United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, THURSDAY, MARCH 2, 1995 No. 39

Senate

(Legislative day of Wednesday, February 22, 1995)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer will be delivered by Father Paul Lavin, pastor of St. Joseph Catholic Church on Capitol Hill in Washington, DC.

PRAYER

The guest Chaplain, the Reverend Paul Lavin, offered the following prayer:

Lord God, by the mouth of Your prophet Amos You tell us:

I hate and despise your feasts, I want no more of your burnt offerings, Let me have no more of the din of your chanting, no more of the strumming of your harps. But let justice flow like water, and integrity like an unfailing stream.

Help us understand that our only feast acceptable in Your sight will be our assistance to the poor and support of the oppressed. Let the practice of justice be the song of our Nation and let each of us offer a contrite and humble heart. Then when we lift up our voices in song to You our hearts will be clean and You will love our song.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. DOLE. Mr. President, at 2 o'clock, leader time having been reserved, the leaders will each have 10 minutes, followed by a vote on the balanced budget amendment.

RECESS UNTIL 2 P.M.

Mr. DOLE. I now move that the Senate stand in recess until 2 p.m. today.

The motion was agreed to, and at 12:02 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ASHCROFT).

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

Mr. DASCHLE. Mr. President, this debate has now continued for more than a month. There have been many conflicting statements and some misunderstandings, but no one should misinterpret this vote. It is not a vote on balancing the budget or reducing the deficit. Democrats have been committed to that for a long time, and our record is very, very clear. We demonstrated that in 1990 on a very tough vote. And, without any help from Republicans, we again demonstrated that in 1993; $600 billion of deficit reduction later, we find ourselves here this afternoon. We are prepared to continue that commitment for as long as it takes to put this debt behind us for good.

So no one should be misled by the political rhetoric about our position. We will do what we have already done. We will work to bring down the debt with or without a constitutional amendment.

This debate really should not even have to be about the need for a constitutional amendment. By my count, there are over 70 Senators who favor one. More than two-thirds of this body favor writing a balanced budget requirement into the U.S. Constitution, and I am one of them.

What this debate is all about is what that amendment should say. And what our Republican colleagues have said is that it has to be this version, this amendment, or no amendment at all. That is what this debate has been about.

Can we improve upon this amendment? Can we make sure that it is our best effort? We have made a number of suggestions that, in our view, would have vastly improved the language that we are about to vote on today. We proposed that we lay out just how we achieve our goal before we begin doing so, as any other undertaking of this importance and magnitude would require. The majority said, ''No, we'll do that later. Trust us. Somehow it will all work out.''

We proposed changes that deal with national emergencies. The majority said, ''No, we'll do that later.''

We proposed changes to put the Federal Government on the same level as other governments as we make important budgetary decisions. The majority said, ''No. We'll probably have to do that later.''

We proposed changes to give the Federal Government the ability to deal with recessions. The majority said, ''No.''

Most importantly, we proposed that Social Security not be used to pay off the debt. We have argued that we have not solved anything if we create one debt to erase another. If we go further into debt to senior citizens, even more than we have already, to bring down the debt to all taxpayers, then what have we accomplished? And, more importantly, perhaps, what have we lost?

I believe we will have lost our credibility. We will have lost our commitment to working people who are counting on us this afternoon. We will have lost our only real hope of balancing the budget correctly.

So let me make it very clear. The vast majority of Democrats support a balanced budget. Many support a constitutional amendment to require one. But virtually no Democrat supports

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

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using the Social Security funds that we now have to do so. It is wrong. We all know it is wrong. Republicans know it, and Democrats know it.

Originally, Republicans said it was wrong, but they just did not want to put it in writing. They wanted the certainty of a constitutional amendment to balance the budget, but they were unwilling to provide the same constitutional certainty for Social Security. Given that unwillingness, a significant number of my colleagues were left with no choice. In spite of our best efforts to find a provision that Republicans could accept, we were left with no choice but to vote against this version of an amendment. So this was their choice. This amendment could have passed by more than 70 votes.

All we ask is that we not rob the bank to pay the debt; that we not take Social Security funds away to do something that we know we must do. Too many people have put too much money into the bank for anyone to do that now. That has been our message—protect current and future Americans who are dependent upon Social Security, and we will find the votes to pass this amendment. We will do it today. The Republicans said, ''No. No, it is this amendment or no amendment at all.''

Already there is talk about using this amendment for political purposes. Frankly, I am disappointed to hear that. It makes me wonder whether this was just another political ploy, another bumper sticker creation, courtesy of the Republican National Committee, or something real, something which merits being added to the Constitution of the United States.

If it is politics—as I suspect this threat to bring the amendment back right before the next election may be—then I say, let us do it, let us have it out then, too.

The one thing the American people really understand when they see it is politics. And they do not like it, not when it comes to amending our Constitution, not when it is something this important. And they will not want to see us rob Social Security then any more than they do right now.

So, Mr. President, let me emphasize, let me make sure no one misunderstands, Democrats want to work to find a meaningful way to reduce the deficit. We all understand the critical nature of this vote, no matter how many times we will be called upon to cast it. We stand ready to work to reduce the debt to zero, just as we have already done. We have done it before. We will do it again.

But we also stand ready to keep our commitments to all working Americans. We will do that today, too, and we will do it again. As we cast our vote, future generations are counting upon all of us to do no less.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. First, let me announce that, after the vote, the Armed Services Committee will meet in the President's room to report out some nominations.

Mr. President, let me just be brief, because I think we have said about all we can say about the balanced budget amendment. We will vote today. There have been a couple of matters arise since Tuesday and I think a few points bear repeating.

I have said many times before that the Senate cannot operate if there is any lack of trust between the majority and minority leaders. And I have had such relationships with Senator MITCHELL, Senator BYRD, and with Senator DASCHLE.

The distinguished Democratic leader did say, however, that he thought maybe not having the vote on Tuesday may have damaged that relationship. I believe that is not the case. As the Democratic leader knows, Senator HATCH and Senator SIMON spent much of Tuesday in discussions, which ultimately led to the amendment by the Senator from Georgia, Senator NUNN. And we even had discussions since that time. In fact, as late as 5 o'clock last night, there was some kind of a suggestion put forward by a number of Democrats who had voted for a balanced budget amendment before and now are in opposition.

So I think the point is that we did use that time and did try to come together, as the Democratic leader has just suggested. But I think now we have reached a firm decision and it is time for a vote. The time for a vote has arrived.

