE.—The purpose of this Act is to establish a new Federal regulatory program for activities in wetlands and waters of the United States to—

(1) assert Federal regulatory jurisdiction over a broad category of specifically identified activities that result in the loss or degradation of wetlands and waters of the United States;

(2) account for variations in wetlands functions or values in determining the character and extent of regulation of activities occurring in wetlands;

(3) provide sufficient regulatory incentives for conservation, restoration, or enhancement activities;

(4) encourage conservation of resources on an ecosystem basis to the fullest extent practicable; and

(5) balance public and private interests in determining the conditions under which activity in wetlands and waters of the United States may occur.

SEC. 3. WETLANDS CONSERVATION AND MANAGEMENT.

Title IV of the Federal Water Pollution Control Act (33 U.S.C. 1341 et seq.) is amended by striking section 404 and inserting the following new section:

"SEC. 404. PERMITS FOR ACTIVITIES IN WETLANDS OR WATERS OF THE UNITED STATES.

''(a) DEFINITIONS.—As used in this section:

''(1) ACTIVITY IN WETLANDS OR WATERS OF THE UNITED STATES.—The term 'activity in wetlands or waters of the United States' means—

''(A) the discharge of dredged or fill material into waters of the United States, including wetlands at a specific disposal site; or

''(B) the draining, channelization, or excavation of wetlands.

''(2) CREATION.—The term 'creation', used with respect to wetlands, means an activity that brings wetlands into existence, at a site where the wetlands did not formerly occur, for the purpose of compensation.

''(3) DIRECTOR.—The term 'Director', used without further modification, means the Director of the United States Fish and Wildlife Service.

''(4) ENHANCEMENT.—The term 'enhancement', used with respect to wetlands or waters of the United States, means an activity that increases the value of a function in wetlands or waters of the United States.

''(5) FASTLANDS.—The term 'fastlands' means lands located behind permitted manmade structures, such as lands located behind a levee to permit utilization of the lands for commercial, industrial, or residential purposes consistent with each local land use planning requirement.

''(6) GROWING SEASON.—The term 'growing season' means, for each plant hardiness zone, the period between the average date of last frost in spring and the average date of first frost in autumn.

''(7) INCIDENTALLY CREATED.—The term 'incidentally created', used with respect to wetlands, means lands that otherwise meet the standards for delineation of wetlands described in paragraphs (1) and (2) of subsection (g), if a characteristic of the wetlands is the unintended result of a human-induced alteration of hydrology.

''(8) MAINTENANCE.—The term 'maintenance' means an activity undertaken to ensure continuation of wetlands or the accomplishment of a project goal after a wetlands restoration or wetlands creation project has been technically completed, including water level manipulation and control of any nonnative plant species.

''(9) MITIGATION BANKING.—The term 'mitigation banking' means wetlands restoration, enhancement, preservation, or creation for the purpose of providing compensation for wetlands loss or degradation.

''(10) NORMAL FARMING, SILVICULTURE, AQUACULTURE, OR RANCHING ACTIVITY.—The term 'normal farming, silviculture, aquaculture, or ranching activity' means a normal ongoing practice identified as a normal ongoing activity by the Secretary of Agriculture (in consultation with the Cooperative State Research, Education, and Extension Service for each State, the land-grant university system, and the agricultural colleges of the State), taking into account any existing practice (as of the date of the identification) and any other practice that may be identified in consultation with the affected industry or community.

''(11) PRIOR CONVERTED CROPLAND.—The term 'prior converted cropland' means lands that were both manipulated (by drainage or other physical alteration to remove excess water from the land) and cropped before December 23, 1985, to the extent that the lands no longer exhibit significant wetlands functions or values.

''(12) RESTORATION.—The term 'restoration', used with respect to wetlands, means an activity undertaken to return wetlands from a disturbed or altered condition with lesser wetlands acreage or fewer wetlands functions or values to a previous condition with greater wetlands acreage or more wetlands functions or values.

''(13) SECRETARY.—The term 'Secretary', used without further modification, means the Secretary of the Army.

''(14) TEMPORARY.—The term 'temporary', used with respect to an impact, means the disturbance or alteration of wetlands or waters of the United States caused by an activity under a circumstance in which, not later than 3 years following the commencement of the activity, the wetlands or waters—

''(A) are returned to the condition in existence prior to the commencement of the activity; or

''(B) display a condition sufficient to ensure that without further human action the wetlands or waters will return to the condition in existence prior to the commencement of the activity.

''(15) WETLANDS.—The term 'wetlands' means lands that meet the standards for delineation of lands as wetlands set forth in paragraphs (1) and (2) of subsection (g).

''(16) WETLANDS FUNCTIONS.—The term 'wetlands functions' means the roles wetlands serve that are of value, including flood water storage, flood water conveyance, ground water discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fishery support, wetlands plant habitat support, aquatic habitat support, and habitat for wetlands-dependent wildlife support.

''(b) AUTHORIZED ACTIVITIES.—

''(1) PERMIT REQUIREMENT.—No person shall undertake an activity in wetlands or waters of the United States unless the activity is undertaken pursuant to a permit issued by the Secretary, except as provided in paragraph (3).

''(2) ISSUANCE OF PERMITS.—The Secretary may issue permits authorizing activities in wetlands or waters of the United States in accordance with the requirements of this section.

''(3) ACTIVITIES NOT REQUIRING PERMITS.—An activity in wetlands or waters of the United States may be undertaken without a permit described in paragraph (2) from the Secretary if the activity is authorized under paragraph (5) or (6) of subsection (e), is exempt under subsection (f), or is otherwise exempt under another provision of this section.

''(4) APPLICATION.—Any person seeking to undertake an activity in wetlands or waters of the United States shall submit an application to the Secretary identifying the site of the activity. The applicant shall also provide such additional information regarding the proposed activity as may be necessary or appropriate for purposes of determining whether and under what conditions the proposed activity may be permitted to occur.

''(c) WETLANDS CLASSIFICATION.—

''(1) APPLICATION.—In submitting an application under subsection (b), any person seeking to undertake an activity in wetlands for which a permit is required under subsection (b) shall request that the Secretary determine, in accordance with paragraph (3), the classification of the wetlands in which the activity is proposed to occur. The applicant shall also provide such information as may be necessary or appropriate for determining the classification of wetlands.

''(2) NOTICE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 90 days after the receipt of an application described in paragraph (1) relating to an activity in wetlands, the Secretary shall provide notice to the applicant of the classification of the wetlands that are the subject of the application and shall state in writing the basis for the classification. The classification of the wetlands that are the subject of the application shall be determined by the Secretary in accordance with the requirements for classification of wetlands under paragraphs (3), (4), and (5).

''(B) NOTICE REGARDING ADVANCE CLASSIFICATION.—In the case of an application proposing an activity located in wetlands that are the subject of an advance classification under subsection (h), the Secretary shall provide notice to the applicant of the classification within 30 days following the receipt of the application, and shall provide an opportunity for review of the classification under paragraphs (4) and (5).

''(3) CLASSIFICATION.—On receipt of an application under this subsection with respect to wetlands, the Secretary shall, in accordance with the standards and procedures established by regulation issued under subsection (i)—

''(A) classify as type A wetlands the wetlands that are of critical significance to the long-term conservation of the ecosystem of which the wetlands are a part if—

''(i) the wetlands serve critical wetlands functions and values, including the provision of critical habitat for a concentration of avian, aquatic, or wetlands-dependent wildlife;

''(ii)(I) the wetlands consist of or are a portion of 10 or more contiguous acres and have an inlet or outlet for relief of water flow; or

''(II) the wetlands contain a prairie pothole feature, playa lake, or vernal pool;

''(iii) there exists a scarcity within the watershed or aquatic ecosystem of identified ecological functions served by the wetlands such that the use of the wetlands for an activity in wetlands or waters of the United States would seriously jeopardize the availability of the identified functions;

''(iv) there is no overriding public interest in the use of the wetlands for purposes other than conservation; and

''(v) the nature and scope of the wetlands functions and values of the wetlands are such that minimization and compensation are not feasible means for conserving the wetlands functions and values;

''(B) classify as type B wetlands the wetlands that provide habitat for a significant population of avian, aquatic, or wetlands-dependent wildlife, or provide other significant wetlands functions and values, including significant enhancement or protection of water

quality in waters of the United States, or significant natural flood control; and

''(C) classify as type C wetlands the wetlands that—

''(i) serve limited wetlands functions and values;

''(ii) serve marginal wetlands functions and values but that exist in such abundance that regulation of activities in the wetlands is not necessary for conserving important wetlands functions and values;

''(iii) are prior converted cropland;

''(iv) are fastlands; or

''(v) are wetlands within industrial complexes or other intensely developed areas that do not serve significant wetlands functions and values as a result of the location of the wetlands.

''(4) DE NOVO DETERMINATION.—Not later than 30 days after receipt of notice of an advance classification by the Secretary under paragraph (2)(B), an applicant may request that the Secretary make a de novo determination of the classification of wetlands that are the subject of the notice. The de novo determination shall be made by the Secretary in consultation with the Director. The Secretary may sustain the advance classification made by the Director. The Secretary may modify the classification if the Secretary determines, on examination of all relevant information submitted by the applicant or otherwise available to the Secretary (including, if appropriate, an on-the-ground examination) that—

''(A) the lands involved do not meet the standards for delineating wetlands set forth in paragraph (1) or (2) of subsection (g);

''(B) the weight of relevant information does not support the determination of the advance classification with respect to the specific wetlands involved;

''(C) the factual basis for the advance classification is no longer valid; or

''(D) the limitations on uses of the specific wetlands involved that would be imposed by the Secretary under this section would effectively preclude reasonable economic use of the wetlands.

''(5) APPEALS.—In the event that the Secretary delegates authority to determine the classification of wetlands under paragraphs (3) and (4), the Secretary shall, by regulation, provide for a right of appeal to the Secretary or the designee of the Secretary of the classification of wetlands under paragraph (3) or the de novo determination of an advance classification in accordance with paragraph (4).

''(6) MAXIMUM PERCENT OF LANDS CLASSIFIED AS TYPE A WETLANDS.—No more than 20 percent of any county, parish, or borough shall be classified as type A wetlands. For purposes of this paragraph, a county, parish, or borough includes any land in the county, parish, or borough that is owned by the United States or by a State, including land in a unit of the National Wildlife Refuge System, land in the National Park System, and land subject to a conservation easement.

''(d) COMPENSATION FOR LANDOWNERS.—

''(1) ELECTION TO SEEK COMPENSATION.—Any person (including a State or political subdivision of a State) who owns an interest in lands that have been classified as type A wetlands by the Secretary under subsection (c)(3)(A) or by the Director under subsection (h) may, not later than 2 years after receipt of actual notice of the classification (or not later than 2 years after a de novo determination of the classification under subsection (c)(4)), notify the Secretary and the Director that the person is electing to seek compensation for the fair market value of the interest in lands at the time of the classification, in accordance with the requirements of this section. The fair market value may include reasonable attorney's fees and shall be calculated without regard to any diminution in value resulting from the applicability of this section.

''(2) NEGOTIATIONS.—Immediately on receipt by the Secretary and the Director of notification of election to seek compensation under paragraph (1), the Director shall enter into good faith negotiations with the owner for purposes of determining the value of the interest in lands that have been classified as type A wetlands. Not later than 90 days after receipt of the notification of election by the owner under paragraph (1), the Director shall make an offer of reasonable compensation to the owner.

''(3) ACTION OF OWNER.—

''(A) IN GENERAL.—Not later than 6 years after the date the Director makes an offer of compensation under paragraph (2), the owner shall provide notice that the owner, in the discretion of the owner—

''(i) accepts the offer of compensation;

''(ii) has filed a claim for determination of the value of the compensation described in paragraph (1) with the United States Court of Federal Claims; or

''(iii) advises the Director and the Secretary that the owner elects to retain title to the wetlands and elects not to receive compensation for the taking of land under this subsection.

''(B) FAILURE TO PROVIDE NOTICE.—Failure to provide notice in accordance with this paragraph shall be deemed an election to retain title to the wetlands and not to receive compensation under this subsection.

''(4) EFFECT OF ACCEPTANCE OF OFFER OR FILING OF CLAIM.—On acceptance of an offer of compensation, or the filing of a claim for determination of the value of compensation, under paragraph (3), the classification as type A wetlands of the wetlands that are the subject of the offer or claim shall be binding on the owner and any successor in interest, and the title to the lands shall pass to the United States. The classification of the lands as type A wetlands under this paragraph shall constitute a taking by the United States of the interests in the lands of the owner and shall be compensable under this subsection.

''(5) EXTENT OF TAKING.—A taking under this subsection shall be deemed to be a taking of surface interests in lands only, with the following exceptions:

''(A) EXPLORATION OR DEVELOPMENT NOT COMPATIBLE WITH CONSERVATION.—If the Secretary determines that the exploration for or development of oil and gas or mineral interests is not compatible with conservation of the surface interests in lands that have been classified as type A wetlands located above the oil and gas or mineral interests (or located adjacent to the oil and gas or mineral interests where the adjacent lands are necessary to provide reasonable access to the interests), the Secretary may classify the oil and gas or mineral interests as type A wetlands and notify the owner of the interests that the owner may elect to receive compensation for the interests under paragraph (1).

''(B) FAILURE TO PROVIDE REASONABLE ACCESS.—The failure of the Secretary to provide reasonable access to oil and gas or mineral interests located beneath or adjacent to surface interests of type A wetlands shall be deemed a taking of the oil and gas or mineral interests. The Secretary shall classify the oil and gas or mineral interests as type A wetlands and notify the owner of the interests that the owner may elect to receive compensation for the interests under paragraph (1).

''(6) JURISDICTION.—The United States Court of Federal Claims shall have jurisdiction—

''(A) to determine the value of interests taken and the fair compensation required under this subsection and the Constitution;

''(B) in the case of oil and gas or mineral interests, to require the United States to provide reasonable access in, across, or through lands that may be the subject of a taking under this subsection solely for the purpose of undertaking activity necessary to determine the value of the interests taken; and

''(C) to provide other equitable remedies determined to be appropriate.

''(7) EXECUTION OF JUDGMENT.—Any judgment rendered under paragraph (6) may be executed, at the election of the owner. Any owner seeking to execute such a judgment shall execute the judgment not later than 2 years after the date the judgment is rendered. The owner may, prior to the execution of the judgment, enter into an agreement with the United States for satisfaction of the judgment through a crediting of a tax benefit, acquisition of an interest in oil and gas or minerals, an exchange of interests in lands with the United States, or other means of compensation.

''(8) CONSTRUCTION.—

''(A) AVAILABILITY OF OTHER REMEDIES.—The remedy for a taking of an interest in lands under this subsection shall not be construed to preempt, alter, or limit the availability of other remedies for the taking of the interest in lands under the Constitution or under State law, including the taking of rights to the use of water allocated under State law or the taking of the interest in lands by denial of a permit under this section.

''(B) TAKING BY DENIAL OF A PERMIT.—Any award of compensation for the taking of an interest in lands by denial of a permit under this section shall be based on the fair market value of the interest in lands at the time of the taking. The fair market value may include reasonable attorney's fees and shall be calculated without regard to any diminution in value resulting from the applicability of this section.

''(9) MANAGEMENT.—Interests in lands acquired by the United States under this subsection shall be managed by the United States Fish and Wildlife Service as a part of the National Wildlife Refuge System unless the Secretary of the Interior, acting through the Director, makes a determination otherwise, or unless otherwise provided by law.

''(10) REQUIREMENTS GOVERNING USE OF WATER.—No action taken under this subsection shall be construed to alter or supersede requirements governing use of water applicable under State law.

''(e) REQUIREMENTS APPLICABLE TO PERMITTED ACTIVITY.—

''(1) ISSUANCE OR DENIAL OF PERMITS.—Following the provision of notice of wetlands classification pursuant to subsection (c) if applicable, and after compliance with the requirements of subsection (d) if applicable, the Secretary may issue or deny a permit for authorization to undertake an activity in wetlands or waters of the United States, in accordance with the requirements of this subsection.

''(2) TYPE A WETLANDS.—

''(A) IN GENERAL.—The Secretary shall deny a permit authorizing an activity in type A wetlands unless the Secretary determines that—

''(i) the activity can be undertaken with minimal alteration or surface disturbance of the wetlands; or

''(ii) the proposed use of the land, taking into account all proposed mitigation, will result in overall environmental benefits, including the prevention of wetlands loss or degradation.

''(B) TERMS AND CONDITIONS CONCERNING MITIGATION.—Any permit issued authorizing activities in type A wetlands may contain such terms and conditions concerning mitigation (including terms and conditions applicable under paragraph (3) for type B wetlands) as the Secretary determines to be appropriate to prevent the unacceptable loss or degradation of type A wetlands.

''(3) TYPE B WETLANDS.—

''(A) CONSIDERATIONS.—The Secretary may issue a permit authorizing an activity in type B wetlands subject to such terms and conditions as the Secretary finds are necessary to ensure that the watershed or aquatic ecosystem of which the wetlands are a part does not suffer significant loss or degradation of wetlands functions and values. In determining whether specific terms and conditions are necessary to avoid a significant loss or degradation of wetlands functions and values, the Secretary shall consider the following:

''(i) The quality and quantity of ecologically significant functions and values served by the areas to be affected.

''(ii) The opportunities to reduce impacts through cost-effective design to avoid or minimize use of wetlands.

''(iii) The costs of mitigation requirements and the social, recreational, and economic benefits associated with the proposed activity, including local, regional, or national needs for improved or expanded infrastructure.

''(iv) The ability of the applicant for the permit to mitigate wetlands loss or degradation as measured by wetlands functions and values.

''(v) The environmental benefit, measured by wetlands functions and values, that may occur through mitigation efforts, including restoration, preservation, enhancement, or creation of wetlands functions and values.

''(vi) The marginal impact of the proposed activity on the watershed or aquatic ecosystem of which the wetlands are a part.

''(B) ALTERNATIVE SITE ANALYSES AND PROJECT PURPOSES.—In considering applications for permits with respect to activities on type B wetlands, the Secretary may require alternative site analyses for individual permit applications involving the alteration or permanent surface disturbance of 10 or more contiguous acres of wetlands. In the case of such an application, there shall be a rebuttable presumption that the project purpose for the activities as defined by the applicant shall be binding on the Secretary. In the case of such an application, the definition of project purpose for the activities sponsored by a public agency shall be binding on the Secretary, subject to the authority of the Secretary to impose mitigation requirements to minimize impacts on wetlands functions and values, including cost-effective redesign of the project to avoid wetlands.

''(C) REQUIREMENTS FOR MITIGATION.—Except as otherwise provided in this section, requirements for mitigation shall be imposed if the Secretary finds that activities undertaken under this section will result in the loss or degradation of type B wetlands functions and values where the loss or degradation is not an incidental or a temporary impact. When determining the mitigation requirements in any specific case, the Secretary shall take into consideration the characteristics of the wetlands affected, the character of the impact on ecological functions, whether any adverse effects on wetlands are of a permanent or temporary nature, and the cost-effectiveness of the mitigation and shall seek to minimize the costs of the mitigation.

''(D) REGULATIONS GOVERNING REQUIREMENTS FOR MITIGATION.—The Secretary shall issue regulations under subsection (i) governing requirements for compensatory mitigation, for activities occurring in type B wetlands, that allow for—

''(i) minimization of impacts through project design for the activities, including avoidance of specific wetlands impacts where economically practicable and consistent with the project purpose, provisions for compensatory mitigation, if any, and other terms and conditions necessary and appropriate in the public interest;

''(ii) preservation or donation of type A wetlands or type B wetlands (if title has not been acquired by the United States and no compensation for the taking of the wetlands has been provided) as mitigation for activities that result in loss or degradation of wetlands;

''(iii) enhancement or restoration of lost or degraded wetlands as compensation for wetlands lost or degraded through permitted activity;

''(iv) compensation through contribution to a mitigation banking program established for a State pursuant to subparagraph (F);

''(v) offsite compensatory mitigation with respect to an activity in a wetlands, if the mitigation contributes to the restoration, enhancement, or creation of significant wetlands functions and values on a watershed or ecosystem-wide basis and is balanced with the effects that an activity proposed to be carried out under a permit will have on the specific site (except that offsite compensatory mitigation, if any, shall be required only in the State in which the proposed activity is to occur, and shall, to the extent practicable, be within the watershed or aquatic ecosystem within which the proposed activity is to occur, unless otherwise consistent with a State wetlands management plan);

''(vi) contribution of in-kind value acceptable to the Secretary and otherwise authorized by law;

''(vii) in areas subject to wetlands loss or degradation, construction of coastal protection and enhancement projects;

''(viii) contribution of resources of more than 1 permit recipient toward a single mitigation project; and

''(ix) other mitigation measures determined by the Secretary to be appropriate, in the public interest, and consistent with the requirements and purposes of this Act.

''(E) COMPENSATORY MITIGATION.—Notwithstanding subparagraph (C), the Secretary may determine not to impose requirements for compensatory mitigation, with respect to an activity in a wetlands, if the Secretary finds that—

''(i) the adverse impacts of an activity proposed to be carried out under a permit are limited;

''(ii) the failure to impose compensatory mitigation requirements is compatible with maintaining wetlands functions and values and no practicable and reasonable means of compensatory mitigation is available;

''(iii) there is an abundance of similar significant wetlands functions and values in or near the area in which the proposed activity is to occur that will continue to serve the functions and values lost or degraded as a result of the activity, taking into account the impacts of the activity and the cumulative impacts of similar activity in the area;

''(iv) the temporary character of the impacts and the use of minimization techniques make compensatory mitigation unnecessary to protect significant wetlands functions and values; or

''(v) a waiver from requirements for compensatory mitigation is necessary to prevent special hardship.

''(F) MITIGATION BANKING PROGRAM.—

''(i) ESTABLISHMENT.—The Secretary, in consultation with the Director, shall establish a mitigation banking program in each State. The mitigation banking program shall be developed in consultation with the Director and the Governor of the State in which the wetlands covered by the mitigation banking program is located. After approval of the program by the Secretary, the Secretary may require contributions to the program as a means for ensuring compensation for loss and degradation of wetlands functions and values in the State in accordance with the requirements of this paragraph.

''(ii) PRIMARY OBJECTIVE.—The primary objective of the programs shall be to provide for the restoration, enhancement, or, where feasible, creation of ecologically significant wetlands on an ecosystem basis.

''(iii) FUNCTIONS AND VALUES.—Each program described in clause (i) shall—

''(I) provide a preference for large-scale projects for conservation, enhancement, or restoration of wetlands, unless the Secretary (or the Governor of a State that is administering a State permit program under subsection (l)) determines that a smaller project will contribute substantially to the conservation, enhancement, or restoration of ecologically significant wetlands functions and values or that the restoration of indigenous wetlands resources cannot be accomplished through large-scale projects;

''(II) authorize mitigation banks sponsored by private entities or public entities;

''(III) provide for the crediting to a State or privately maintained mitigation bank of contributions in land or cash, or in-kind contributions, so that persons unable to sponsor specific mitigation projects can contribute to the mitigation bank;

''(IV) have sufficient requirements to ensure completion, maintenance, and supervision of wetlands projects for at least a 25-year period, including requirements for bonds or other evidence of financial responsibility;

''(V) authorize the imposition of bonding requirements on private entities operating the banks;

''(VI) limit activities in or on wetlands that are part of a mitigation bank to uses that are consistent with maintaining or gaining significant wetlands functions and values; and

''(VII) authorize a credit to be provided on an acre-for-acre or value-for-value basis for type A and B wetlands that are permanently protected in national conservation units in any State that has converted less than 10 percent of the historic wetlands base of the State to other uses.

''(4) ACTION ON APPLICATIONS.—

''(A) TIMING.—In the case of any application for authorization to undertake activities in wetlands or waters of the United States that are not type C wetlands, final action by the Secretary shall occur not later than 180 days after the date the application is filed, unless—

''(i) the Secretary and the applicant agree that the final action shall occur within a shorter or longer period of time;

''(ii) the Secretary determines that an additional, specified period of time is necessary to permit the Secretary to comply with other applicable Federal law; or

''(iii) the Secretary, not later than 15 days after the date the application is received, notifies the applicant that the application does not contain all information necessary to allow the Secretary to consider the application and identifies any necessary additional information, in which case the provisions of subparagraph (B) shall apply.

''(B) ADDITIONAL INFORMATION.—On the receipt of a request for additional information under subparagraph (A)(iii), the applicant shall supply the additional information and shall provide notice to the Secretary that

the application contains all requested additional information and is therefore complete. The Secretary may—

''(i) not later than 30 days after the receipt of notice from the applicant that the application is complete, determine that the application does not contain all requested additional information and, on the basis of the determination, deny the application without prejudice with respect to resubmission; or

''(ii) not later than 180 days after the receipt of notice from the applicant that the application is complete, review the application and take final action on the application.

''(C) FAILURE TO ACT ON APPLICATION.—If the Secretary fails to take final action on an application as provided in subparagraph (B)(ii), on the 180th day described in the subparagraph a permit shall be presumed to be granted authorizing the activities proposed in the application under such terms and conditions as are stated in the completed application.

''(D) APPEALS.—Not later than 60 days after the date of a decision of the Secretary denying a permit requested in an application under this paragraph, the applicant may appeal the decision to the Secretary of Defense or the designee of the Secretary of Defense. On such an appeal, the Secretary of Defense or the designee shall uphold the decision of the Secretary of the Army if the Secretary of the Army proves by clear and convincing evidence that granting the permit requested in the application would be inconsistent with this section.

''(5) TYPE C WETLANDS.—

''(A) PERMIT NOT REQUIRED.—Activities in wetlands that have been classified as type C wetlands under subsection (c)(3)(C) by the Secretary or under subsection (h) by the Director may be undertaken without a permit referred to in subsection (b).

''(B) REPORTING REQUIREMENTS.—The Secretary may establish requirements for reporting activities undertaken in type C wetlands.

''(C) ALTERNATIVE SITE ANALYSIS AND MITIGATION NOT REQUIRED.—No requirements for alternative site analyses or mitigation of environmental impacts shall apply for activities undertaken in type C wetlands.

''(6) NATIONAL, REGIONAL, OR STATEWIDE GENERAL PERMITS.—

''(A) IN GENERAL.—The Secretary may, in accordance with a regulation issued under subsection (i), issue general permits on a national, regional, or statewide basis for any category of activities in wetlands or waters of the United States for which a permit would otherwise be required under subsection (b), if the Secretary determines that the activities in the category are similar in nature and that the activities, whether performed separately or cumulatively, will not result in a significant loss or degradation of ecologically significant wetlands functions and values or of ecologically significant waters of the United States. Permits issued under this paragraph shall include procedures for expedited review of eligibility for the permits (if the review is required) and may include requirements for reporting and mitigation. The Secretary may impose requirements for compensatory mitigation for the permits if necessary to avoid or minimize the significant loss or degradation of significant wetlands functions and values where the loss or degradation is not an incidental or a temporary impact.

''(B) EXISTING GENERAL PERMITS.—General permits issued on a national or regional basis for activities in the wetlands or waters of the United States and in effect on the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall remain in effect until otherwise modified by the Secretary.

''(f) ACTIVITIES NOT REQUIRING PERMIT.—

''(1) ACTIVITIES.—Except as provided in paragraph (3), activities in wetlands or waters of the United States shall be exempt from the requirements of this section and shall not be prohibited by or otherwise subject to regulation under this section or section 301 or 402 (except to the extent the sections relate to compliance with effluent standards or prohibitions under section 307), if the activities—

''(A) result from normal farming, silviculture, aquaculture, or ranching activities and practices, such as plowing, seeding, cultivating, minor drainage, burning of vegetation in connection with the activities and practices, harvesting for the production of food, fiber, or forest products, or upland soil and water conservation practices;

''(B) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts of currently (as of the date of the maintenance) serviceable structures, such as dikes, dams, levees, water control structures, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

''(C) are for the purpose of construction or maintenance of farm, stock, or aquaculture ponds or irrigation canals and ditches, or the maintenance of drainage ditches;

''(D) are for the purpose of construction of temporary sedimentation basins on a construction site that does not include placement of fill material into navigable waters;

''(E) are for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, if the roads are constructed and maintained, in accordance with best management practices, to ensure that flow and circulation patterns and chemical and biological characteristics of the waters involved are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

''(F) are undertaken on farmed wetlands, except that any change in use of the wetlands for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to this section;

''(G) result from any activity with respect to which a State has an approved program for which an application was submitted under section 208(b)(4) that meets the requirements of subparagraphs (B) and (C) of the section;

''(H) are consistent with a State or local land management plan submitted to the Secretary and approved pursuant to paragraph (2);

''(I) are undertaken in connection with a marsh management and conservation program in a coastal parish in Louisiana if the program has been approved by the Governor of the State or the designee of the Governor;

''(J) are undertaken on lands or involve activities within a coastal zone of a State that are excluded from regulation under the State coastal zone management program approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

''(K) are undertaken in incidentally created wetlands, unless the incidentally created wetlands have exhibited wetlands functions and values for more than 5 years (in which case activities undertaken in the wetlands shall be subject to the requirements of this section);

''(L) are part of expanding an ongoing farming operation involving the water dependent, obligate crop, Vaccinium macrocarpin, if—

''(i) the expansion does not occur in type A wetlands;

''(ii) the expansion does not result in the conversion of more than 10 acres of wetlands or waters of the United States per operator per year; and

''(iii) the converted wetlands or waters of the United States (other than in locations where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

''(M) result from aggregate or clay mining activities in wetlands or waters of the United States conducted pursuant to a State or Federal permit that requires the reclamation of the wetlands or waters of the United States, if the reclamation meets conditions for reclamation, including conditions that—

''(i) the reclamation shall be completed within 5 years of the commencement of activities in the wetlands or waters; and

''(ii) on completion of the reclamation, the wetlands or waters shall support functions (including wetlands functions, as appropriate) and values equivalent to the functions and values supported by the wetlands or waters at the time of commencement of the activities.

''(2) STATE AND LOCAL LAND MANAGEMENT PLANS.—

''(A) DEVELOPMENT AND SUBMISSION OF PLAN.—Any State or political subdivision of a State acting pursuant to State authorization may develop a land management plan with respect to lands that include wetlands. A State or local government agency, acting on behalf of the State or political subdivision, may submit the plan to the Secretary for review and approval. The Secretary shall, not later than 60 days after receipt of the plan, notify a designated State or local official in writing of approval or disapproval of the plan.

''(B) APPROVAL.—The Secretary shall approve any plan described in subparagraph (A) that is consistent with the objectives of this section. No person shall be entitled to judicial review of the decision of the Secretary to approve or disapprove a land management plan under this paragraph.

''(C) CONSTRUCTION.—Nothing in this paragraph shall be construed to alter, limit, or supersede the authority of a State or political subdivision of a State to establish a land management plan for purposes other than the objectives of this subsection.

''(g) STANDARDS FOR DELINEATING WETLANDS.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, by regulation issued under subsection (i), that shall govern the delineation of lands as wetlands for purposes of this section.

''(B) CONSULTATION.—Before establishing standards as described in subparagraph (A), the Secretary shall consult with the heads of other departments and agencies of the United States, including the Director, the Administrator of the Environmental Protection Agency, and the Chief of the Natural Resources Conservation Service of the Department of Agriculture.

''(C) STANDARDS BINDING ON FEDERAL AGENCIES.—The standards established as described in subparagraph (A) shall bind all Federal agencies in connection with the administration or implementation of this section.

''(2) DELINEATION OF WETLANDS.—

''(A) IN GENERAL.—The standards established as described in paragraph (1)(A) shall be issued in accordance with this paragraph, and any decision of the Secretary, the Director, or any other Federal officer or employee, made in connection with the administration of the standards, shall be made in accordance with this paragraph.

''(B) REQUIREMENTS FOR DELINEATION OF WETLANDS.—For purposes of this section,

lands shall be delineated as wetlands only if—

''(i) the lands are wetlands, as defined in section 502;

''(ii) the Secretary finds clear evidence of wetlands hydrology, hydrophytic vegetation, and hydric soil during the period in which the delineation (to be conducted during the growing season unless otherwise requested by the applicant) is made;

''(iii) the delineation does not result in the classification of vegetation as hydrophytic if the vegetation is equally adapted to dry or wet soil conditions or is more typically adapted to dry soil conditions than to wet soil conditions;

''(iv) the Secretary finds some obligate wetlands vegetation present during the period of delineation (except that if the vegetation is removed for the purpose of evading a requirement of this section, this clause shall not apply);

''(v) the delineation does not result in the conclusion that conditions of wetlands hydrology are present, unless the Secretary finds water present at the surface of the lands for at least 21 consecutive days during the growing season (or period requested by the applicant) in which the delineation is made and for 21 consecutive days during the growing seasons in a majority of the years for which records are available; and

''(vi) the lands were not temporarily or incidentally created as a result of adjacent development activity.

''(C) NORMAL CIRCUMSTANCES.—For the purpose of delineating wetlands under this section, a normal circumstance shall be determined on the basis of the factual circumstance in existence on the date a classification is made under subsection (h), or on the date of application under subsection (b), whichever is applicable, if the circumstance has not been altered by an activity prohibited under this section.