I must say, I have been a little bit amused, I guess you would say, about all this talk on the other side about Social Security, particularly after most every Democrat in 1993 voted to increase taxes on Social Security recipients to the tune of about $25 billion, affecting millions and millions of retired people. So I must say I was a bit amused when I saw all the gnashing of the teeth.

I also would put in the RECORD at this point this year's budget resolution, the one that many of my colleagues voted for and are now voting against. The only difference is we changed the date of 2001 that Senators voted for last year. It is now 2002. And we also added the Nunn language.

I ask unanimous consent that both of these resolutions be made a part of the RECORD. If anybody wants the facts, the facts are there.

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

SENATE JOINT RESOLUTION 41, BALANCED BUDGET AMENDMENT TO CONSTITUTION AS VOTED ON BY THE U.S. SENATE, MARCH 1, 1994

SECTION 1: Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths 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 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. The power of any court to order relief pursuant to any case or controversy arising under this Article shall not extend to ordering any remedies other than a declaratory judgment or such remedies as specifically authorized in implementing legislation pursuant to this section.

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 those for repayment of debt principal.

SECTION 8: This article shall take effect beginning with fiscal year 2001 or with the second fiscal year beginning after its ratification, whichever is later.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION AS AMENDED BY SENATOR NUNN

ARTICLE —

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

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

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

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

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

SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts. The judicial power of the United States shall not extend to any case of controversy arising under this Article except as may be specifically authorized by legislation adopted pursuant to this section.

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

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

Mr. DOLE. And there was nothing in the resolution last year that protected Social Security. All this talk about protecting Social Security is a cover for the taxes that were increased on Social Security benefits by the very people who are announcing, ''Oh, no; we cannot touch Social Security.'' We want the record to be clear on that issue, as people look at it in the next few months. There will be ample time to look at it in the next few months.

On January 26, the Senate voted 83 to 16 to adopt a sense-of-the-Senate amendment stating we should not raise Social Security taxes or cut Social Security benefits in order to balance the budget. On February 9, the Senate adopted a motion reaffirming that commitment by a vote of 87 to 10. The House had done the same by a vote of 412 to 8. No doubt about it, there is clearly strong, bipartisan support to protect Social Security.

So all these other machinations and all the games that have been played in the last few days was an effort. I do not know what the effort was all about. I guess maybe to tell people, ''Well, I voted one way last year, but this is a different year, and things have changed.'' Well, nothing has changed in the amendment. That is why I want the amendments put in the RECORD, so the American people know precisely that some people voted for one thing, and against the same thing the next year. That is fine. We have a right to change our mind.

It seems to me that if we increase taxes on Social Security beneficiaries $24.6 billion that probably is a cause for some concern. And not a single Republican in either the House or the Senate joined in that new tax on senior citizens. Not a single Republican.

Let me again state for the RECORD that later this year, Republicans will put forward a detailed 5-year plan to put the budget on the path of balance by the year 2002. Our plan will not raise taxes and our plan will not—will not—touch Social Security. I do not know what other assurances some people need. Maybe they do not really want assurances.

Make no mistake about it, everything else—every other spending program—will be on the table. If this amendment fails, you are still going to get the tough votes. We will offer the plan that we would have offered if this amendment had passed, and then we will see where everybody falls out, see how strongly they feel about spending cuts—not tax increases, but spending cuts.

When all is said and done, it all comes down to one question: Does the Senate of the United States trust the American people? Well, 98 percent of Republicans do, and less than 30 percent of Democrats do. That is how it adds up: 14 out of 47, and 52 out of 53. So we trust the American people by almost 98 percent.

We are not changing the Constitution if we pass this amendment. The Founding Fathers did not give Congress that power. Instead, they reserved that power to the States and to the people, and by passing this amendment, we are in effect authorizing a national debate on the merits of a balanced budget amendment to the Constitution. That is all we do. And, over the years, we will have the pros and cons because all 50 States chosen by people in our States are going to make that determination—Democrats and Republicans and State legislatures in 50 States.

There is a word for that process. It is called democracy. It is called democracy. Nobody is going to predict with any certainty what the final outcome will be. Republicans control both Chambers in 19 States, Democrats control both Chambers in 18 States, and in 12 States each party controls one Chamber. Nebraska has a nonpartisan legislature.

It will be tough to get 38 out of 50 States to approve this amendment. I will do my best if it passes to convince the Kansas Legislature to adopt the amendment. I know the President will do his best to sway the people the other way. Even though 80 percent of the American people want this, President Clinton knows best. ''This is not what you want,'' he is saying to the American people. ''You want something else: Higher taxes, higher debt.''

Thomas Jefferson himself envisioned such a process when he wrote:

> I know no safe depository of the ultimate power of society but people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education.

If there is one man who knows as much about the Constitution as Thomas Jefferson, it is probably Senator ROBERT BYRD. On August 4, 1982, in announcing his support for the balanced budget amendment, Senator BYRD said:

> Under our democratic system, to put a question of this magnitude directly to the people is a wise and proper action. Therefore I will vote for this amendment—and thus vote to put this question directly to the American people. I cannot doubt that their ultimate decision will be the right one.

Nothing has changed since, except the debt has gotten bigger. We have not exercised the will of the Congress. It has gotten bigger. I think the American people are enlightened enough to make this decision. I happen to believe what some still think about this revolutionary principle—revolutionary principle—''Trust the people.'' We do not want to trust the people—98 percent of us do. I am willing to trust the American people to make the right decision. Those who oppose the amendment are not.

That is what this debate is all about. Returning power to the people, returning power to the States. That is what the American people say they want. They want to make decisions. We are not going to give them that opportunity. We will take that away from them if we do not adopt this amendment. What we are saying is, in effect, if the amendment fails, ''Washington knows best. This is business as usual; we know what you want. Don't tell us you know what you want, because we know better. Eighty percent of the people don't have any idea what they are talking about.'' That is the attitude that spurred last November's revolution.

Finally, I ask my colleagues to listen to the words Thomas Jefferson spoke in his first inaugural address:

> Sometimes it is said that man cannot be trusted with the government of himself. Can he, then, be trusted with the government of others? Or have we found angels in the forms of kings to govern him? Let history answer this question.

Mr. President, history will remember how we respond to that question today. As for me, and as for a lot of our colleagues on both sides of the aisle, the answer is ''democracy, democracy.'' The answer is, ''Trust the people; trust the people.'' We trusted them when they voted for us. But the election is over now. Promises that were made are in the ashcan. They do not mean anything now, because I have been elected, we have been elected.