''(h) UNITED STATES FISH AND WILDLIFE SERVICE WETLANDS ADVANCE IDENTIFICATION AND CLASSIFICATION PROJECT.—

''(1) IN GENERAL.—The Director, after receiving the concurrence of the Chief of the Natural Resources Conservation Service, shall conduct a project to identify and classify wetlands in the United States. The Director shall complete the project not later than 10 years after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995.

''(2) STANDARDS FOR CLASSIFYING WETLANDS.—In conducting the project, the Director shall identify and classify wetlands in accordance with the standards for delineation of wetlands established by the Secretary as described in paragraphs (1) and (2) of subsection (g).

''(3) NOTICE AND HEARING.—Before completion of identification and classification of wetlands under paragraph (1), the Director shall provide notice and an opportunity for a public hearing in each county, parish, or borough that includes lands subject to identification and classification.

''(4) PUBLICATION.—Promptly after completion of identification and classification of wetlands under paragraph (1), the Director shall publish information concerning the identification and classification in the Federal Register and in publications of wide circulation and take other steps reasonably necessary to ensure that information concerning the identification and classification is made available to the public.

''(5) RECORDING.—The Director shall, to the fullest extent practicable, record any classification of lands as wetlands under paragraph (1) on the property records in the county, parish, or borough in which the wetlands are located.

''(6) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, and annually thereafter, the Secretary of the Interior shall prepare and submit to the appropriate committees of Congress a report on implementation of the project conducted under this subsection.

''(i) ADMINISTRATIVE PROVISIONS.—

''(1) PROMULGATION OF FINAL REGULATIONS.—Not later than 1 year after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, the Secretary shall, after notice and opportunity for public comment, issue 1 or more final regulations for the issuance of permits under this section. The regulations shall—

''(A) establish standards and procedures for—

''(i) the classification and delineation of wetlands, and procedures for administrative review of the classification or delineation of wetlands;

''(ii) the review of State or local land management plans and State programs for the regulation of wetlands and waters of the United States;

''(iii) the issuance of general permits on a national, regional, or statewide basis under this section;

''(iv) the issuance of individual permit applications under this section;

''(v) enforcement of this section;

''(vi) administrative appeal of an action by the Secretary denying an application for a permit referred to in subsection (b), or issuing a permit referred to in subsection (b) subject to 1 or more conditions; and

''(vii) any other related area that the Secretary determines necessary or appropriate to implement the requirements of this section; and

''(B) establish requirements governing the establishment of a mitigation bank.

''(2) JUDICIAL REVIEW OF A FINAL REGULATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any judicial review of a final regulation issued pursuant to paragraph (1), and any denial by the Secretary of a petition for the issuance or repeal of a regulation under paragraph (1), shall be conducted in accordance with sections 701 through 706 of title 5, United States Code.

''(B) JURISDICTION OF COURT.—

''(i) PETITIONS FOR REVIEW.—A petition for review of the action of the Secretary in issuing a regulation under paragraph (1), or denying a petition for the issuance or repeal of a regulation under paragraph (1), may be filed only in the United States Court of Appeals for the District of Columbia. The petition for review may only be filed—

''(I) not later than 90 days after the date of issuance or denial; or

''(II) if the petition for review is based solely on grounds arising after the date of issuance or denial, not later than 90 days after the date the grounds arise.

''(ii) PROHIBITION ON REVIEW DURING ENFORCEMENT PROCEEDINGS.—Action by the Secretary with respect to which review could have been obtained under this paragraph shall not be subject to judicial review in civil or criminal proceedings for enforcement.

''(3) INTERIM REGULATIONS.—

''(A) PROMULGATION OF INTERIM REGULATIONS.—Not later than 90 days after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, the Secretary shall issue interim regulations consistent with paragraph (1). The interim regulations shall become effective on the date of issuance. Notice of the interim regulations shall be published in the Federal Register. Except as provided in subparagraph (B), the interim regulations shall apply until the issuance of final regulations under paragraph (1).

''(B) WAIVER OF INTERIM REGULATIONS.—The Secretary shall provide a procedure for waiving a provision of an interim regulation—

''(i) in a case in which the applicant demonstrates special hardship, inequity, or unfair distribution of burdens; or

''(ii) in a case in which the Secretary determines that a waiver under this subparagraph would advance the purposes of this section.

''(4) AUTHORITY TO CARRY OUT REGULATIONS.—Except as otherwise expressly provided in this section, the Secretary shall be responsible for carrying out this section. The Secretary or any other Federal officer or employee in whom any function under this section is vested or to whom any such function is delegated may perform any and all acts (including appropriate enforcement activity), and may prescribe, issue, amend, or rescind any regulation or order the officer or employee may find necessary or appropriate to prescribe, issue, amend, or rescind under this section, subject to the requirements of this section.

''(j) VIOLATIONS.—

''(1) ENFORCEMENT BY SECRETARY.—Whenever the Secretary finds, on the basis of reliable and substantial information and after reasonable inquiry, that a person is or may be in violation of this section or a condition or limitation set forth in a permit issued by the Secretary under subsection (b), the Secretary shall—

''(A) issue an order requiring the person to comply with this section or with the condition or limitation in the permit; or

''(B) bring a civil action in accordance with paragraph (3).

''(2) ORDERS ISSUED BY SECRETARY.—

''(A) COPY OF ORDER SENT TO STATES.—A copy of each order issued under paragraph (1) shall be sent immediately by the Secretary to the Governor of the State in which the violation occurred and the Governor of any other affected State.

''(B) SERVICE.—Except as provided in subparagraph (C), any order issued under paragraph (1) shall—

''(i) be issued by personal service to the appropriate person or corporate officer;

''(ii) state with reasonable specificity the nature of the asserted violation; and

''(iii) specify a period for compliance, not to exceed 30 days, that the Secretary determines is reasonable (taking into account the seriousness of the asserted violation and any good faith efforts to comply with applicable requirements).

''(C) TIME LIMIT ON ORDER AND ESTOPPEL.—

''(i) IN GENERAL.—Not later than 150 days after the date of service under subparagraph (B), the Secretary shall—

''(I) take such action as is necessary for the prosecution of a civil action in accordance with paragraph (3); or

''(II) rescind the order issued under paragraph (1) and be estopped from any further enforcement proceeding for the same asserted violation.

''(ii) DISPUTED ORDERS.—If a person receiving service under subparagraph (B) disputes the finding described in paragraph (1) and notifies the Secretary in writing not later than 90 days after the service, the Secretary shall, not later than 60 days after receiving the notification of the dispute—

''(I) take such action as is necessary for the prosecution of a civil action in accordance with paragraph (3); or

''(II) rescind the order and be estopped from any further enforcement proceeding for the same asserted violation.

''(3) CIVIL ACTIONS.—The Secretary may commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which the Secretary may issue an order under paragraph (1). An action commenced under this paragraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and the court shall have jurisdiction to restrain the violation and to require compliance. Notice of the commencement of the action shall be given immediately to the Governor of any affected State.

''(4) PENALTIES.—

''(A) IN GENERAL.—Any person who violates this section or a condition or limitation in a permit issued by the Secretary under subsection (b), or who violates an order issued by the Secretary under paragraph (1), shall be subject to a civil penalty not to exceed $25,000 per day for each violation involved, commencing on the day following expiration of the period allowed for compliance.

''(B) DETERMINATION OF AMOUNT.—The amount of the penalty imposed per day shall be in proportion to the scale or scope of the project that results in the violation. In determining the amount of a civil penalty under this paragraph, the Secretary or the court, as appropriate, shall consider the seriousness of the violation, the economic benefit (if any) resulting from the violation, any history of a previous violation, any good-faith effort to comply with applicable requirements, the economic impact of the penalty on the violator, and any other matter that justice may require.

''(k) STATE AUTHORITY TO CONTROL DISCHARGES.—Nothing in this section shall affect or impair the right of a State or interstate agency to control activity, including activity of a Federal agency, in waters of the United States within the jurisdiction of the State or interstate agency. Each Federal agency shall comply with a State or interstate requirement, whether substantive or procedural, to the same extent that a person is subject to the requirement. This section shall not affect or impair the authority of the Secretary to maintain navigation.

''(l) STATE REGULATION OF WETLANDS AND WATERS.—

''(1) APPLICATION FOR STATE REGULATION.—The Governor of a State desiring to administer an individual and general permit program for an activity in wetlands or waters of the United States within the jurisdiction of the State shall submit to the Secretary—

''(A) a description of the program proposed to be established and administered under State law; and

''(B) a statement from the chief legal officer of the State that the State law provides adequate authority to carry out the described program.

''(2) DETERMINATION BY SECRETARY.—Not later than 1 year after the date of receipt by the Secretary of a program description and statement under paragraph (1), the Secretary shall determine whether the State has the authority to—

''(A) issue permits that—

''(i) apply, and ensure compliance with, each applicable requirement of this section; and

''(ii) can be terminated or modified for cause, including—

''(I) a violation of any condition or limitation in the permit;

''(II) evidence that the permit was obtained by misrepresentation or failure to disclose fully all relevant facts; or

''(III) a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted activity;

''(B)(i) issue permits that apply, and ensure compliance with, all applicable requirements of section 308; or

''(ii) inspect, monitor, enter, and require reports to at least the same extent as required under section 308;

''(C) ensure that the public, and any other State in which the wetlands or waters of the United States may be affected by the issuance of a permit under this subsection, receive notice of each application for a permit under this subsection and provide an opportunity for a public hearing before a ruling on the application;

''(D) ensure that the Secretary receives notice of each application for a permit under this subsection and, prior to any action by the State, ensure that both the applicant for the permit and the State receive from the Secretary information with respect to any advance classification under subsection (h) applicable to wetlands or waters of the United States that are the subject of the application;

''(E) ensure that each State (other than the State seeking to issue permits under this subsection) in which the wetlands or waters of the United States may be affected by the issuance of a permit under this subsection may submit a written recommendation to the permitting State with respect to any permit application and, if any part of the written recommendation is not accepted by the permitting State, ensure that the permitting State will notify the affected State (and the Secretary) in writing of the failure by the permitting State to accept the recommendation together with the reason for the failure by the permitting State to accept the recommendation of the affected State; and

''(F) abate a violation of the permit or the permit program, through a civil or criminal penalty or other means of enforcement.

''(3) APPROVAL OR MODIFICATION OF PROGRAM.—

''(A) APPROVAL OF PROGRAM.—If, with respect to a proposed State program for which a description and statement were submitted under paragraph (1), the Secretary determines that the State has the authority set forth in paragraph (2), the Secretary shall approve the program, notify the State, and suspend the issuance of permits under subsection (b) for each activity with respect to which a permit may be issued pursuant to the State program.

''(B) MODIFICATION OF PROGRAM.—If, with respect to a proposed State program for which a description and statement were submitted under paragraph (1), the Secretary determines that the State does not have the authority set forth in paragraph (2), the Secretary shall notify the State and provide a description of any revision or modification necessary so that the State may resubmit the program for another determination by the Secretary under this subsection.

''(4) FAILURE OF SECRETARY TO MAKE DETERMINATION.—If, with respect to a proposed State program for which a description and statement were submitted under paragraph (1), the Secretary fails to make a determination within 1 year after the date of receipt of the description and statement, the proposed program shall be deemed to be approved pursuant to paragraph (3)(A) on the day that is 1 year after that date, the Secretary shall notify the State of the approval, and the Secretary shall suspend the issuance of permits under subsection (b) for each activity with respect to which a permit may be issued pursuant to the State program.

''(5) TRANSFER OF APPLICATIONS.—After approval of a State permit program under this subsection, the Secretary shall transfer to the State for appropriate action any application for a permit pending before the Secretary for an activity with respect to which a permit may be issued pursuant to the State program.

''(6) SUSPENSION OF ENFORCEMENT.—If the Secretary is notified that a State with a permit program approved under this subsection intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e)(6), the Secretary shall, with respect to each activity in the State to which the general permit applies, suspend the administration and enforcement of the general permit.

''(7) CORRECTIVE ACTION.—If the Secretary determines after a public hearing that a State administering a program approved under this subsection is not administering the program in accordance with this section, the Secretary shall notify the State and, if appropriate corrective action is not taken within a reasonable time (not to exceed 90 days after the date of the receipt of the notification), the Secretary shall—

''(A) withdraw approval of the program until the Secretary determines appropriate corrective action has been taken; and

''(B) resume the program for the issuance of permits under subsections (b) and (e)(6) for all activities with respect to which the State was issuing permits, until such time as the Secretary makes the determination described in paragraph (2) and approves the State program again.

''(8) REGULATION BY AN INTERSTATE AGENCY.—For purposes of this subsection:

''(A) GOVERNOR.—The term 'Governor' includes the head of an interstate agency.

''(B) STATE.—The term 'State' includes an interstate agency.

''(C) STATE LAW.—The term 'State law' includes an interstate compact.

''(m) COPIES AVAILABLE TO PUBLIC.—A copy of each permit application submitted, and each permit issued, under this section shall be available to the public. Each permit application or portion of a permit application shall also be available on request for the purpose of reproduction.

''(n) COMPLIANCE WITH PERMIT SATISFIES REQUIREMENTS.—Compliance with a permit issued pursuant to this section, including carrying out an activity pursuant to a general permit issued under this section, shall be deemed, for purposes of sections 309 and 505, to be compliance with sections 301, 307, and 403.

''(o) EFFECTIVE DATE FOR PERMIT PROVISIONS.—After the 90th day after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, no permit for an activity in wetlands or waters of the United States may be issued except in accordance with this section. Any permit for an activity in wetlands or waters of the United States issued prior to the 90th day shall be deemed to be a permit under this section and shall continue in force and effect for the term of the permit unless revoked, modified, or suspended in accordance with this section. An application for a permit pending under this section on the 90th day shall be deemed to be an application for a permit under this section.

''(p) LIMIT ON FEES.—Any fee charged in connection with—

''(1) the delineation or classification of wetlands;

''(2) an application for a permit authorizing an activity in wetlands or waters of the United States; or

''(3) any other action taken in compliance with the requirements of this section (other than a penalty for a violation under subsection (j));

shall not exceed the amount of the fee in effect on January 1, 1990.''.

SEC. 4. DEFINITIONS.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following new paragraph:

''(21) WETLANDS.—The term 'wetlands' means lands, such as swamps, marshes, bogs, and similar areas, that have a predominance of hydric soils and that are inundated by surface water at a frequency and duration sufficient to support, and that under normal circumstances support, a prevalence of vegetation typically adapted for life in saturated soil conditions.''.

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 119(c)(2)(E) of the Federal Water Pollution Control Act (33 U.S.C. 1269(c)(2)(E)) is amended by striking ''wetland'' and inserting ''wetlands''.

(b) Section 208(b)(4)(B)(iii) of the Act (33 U.S.C. 1288(b)(4)(B)(iii)) is amended by striking ''the guidelines established under section 404(b)(1), and'' and inserting ''section 404, and with the guidelines established under''.

(c) Section 309 of the Act (33 U.S.C. 1319) is amended—

(1) in subsection (a)—

(A) in the first sentence of paragraph (1), by striking ''or 404''; and

(B) in paragraph (3), by striking ''or in a permit issued under section 404 of this Act by a State'';

(2) in the first sentence of subsection (d), by striking ''or in a permit issued under section 404 of this Act by a State,,''; and

(3) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

''(1) VIOLATIONS.—If the Administrator finds, on the basis of any information available, that a person has violated section 301, 302, 306, 307, 308, 318, or 405, or has violated any permit condition or limitation implementing any of the sections in a permit issued under section 402 by the Administrator or by a State, the Administrator may, after consultation with the State in which the violation occurred, assess a class I civil penalty or a class II civil penalty under this subsection.'';

(B) in the third sentence of paragraph (2)(B), by striking ''and the Secretary'';

(C) in paragraph (6)(A)(iii), by striking '', the Secretary,'';

(D) by striking ''or Secretary, as the case may be,'' and ''or the Secretary, as the case may be,'' each place they appear; and

(E) by striking ''or Secretary'', ''or the Secretary'', and ''or Secretary's'' each place they appear.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall become effective 90 days after the date of enactment of this Act.

THE COMPREHENSIVE WETLANDS CONSERVATION AND MANAGEMENT ACT OF 1995

The protection of America's wetlands is a crucial public issue that deserves significant national priority. The Pressler bill is designed to conserve true wetlands and balances wetlands protection with protection of private property rights. More important the bill contains provisions that would require fair and just compensation to the owners for the loss of or use of land classified as wetlands.

The Pressler bill would:

Assure that functionally important wetlands are protected.

Classify wetlands by value and function. Certain wetlands would be classified as wetlands with critical significance to the long-term conservation of the ecosystem of which they are a part. Others would be classified as providing habitat for significant wildlife populations, protection water quality or significant natural flood control, and others as marginal wetlands.

Provide safeguards so that large amounts of land with little or no true wetland characteristics will be classified as wetland.

Require compensation be provided to landowners for the loss of economic use of private lands.

Clarify and reinforce current law that provides an exemption from individual permit requirements for normal farming and ranching activities on farmed wetlands.

Exempt from regulation all prior converted agricultural land since this land no longer exhibits any wetland characteristics.

Establish three criteria in designating wetlands. Criteria to be met and verified would be presence of water, hydric soils and hydrophytic vegetation.

Under the Pressler bill, prairie potholes would receive same treatment as all wetlands and not be kept under stricter rules and regulations.

Exclude man-made or artificial wetlands such as farm ponds and irrigation ditches.

NO HARM, NO FOUL?

(By Rick Mooney)

A few words to the wise wetland owner: If you're ever charged with violating Swampbuster rules, don't count on good intentions or the adage about no harm, no foul to bail you out.

Just ask Brian Odden, a grain and beef producer from Lake Preston, S.D. In November 1993, after an extremely wet summer, Odden plowed up 25 acres of rented ground that was overrun with weeds. ''I had corn on it the year before,'' he says. ''But [in 1993] we never got in the field because it was so wet. I was afraid the weed board would be after me.''

The field was bordered on the north by a 14-acre slough that Odden's landlord had placed under perpetual easement with the U.S. Fish and Wildlife Service (FWS). After Odden finished plowing the field, he laid a single diagonal plow furrow across it, following a natural drainage pathway.

''I was just trying to put things back the way I found them,'' he says.

The following April Odden was notified by the Soil Conservation Service (SCS) that his plow furrow violated Swampbuster rules for converting a wetland. At the same time FWS notified Odden that he had violated easement provisions for ''burning, draining or filling'' a wetland.

In an attempt to rectify the situation, Odden immediately filled in the plow furrow. He claims local SCS officials told him that would qualify him for a minimal-effect post-approval ruling. Filling the furrow also seems to have appeased FWS, which notified Odden in a May 9 letter that they were ''closing the file on the matter.'' In the same letter, FWS thanked Odden for his ''timely restoration.''

But at a field hearing two months later, state SCS officials ruled that Odden's furrow had led to substantial water loss in the wetland. To qualify for minimal effect, Odden was told, he would have to file an appeal with national SCS in Washington, D.C. He did that on July 25 and was still waiting for the outcome in December.

Big Brother watching. State SCS spokesmen claim the agency is simply following the letter of the law. But Don Parrish, policy analyst with the American Farm Bureau Federation, says Odden's case appears to be one more example of federal overreach on wetlands regulation. ''Everyone talks about local solutions to local problems,'' he says. ''But here you have a case where the locals had it all resolved and yet the feds get involved.''

Even more unsettling to Odden is uncertainty about what he'll face if his appeal to Washington is turned down. Under the strictest interpretation of the law, he stands to forfeit all federal farm program benefits, including crop insurance and disaster payments, that he received during the year of the violation and the following year. An outstanding loan with FmHA could be called and an additional fine based on the size of the wetland he allegedly converted could also be levied.

Three others who are part of a family farm corporation with Odden, and the corporation itself, could each pay equal fines and penalties. ''Early on, we were told that total fines and penalties could be as high as $515,000,'' says Odden. ''It would finish us. With the kind of years we've been having, there's no way we could climb out of a hole like that.''

By Mr. SIMON:

S. 353. A bill to clarify the circumstances under which a senior circuit court judge may cast a vote in a case heard en banc; to the Committee on the Judiciary.

SENIOR CIRCUIT JUDGES LEGISLATION

• Mr. SIMON. Mr. President, I introduce a bill that is neither controversial nor monumental, but highly important to the operation of our U.S. circuit courts of appeal.

Under our current law, there is a real question as to whether a circuit judge who hears an en banc case, but then takes senior status prior to the decision of that case, is eligible to participate in that decision. This situation creates the potential for significant confusion within an en banc court: If judges who participated, and cast initial votes, in an en banc case were to become suddenly ineligible to decide the case by virtue of taking senior status, the initial determination as to how a case should be decided would possibly have to be revisited. Moreover, though unlikely, the current situation also creates the potential for manipulation of the system by circuit judges unhappy with an en banc decision: Conceivably a judge could hold up the release of a particular en banc opinion in order to render a judge who heard the case as an active judge ineligible to participate in the case's decision, and thereby to force a change in the outcome of the case.

The bill I introduce today would simply clarify that circuit judges who hear an en banc case as active judges may participate in the ultimate decision of the case even if they take senior status between the time the case is argued and the time it is decided. I believe this technical change to be consistent with what Congress would have done had it been aware of this problem when it enacted the law governing circuit judges, and hope that my colleagues will facilitate its passage.

Finally, let me say that I am indebted to Chief Judge Richard Posner of the seventh circuit for bringing this problem to my attention. Judge Posner is a stellar member of the Federal judiciary, and I am very appreciative of his

concerns about the technical management of our Federal courts.●

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. SIMON, and Mr. BUMPERS):

S. 354. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing; to the Committee on Finance.

THE LOW-INCOME HOUSING PRESERVATION ACT

● Mr. BREAUX. Mr. President, I am introducing a bill today that charts a promising new way to enlist the private sector's help in preserving and improving the country's stock of affordable housing. I urge my colleagues to join me in cosponsoring this bill, entitled the ''Low-Income Housing Preservation Act.''

All of us are aware from our trips home that there is a serious shortage of affordable housing in this country. All one has to do is look at the number of homeless in towns throughout the country to know this, but the statistics tell the story as well. A 1992 Harvard study estimated that there were 4.1 million units of HUD or privately owned, publicly assisted units, while there are 13.8 million households eligible to receive HUD-funded housing assistance if the assistance were available.

Clearly we need a new approach, one that does a better job of leveraging private resources, and bringing the discipline of the marketplace to bear, while recognizing that the resources that the Federal Government can expend are severely limited. The bill I am introducing today does this by encouraging the investment of private capital to improve the condition of the Nation's stock of existing rental housing for low-income tenants. By relying largely on the private sector, rather than HUD, for the necessary funding it reduces the necessary level of Government involvement to a minimum. It is very cost-effective, because of the way the bill's tax proposals have been drafted. At the same time, it will save the Government a great deal of money that otherwise would have to be expended to fund existing or new HUD-grant programs to achieve the same end.

This is the problem. Much of the rental housing that is currently occupied by low-income tenants is not public housing, but privately owned apartment houses. HUD assistance reduces the amount of monthly rent paid by eligible tenants. This stock of affordable housing is in crisis. Many of these projects are 10 to 25 years old, or more. Their continued physical and financial stability is threatened, as the projects age and private investors have no incentive to invest additional capital to rehabilitate them.

While the needs of these projects have been widely recognized for some time by both the Federal Government and the private sector, little has been done to address the problem. If these projects disappear because the private owners are no longer able to maintain the units, the already short supply of affordable housing will be further reduced. It is therefore vital to preserve and improve this important source of housing for low-income tenants. This is especially so in light of the considerable interest in Congress this year in making major changes in the way HUD operates. These proposals would place greater reliance on private-sector alternatives to public housing, while at the same time reducing the size and number of HUD's traditional programs to assist privately owned housing.

The private sector cannot continue to provide the low-income housing needed unless Congress corrects some of the current disincentives in the tax laws that discourage the preservation of this inventory of affordable housing. The value of these projects has been severely depressed by the 1986 changes to the tax laws. As a result, the current owners have no way to raise additional capital to rehabilitate the structures, as has become inevitably necessary with time. Because the projects' market values are so depressed, the current owners cannot receive enough cash upon sale to pay the capital gains taxes they would owe. Nor is there interest among new investors under current conditions in purchasing the projects and investing needed capital in them. As a result, these aging projects are locked into a long, slow, downward spiral. It is essential that something be done before more of these projects go into bankruptcy or fall altogether out of the Nation's stock of affordable housing.

I believe that the bill I am introducing provides a solution to the problem that will work and that is very cost-effective. Except for some technical refinements to tighten the bill's provisions, the bill is the same as the legislation I introduced last year as S. 1986.

In the first place, the bill targets the projects which are most at risk. These are projects assisted by HUD under the old section 221(d)(3) below market rate interest rate program or the section 236 program, or projects insured under the section 221(d)(3) market rate or section 221(d)(4) programs, and assisted under section 8. In all cases, the projects must be at least 10 years old and at least a majority of the units in the projects must be occupied by tenants whose income was no more than 80 percent of the area median income when they first became tenants.

According to HUD, there are almost 1 million units in the affordable housing projects that meet the bill's criteria. These projects are located in every State in the country.

The bill offers special tax benefits to new investors who agree to buy these affordable housing projects, invest the necessary capital to fix them up, and maintain them for low-income tenants. It will be the responsibility of HUD in each case to determine how much new capital must be invested in the project to make it financially and physically sound, but in no event may the capital improvements equal less than 10 percent of the adjusted basis of the rental property. In exchange, the bill reduces from 27½ years to 15 years the depreciation schedule for eligible projects purchased after the bill's effective date. It also provides that any investor in the project may claim annually up to $50,000 of losses from such projects without regard to the passive loss rules. Any project will lose its special tax benefits if it ceases to serve low-income tenants.

The Low-Income Housing Preservation Act specifically provides that any project claiming benefits under its provisions could not also benefit from the low-income housing tax credit, which provides tax credits and limited passive loss relief to those investing in low-income housing. As a practical matter, the tax credit has not been widely used to preserve the existing projects targeted by the bill I am introducing today. Under the low-income housing tax credit, the amount of tax credits available to each State is limited by law and I understand that State and local authorities have chosen as a general matter to use their credits on the construction of new projects rather than the preservation of existing projects. This bill will compliment the low-income housing tax credit by providing a deduction specifically for those investing in existing projects.

Mr. President, it is clearly in the public interest to help ensure the continued existence of these projects. The tenants will benefit as the existing owners are replaced with new owners with new capital, and a new willingness to preserve and improve the projects. The local community and the local economy will benefit from the work done in the neighborhood improving the projects, from the general improvement in the appearance of the neighborhood, and by the lower crime rates that go along with refurbished buildings. The taxpayer benefits because the number of projects that go into bankruptcy and end up in HUD's portfolio will be reduced, and because HUD will find it earlier to dispose of projects already in its portfolio. Over the longer run, the taxpayers will save the cost of directly funding the needed capital improvements to the existing projects, or the cost of constructing new units that must be built when the existing projects are lost from lack of financial support.

I hope my colleagues will support this important legislation.●

By Mr. ABRAHAM:

S. 355. A bill to provide that the Secretary and the Clerk of the House of Representatives shall include an estimate of Federal retirement benefits for each Member of Congress in their semiannual reports, and for other purposes; to the Committee on Rules and Administration.

THE CONGRESSIONAL PENSION DISCLOSURE ACT OF 1995

• Mr. ABRAHAM. Mr. President, I introduce S. 355 which would require the Secretary of the Senate and the Clerk of the House of Representatives to make publicly available information relating to the pensions of Members of Congress. Under this legislation, these officers would be required in the course of their semiannual reports to the Congress to clearly set forth information relating to the following:

First, the individual pension contributions of Members;

Second, an estimate of annuities which they would receive based on the earliest possible date they would be eligible to receive annuity payments by reason of retirement; and

Third, any other information necessary to enable the public to accurately compute the Federal retirement benefits of each Member based on various assumptions of years of service and age of separation from service by reason of retirement.

The purpose of this legislation is simply to afford citizens their rightful opportunity of learning how public funds are being utilized. The taxpayers are not only entitled to know the various forms of compensation being paid to their elected officials, they are also entitled to make decisions about the reasonableness of such compensation.

My bill, S. 355, would make this information conveniently available to the public. The public does not begrudge Members of Congress reasonable pensions. Before that assessment can intelligently be made, however, the public needs to have better access to information than they currently have.•

ADDITIONAL COSPONSORS

S. 55

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 55, a bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

S. 91

At the request of Mr. COVERDELL, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 91, a bill to delay enforcement of the National Voter Registration Act of 1993 until such time as Congress appropriates funds to implement such act.

S. 216

At the request of Mr. INOUYE, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 216, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 218

At the request of Mr. MCCONNELL, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 218, a bill to repeal the National Voter Registration Act of 1993, and for other purposes.

S. 252

At the request of Mr. LOTT, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 252, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 253

At the request of Mr. LOTT, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 253, a bill to repeal certain prohibitions against political recommendations relating to Federal employment, to reenact certain provisions relating to recommendations by Members of Congress, and for other purposes.

S. 254

At the request of Mr. LOTT, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Louisiana [Mr. BREAUX] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the U.S. merchant marine during World War II.

S. 256

At the request of Mr. DOLE, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 287

At the request of Mrs. HUTCHISON, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 299

At the request of Mr. COCHRAN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 299, a bill to amend the Federal Power Act to modify an exemption relating to the territory for the sale of electric power of certain electric transmission systems, and for other purposes.

S. 303

At the request of Mr. LIEBERMAN, the names of the Senator from New Hampshire [Mr. GREGG] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 303, a bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the names of the Senator from Arizona [Mr. KYL] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 326

At the request of Mr. HATFIELD, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 326, a bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

S. 328

At the request of Mr. SANTORUM, the names of the Senator from Delaware [Mr. ROTH], the Senator from Mississippi [Mr. LOTT] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of S. 328, a bill to amend the Clean Air Act to provide for an optional provision for the reduction of work-related vehicle trips and miles traveled in ozone nonattainment areas designated as severe, and for other purposes.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the names of the Senator from Nevada [Mr. REID] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect elections for Federal, State, and local office.

AMENDMENTS SUBMITTED

MURKOWSKI (AND LOTT) AMENDMENT NO. 230

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. MURKOWSKI (for himself and Mr. LOTT) submitted an amendment intended to be proposed by them to the bill (S. 333) to direct the Secretary of Energy to institute certain procedures in the performance of risk assessments in connection with environmental restoration activities, and for other purposes; as follows:

At the end of the bill add the following:

SEC. 11. AMENDMENT OF TITLE 5, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—RISK ASSESSMENTS

''§ 621. Definitions

''In this subchapter—

''(1) AGENCY.—The term 'agency' has the meaning stated in section 551(1).

''(2) BENEFIT.—The term 'benefit' means the reasonably identifiable significant benefits, including social and economic benefits,

that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

''(3) BEST ESTIMATE.—The term 'best estimate' means an estimate that, to the extent feasible and scientifically appropriate, is based on one or more of the following:

''(A) Central estimates of risk using the most plausible assumptions.

''(B) An approach that combines multiple estimates based on different scenarios and weighs the probability of each scenario.

''(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the agency concerned.

''(4) COST.—The term 'cost' means the reasonably identifiable significant costs and adverse effects, including social and economic costs, reduced consumer choice, substitution effects, and impeded technological advancement, that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule.

''(5) EMERGENCY.—The term 'emergency' means a clearly imminent and substantial endangerment to public health, safety, or natural resources.

''(6) MAJOR RULE.—The term 'major rule'—

''(A) means—

''(i) a rule or a group of closely related rules that the agency proposing the rule or the President reasonably determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased direct and indirect costs, or has a significant impact on a sector of the economy; or

''(ii) a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, or by the President on the ground that the rule is likely to result in—

''(I) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions; or

''(II) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets; but

''(B) does not include—

''(i) a rule that involves the internal revenue laws of the United States; or

''(ii) a rule that authorizes the introduction into commerce, or recognizes the marketable status, of a product;.

''(7) PERSON.—The term 'person' has the meaning stated in section 551(2).

''(8) PLAUSIBLE.—The term 'plausible' means realistic and scientifically probable.

''(9) RISK ASSESSMENT.—The term 'risk assessment' means—

''(A) the process of identifying hazards, and quantifying (to the extent practicable) or describing the degree of toxicity, exposure, or other risk the hazards pose for exposed individuals, populations, or resources; and

''(B) the document containing the explanation of how the assessment process has been applied to an individual substance, activity, or condition.

''(10) RISK CHARACTERIZATION.—The term 'risk characterization'—

''(A) means the element of a risk assessment that involves presentation of the degree of risk to individuals and populations expected to be protected, as presented in any regulatory proposal or decision, report to Congress, or other document that is made available to the public; and

''(B) includes discussions of uncertainties, conflicting data, estimates, extrapolations, inferences, and opinions.

''(11) RULE.—The term 'rule' has the meaning stated in section 551(4).

''(12) SUBSTITUTION RISK.—The term 'substitution risk' means a potential increased risk to human health, safety, or the environment from a regulatory option designed to decrease other risks.

"§ 622. Applicability

''(a) Except as provided in subsection (b), this subchapter shall apply to all risk assessments and risk characterizations prepared by, or on behalf of, or prepared by others and adopted by, any agency in connection with health, safety, and risk to natural resources.

''(b)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

''(A) a situation that the head of the agency considers to be an emergency;

''(B) a rule that authorizes the introduction into commerce, or recognizes the marketable status of a product; or

''(C) a screening analysis.