I just suggest we ought to pass this amendment; we ought to send it to the States. And we ought to say to the State legislatures, ''Make the decision.'' And if 38 ratify the amendment, it becomes part of the Constitution. If 38 do not, it fails. So I urge my colleagues, there is still time to repent. There is still time.

The PRESIDING OFFICER. The clerk will report the joint resolution.

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.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient.

The yeas and nays were ordered.

Mr. DOLE. I ask that Senators remain at their desks, and vote from their desks.

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

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution, having been read the third

time, the question is, Shall the joint resolution pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The yeas and nays resulted—yeas 65, nays 35, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—65

Abraham	Frist	McConnell
Ashcroft	Gorton	Moseley-Braun
Baucus	Graham	Murkowski
Bennett	Gramm	Nickles
Biden	Grams	Nunn
Bond	Grassley	Packwood
Breaux	Gregg	Pressler
Brown	Harkin	Robb
Bryan	Hatch	Roth
Burns	Heflin	Santorum
Campbell	Helms	Shelby
Chafee	Hutchison	Simon
Coats	Inhofe	Simpson
Cochran	Jeffords	Smith
Cohen	Kassebaum	Snowe
Coverdell	Kempthorne	Specter
Craig	Kohl	Stevens
D'Amato	Kyl	Thomas
DeWine	Lott	Thompson
Domenici	Lugar	Thurmond
Exon	Mack	Warner
Faircloth	McCain	

NAYS—35

Akaka	Feinstein	Levin
Bingaman	Ford	Lieberman
Boxer	Glenn	Mikulski
Bradley	Hatfield	Moynihan
Bumpers	Hollings	Murray
Byrd	Inouye	Pell
Conrad	Johnston	Pryor
Daschle	Kennedy	Reid
Dodd	Kerrey	Rockefeller
Dole	Kerry	Sarbanes
Dorgan	Lautenberg	Wellstone
Feingold	Leahy	

The PRESIDING OFFICER. On this vote, the yeas are 65, the nays are 35. Two-thirds of the Senators voting not having voted in the affirmative, the joint resolution is not passed.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I enter a motion to reconsider the vote by which the constitutional amendment was defeated.

The PRESIDING OFFICER. The motion will be received.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. DOLE. I ask unanimous consent that there now be a period for the transaction of morning business until 3:15 p.m., with Senators allowed to speak for not more than 5 minutes each.

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

BASE CLOSURE COMMISSION

Mr. COHEN. Mr. President, as if in executive session, I ask unanimous consent that at 4:15 p.m. the Senate go into executive session to consider the Defense Base Closure and Realignment Commission, Executive Calendar Nos. 12 through 17, and the nomination of Major General Robles, en bloc under the following time limitation: 30 minutes equally divided between the majority leader and Senator NUNN; further, that at the conclusion or yielding back of time, with no intervening debate or action, the Senate immediately vote on the confirmation of the nominations en bloc.

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

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I would ask for order.

The PRESIDING OFFICER. The Senate will be in order.

Senators will please remove their conversations to the Cloakroom.

The Senator from Illinois.

Mr. SIMON. Thank you, Mr. President.

BREAKING THE SPENDING ADDICTION

Mr. SIMON. Mr. President, I wish to thank several people, and then I would like to take a couple of minutes for a brief comment on what has just taken place.

I wish to thank Senator HATCH, who has been great to work with, who has been a real leader on this. Senator CRAIG came over from the House and was like a breath of fresh air working on all of this. Senator THURMOND through the years provided leadership.

On our side, Senator HEFLIN was very helpful. I have to acknowledge a former Senator who helped prior to this time, Senator DeConcini; my colleague from Illinois, Senator CAROL MOSELEY-BRAUN has been superb; Senator CAMPBELL; Senator ROBB. And I also want to pay tribute to the leader of the opposition, with whom I sincerely differ on this, Senator BYRD. He is a powerful and highly respected opponent.

I also want to thank Congressman CHARLIE STENHOLM and the House Members for all the work they did, and very specifically Aaron Rappaport from my staff, and all the other staff members on my staff and the other staffs who spent so much time on this.

Mr. President, this is a sad day in the history of our Nation. We have narrowly missed the opportunity to give generations to come a brighter future. Presented the chance to break our addiction to economic gluttony, by the narrowest of margins, we have determined that we do not have the will to kick the habit. Like a pregnant woman whose child to be will suffer from a cocaine addiction, we cannot summon the will to break our debt addiction even though we know it will harm our children.

We will break our addiction sometime in the future, the Senate said in 1986, when it also failed to pass the balanced budget amendment by one vote. The national debt then was $2 trillion. We can solve our problem without a constitutional amendment, voices on the Senate floor urged then and, of course, we have not. Now the debt is $4.8 trillion instead of $2 trillion, and the attractive siren song of the opposition is the same.

It would have been easier to break the habit in 1986 than in 1995, and it is easier in 1995 than it will be in 1999. Each year, the grip of the addiction grows, and each year we spend more and more on interest and less and less in ways that help the most vulnerable in our society.

We are headed toward monetizing our debt and devaluing our currency, the steps nations take historically as they pile up too much debt. No nation has come close to accumulating the amount of peacetime debt that we have. When and if monetizing our debt occurs, everyone in our society will suffer.

Ironically, among those who will suffer the most are those on Social Security, because of the devaluation of the U.S. Treasury bonds which secure the Social Security retirement trust funds. I say ironically because much of the opposition to the balanced budget amendment has been mounted in the name of Social Security. The threat to Social Security is the debt, and the real way to protect Social Security is this balanced budget amendment. Instead of giving our economy a lift with lower interest rates that come with the reduced deficit, the Senate has made a decision to stumble along and have higher interest rates.

There are at least two proposals to move us on a glidepath toward a balanced budget by the year 2002 without a constitutional amendment. I probably will support one of them, though it is unlikely the goal will be achieved without the discipline of the constitutional amendment. But even if the goal is achieved, because there is not the long-term assurance to the financial markets that a constitutional amendment offers, interest rates will not be reduced as much. The Nation will pay a staggering interest penalty for which we will get nothing other than higher interest rates. Those who purchase bonds combine the need for a small profit margin plus a hedge against inflation. We have just increased the cost of the hedge against inflation.