''(2)(A) An analysis shall not be treated as screening analysis for the purposes of paragraph (1)(B) if the result of the analysis is used—

''(i) as the basis for imposing a restriction on a substance or activity; or

''(ii) to characterize a positive finding of risks from a substance or activity in any agency document or other communication made available to the public, the media, or Congress.

''(B) Among the analyses that may be treated as a screening analyses for the purposes of paragraph (1)(B) are product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices and existing chemicals under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

''(3) This subchapter shall not apply to any food, drug, or other product label or to any risk characterization appearing on any such label.

"§ 623. Rule of construction

''Nothing in this subchapter shall be construed to—

''(1) preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability; or

''(2) require the disclosure of any trade secret or other confidential information.

"§ 624. Requirement to prepare risk assessments

''(a) Except as provided in section 622, the head of each agency shall prepare for each major rule relating to human health, safety, or natural resources that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 627—

''(1) a risk assessment in accordance with this subchapter;

''(2) for each such proposed or final rule, an assessment, quantified to the extent feasible, of incremental risk reduction or other benefits associated with each significant regulatory alternative to the rule or proposed rule; and

''(3) for each such proposed or final rule, quantified to the extent feasible, a comparison of any human health, safety, or natural resource risks addressed by the regulatory alternatives to other relevant risks chosen by the head of the agency, including at least 3 other risks regulated by the agency and to at least 3 other risks with which the public is familiar.

''(b) A risk assessment prepared pursuant to this subchapter shall be a component of and used to develop the cost-benefit analysis required by subchapter II, and shall be made part of the administrative record for judicial review of any final agency action.

"§ 625. Principles for risk assessment

''(a)(1) The head of each agency shall apply the principles set forth in subsection (b) when preparing any risk assessment, whether or not required by section 624, to ensure that the risk assessment and all of its components—

''(A) distinguish scientific findings and best estimates of risk from other considerations;

''(B) are, to the maximum extent practicable scientifically objective, unbiased and inclusive of all relevant data; and

''(C) rely, to the extent available and practicable, on scientific findings.

''(2) Discussions or explanations required under this section need not be repeated in each risk assessment document as long as there is a reference to the relevant discussion or explanation in another agency document.

''(b) The principles to be applied when preparing risk assessments are as follows:

''(1)(A) When assessing human health risks, a risk assessment shall be based on the most reliable laboratory, epidemiological, and exposure assessment data that finds, or fails to find, a correlation between a health risk and a potential toxin or activity. Other relevant data may be summarized.

''(B) When conflicts among such data appear to exist, or when animal data are used as a basis to assess human health, the assessment shall include discussion of possible reconciliation of conflicting information, and, as appropriate, differences in study designs, comparative physiology, routes of exposure, bioavailability, pharmacokinetics, and any other relevant factor, including the availability of raw data for review. Greatest emphasis shall be placed on data that indicates a biological basis of the resulting harm in humans. Animal data shall be reviewed with regard to relevancy to humans.

''(2) When a risk assessment involves selection of any significant assumption, inference, or model, the agency shall—

''(A) describe the plausible and alternative assumptions, inferences, or models;

''(B) explain the basis for any choices among such assumptions, inferences, or models;

''(C) identify any policy or value judgments involved in choosing from among such alternative assumptions, inferences, or models;

''(D) fully describe any model used in the risk assessment and make explicit the assumptions incorporated in the model; and

''(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

''(3) A risk assessment shall be prepared at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition.

"§ 626. Principles for risk characterization and communication

''In characterizing risk in any risk assessment document, regulatory proposal or decision, report to Congress, or other document that is made available to the public, each agency characterizing the risk shall comply with each of the following:

''(1)(A) The head of the agency shall describe the populations or natural resources that are the subject of the risk characterization.

''(B) If a numerical estimate of risk is provided, the head of the agency, to the extent feasible and scientifically appropriate—

''(i) shall provide—

''(I) the best estimate or estimates for the specific populations or natural resources which are the subject of the characterization (based on the information available to the department, agency, or instrumentality) or, in lieu of a single best estimate, an array of multiple estimates (showing the distribution of estimates and the best estimate) based on assumptions, inferences, or models which are equally plausible, given current scientific understanding;

''(II) a statement of the reasonable range of scientific uncertainties; and

''(III) to the extent practicable and appropriate, descriptions of the distribution and probability of risk estimates to reflect differences in exposure variability in populations and uncertainties;

''(ii) in addition to a best estimate or estimates, may present plausible upper-bound or conservative estimates, but only in conjunction with equally plausible lower-bound estimates; and

''(iii) shall ensure that, where a safety factor, as distinguished from inherent quantitative or qualitative uncertainties, is used, such factor shall be similar in degree to safety factors used to ensure safety in human activities.

''(2) The head of the agency shall explain the exposure scenarios used in any risk assessment, and, to the extent feasible, provide a statement of the size of the corresponding population or natural resource at risk and the likelihood of such exposure scenarios.

''(3)(A) To the extent feasible, the head of the agency shall provide a statement that places the nature and magnitude of individual and population risks to human health in context.

''(B) A statement under subparagraph (A) shall—

''(i) include appropriate comparisons with estimates of risks that are familiar to and routinely encountered by the general public as well as other risks; and

''(ii) identify relevant distinctions among categories of risk and limitations to comparisons.

''(4) When an agency provides a risk assessment or risk characterization for a proposed or final regulatory action, such assessment or characterization shall include a statement of any significant substitution risks to human health identified by the agency or contained in information provided to the agency by a commenter.

''(5) If—

''(A) an agency provides a public comment period with respect to a risk assessment or regulation;

''(B) a commenter provides a risk assessment, and a summary of results of such risk assessment; and

''(C) such risk assessment is reasonably consistent with the principles and the guidance provided under this subtitle,

the agency shall present such summary in connection with the presentation of the agency's risk assessment or the regulation.

''§ 627. Regulations; plan for assessing new information

''(a)(1) Not later than 1 year after the date of enactment of this subchapter, the President shall issue a final regulation that has been subject to notice and comment under section 553 for agencies to implement the risk assessment and characterization principles set forth in sections 625 and 626 and shall provide a format for summarizing risk assessment results.

''(2) The regulation under paragraph (1) shall be sufficiently specific to ensure that risk assessments are conducted consistently by the various agencies.

''(b)(1) Review of the risk assessment for any major rule shall be conducted by the head of the agency on the written petition of a person showing a reasonable likelihood that—

''(A) the risk assessment is inconsistent with the principles set forth in section 625 and 626;

''(B) the risk assessment produces substantially different results;

''(C) the risk assessment is inconsistent with a rule issued under subsection (a); or

''(D) the risk assessment does not take into account material significant new scientific data or scientific understanding.

''(2) Not later than 90 days after receiving a petition under paragraph (1), the head of the agency shall respond to the petition by agreeing or declining to review the risk assessment referred to in the petition, and shall state the basis for the decision.

''(3) If the head of the agency agrees to review the petition, the agency shall complete its review within 180 days, unless the Director of the Office of Management and Budget agrees in writing with an agency determination that an extension is necessary in view of limitations on agency resources.

''(4) Denial of a petition by the agency head shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

''(c) The regulations under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

''(d) At least every 4 years, the President shall review, and when appropriate, revise the regulations published under this section.

''§ 628. Decisional criteria

''For each major rule subject to this subchapter, the head of the agency, subject to review by the President, shall make a determination that—

''(1) the risk assessment under section 624 is based on a scientific and unbiased evaluation, reflecting realistic exposure scenarios, of the risk addressed by the major rule and is supported by the best available scientific data, as determined by a peer review panel in accordance with section 640; and

''(2) there is no alternative that is allowed by the statute under which the major rule is promulgated that would provide greater net benefits or that would achieve an equivalent reduction in risk in a more cost-effective and flexible manner.

''§ 629. Regulatory priorities

''(a) In exercising authority under any laws protecting human health and safety or the environment, the head of an agency shall prioritize the use of the resources available under such laws to address the risks to human health, safety, and natural resources that—

''(1) the agency determines are the most serious; and

''(2) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources to be expended.

''(b) In identifying the sources of the most serious risks under subsection (a), the head of the agency shall consider, at a minimum—

''(1) the plausible likelihood and severity of the effect; and

''(2) the plausible number and groups of individuals potentially affected.

''(c) The head of the agency shall incorporate the priorities identified in subsection (a) into the budget, strategic planning, and research activities of the agency by, in the agency's annual budget request to Congress—

''(1) identifying which risks the agency has determined are the most serious and can be addressed in a cost-effective manner under subsection (a), and the basis for that determination;

''(2) explicitly identifying how the agency's requested funds will be used to address those risks;

''(3) identifying any statutory, regulatory, or administrative obstacles to allocating agency resources in accordance with the priorities established under subsection (a); and

''(4) explicitly considering the requirements of subsection (a) when preparing the agency's regulatory agenda or other strategic plan, and providing an explanation of how the agenda or plan reflects those requirements and the comparative risk analysis when publishing any such agenda or strategic plan.

''(d) In March of each year, the head of each agency shall submit to Congress specific recommendations for repealing or modifying laws that would better enable the agency to prioritize its activities to address the risks to human health, safety, and the environment that are the most serious and can be addressed in a cost-effective manner consistent with the requirements of subsection (a).

''§ 630. Establishment of program

''(a) The President shall develop a systematic program for the peer review of work products covered by subsection (c), which program shall be used uniformly across the agencies.

''(b) The program under subsection (a)—

''(1) shall provide for the creation of peer review panels consisting of independent and external experts who are broadly representative and balanced to the extent feasible;

''(2) shall not exclude peer reviewers merely because they represent entities that may have a potential interest in the outcome, if that interest is fully disclosed;

''(3) shall exclude, to the maximum extent practicable, any peer reviewer who has been involved in any previous analysis of the tests and evidence presented for certification by the peer review panel; and

''(4) shall provide for a timely completed peer review, meeting agency deadlines, which contains a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments.

''(c) The peer review and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.''.

(b) CONFORMING AMENDMENT AND TECHNICAL CORRECTIONS.—

(1) CONFORMING AMENDMENTS.—Part I of title 5, United States Code, is amended by striking the chapter analysis for chapter 6 and inserting the following:

''CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

''SUBCHAPTER I—REGULATORY ANALYSIS

''Sec.
''601. Definitions.
''602. Regulatory agenda.
''603. Initial regulatory flexibility analysis.
''604. Final regulatory flexibility analysis.
''605. Avoidance of duplicative or unnecessary analyses.
''606. Effect on other law.
''607. Preparation of analyses.
''608. Procedure for waiver or delay of completion.

''609. Procedures for gathering comments.
''610. Periodic review of rules.
''611. Judicial review.
''612. Reports and intervention rights.

''SUBCHAPTER II—RISK ASSESSMENTS

''621. Definitions.
''622. Applicability.
''623. Rule of construction.
''624. Requirement to prepare risk assessments.
''625. Principles for risk assessment.
''626. Principles for risk characterization and communication.
''627. Regulations; plan for assessing new information.
''628. Decisional criteria.
''629. Regulatory priorities.
''640. Establishment of program.

''SUBCHAPTER I—REGULATORY ANALYSIS''.

(2) TECHNICAL CORRECTIONS.—The part analysis for part I of title 5, United States Code, is amended—

(A) in the item relating to chapter 5 by striking ''**501**'' and inserting ''**500**''; and

(B) by inserting after the item relating to chapter 5 the following:

''6. The Analysis of Regulatory Functions ..... 601''.

BALANCED-BUDGET CONSTITUTIONAL AMENDMENT

DASCHLE (AND OTHERS) AMENDMENT NO. 231

Mr. DASCHLE (for himself, Mr. BUMPERS, Mr. CONRAD, Mr. DORGAN, Mr. FEINGOLD, Mr. GLENN, Mr. KERRY, Mr. LEAHY, Ms. MOSELEY-BRAUN, Mr. KERREY, and Mr. PELL) proposed an amendment to the motion to commit the joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States; as follows:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification. The article shall be submitted to the States upon the adoption of a concurrent resolution as described in section 9 of the article. The article is as follows:

''ARTICLE —

''SECTION 1. Upon the adoption by the Congress of a concurrent resolution on the budget establishing a budget plan to balance the budget as required by this article, and containing the matter required by section 9, 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.

''SECTION 9. (a) In order to carry out the purposes of this article, the Congress shall adopt a concurrent resolution setting forth a budget plan to achieve a balanced budget (that complies with this article) not later than the first fiscal year required by this article as follows:

''(1) a budget for each fiscal year beginning with fiscal year 1996 and ending with that first fiscal year (required by this article) containing—

''(A) aggregate levels of new budget authority, outlays, revenues, and the deficit or surplus;

''(B) totals of new budget authority and outlays for each major functional category;

''(C) new budget authority and outlays, on an account-by-account basis, for each account with actual outlays or offsetting receipts of at least $100,000,000 in fiscal year 1994; and

''(D) an allocation of Federal revenues among the major sources of such revenues;

''(2) a detailed list and description of changes in Federal law (including laws authorizing appropriations or direct spending and tax laws) required to carry out the plan and the effective date of each such change; and

''(3) reconciliation directives to the appropriate committees of the House of Representatives and Senate instructing them to submit legislative changes to the Committee on the Budget of the House or Senate, as the case may be, to implement the plan set forth in the concurrent resolution.

''(b) The directives required by subsection (a)(3) shall be deemed to be directives within the meaning of section 310(a) of the Congressional Budget Act of 1974. Upon receiving all legislative submissions from committees under subsection (a)(3), each Committee on the Budget shall combine all such submissions (without substantive revision) into an omnibus reconciliation bill and report that bill to its House. The procedures set forth in section 310 shall govern the consideration of that reconciliation bill in the House of Representatives and the Senate.

''(c) The budget plan described in subsection (a) shall be based upon Congressional Budget Office economic and technical assumptions and estimates of the spending and revenue effects of the legislative changes described in subsection (a)(2).''.

DOLE AMENDMENT NO. 232

Mr. DOLE proposed an amendment to the motion to commit the joint resolution, House Joint Resolution 1, supra; as follows:

Strike all after the word forthwith in the instructions and insert the following: ''H.J. Res. 1, and at a later date the Judiciary Committee, after consultation with the Budget Committee, shall issue a report the text of which shall include:

''This report may be cited as the 'Need To Lead Report.'

''If Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, within 60 days thereafter, the President of the United States shall transmit to the Senate and the House of Representatives a detailed plan to balance the budget by the year 2002.''

DOLE AMENDMENT NO. 233

Mr. DOLE proposed an amendment to amendment No. 232 proposed by him to the joint resolution, House Joint Resolution 1, supra; as follows:

Strike all after H.J. Res. 1, and insert the following: '', and at a later date the Judiciary Committee, after consultation with the Budget Committee, shall issue a report the text of which shall include:

''This report may be cited as the 'Need to Lead Report.'

''If Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, within 59 days thereafter, the President of the United States shall transmit to the Senate and the House of Representatives a detailed plan to balance the budget by the year 2002.''

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the President's 1996 proposed budget.

The committee will hear testimony from the Forest Service on Wednesday, February 15, 1995.

The hearing will begin at 9:30 a.m., and will take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Betty Nevitt or Jim Beirne at (202) 224–0765.

ADDITIONAL STATEMENTS

THE REPUBLIC OF CHINA

• Mr. CRAIG. Mr. President, last year I had the opportunity to visit the Republic of China on Taiwan and witness first hand the social, economic, and political progress in that country. During my visit I had the pleasure of meeting with President Lee Teng-Hui, who has been a strong agent of change and leader for his country. My home State, Idaho, has directly benefited by the developments in the Republic of China though an enhanced relationship and growing trade relations.

During my visit to the Republic of China I did not have an opportunity to meet with Premier Lien Chan. Therefore, it is with great pleasure that I rise today to enter into the RECORD the following statement detailing the efforts and accomplishments of Mr. Lien as presented to me by Winston L. Yang, chairman of Seton Hall University Department of Asian Studies. In so doing, I hope that others may benefit from Mr. Yang's comments and become more familiar with developments in the Republic of China.

The statement follows:

PREMIER LIEN CHAN'S REFORMS AND PROGRAMS

(By Winston L. Yang)

It has been almost two years since Lien Chan became the 14th Premier of the Republic of China (ROC) on Taiwan.

As Premier, Mr. Lien has been carrying out polices of democratization and using Taiwan's economic power to break out of the international isolation created by Peking.

Lien has reaffirmed the ROC's commitment to the official goal of eventual reunification with the mainland. But while following a pragmatic policy toward the mainland and working to expand unofficial exchanges between the two sides, he also insists on the need to strengthen Taiwan's defense and international standing. In implementing ''Pragmatic Diplomacy,'' Lien has advanced the possibility of Taiwan's renewed representation at the United Nations and membership in other international organizations. Mr. Lien wants to hasten the pace of Taiwan's modernization and economic development. One of his goals is to increase per capita income to at least $20,000 by the beginning of the twenty-first century.

His economic recovery program, which is both realistic and well-designed, is intended to strengthen Taiwan's economy and competitiveness.

Premier Lien has attached great importance to his administrative reform programs, which are designed to improve morale, to upgrade the quality and efficiency of government, and to reduce and ultimately eliminate corruption, insubordination, bureaucratic elitism, and waste in personnel and resources. His sight is set on establishing a clean, efficient, capable, and streamlined government, making it Taiwan's greatest ''service enterprise.'' Personnel cuts, office automation, the closing or merging of unwieldy agencies, and an anticorruption campaign have been launched.

The administrative reform programs call for a five percent reduction in the number of government employees, a close watch for corruption, heavy penalties for violations by officials, and less bureaucratic red tape for Taiwan people. Public officials involved in fourteen targeted areas, from handling construction bids to performing judicial duties, are being closely monitored.

In the political arena, the government has overcome a number of obstacles to promote constitutional reform and established a framework for democracy that should lead to far broader democratization within the next few years. Furthermore, it has introduced an administrative reform bill to establish a clean and effective government. The plan is built on the cornerstones of honesty, efficiency, and public convenience. To achieve honest government, Lien Chan has taken concrete measures and moved simultaneously to eliminate corruption, prevent corruption, and revise laws to ensure that government employees at all levels dare not, cannot, do not, and need not be corrupt.

In an effort to improve Taiwan-mainland relations, the Government has been devoting itself to the expansion of cultural and academic exchanges, and to building complementary economic relations for the benefit of both sides. Intermediary bodies from Taiwan and the mainland have held talks and negotiations to address problems resulting from people-to-people exchanges. In April 1993 in Singapore, the intermediary bodies signed four historic agreements, the first agreements to be reached by the two sides since 1949. In August 1994, representatives of the two bodies met in Taipei and achieved important breakthroughs after Peking's delegates made concessions by recognizing Taiwan's judicial authority over the fate of airline hijackers from the mainland and Taipei's authority to patrol fishing in the Straits of Taiwan.

Naturally, Taiwan's economy is critical to the success of all programs. Mr. Lien's economic recovery program has already produced concrete results. Steady recovery and stable growth have been clearly evident since mid-1993, even though the ROC's trade surplus continues to decline. In 1993, Taiwan's economy grew by about six percent. Analysts expect the 1994 economic performance to improve further.

Yet significant change must be made in the light of economic realities. The Six-Year National Development Plan has encountered a number of problems. Necessary modifications have been made after a thorough review on the basis of needs, priorities, and the availability of resources. Seven hundred seventy-five projects have been reduced to 632, and the original budget of NT$8,238.2 billion has been scaled down to NT$6,029.4 billion. The revised plan is much more realistic. Of the 632 projects, 69 have been completed, and 406 are being implemented. Seventy-four are well into the detailed planning stages and another 30 are on the drawing board. Feasibility studies are being made for 32 projects, while the remaining 21 are yet to be started.

Lien's pragmatic approach to the ambitious plan for national development has been hailed by many experts as a prudent course toward the conservation of available resources, the reduction of waste, and the establishment of priorities. The review of the National Development Plan ordered by the Premier has revealed that supply and demand can be coordinated and balanced. Problems can be anticipated and resolved and the projected benefits can be realized through comprehensive planning concerning the use of land, manpower, and material resources.●

RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. MURKOWSKI. Mr. President, in accordance with rule XXVI, section 2, of the Standing Rules of the Senate, I hereby submit for publication in the CONGRESSIONAL RECORD, the Rules of the Committee on Energy and Natural Resources.

The rules follow:

RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

GENERAL RULES

Rule 1. The Standing Rules of the Senate as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

MEETINGS OF THE COMMITTEE

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Business meetings of any Subcommittee may be called by the Chairman of such Subcommittee, Provided, That no Subcommittee meeting or hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee meeting or hearing, unless a majority of the Committee concurs in such concurrent meeting or hearing.

OPEN HEARINGS AND MEETINGS

Rule 3. (a) Hearings and business meetings of the Committee or any Subcommittee shall be open to the public except when the Committee or such Subcommittee by majority vote orders a closed hearing or meeting.

(b) A transcript shall be kept of each hearing of the Committee or any Subcommittee.

(c) A transcript shall be kept of each business meeting of the Committee or any Subcommittee unless a majority of the Committee or the Subcommittee involved agrees that some other form of permanent record is preferable.

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 or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee or the Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and ranking Minority Member 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 and the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure or subject shall be included on the agenda of the next following business meeting of the full Committee or any Subcommittee if a written request for such inclusion has been filed with the Chairman of the Committee or Subcommittee 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 or Subcommittee to include legislative measures or subjects on the Committee or Subcommittee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee or any Subcommittee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee or Subcommittee. The

Staff Director shall promptly notify absent Members of any action taken by the Committee or an Subcommittee on matters not included on the published agenda.

QUORUMS

Rule 6. (a) Except as provided in subsections (b), (c), and (d), six Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless ten Members of the Committee are actually present at the time such action is taken.

(c) Except as provided in subsection (d), one-third of the Subcommittee Members shall constitute a quorum for the conduct of business of any Subcommittee.

(d) One Members hall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

VOTING

Rule 7. (a) A rollcall of the members shall be taken upon the request of any Member. Any member who does not vote on any rollcall at the time the roll is called, may vote (in person or by proxy) on that rollcall at any later time during the same business meeting.

(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 upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any Member who did not vote on any rollcall shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the committee to make necessary technical and clerical corrections in the measure.

SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the ranking Minority Member.

(b) Assignment of Members to Subcommittees, shall, insofar as possible, reflect the preferences of the Members. No Member will receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings and business meetings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 9. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or Subcommittee deems such 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 statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made public on a form approved 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 statement of their financial interests in the form require in the case of Presidential nominees under this rule.

CONFIDENTIAL TESTIMONY

Rule 10. No confidential testimony taken by or confidential material presented to the Committee or any Subcommittee, or any report of the proceedings of a closed Committee or Subcommittee hearing or business meeting, shall be made public, in whole or in part or 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 11. 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 or Subcommittee hearing tends to defame him or otherwise adversely affect his 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 12. Any meeting or hearing by the Committee or any Subcommittee which is open to the public may be covered in whole or in part by television broadcast, 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 seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 13. These rules may be amended only by 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 three days in advance of such meeting.●

ORDER OF BUSINESS

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, I have some unanimous-consent requests. That have been cleared with the Democratic leadership.

THE UPDATE MANDATE REFORM ACT OF 1995—MESSAGE FROM THE HOUSE

Mr. LOTT. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 1) a bill to curb the practice of imposing Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1) entitled ''An Act to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and for other purposes'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Unfunded Mandate Reform Act of 1995''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to strengthen the partnership between the Federal Government and States, local governments, and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on States, local governments, and tribal governments in a manner that may displace other essential State, local, and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting States, local governments, tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate and House of Representatives before the Senate and House of Representatives votes on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance;

(5) to establish a point-of-order vote on the consideration in the Senate and House of Representatives of legislation containing significant Federal mandates;

(6) to assist Federal agencies in their consideration of proposed regulations affecting States, local governments, and tribal governments, by—

(A) requiring that Federal agencies develop a process to enable the elected and other officials of States, local governments, and tribal governments to provide input when Federal agencies are developing regulations; and

(B) requiring that Federal agencies prepare and consider better estimates of the budgetary

impact of regulations containing Federal mandates upon States, local governments, and tribal governments before adopting such regulations, and ensuring that small governments are given special consideration in that process;

(7) to establish the general rule that Congress shall not impose Federal mandates on States, local governments, and tribal governments without providing adequate funding to comply with such mandates; and

(8) to begin consideration of methods to relieve States, local governments, and tribal governments of unfunded mandates imposed by Federal court interpretations of Federal statutes and regulations.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the terms ''agency'', ''Federal financial assistance'', ''Federal private sector mandate'', ''Federal mandate'' (except as provided by section 108), ''local government'', ''private sector'', ''regulation'' or ''rule'', and ''State'' have the meaning given those terms by section 421 of the Congressional Budget Act of 1974; and

(2) the term ''small government'' means any small governmental jurisdiction as defined in section 601(5) of title 5, United States Code, and any tribal government.

SEC. 4. LIMITATION ON APPLICATION.

This Act shall not apply to any provision in a Federal statute or a proposed or final Federal regulation, that—

(1) enforces constitutional rights of individuals;

(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status;

(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;

(4) provides for emergency assistance or relief at the request of any State, local government, or tribal government or any official of such a government;

(5) is necessary for the national security or the ratification or implementation of international treaty obligations;

(6) the President designates as emergency legislation and that the Congress so designates in statute; or

(7) pertains to Social Security.

TITLE I—REVIEW OF UNFUNDED FEDERAL MANDATES

SEC. 101. REPORT ON UNFUNDED FEDERAL MANDATES BY ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.

(a) IN GENERAL.—The Advisory Commission shall in accordance with this section—

(1) investigate and review the role of unfunded Federal mandates in intergovernmental relations and their impact on State, local, tribal, and Federal Government objectives and responsibilities, and their impact on the competitive balance between States, local and tribal governments, and the private sector and consider views of and the impact on working men and women on those same matters;

(2) investigate and review the role of unfunded State mandates imposed on local governments, the private sector, and individuals;

(3) investigate and review the role of unfunded local mandates imposed on the private sector and individuals; and

(4) make recommendations to the President and the Congress regarding—

(A) allowing flexibility for State, local, and tribal governments in complying with specific unfunded Federal mandates for which terms of compliance are unnecessarily rigid or complex;

(B) reconciling any 2 or more unfunded Federal mandates which impose contradictory or inconsistent requirements;

(C) terminating unfunded Federal mandates which are duplicative, obsolete, or lacking in practical utility;

(D) suspending, on a temporary basis, unfunded Federal mandates which are not vital to public health and safety and which compound the fiscal difficulties of State, local, and tribal governments, including recommendations for triggering such suspension;

(E) consolidating or simplifying unfunded Federal mandates, or the planning or reporting requirements of such mandates, in order to reduce duplication and facilitate compliance by State, local, and tribal governments with those mandates;

(F) establishing common Federal definitions or standards to be used by State, local, and tribal governments in complying with unfunded Federal mandates that use different definitions or standards for the same terms or principles; and

(G) establishing procedures to ensure that, in cases in which a Federal private sector mandate applies to private sector entities which are competing directly or indirectly with States, local governments, or tribal governments for the purpose of providing substantially similar goods or services to the public, any relief from unfunded Federal mandates is applied in the same manner and to the same extent to the private sector entities as it is to the States, local governments, and tribal governments with which they compete, and to ensure that unfunded Federal mandate relief does not increase private sector burdens.

Each recommendation under paragraph (4) shall, to the extent practicable, identify the specific unfunded Federal mandates to which the recommendation applies.

(b) CRITERIA.—

(1) IN GENERAL.—The Advisory Commission shall establish criteria for making recommendations under subsection (a).

(2) ISSUANCE OF PROPOSED CRITERIA.—The Advisory Commission shall issue proposed criteria under this subsection not later than 60 days after the date of the enactment of this Act, and thereafter provide a period of 30 days for submission by the public of comments on the proposed criteria.

(3) FINAL CRITERIA.—Not later than 45 days after the date of issuance of proposed criteria, the Advisory Commission shall—

(A) consider comments on the proposed criteria received under paragraph (4);

(B) adopt and incorporate in final criteria any recommendations submitted in those comments that the Advisory Commission determines will aid the Advisory Commission in carrying out its duties under this section; and

(C) issue final criteria under this subsection.

(c) PRELIMINARY REPORT.—

(1) IN GENERAL.—Not later than 9 months after the date of the enactment of this Act, the Advisory Commission shall—

(A) prepare and publish a preliminary report on its activities under this title, including preliminary recommendations pursuant to subsection (a);

(B) publish in the Federal Register a notice of availability of the preliminary report; and

(C) provide copies of the preliminary report to the public upon request.

(2) PUBLIC HEARINGS.—The Advisory Commission shall hold public hearings on the preliminary recommendations contained in the preliminary report of the Advisory Commission under this subsection.

(d) FINAL REPORT.—Not later than 3 months after the date of the publication of the preliminary report under subsection (c), the Advisory Commission shall submit to the Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a final report on the findings, conclusions, and recommendations of the Advisory Commission under this section.

(e) PRIORITY TO MANDATES THAT ARE SUBJECT OF JUDICIAL PROCEEDINGS.—In carrying out this section, the Advisory Commission shall give the highest priority to immediately investigating, reviewing, and making recommendations regarding unfunded Federal mandates that are the subject of judicial proceedings between the United States and a State, local, or tribal government.

(f) STATE MANDATE AND LOCAL MANDATE DEFINED.—As used in this title:

(1) STATE MANDATE.—The term ''State mandate'' means any provision in a State statute or regulation that imposes an enforceable duty on local governments, the private sector, or individuals, including a condition of State assistance or a duty arising from participation in a voluntary State program.

(2) LOCAL MANDATE.—The term ''local mandate'' means any provision in a local ordinance or regulation that imposes an enforceable duty on the private sector or individuals, including a condition of local assistance or a duty arising from participation in a voluntary local program.

SEC. 102. SPECIAL AUTHORITIES OF ADVISORY COMMISSION.

(a) EXPERTS AND CONSULTANTS.—The Advisory Commission may procure temporary and intermittent services of experts or consultants under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Executive Director of the Advisory Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Advisory Commission to assist it in carrying out its duties under this title.

(c) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Advisory Commission, the Administrator of General Services shall provide to the Advisory Commission, on a reimbursable basis, the administrative support services necessary for the Advisory Commission to carry out its duties under this title.

(d) CONTRACT AUTHORITY.—The Advisory Commission may, subject to appropriations, contract with and compensate Government and private agencies or persons for property and services used to carry out its duties under this title.

SEC. 103. DEFINITIONS.

In this title:

(1) ADVISORY COMMISSION.—The term ''Advisory Commission'' means the Advisory Commission on Intergovernmental Relations.

(2) FEDERAL MANDATE.—The term ''Federal mandate'' means any provision in statute or regulation or any Federal court ruling that imposes an enforceable duty upon States, local governments, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

SEC. 201. REGULATORY PROCESS.

(a) IN GENERAL.—Each agency shall, to the extent permitted by subchapter II of chapter 5 of title 5, United States Code—

(1) assess the effects of Federal regulations on States, local governments, tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in legislation), including specifically the availability of resources to carry out any Federal mandates in those regulations; and

(2) seek to minimize those burdens that uniquely or significantly affect such governmental entities or the private sector, consistent with achieving statutory and regulatory objectives.

(b) STATE, LOCAL GOVERNMENT, AND TRIBAL GOVERNMENT INPUT.—Each agency shall develop an effective process to permit elected officials (or their designated representatives) of States, local governments, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates.

(c) AGENCY PLAN.—Before establishing any regulatory requirements that might significantly or uniquely affect small governments, an agency shall have developed a plan under which the agency shall—

(1) provide notice of the contemplated requirements to potentially affected small governments, if any;

(2) enable officials of affected small governments to provide input pursuant to subsection (b); and

(3) inform, educate, and advise small governments on compliance with the requirements.

(d) LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.—An agency may not issue a rule that contains a Federal mandate if the rulemaking record for the rule indicates that there are 2 or more methods that could be used to accomplish the objective of the rule, unless—

(1) the Federal mandate is the least costly method, or has the least burdensome effect, for—

(A) States, local governments, and tribal governments, in the case of a rule containing a Federal intergovernmental mandate, and

(B) the private sector, in the case of a rule containing a Federal private sector mandate; or

(2) the agency publishes with the final rule an explanation of why the more costly or burdensome method of the Federal mandate was adopted.

SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

(a) IN GENERAL.—Before promulgating any final rule that includes any Federal mandate that may result in the expenditure by States, local governments, or tribal governments, in the aggregate, or the private sector of at least $100,000,000 (adjusted annually for inflation) in any 1 year, and before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any such rule, the agency shall prepare a written statement identifying the provision of Federal law under which the rule is being promulgated and containing—

(1) estimates by the agency, including the underlying analysis, of the anticipated costs to States, local governments, tribal governments, and the private sector of complying with the Federal mandates, and of the extent to which such costs may be paid with funds provided by the Federal Government or otherwise paid through Federal financial assistance;

(2) estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible; of—

(A) the future costs of the Federal mandate; and

(B) any disproportionate budgetary effects of the Federal mandates upon any particular regions of the country or particular States, local governments, tribal governments, urban or rural or other types of communities, or particular segments of the private sector;

(3) a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal mandates (such as the enhancement of health and safety and the protection of the natural environment);

(4) the effect of Federal private sector mandates on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, worker benefits and pensions, and international competitiveness of United States goods and services;

(5) a description of the extent of the agency's prior consultation with elected representatives (or their designated representatives) of the affected States, local governments, and tribal governments, and designated representatives of the private sector;

(6) a summary of the comments and concerns that were presented by States, local governments, or tribal governments and the private sector either orally or in writing to the agency;

(7) a summary of the agency's evaluation of those comments and concerns; and

(8) the agency's position supporting the need to issue the regulation containing the Federal mandates (considering, among other things, the extent to which costs may or may not be paid with funds provided by the Federal Government).