Because the trade deficit is tied into the budget deficit, we will continue to export more American jobs, and our standard of living, that could rise significantly, will at best move up modestly, perhaps decline. With higher interest rates there will be less investment that would create more industrial and construction jobs.

Is it impossible to kick the debt habit? No. But each year that goes by it becomes more difficult and at some point it becomes politically impossible. I do not know where that point is nor does anyone else. We have done today what most addicts do—postpone the tough decision. Future generations will not look upon this day with pride.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I associate myself with the excellent remarks of the distinguished Senator from Illinois. I do not think anybody could have said it better. I do not think anybody could have said it more clearly. I personally feel he has done us a great honor in making these remarks and in pointing out the future of our country—what we are going to go through if we do not ultimately pass this balanced budget amendment—I would say within the near future.

I also want to pay tribute to him for his stalwart steadfastness in standing up for this balanced budget amendment. It has not been easy for him on his side of the floor, with only 13 other of his 47 Democrat colleagues. I know what he has gone through. I pay tremendous tribute to him as one of our great leaders for this cause at this time.

Mr. President, I also would like to pay tribute to my colleague Senator CRAIG for the long hours and efforts he has made as the leader of our rapid response team. He has worked tirelessly his whole congressional career, both in the House and here in the Senate, to try to pass a balanced budget constitutional amendment.

There are many others who are too numerous to mention. The distinguished senior Senator from South Carolina, Senator THURMOND, has been our leader on the balanced budget amendment ever since I got here. Senator HEFLIN on the other side of the floor, Senator EXON, who worked so hard, and many, many others. I do not want to leave anybody out, but let me leave it at that.

I want to pay tribute to my colleague from West Virginia. Unlike, I think, a number of others—a number of others—he has sincerely believed in his position and he has advocated it with force and with strength and, frankly, deserves credit for winning this battle. I want to pay tribute to him as a floor leader and an acknowledged master of floor debate and as somebody for whom I have a great deal of respect. I do so because of the way he has conducted himself and the way he has handled his side of the debate in this matter. You have to have respect for opponents who believe in what they are doing.

But having said that, if there is something I feel particularly badly about, it is that a handful of Senators and the President have won this battle and the American people have lost. That is my opinion and I acknowledge that. Everybody knows how sincerely I feel about this issue as well. The people have lost this skirmish today. But this battle is not over.

I just want the American people to understand that one of the things I feel worst about in this whole debate is that some have tried to bring Social Security into the debate to frighten our senior citizens, as though that was really a part of this debate. I do not think there is a senior citizen in this country, not one that I know of who cares for his or her country, who does not understand that when you are talking about a balanced budget amendment to the Constitution, you can have no mere statutory programs exempted from or referred to in the text of the basic governing document of our country. It has never been done, and it is not right. If you attempt to carve out a special exception to the basic law of the land for a specific group of statutory beneficiaries, you will divide the country and hurt everybody else who does not belong to that special interest group. Ironically, in this case, you would hurt those beneficiaries too. The biggest threat to Social Security is our Government's profligacy. And an exemption for Social Security would lead some to try to use the trust fund to pay for other popular programs or create a loophole to keep deficit-spending. And it would keep the debt going up, which would ultimately harm those on fixed incomes and risk the viability of the trust funds.

Having said that, I do not think there is a senior citizen in this country presently on Social Security, who understands the importance of our country and how to keep it great, who would not be willing to sacrifice to keep it great if they were so called upon. And I believe they would not want to have a specific carve-out of any statutory programs—no matter how important—in the text of the Constitution. We just don't do that in the Constitution. To make Social Security part of this debate in the way it was by some, I felt, was beneath the dignity of the Senate. Some were sincere, I will acknowledge that. But let us be clear, for three or four decades now we have taken Social Security funds and counted them as receipts to the Federal Government in the budget system, we certainly have since President Johnson established the unified budget system—under both Democrat and Republican Senates and Presidents. For people to make Social Security and the unified budget a political football I think was just plain, downright wrong. To frighten our senior citizens for mere political purposes is despicable.

Having said that, just so everybody in this country understands, this is only battle No. 1. This is not over. We lost today, 66 to 34. We had 99 percent of all Republicans in both Houses voting for the balanced budget amendment. One percent did not. Less than 33 percent of the Democrats voted for it. So we have a clear delineation, as far as I am concerned. But I praise the 14 Democrats who did vote for it here today because they are heroes, in my eyes.

The reason the vote was 65 to 35 is because our distinguished majority leader, knowing that this war is not over, over the balanced budget amendment, he had to switch his vote and vote ''no'' so that he could make the procedural motion to reconsider the vote so that the amendment can come back again—perhaps before the end of this year, certainly before the end of next year.

This is just vote one on the balanced budget amendment. There definitely will be another vote. And if the American people understand this issue and they really want to do something about it, they should start letting those who voted against the amendment know how they feel. They should start letting them know now. I call on all senior citizens to start telling their representatives and the special interest lobbyists, ''Quit playing games with Social Security, and do what is right for the country,'' and if they do so and we pass the balanced budget amendment, Social Security, as the distinguished Senator from Illinois has wisely spoken, will then be secure.

The only way to make Social Security secure—it seems to me the only way—is to keep a strong economy. And with business as usual—without the balanced budget amendment—we are not going to be doing that.

Mr. President, an effort such as the one we have been involved in over the past month requires the time, talent, and commitment of a large number of people. While I cannot name them all, I would like at this time to extend my gratitude to the Senators and staff who were so instrumental on this.

Let me first thank our majority leader for his pivotal role.

Senators SIMON, CRAIG, and THURMOND, of course, have my admiration and my thanks.

I am also especially proud of all of our new Senators who have graciously and effectively played a major role: Senators LOTT, DOMENICI, COVERDELL, and SMITH, and all 11 of our new Senators, Senators ABRAHAM, ASHCROFT, DEWINE, FRIST, GRAMS, INHOFE, KYL, SANTORUM, SNOWE, THOMAS, and THOMPSON have also joined in leading our effort over this past month. And Senator NUNN has been, as always, a studious and effective proponent.

Finally, I would like to single out some of the staff members who worked so long and hard on this matter: David Taylor (Dole); Aaron Rappaport and Susan Kaplan (Simon); Damon Tobias and Alan Kay (Craig); Thad Strom (Thurmond); Andrew Effron (Nunn); Bill Hoagland and Austin Smythe (Domenici), and David Hoppe and Alison Carroll (Lott).

Lastly, Mr. President, I would like to thank the very special people who have worked with me on this issue: Shawn Bentley; Larry Block; Sharon Prost; Mark Disler; Manus Cooney; Steve Tepp; Jason Adams, and Steven Schlesinger. They have all worked long and hard hours in the most dedicated fashion, and I love them for their devotion to duty and our country.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I will not detain the Senate. Mr. President, I do not expect to take 7 minutes. However, I ask unanimous consent that, in the event I should need an additional 2 minutes, I not be interrupted and that I have them.

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

Mr. BYRD. Mr. President, I thank the Chair. I thank my colleagues.

Mr. President,

The way a crow
Shook down on me
The dust of snow
From a hemlock tree
Has given my heart
A change of mood
And saved some part
Of a day I had rued.

I congratulate the Senate today. The debate has been constructive, the occasion has been historic, and the issue has been decided in favor of the sanctity of the Constitution of the United States of America.

The debate has been full and extensive, in the best tradition of the Senate, and such debates have become more infrequent in recent years. I believe the outcome is the right result because of the thoroughness and length of the debate. I hope that this indicates a return to the long tradition of real debate on great national issues.

There was no way to cure the ills of this amendment. It was fatally flawed from the outset. There is virtually no way such an amendment can be written without rearranging the carefully constructed balance of powers hammered out by the giant intellect and wisdom of the Framers over 200 years ago, or jeopardizing our Nation's economic or national security in times of crisis or peril.

There are no statutory fixes that can solve the Social Security trust fund problem or any of the other many difficulties inherent in the language of this constitutional amendment. Statutes can never cure a constitutional amendment's flaws. The Constitution supersedes all legislation that is inconsistent therewith. It is the final arbiter, regardless of what promises are made or what legislation is enacted.

So, this unwise and dangerous proposal has been rejected, as it should have been. The proposal has never been well understood by the people. It seems simple, and espouses a worthy goal, but it neither guarantees a balanced budget nor tells the people how one will be achieved.

We hear claims that 80 percent of the American people want this amendment. But the proponents conveniently ignore the deeper probing of those polls, which show that the 80 percent figure is a hollow number, which dissolves when questions about how the amendment would actually be applied are posed. People do not want the Social Security trust fund to be raided. And it has become clear that the trust fund would be looted, should this amendment ever scar the Constitution. The amendment was and is a seductive, but false and dangerous promise—nothing more.

We have before us, now, both a responsibility and an opportunity with the defeat of this constitutional amendment. We have a responsibility not to delay serious progress on deficit reduction, as the amendment would have allowed us to do. We also have an opportunity to put partisan bickering aside and begin to take steps to get our fiscal house in order. That is what the American people truly want to see. They want us to put the posturing and bickering aside and get down to business together.

So, I eagerly await the majority's plan for deficit reduction. And, I trust that every Senator on this side of the aisle is ready to play a cooperative and constructive role in developing a plan that can become a reality. This has been a bruising debate, but it is time to let the fires cool, and come together for the Nation. Let us begin.

Before I close, I want to commend Senator HATCH for his fair and judicious handling of this matter.

I also wish to again express my admiration for the statesmanlike leadership of Senator TOM DASCHLE. His is a bright and courageous spirit. And, Senator MARK HATFIELD has written his own ''profile in courage,'' as have Senators DORGAN, CONRAD, BINGAMAN, HOLLINGS, FEINSTEIN, and FORD. Senators DODD, SARBANES, MOYNIHAN, BOXER, KENNEDY, REID, LEVIN, BUMPERS, and JOHNSTON have helped greatly to clarify and enlighten the debate on this side of the aisle, as have many others.

But, a special word should go to Senator PAUL SIMON. A more sincere proponent of this proposal is not to be found. Today's outcome was not a loss for the distinguished senior Senator from Illinois. His belief in this solution, his absolute commitment to his cause, and his gentle and fair deportment throughout this debate have added nothing but additional lustre to the fine legacy he leaves here in the Senate. I thank him for being the man that he is. I am proud to serve with him, and deeply honored to call him my friend.

I shall be telling this with a sigh
Somewhere ages and ages hence;
Two roads diverged in a wood, and I—
I took the one less traveled by,
And that has made all the difference.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, I ask unanimous consent to include in the RECORD a letter dated March 1, 1995, to the distinguished majority leader along with an accompanying compromise proposal concerning Social Security which I and four of my colleagues delivered to the distinguished leader yesterday afternoon at 5 o'clock. Had we voted on this proposal, we could have passed the balanced budget amendment in a flash.

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

U.S. SENATE,
Washington, DC, March 1, 1995.

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

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

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

To us, the fundamental question is whether the Federal Government will be able to raid the Social Security trust funds. Our proposal modifies those put forth by Senators Reid and Feinstein to address objections raised by some Members of the Majority. Specifically, our proposal prevents the Social Security trust funds from being used for deficit reduction, while still allowing Congress to make any warranted changes to protect the solvency of the funds. The prior language of the Reid and Feinstein amendments was not explicit that adjustments could be made to ensure the soundness of the trust funds.

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

Sincerely,

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

ARTICLE —

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

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

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

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

SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which

causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

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

SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal. The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds (as and if modified to preserve the solvency of the Funds) used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article.

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

Mr. HOLLINGS. Mr. President, I have included this information at this point because it marks the first opportunity that we have had to clear the record. I would like to clarify what I think were misleading statements made earlier by some of my colleagues on the other side of the aisle. Mr. President, in 1982 I worked with the distinguished Senator from Utah and voted for a balanced budget amendment that time. It was not identical to the balanced budget amendment voted on today.

Mr. President, I am a senior citizen as is my colleague, Senator THURMOND. We, at age 72, have to take the benefits. And I can tell you, our contemporaries are not worried about receiving our benefits, because the books show almost one-half trillion dollar surplus in Social Security reserves. Indeed, seniors are more concerned about the fight to come on Medicare. So let us put to rest the notion that we are trying to frighten senior citizens. Rather, what we are attempting to do is to try and keep a solemn trust with middle America. Everybody says we need to do something for middle America. It is middle America that is paying for me to receive Social Security benefits now, and it is middle America who, come their time in the next century, will be taxed again when they become eligible to receive benefits.