(b) PROMULGATION.—In promulgating a general notice of proposed rulemaking or a final rule for which a statement under subsection (a) is required, the agency shall include in the promulgation a summary of the information contained in the statement.

(c) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.—Any agency may prepare any statement required by subsection (a) in conjunction with or as part of any other statement or analysis, if the statement or analysis satisfies the provisions of subsection (a).

SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.

The Director of the Office of Management and Budget shall—

(1) collect from agencies the statements prepared under section 202; and

(2) periodically forward copies of them to the Director of the Congressional Budget Office on a reasonably timely basis after promulgation of the general notice of proposed rulemaking or of the final rule for which the statement was prepared.

SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with Federal agencies, shall establish pilot programs in at least 2 agencies to test innovative and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small governments; and

(2) meet overall statutory goals and objectives.

(b) PROGRAM FOCUS.—The pilot programs shall focus on rules in effect or proposed rules or on a combination thereof.

SEC. 205. ANNUAL REPORT TO CONGRESS REGARDING FEDERAL COURT RULINGS.

Not later than 4 months after the date of enactment of this Act, and no later than March 15 of each year thereafter, the Advisory Commission on Intergovernmental Relations shall submit to the Congress, including each of the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a report describing Federal court rulings in the preceding calendar year which imposed an enforceable duty on 1 or more States, local governments, or tribal governments.

SEC. 206. JUDICIAL REVIEW.

(a) REVIEW OF AGENCY ACTIONS SUBJECT TO REVIEW UNDER OTHER FEDERAL LAW.—If an agency action that is subject to section 201 or 202 is subject to judicial review under any other Federal law (other than chapter 7 of title 5, United States Code)—

(1) any court of the United States having jurisdiction to review the action under the other law shall have jurisdiction to review the action under sections 201 and 202; and

(2) in any proceeding under paragraph (1), any issue relating exhaustion of remedies, the time and manner for seeking review, venue, or the availability of a stay or preliminary injunctive relief pending review shall be determined under the other law.

(b) LIMITATION ON PRELIMINARY INJUNCTIVE RELIEF.—The second sentence of section 705 of title 5, United States Code (relating to preliminary relief pending review), shall not apply with respect to review under subsection (a)(1) of an agency action, unless process authorized by that sentence is not authorized by the other law under which the action is reviewed.

SEC. 207. ANNUAL STATEMENTS TO CONGRESS ON AGENCY COMPLIANCE WITH REQUIREMENTS OF TITLE.

Not later than one year after the effective date of title III and annually thereafter, the Director of the Office of Management and Budget shall submit to Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, written statements detailing the compliance with the requirements of sections 201 and 202 by each agency during the period reported on.

TITLE III—LEGISLATIVE ACCOUNTABILITY AND REFORM

SEC. 301. LEGISLATIVE MANDATE ACCOUNTABILITY AND REFORM.

Title IV of the Congressional Budget Act of 1974 is amended by—

(1) inserting before section 401 the following:

''PART A—GENERAL PROVISIONS''; and

(2) adding at the end the following new part:

''PART B—FEDERAL MANDATES

"SEC. 421. DEFINITIONS.

''For purposes of this part:

''(1) AGENCY.—The term 'agency' has the meaning stated in section 551(1) of title 5, United States Code, but does not include independent regulatory agencies, as defined by section 3502(10) of title 44, United States Code.

''(2) DIRECTOR.—The term 'Director' means the Director of the Congressional Budget Office.

''(3) FEDERAL FINANCIAL ASSISTANCE.—The term 'Federal financial assistance' means the amount of budget authority for any Federal grant assistance or any Federal program providing loan guarantees or direct loans.

''(4) FEDERAL INTERGOVERNMENTAL MANDATE.—The term 'Federal intergovernmental mandate' means—

''(A) any provision in legislation, statute, or regulation that—

''(i) would impose an enforceable duty upon States, local governments, or tribal governments, except—

''(I) a condition of Federal assistance; or

''(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B); or

''(ii) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

''(B) any provision in legislation, statute, or regulation that relates to a then-existing Federal program under which $500,000,000 or more is provided annually to States, local governments, and tribal governments under entitlement authority, if—

''(i)(I) the provision would increase the stringency of conditions of assistance to States, local governments, or tribal governments under the program; or

''(II) would place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding to States, local governments, or tribal governments under the program; and

''(ii) the States, local governments, or tribal governments that participate in the Federal program lack authority under that program to amend their financial or programmatic responsibilities to continue providing required services that are affected by the legislation, statute, or regulation.

''(5) FEDERAL PRIVATE SECTOR MANDATE.—The term 'Federal private sector mandate' means any provision in legislation, statute, or regulation that—

''(A) would impose an enforceable duty on the private sector except—

''(i) a condition of Federal assistance; or

''(ii) a duty arising from participation in a voluntary Federal program; or

''(B) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that will be provided to the private sector for the purpose of ensuring compliance with such duty.

''(6) FEDERAL MANDATE.—The term 'Federal mandate' means a Federal intergovernmental

mandate or a Federal private sector mandate, as defined in paragraphs (4) and (5).

''(7) FEDERAL MANDATE DIRECT COSTS.—

''(A) FEDERAL INTERGOVERNMENTAL DIRECT COSTS.—In the case of a Federal intergovernmental mandate, the term 'direct costs' means the aggregate estimated amounts that all States, local governments, and tribal governments would be required to spend or would be required to forgo in revenues in order to comply with the Federal intergovernmental mandate, or, in the case of a provision referred to in paragraph (4)(A)(ii), the amount of Federal financial assistance eliminated or reduced.

''(B) PRIVATE SECTOR DIRECT COSTS.—In the case of a Federal private sector mandate, the term 'direct costs' means the aggregate estimated amounts that the private sector would be required to spend in order to comply with a Federal private sector mandate.

''(C) EXCLUSION FROM DIRECT COSTS.—The term 'direct costs' does not include—

''(i) estimated amounts that the States, local governments, and tribal governments (in the case of a Federal intergovernmental mandate), or the private sector (in the case of a Federal private sector mandate), would spend—

''(I) to comply with or carry out all applicable Federal, State, local, and tribal laws and regulations in effect at the time of the adoption of a Federal mandate for the same activity as is affected by that Federal mandate; or

''(II) to comply with or carry out State, local governmental, and tribal governmental programs, or private-sector business or other activities in effect at the time of the adoption of a Federal mandate for the same activity as is affected by that mandate; or

''(ii) expenditures to the extent that they will be offset by any direct savings to be enjoyed by the States, local governments, and tribal governments, or by the private sector, as a result of—

''(I) their compliance with the Federal mandate; or

''(II) other changes in Federal law or regulation that are enacted or adopted in the same bill or joint resolution or proposed or final Federal regulation and that govern the same activity as is affected by the Federal mandate.

''(D) DETERMINATION OF COSTS.—Direct costs shall be determined based on the assumption that States, local governments, tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations. Reasonable steps to mitigate the costs shall not include increases in State, local, or tribal taxes or fees.

''(8) LOCAL GOVERNMENT.—The term 'local government' has the same meaning as in section 6501(6) of title 31, United States Code.

''(9) PRIVATE SECTOR.—The term 'private sector' means individuals, partnerships, associations, corporations, business trusts, or legal representatives, organized groups of individuals, and educational and other nonprofit institutions.

''(10) REGULATION.—The term 'regulation' or 'rule' has the meaning of 'rule' as defined in section 601(2) of title 5, United States Code.

''(11) STATE.—The term 'State' has the same meaning as in section 6501(9) of title 31, United States Code.

''(12) SIGNIFICANT EMPLOYMENT IMPACT.—The term 'significant employment impact' means an estimated net aggregate loss of 10,000 or more jobs.

"SEC. 422. LIMITATION ON APPLICATION.

''This part shall not apply to any provision in a bill, joint resolution, motion, amendment, or conference report before Congress that—

''(1) enforces constitutional rights of individuals;

''(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status;

''(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;

''(4) provides for emergency assistance or relief at the request of any State, local government, or tribal government or any official of such a government;

''(5) is necessary for the national security or the ratification or implementation of international treaty obligations;

''(6) the President designates as emergency legislation and that the Congress so designates in statute; or

''(7) pertains to Social Security.

"SEC. 423. DUTIES OF CONGRESSIONAL COMMITTEES.

''(a) SUBMISSION OF BILLS TO THE DIRECTOR.—When a committee of authorization of the House of Representatives or the Senate orders a bill or joint resolution of a public character reported, the committee shall promptly provide the text of the bill or joint resolution to the Director and shall identify to the Director any Federal mandate contained in the bill or resolution.

''(b) COMMITTEE REPORT.—

''(1) INFORMATION REGARDING FEDERAL MANDATES.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of a public character that includes any Federal mandate, the report of the committee accompanying the bill or joint resolution shall contain the information required by paragraph (2) and, in the case of a Federal intergovernmental mandate, paragraph (3).

''(2) REPORTS ON FEDERAL MANDATES.—Each report referred to in paragraph (1) shall contain—

''(A) an identification and description of each Federal mandate in the bill or joint resolution, including the statement, if available, from the Director pursuant to section 424(a);

''(B) a qualitative assessment, and if practicable, a quantitative assessment of costs and benefits anticipated from the Federal mandate (including the effects on health and safety and protection of the natural environment); and

''(C) a statement of—

''(i) the degree to which the Federal mandate affects each of the public and private sectors, including a description of the actions, if any, taken by the committee to avoid any adverse impact on the private sector or on the competitive balance between the public sector and the private sector; and

''(ii) in the case of a Federal mandate that is a Federal intergovernmental mandate, the extent to which limiting or eliminating the Federal intergovernmental mandate or Federal payment of direct costs of the Federal intergovernmental mandate (if applicable) would affect the competitive balance between States, local governments, or tribal governments and the private sector.

''(3) INTERGOVERNMENTAL MANDATES.—If any of the Federal mandates in the bill or joint resolution are Federal intergovernmental mandates, the report referred to in paragraph (1) shall also contain—

''(A)(i) a statement of the amount, if any, of increase or decrease in authorization of appropriations under existing Federal financial assistance programs or for new Federal financial assistance, provided by the bill or joint resolution and usable for activities of States, local governments, or tribal governments subject to Federal intergovernmental mandates; and

''(ii) a statement of whether the committee intends that the Federal intergovernmental mandates be partly or entirely unfunded, and, if so, the reasons for that intention; and

''(B) a statement of any existing sources of Federal financial assistance in addition to those identified in subparagraph (A) that may assist States, local governments, and tribal governments in paying the direct costs of the Federal intergovernmental mandates.

''(4) INFORMATION REGARDING PREEMPTION.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of a public character, the committee report accompanying the bill or joint resolution shall contain, if relevant to the bill or joint resolution, an explicit statement on whether the bill or joint resolution, in whole or in part, is intended to preempt any State, local, or tribal law, and if so, an explanation of the reasons for such intention.

''(c) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

''(1) IN GENERAL.—Upon receiving a statement (including any supplemental statement) from the Director pursuant to section 424(a), a committee of the House of Representatives or the Senate shall publish the statement in the committee report accompanying the bill or joint resolution to which the statement relates if the statement is available to be included in the printed report.

''(2) OTHER PUBLICATION OF STATEMENT OF DIRECTOR.—If the statement is not published in the report, or if the bill or joint resolution to which the statement relates is expected to be considered by the House of Representatives or the Senate before the report is published, the committee shall cause the statement, or a summary thereof, to be published in the Congressional Record in advance of floor consideration of the bill or joint resolution.

"SEC. 424. DUTIES OF THE DIRECTOR.

''(a) STATEMENTS ON BILLS AND JOINT RESOLUTIONS OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLUTIONS.—

''(1) FEDERAL INTERGOVERNMENTAL MANDATES IN REPORTED BILLS AND RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or the Senate, the Director shall prepare and submit to the committee a statement as follows:

''(A) If the Director estimates that the direct cost of all Federal intergovernmental mandates in the bill or joint resolution will equal or exceed $50,000,000 (adjusted annually for inflation) in the fiscal year in which such a Federal intergovernmental mandate (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

''(B) The estimate required by subparagraph (A) shall include estimates (and brief explanations of the basis of the estimates) of—

''(i) the total amount of direct cost of complying with the Federal intergovernmental mandates in the bill or joint resolution; and

''(ii) the amount, if any, of increase in authorization of appropriations or budget authority or entitlement authority under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by States, local governments, or tribal governments for activities subject to the Federal intergovernmental mandates.

''(2) FEDERAL PRIVATE SECTOR MANDATES IN REPORTED BILLS AND JOINT RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or the Senate, the Director shall prepare and submit to the committee a statement as follows:

''(A) If the Director estimates that the direct cost of all Federal private sector mandates in the bill or joint resolution will equal or exceed $50,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so

state, specify the estimate, and briefly explain the basis of the estimate.

''(B) The estimate required by subparagraph (A) shall include estimates (and brief explanations of the basis of the estimates) of—

''(i) the total amount of direct costs of complying with the Federal private sector mandates in the bill or joint resolution; and

''(ii) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution usable by the private sector for the activities subject to the Federal private sector mandates.

''(C) If the Director determines that it is not feasible to make a reasonable estimate that would be required under subparagraphs (A) and (B), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement.

''(3) LEGISLATION FALLING BELOW THE DIRECT COSTS THRESHOLDS.—If the Director estimates that the direct costs of a Federal mandate will not equal or exceed the threshold specified in paragraph (1)(A) or (2)(A), the Director shall so state and shall briefly explain the basis of the estimate.

''(4) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If the Director has prepared the statement pursuant to subsection (a) for a bill or joint resolution, and if that bill or joint resolution is reported or passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in an amended form, the committee of conference shall ensure, to the greatest extent practicable, that the Director shall prepare a supplemental statement for the bill or joint resolution in that amended form.

''(b) ASSISTANCE TO COMMITTEES AND STUDIES.—

''(1) IN GENERAL.—At the request of any committee of the House of Representatives or of the Senate, the Director shall, to the extent practicable, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

''(A) a significant budgetary impact on State, local, or tribal governments;

''(B) a significant financial impact on the private sector; or

''(C) significant employment impact on the private sector.

''(2) CONTINUING STUDIES.—The Director shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

''(3) FEDERAL MANDATE STUDIES.—

''(A) At the request of any committee of the House of Representatives or the Senate, the Director shall, to the extent practicable, conduct a study of a legislative proposal containing a Federal mandate.

''(B) In conducting a study under subparagraph (A), the Director shall—

''(i) solicit and consider information or comments from elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and such other persons as may provide helpful information or comments;

''(ii) consider establishing advisory panels of elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and other persons if the Director determines, in the Director's discretion, that such advisory panels would be helpful in performing the Director's responsibilities under this section; and

''(iii) include estimates, if and to the extent that the Director determines that accurate estimates are reasonably feasible, of—

''(I) the future direct cost of the Federal mandates concerned to the extent that they significantly differ from or extend beyond the 5-year period after the mandate is first effective; and

''(II) any disproportionate budgetary effects of the Federal mandates concerned upon particular industries or sectors of the economy, States, regions, and urban, or rural or other types of communities, as appropriate.

''(C) In conducting a study on private sector mandates under subparagraph (A), the Director shall provide estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

''(i) future costs of Federal private sector mandates to the extent that such mandates differ significantly from or extend beyond the 5-year period referred to in subparagraph (B)(iii)(I);

''(ii) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon any particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

''(iii) the effect of Federal private sector mandates in the bill or joint resolution on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services.

''(c) VIEWS OF COMMITTEES.—Any committee of the House of Representatives or the Senate which anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on the States, local governments, or tribal governments, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall provide its views and estimates on such proposal to the Committee on the Budget of its House.

''(d) ESTIMATES.—If the Director determines that it is not feasible to make a reasonable estimate that would be required for a statement under subsection (a)(1) for a bill or joint resolution, the Director shall not make such a statement and shall inform the committees involved that such an estimate cannot be made and the reasons for that determination. The bill or joint resolution for which such statement was to be made shall be subject to a point of order under section 425(a)(1).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Congressional Budget Office to carry out this part $4,500,000 for each of fiscal years 1996 through 2002.

"SEC. 425. POINT OF ORDER.