The issue here should be about stopping government deficits and not simply moving the general fund deficit over to the Social Security deficit. Some of my colleagues on the other side of the aisle have specifically articulated the latter idea. Indeed, my friend, the Senator from Mississippi said on ''Face the Nation'' on February 5:

> Nobody—Republican, Democrat, conservative, liberal, moderate—is even thinking about using Social Security to balance the budget.

Mr. President, I agree with the Senator from Mississippi. But the actions of some of my Republican friends seem to indicate otherwise. Like John Mitchell, the former Attorney General, used to say, ''Watch what we do, not what we say.'' Just last evening on ''Larry King Live,'' the distinguished Senator from Texas, Senator GRAMM, said:

> I think we ought to balance the budget counting Social Security first, and then if we want to balance it without counting it, do it second.

Clearly, this statement reflects an intent to use Social Security surpluses.

In addition, the chairman of the Senate Budget Committee, Senator DOMENICI, has said: ''You can't leave the biggest American program off budget.'' However, my friend, the distinguished Senator from New Mexico, voted to leave it off budget both in committee in July 1990 and later on the floor in reference to the Hollings-Heinz amendment which passed 98 to 2, and was signed into law by President Bush.

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

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

BUDGET ENFORCEMENT ACT

Subtitle C—Social Security

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

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

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

(2) the congressional budget, or

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

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: ''The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.

Mr. HOLLINGS. Next, Mr. President, I refer to Senator GRASSLEY of Iowa who said:

> The leadership of the House of Representatives and the Senate have promised not to touch the Social Security retirement program for at least 5 years.

Do they have it in mind after 5 years? On March 1, my distinguished colleague, Senator CRAIG said:

> Without access to the Social Security surpluses, you would create a much higher hurdle in trying to balance the budget.

That is true, but not requiring that higher hurdle means that you are going to use Social Security funds.

Finally, on February 5, 1995, the distinguished majority leader, Senator DOLE said:

> I also believe that we can't keep Social Security off the table forever.

Mr. President, that is not the promise we made in 1983. When this Senator and others raised Social Security FICA taxes, we promised otherwise. We must keep the contract made by President Roosevelt in 1935; we must keep the promise made back in 1983 that these taxes would not be used to pay for foreign aid, welfare, or any other Government program; and we must continue in our resolve to keep our commitment to middle America intact.

I thank the Chair.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief because several other Senators want to speak this afternoon. I did want to comment and thank a variety of people who have worked so closely with myself and Senator HATCH of Utah and Senator PAUL SIMON of Illinois, in attempting to pass this important amendment, so that we can propose it to the citizens of our country for their consideration.

Let me, first of all, recognize Damon Tobias on my staff, who literally has become ''Mr. Constitutional Amendment on the Balanced Budget'' as he has worked for me over a good number of years and is recognized for his authority and expertise in the area. Throughout all of these efforts for the last good number of months, he has been assisted by Alan Kay on my staff, and recently by a legislative fellow Roy Fairchild, and an intern, Dean Sorensen, who have done a tremendously masterful job in cooperation with all the rest of my staff, in being able to supply to the Senate a vast array of information and facts that deal with this most important issue, and to assemble them in a way that was readily usable so we could debate this, now for nearly 5 full weeks, without breaks in the debate and with ample material to supply the RECORD and to hopefully have given the citizens of our country ample information in making a choice that I had hoped we would have the wisdom to give them.

But the vote turned out otherwise today. So we will be back again to revisit this issue—next week or next month or next year. And we will, for a very simple reason, Mr. President: There is not a Senator on this floor who has the right to deny the American people an opportunity to change their law—not our law but their law—the Constitution, the organic act that governs our country and, most importantly, Mr. President, the very law that governs us.

I will have to admit there has been a display of knowledge here that verges on all knowledge and all knowing, that this is the seat of wisdom, and from this seat, all decisions for America and Americans will be made.

I suggest to those who serve here that that will be denied. There will come a day—and it will be very soon—when Americans will speak again to those who deny them the opportunity

to change their Nation in a way they see fit to change it, to protect the Social Security system, to assure that the Government governs properly but, most importantly, to look to the future and to honor the future.

Today we saw a Senate that looked backward. We saw a Senate that said that the past is better than the future. Are we going to be guardians of the past, or are we truly going to be the visionaries of the future? I suggest that the American people, in November, were talking of our future. They were most assuredly not talking of our past—for the past is $4.8 trillion of debt.

This body—all of us, all Senators alike—has to take the responsibility for that debt. And today and for the last 5 weeks, we have struggled to give one moment of time in history to the American people. So they could choose how we would handle that debt. Yet, the central power and the central wisdom prevailed today. I suggest that it is not the wisdom of the American people, nor was it their wish.

So ORRIN HATCH, LARRY CRAIG and, hopefully, PAUL SIMON, before he retires, will have an opportunity to come to the floor of the Senate again, once the American people have recognized that President Clinton denied them that opportunity today, that he once again backtracked away from his pledge to the American people that he would progressively and in a positive sense bring down the deficit. This year, in his budget resolution, he walked away and denied what was once a promise and a pledge.

I suggest that the American people will not be denied, and they will have the opportunity to change the organic law like other Congresses in the past have seen the wisdom to allow them that choice.

I am amazed, Mr. President; I am absolutely amazed that even one Senator would not allow the citizens of his or her State the right to make a choice. But that was denied today—falsely denied, wrongly denied. I suggest that those citizens, in the long-term, will not be denied.

It has been a tremendous opportunity for me and for all of those colleagues who have joined with me in this issue and in this debate. And I would agree with the Senator from West Virginia, it has been a positive debate. It has been most constructive, and all ramifications of the issue have been thoroughly brought to this floor, some falsely, some under improper clothing or dress, some presented in ways that were illusionary and not fact.

But the reality is that in the end this is an issue that will not go away and it will ultimately prevail.

Mr. President, I want to thank all of those who have joined with me, and most assuredly my staff, for their tremendous dedication as we brought this issue to the floor.

And I wish to thank the majority leader of the U.S. Senate, BOB DOLE, for offering the tremendous leadership and taking the kinds of risks that must be taken as a leader to allow the American people their right to govern us.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

EXTENDING MORNING BUSINESS UNTIL 4:15 P.M.

Mr. LOTT. Mr. President, I ask unanimous consent that the period for morning business be extended until 4:15 p.m. today, under the same terms and conditions as previously ordered.

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

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I yield 1 minute to the distinguished Senator from Delaware.

PARLIAMENTARY INQUIRY

Mr. BIDEN. Mr. President, I have a parliamentary inquiry.

I am a supporter of this amendment. I voted for the amendment, and I will vote for it again if it comes up in a similar form that it came up now.

But I have a parliamentary inquiry. When the majority leader changed his vote from ''yes'' to ''no'' and did not make the motion to reconsider, is it within the province of the majority leader at any time at any place as long as the Senate is in session to move without debate to the motion to reconsider?

The PRESIDING OFFICER. Yes, it is.

Mr. BIDEN. Mr. President, may I have another 60 seconds?

Mr. DASCHLE. I yield the Senator an additional 60 seconds.

Mr. BIDEN. Mr. President, I am for this amendment. There has been a little bit of blood that has been spilled on the floor here in the last couple of days, especially when the unanimous consent to vote at a certain time was obviated by our being pushed into a recess, a legitimate parliamentary move, but one that sort of violated the spirit of what everyone thought was going to happen.

I hope and I plead with the majority leader that when he moves to reconsider—and I will be with him; I will be for this under the following circumstance: as long as we all know it is going to be done and everyone is here. If the majority leader called for a motion to reconsider knowing that there were absences that would affect the outcome of this vote, I would, on a matter of procedure, change my vote to prevent that happening. I do not think that is the majority leader's intention, but I do not want to mislead anybody. I think this is so important that this has to be dealt with straight up, with all 100 Senators, unless they are ill, in the hospital and cannot make it, that every consideration should be given to every Senator to be able to vote.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. DASCHLE. Mr. President, a number of people have spoken, and I know others are waiting to speak. I do not want to be long.

Let me just say what I have said on several occasions, that we owe the American people our best effort. Before this amendment was to go out to be voted upon by the American people, we owed it our best effort. The amendment that was pending prior to the last vote is not our best effort. Accordingly, the Senate has acted wisely in refusing to endorse this particular proposal to amend our Constitution.

Those who stood against it did so for good reasons. Supporters refused to guarantee that Social Security would be protected.

The prospects for this amendment were entirely in the hands of the majority. It was their choice.

Until 2 days ago, Senators were asked to bet on the chance that a new and different Senate 7 years from now would honor promises made by Members of this Senate.

Two days ago, for the first time, the majority conceded that they indeed intend to do exactly what we and seniors feared—use the Social Security trust funds to balance the budget. In a last-minute attempt to secure one more vote for this proposal, they offered to stop raiding the trust funds in 2012. The offer was later modified to 2010 and, finally, to 2008.

They missed the point. Those of us fighting to protect Social Security believe the retirement funds Americans have paid into the Social Security trust funds should be left untouched, period. Every American who has paid into the system has a right to expect those funds to stay there and be available to them when it is their turn to collect them.

For the majority to agree to stop using those funds to buy down the debt after virtually all those funds are gone reflects a cynicism that is solely disappointing. As the Senator from north Dakota has stated so well, balancing the budget by depleting the Social Security trust funds is not balancing the budget at all.

During this debate, 43 motions and amendments were offered, many of which would have substantially improved the proposals. Forty-two were rejected, essentially along partisan lines.

We offered language to guarantee the future of the Social Security System. Several Democratic Senators stated explicitly they would support the amendment if Social Security were protected.

We offered language to protect against unconstitutional Presidential impoundments; language to give States

a right to know what this amendment would mean to them; language to protect veterans' health and pension benefits; language to preserve our ability to respond to economic and national security emergencies. All of those proposals were rejected.

This is no ordinary debate because it is our Constitution we are being asked to amend. When the stakes are so high, the substance so serious, the proposed changes well-tested, the out-of-hand rejection of those amendments is extremely disappointing. That is the reason the amendment failed.

Finally, supporters of this amendment refused, for the full 4 weeks that it has been debated, to come forward and offer any realistic outline of a plan by which a balanced budget could be credibly produced in 2002.

Yet, outside this Chamber, supporters of the balanced budget amendment have been willing to say that passing the balanced budget amendment will not balance the budget at all.

That is right. It will not.

Recently, when he was asked whether the Congress would approve the balanced budget amendment, Speaker GINGRICH said, ''For as long as I'm allowed to serve as Speaker, whether we do or not, the House will make decisions based on achieving a balanced budget in 2002 with or without the balanced budget amendment.''

The majority leader restated his intention to do that today.

The Speaker's words reflect the fact that the ability to balance or unbalance the budget remains unchanged: it is in the hands of the majority in the Congress.

Indeed, a failure to act as he has promised will serve to confirm that the purpose of this debate was to create a rationale for not moving to balance the budget any time soon; that the debate's purpose was to be able to say, we're waiting for the States to ratify.

One month from today, on April 1, the Budget Committee is required by law to report a budget resolution to the Senate. Two weeks later, by April 15, the Congress is required, by law, to give final approval to a budget resolution for the coming year.

In 44 days, Congress must have debated, conferenced, and given final approval to a budget for fiscal year 1996. That is an obligation of this Congress, not the 107th.

That is a responsibility for all of us serving now, not people who will serve in the year 2002. It is what our job is this year, not some other person's job in some future time.

Nothing has changed the magnitude of the job ahead of us.

I have said consistently since the beginning of this debate and the beginning of this session that it is our desire to work cooperatively, particularly in getting the deficit under control.

The Republican majority is in control of the Congress. I hope the Republican majority will adhere to the time requirements of the Budget Act, which are a matter of law. The budget resolution must be written, and action completed soon. Committees need to know their authorized allocations for programs. We should be getting down to work on the budget now, because we do not have much time.

We have 44 days.

The budget is not going to be balanced in 2002 unless the responsible people in 1995 start to focus on their share of the work.

It is time we stopped worrying about the responsibilities of future Congresses and started to discharge the responsibilities that belong to each of us as Members of this Congress this year.

I yield the floor.

Mr. LOTT. Mr. President, I ask that I have 2 minutes following the distinguished Democratic leader to respond to a number of things that have been put in the RECORD in the last few minutes that should not be left unanswered.

The PRESIDING OFFICER (Mr. INHOFE). Is there objection? Without objection, it is so ordered.

Mr. LOTT. Mr. President, I beg the indulgence of my colleagues who have been here on the floor waiting to speak. I would like to take this opportunity to respond, for just a few minutes, to a few things that have been said.

First, the Senator from Delaware raised some concerns about the distinguished majority leader's intention for the motion to reconsider.