''(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider—

''(1) any bill or joint resolution that is reported by a committee unless the committee has published the statement of the Director pursuant to section 424(a) prior to such consideration, except that this paragraph shall not apply to any supplemental statement prepared by the Director under section 424(a)(4); or

''(2) any bill, joint resolution, amendment, motion, or conference report that contains a Federal intergovernmental mandate having direct costs that exceed the threshold specified in section 424(a)(1)(A), or that would cause the direct costs of any other Federal intergovernmental mandate to exceed the threshold specified in section 424(a)(1)(A), unless—

''(A) the bill, joint resolution, amendment, motion, or conference report provides new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that equals or exceeds the estimated direct costs of such mandate; or

''(B) the bill, joint resolution, amendment, motion, or conference report provides an increase in receipts or a decrease in new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate and an increase in new budget authority or new entitlement authority in the House of Representatives or an increase in direct spending authority for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that equals or exceeds the estimated direct costs of such mandate; or

''(C) the bill, joint resolution, amendment, motion, or conference report—

''(i) provides that—

''(I) such mandate shall be effective for any fiscal year only if all direct costs of such mandate in the fiscal year are provided in appropriations Acts, and

''(II) in the case of such a mandate contained in the bill, joint resolution, amendment, motion, or conference report, the mandate is repealed effective on the first day of any fiscal year for which all direct costs of such mandate are not provided in appropriations Acts; or

''(ii) requires a Federal agency to reduce programmatic and financial responsibilities of State, local, and tribal governments for meeting the objectives of the mandate such that the estimated direct costs of the mandate to such governments do not exceed the amount of Federal funding provided to those governments to carry out the mandate in the form of appropriations or new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate, and establishes criteria and procedures for that reduction.

''(b) LIMITATION ON APPLICATION TO APPROPRIATIONS BILLS.—Subsection (a) shall not apply to a bill that is reported by the Committee on Appropriations or an amendment thereto.

''(c) DETERMINATION OF DIRECT COSTS BASED ON ESTIMATES BY BUDGET COMMITTEES.—For the purposes of this section, the amount of direct costs of a Federal mandate for a fiscal year shall be determined based on estimates made by the Committee on the Budget, in consultation with the Director, of the House of Representatives or the Senate, as the case may be.

''(d) LIMITATION ON APPLICATION OF SUBSECTION (a)(2).—Subsection (a)(2) shall not apply to any bill, joint resolution, amendment, or conference report that reauthorizes appropriations for carrying out, or that amends, any statute if enactment of the bill, joint resolution, amendment, or conference report—

''(1) would not result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates; and

''(2)(A) would not result in a net reduction or elimination of authorizations of appropriations for Federal financial assistance that would be provided to State, local governments, or tribal governments for use to comply with any Federal intergovernmental mandate; or

''(B) in the case of any net reduction or elimination of authorizations of appropriations for such Federal financial assistance that would result from such enactment, would reduce the duties imposed by the Federal intergovernmental mandate by a corresponding amount.

"SEC. 426. ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.

''It shall not be in order in the House of Representatives to consider a rule or order that waives the application of section 425(a).

"SEC. 427. DISPOSITION OF POINTS OF ORDER.

''(a) THRESHOLD BURDEN.—In order to be cognizable by the Chair, a point of order under section 425(a) or 426 must specify the precise language on which it is premised.

''(b) QUESTION OF CONSIDERATION.—As disposition of points of order under section 425(a) or 426, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

''(c) DEBATE AND INTERVENING MOTIONS.—A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

''(d) EFFECT ON AMENDMENT IN ORDER AS ORIGINAL TEXT.—The disposition of the question of consideration under this section with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this section with respect to an amendment made in order as original text.''.

SEC. 302. ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.

(a) MOTIONS TO STRIKE IN THE COMMITTEE OF THE WHOLE.—Clause 5 of rule XXIII of the Rules of the House of Representatives is amended by adding at the end the following:

''(c) In the consideration of any measure for amendment in the Committee of the Whole containing any Federal mandate the direct costs of which exceed the threshold in section 424(a)(1)(A) of the Unfunded Mandate Reform Act of 1995, it shall always be in order, unless specifically waived by terms of a rule governing consideration of that measure, to move to strike such Federal mandate from the portion of the bill then open to amendment.''.

(b) COMMITTEE ON RULES REPORTS ON WAIVED POINTS OF ORDER.—The Committee on Rules shall include in the report required by clause 1(d) of rule XI (relating to its activities during the Congress) of the Rules of the House of Representatives a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and the subject matter of that measure.

SEC. 303. EXERCISE OF RULEMAKING POWERS.

The provisions of this title (except section 305) are enacted by Congress—

(1) as an exercise of the rulemaking powers of the House of Representatives and the Senate, and as such they shall be considered as part of the rules of the House of Representatives and the Senate, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the House of Representatives and the Senate to change such rules at anytime, in the same manner, and to the same extent as in the case of any other rule of the House of Representatives or the Senate, respectively.

SEC. 304. CONFORMING AMENDMENT TO TABLE OF CONTENTS.

Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting ''PART A—GENERAL PROVISIONS'' before the item relating to section 401 and by inserting after the item relating to section 407 the following:

''PART B—FEDERAL MANDATES

''Sec. 421. Definitions.
''Sec. 422. Limitation on application.
''Sec. 423. Duties of congressional committees.
''Sec. 424. Duties of the Director.
''Sec. 425. Point of order.
''Sec. 426. Enforcement in the House of Representatives.''.

SEC. 305. TECHNICAL AMENDMENTS.

(a) TECHNICAL AMENDMENT.—The State and Local Government Cost Estimate Act of 1981 (Public Law 97–108) is repealed.

(b) TECHNICAL AMENDMENT.—Section 403 of the Congressional Budget Act of 1974 is amended to read as follows:

''ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

''SEC. 403. The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

''(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate; and

''(2) a comparison of the estimate of costs described in paragraph (1) with any available estimate of costs made by such committee or by any Federal agency.

The estimate and comparison so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.''.

SEC. 306. EFFECTIVE DATE.

This title shall take effect on October 1, 1995.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate disagree with the House amendments, agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

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

The PRESIDING OFFICER (Mr. CRAIG) appointed Mr. ROTH, Mr. DOMENICI, Mr. KEMPTHORNE, Mr. GLENN, and Mr. EXON conferees on the part of the Senate.

THE REGULATORY REFORM BILL

Mr. LOTT. Mr. President, I ask unanimous consent that the regulatory reform bill, S. 343, introduced yesterday by Senator DOLE, be jointly referred to the Committees on the Judiciary and Governmental Affairs.

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

ORDERS FOR MONDAY, FEBRUARY 6, 1995

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. on Monday, February 6, 1995; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

I further ask unanimous consent that at 10:30 a.m., the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

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

PROGRAM FOR MONDAY, FEBRUARY 6, 1995

Mr. LOTT. Mr. President, for the information of my colleagues, on Monday, the Senate will resume consideration of the balanced budget amendment and the pending amendments thereto.

The majority leader has indicated that there will be no rollcall votes on Monday. However, Senator DOLE has stated that he expects a full and extensive debate on the pending amendments on Monday.

This side of the aisle believes that this is a very serious issue, and I assume that the other side of the aisle considers the Daschle motions to commit to be very serious, as well.

Therefore, again, Members should expect a full day of debate on this matter on Monday. If we are ever going to be able to get to the point where we reach a conclusion on this legislation, we must move forward. I expect that there will be amendments and votes all of next week. But we should make sure that we have a full day on Monday.

RECESS UNTIL MONDAY, FEBRUARY 6, 1995, AT 10 A.M.

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, and if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 4:55 p.m., recessed until Monday, February 6, 1995, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 3, 1995:

THE JUDICIARY

ELDON E. FALLON, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA, VICE ADRIAN G. DUPLANTIER, RETIRED.

IN THE COAST GUARD

THE FOLLOWING REGULAR AND RESERVE OFFICERS OF THE U.S. COAST GUARD TO BE PERMANENT COMMISSIONED OFFICERS IN THE GRADES INDICATED:

To be lieutenant commander

GENELLE T. VACHON

To be lieutenant

THOMAS D. BEISTLE
ALGERNON J. KEITH
BRIAN J. PETER
JEFFREY J. KOZBIEL
LESLIE J. PENNEY
KIM J. PACSAI
WILLIAM D. HOGUE
CHRISTOPHER J. CLARK
JOHN M. BRYANT
HUGH R. GRIFFITHS
MARTIN W. WALKER
MANUEL J. PEREZ
CHINH T. LE
DAVID M. LARKIN
RANDY W. EMERY
ROBERT A. ENGLE
WILLIAM D. CAMERON, JR.
SCOTT H. SHARP
PAUL C. FITZGERALD
CLAUDIA J. CAMP
JOHN W. MCKINLEY
LUTHER B. JENNINGS
GREGORY G. STUMP
PAUL W. GEBERT, JR.
TIMOTHY D. DENBY
JAY D. ANDREWS
DAVID R. PERTUZ
MORGAN R. POWERS
JEROME H. HILTON
ANDREW G. DUTTON
MARK W. FLUITT
BARBARO J. ORTA
JENNIFER F. BECK
ROSANNE TRABOCCHI
JACKQUELINE M. LOSEGO
MARY J. SOHLBERG
VALERIAN F. WELICKA
FRANK W. JESTER
WILLIAM B. SWEARS
SHELLEYJO M. ATKINSON
JOHN G. HOMAN
ROBERT J. THOMAS
EVAN C. GRANT
GREGORY D. ERICKSON
CHARLES M. HANCOCK
MARY P. MCKEOWN
ERIC G. HELM
JULIO A. MARTINEZ
EUGENE V. VOGT
JONATHAN B. DUFF
WILLIAM D. HENNESSY
CRAIG L. WELTMAN
PAUL ALBERTSON
CHRISTOPHER J. FALK
STEPHEN A. LESLIE
ANDREW P. WOOD
KENT R. CHAPPELKA
KENNETH A. PIERRO
MICHAEL T. CUNNINGHAM
SHANNON W. MCCULLAR
WILFORD E. MORTON
BRIAN K. PENOYER
PHIL M. PERRY
JANICE L. JENSEN
BRIAN J. DOWNEY, JR.
REED A. STEPHENSON

To be lieutenant (junior grade)

ALAN L. TUBB
KATHERINE E. WEATHERS
GEORGE A. LESHER, JR.
FRED A. GRIFFIN

PATRICK J. NEAL
MARTIN L. MALLOY
JOSEPH H. SNOWDEN II
PAUL MEHLER III
ROBERT J. BACKHAUS
THOMAS MC CORMICK
KYLE J. MARUSICH
TROY A. BESHEARS
GARY D. HENDERSON
MARK J. MC CADDEN
THOMAS P. DURAND
DANIEL W. UTTING
DENIS J. FASSERO
FRANK E. PEDRAS, JR.
DAVID K. DIXON
DEREK F. MYERS
DIANE R. FOSTER
THOMAS S. SWANBERG
DAVID E. CLEARY
PATTI S. BROSSMAN
christopher p. mooradian
stephen h. chamberlin iii
kevin p. dunn
andrew n. zavenelli
eric j. bautz
jennifer p. croot
daniel schroder
diane j. hauser
brian m. lisko
matthew c. callan
christopher l. day
jose l. jimenez
daniel c. johnson
daniel j. pike
ronald r. dewitt, jr.
george e. deacon, jr.
john r. francic
randal s. ogrydziak
raymond c. hayes ii
jose l. rodriguez
phillip s. mc carty ii
kristine m. horvath
john c. wicht
anthony e. rumbaugh
christopher c. moss
james m. boyer
kara m. satra
william a. kasten
robert a. sanchez
robert w. holthaus, jr.
jennifer a. cummings
william j. moore
darrell g. mcinnis
michael c. brady
douglas h. borden iii
niles l. seifert
francis j. susskey, jr.
david moynihan
john e. valentine
steven r. custer
lloyd l. stone ii
frederick reyes
jeffrey c. babb
roberto e. devarie
mark a. tennyson
lance a. rocks
drady c. downs
robert g. pearce, jr.
christopher j. woodley
frederick c. riedlin
steven t. pearson
robert e. bailey, jr.
thomas j. glynn
james h. finta
joseph m. carroll
todd j. shoenfelt
todd j. offutt
joel l. rebholz
charles e. gehinscott
elizabeth d. blow
david h. cronk
dawn c. gorman
eugene r. lytton, jr.
theresa a. palmer
mark e. hammond
pablo e. roque, jr.
carlos a. torres
James b. robertson iii
robert e. iddins
jeffrey t. carter
randall w. tucker
richard m. pruitt
steven k. mac hovina
charles a. hatfield iii
edward j. lane iii
KRISTY M. PAQUETTE
ERIC S. ENSIGN
MICHAEL J. DREIER
MATTHEW P. ROTHER
JAMES F. DRISCOLL
JAMES J. SZRAMA
LUIS M. ROLDAN
BOBBY L. WILLIAMS
JAMES L. DUVAL
MARK A. LIND
FRANCIS T. BOROSS, JR.
THOMAS A. NORTON
MARK D. WARD
MICHAEL B. WALLACE
RICHARD A. ROBERTS, JR.
KEVIN W. LOPEZ
EDGARDO ROSA
KENNETH A. SMITH
JEFFREY W. JOHNSON
RICKY N. SORRELL
BARBARA A. ROSE
JEFFREY S. FRAZIER
NICOLAS D. CARON
DANIEL C. ROCCO
DAVID B. MAC LEAN
ERIN D. MAC DONALD
DAVID E. PUGH
HAROLD P. BRUU, JR.
THOMAS I. MAC DONALD
KELLY M. POST
DARREN A. DRURY
MICHAEL T. ARNOLD
JAMES B. PRUETT
LYNN A. GOLDHAMMER
GREGORY L. PURVIS
ROBERT P. WARD
DAVID W. EDWARDS
MARC S. HARTMAN
MARK L. COLLIER
RICHARD R. HAYES
JAMES M. MATHIEU
RICHARD S. CRAIG
BRUCE N. DECKER
JESS W. MC GINNIS
RAYMOND C. STONE
ANTHONY C. CURRY
BRIAN R. WETZLER
DAVID C. MORTON
ALBERT R. AGNICH, JR.
MICKEY D. COLE
DAVID A. DRAKE
THEODORE B. GANGSEI
ROBERT P. GILLAN
TRACY J. WANNAMAKER
BRAD J. ERVIN
TRELLIS M. BIVINS
THOMAS H. SHERMAN III
ELMER A. LIMOS
MARK A. CAMACHO
RICKY M. SHARPE
NELSON MEDINA
JOSEPH J. GLEASON
JOHN R. HELTON, JR.
ROBERT J. BOWEN
LILLIAN M. MAIZER
BENJAMIN B. WHITE
DANIEL J. SCHIFSKY
KEITH C. RALEY
MARK T. CUNNINGHAM
SHERMAN P. WHITMORE
CAROLA J. ATKINSON
CHRISTOPHER J. ROBINSON
DANIEL L. YOUNGBERG
TED J. SANCHEZ
DAVID C. BILLBURG
BRUCE L. DAVIES
DARREN M. MOORE
DAVID B. SCOTT
CRAIG S. BREITUNG
SHELDON J. ROBERTS
GREGORY A. HOWARD

IN THE AIR FORCE

THE FOLLOWING INDIVIDUALS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 12203 WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067 TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be colonel

HAROLD L. KENNEDY, 000–00–0000

MEDICAL CORPS

To be lieutenant colonel

GEORGE Z. WEISSFISCH, 000–00–0000
CHAU W. YAN, 000–00–0000

DENTAL CORPS

To be lieutenant colonel

BRUCE A. JOHNSON, 000–00–0000

THE FOLLOWING INDIVIDUALS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 12203.

LINE OF THE AIR FORCE

To be lieutenant colonel

CHARLES R. DAVIS, 000–00–0000
HUGH A. FORDE, 000–00–0000
JOHN D. KIRBY, JR., 000–00–0000
WALTER G. LUCAS, JR., 000–00–0000
DOUGLAS D. TAYLOR, 000–00–0000

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

JUDGE ADVOCATE GENERAL

To be lieutenant colonel

ORIN R. HILMO, JR., 000–00–0000

MEDICAL CORPS

To be major

TARA L. CHRONISTER, 000–00–0000
VICTOR A. TORANO, 000–00–0000

MEDICAL SERVICE CORPS

To be major

STEPHEN C. WALLACE, 000–00–0000

IN THE MARINE CORPS

THE FOLLOWING-NAMED MAJOR OF THE U.S. MARINE CORPS FOR PROMOTION TO THE GRADE OF LIEUTENANT COLONEL, UNDER THE PROVISIONS OF SECTION 624 AND 628 OF TITLE 10, UNITED STATES CODE:

To be lieutenant colonel

LAWRENCE J. KOVALCHIK, 000–00–0000