He said he would be inclined to support that, but it was essential that there be notice given before that vote could occur. Frankly, I think it is out of order to even imply that the majority leader would do anything other than give ample notice. That is just what he did today. We had the vote shortly after 2 o'clock. It was agreed to. Notification was given.

I want to assure my colleagues that the distinguished majority leader does not participate in sneak tactics. He will notify the Chamber when there will be a vote on a motion to reconsider the balanced budget amendment to the Constitution.

But I do warn my colleagues, that vote will come again. Today the American people lost. The liberals who want to keep on spending just the way they have for the 22 years I have been watching them here in the Congress, the same old tax-and-spend liberals, won today. But there will be another day for the people to try again with the balanced budget amendment. Under this motion to reconsider, they will have that opportunity sometime during the remainder of this 104th Congress.

Now, with regard to what the distinguished Democratic leader just had to say, some Senators continue to imply that there is some difference between this year's balanced budget amendment and the one we voted on last year. They are the same. Some Senators now say they opposed the amendment because they were worried about Social Security. Where were they last year? They supported the same amendment.

So I would like to ask unanimous consent that the statements of Senator DASCHLE, Senator FORD, Senator HOLLINGS, Senator DORGAN, and Senator FEINSTEIN from last year—what they had to say last year about this very same language—be placed into the RECORD at this point.

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

In this debate on a balanced budget amendment, we are being forced to face the consequences of our inaction. Quite simply, we are building a legacy of debt for our children and grandchildren and hamstringing our ability to address pressing national priorities * * * To remedy our fiscal situation, we must stop spending beyond our means. This will not require the emasculation of important domestic priorities, as some suggest.—Senator Thomas Daschle, (D–SD), Cong. Rec., S–1981, February 28, 1994.

I hear so much about if 40-some-odd Governors can operate a balanced budget, why can't the Federal Government * * * I operated under it. It worked * * * I think implementation of this amendment will work. I think we can make it work * * * I do not understand why it takes a brain surgeon to understand how you operate a budget the way the States do * * * This is an opportunity to pass a balanced budget amendment that will work and will give us a financially sound future, not only for ourselves but for our children and our grandchildren.—Senator Wendell Ford, D–KY, Cong. Rec., S–2058, March 1, 1994.

I could offer my colleagues 3.5 trillion reasons for a balanced budget amendment to the Constitution; that is the number of deficit dollars added to the national debt since 1981. But I will rest my case with one simple reason: It ought to be a minimal moral obligation of our national government to match its income with its expenditures on an annual basis * * * so that additional debt is not passed on to future generations.—Senator Ernest Hollings, D–SC, Cong. Rec., S–2075, March 1, 1994.

This deficit is not about some unusual investment that is going to yield enormous potential rewards. This is a structural operating budget deficit that represents a permanent, continual imbalance between what we raise and what we spend, and the Congress and the American people have conspired together in a way in our political system that prevents us from dealing with it. This constitutional amendment, no matter what one thinks of it, will add to the pressure that we reconcile what we spend with what we raise, and that we begin to assure a better economic future with economic growth and hope and opportunity for our children once again.—Senator Byron Dorgan (D–ND), Cong. Rec., S–2068, March 1, 1994.

If in their heart of hearts they believe we are not going to be able to balance the budget under the current process, then I believe they should support the balanced budget amendment. At least that is the conclusion to which I have come. Without a constitutional amendment, a balanced budget just is not going to be achieved.—Senator Dianne Feinstein, D–CA, Cong. Rec., S–1831, February 24, 1994.

Mr. LOTT. Yet those Senators today voted against the balanced budget amendment.

Now, Mr. President, what has happened during this debate? What will

happen when we get to the serious budget votes? Will some Senators say, ''Oh, yes, we want a balanced budget, but we have a right to know what will happen for years into the future,'' which is what they said a week ago. Will they say again, ''We must have some further guarantees on Social Security,'' or else they won't even vote for deficit reduction now.

I will venture a prediction. I predict that they will say, ''Exempt this group from any cuts, and exempt that group.'' And when we get to the budget resolution, they will say, ''Oh, yes, by all means cut spending, but not here. Not there. Somewhere else.''

Where will their votes be when we get to the real deficit reduction effort? Will they be saying, ''Exempt my State, or exempt my region, or exempt this special interest''? Or will they be willing to cast the tough votes so that we can stop the $200 billion-a-year deficits that President Clinton has proposed, not just for this year, but for as far as the eye can see?

Today advocates of the balanced budget amendment lost. But within 2 months, the Senate will have to face tough choices about spending, tough choices about specific programs. The Nation will be watching to see the votes that will then be cast by those who today profess devotion to a balanced budget, while voting against the amendment that would have achieved it.

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

(The remarks of Mr. JEFFORDS and Mr. LEAHY pertaining to the introduction of S. J. Res. 28 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

PEACE AND FREEDOM

Mr. COHEN. Mr. President, yesterday the majority leader gave a very important speech at the Nixon Center for Peace and Freedom and outlined what he called the five global realities that affect our vital interest and dictate what it will take to maintain leadership throughout the world.

First, the golden age of capitalism. From India and Latin America to China and Russia, 4 billion people formerly under some form of socialism are striving to establish market economies. This offers great opportunities for America and American business, but requires American leadership to protect our interests and ensure adherence to the rules of the international trading system.

Second, the new world energy order. Senator DOLE correctly noted that the security of the world's oil and gas supplies will remain a vital national interest. At the same time, Iran and Iraq remain hostile threats in the oil-rich gulf, while other energy rich areas in Eurasia are subject to disorder. He makes the insightful observation that ''in this new energy order, many of the most important geopolitical decisions—ones on which a nation's sovereignty can depend—will deal with the location and routes for oil and gas pipelines.'' I would add that we are already seeing in the case of Azerbaijan, over which Moscow is trying to regain effective control in order to determine the route through which Azeri oil will flow. Senator DOLE concluded that ''our strategy, our diplomacy and our forward military presence need readjusting'' to meet this reality.

Third, the spread of weapons of mass destruction. The majority leader issued a clarion call yesterday that ''we must prepare now for the future,'' in which weapons of mass destruction will become more widespread, greatly affecting our vital security interests. He wisely asked ''what would we have done—or not done—if Iraq had one or two nuclear weapons in 1990? A chilling question and one which we could face in just a few years as a real, not a hypothetical question, with regard to Iran or North Korea. In response to this threat, Senator DOLE quite rightly focused on the possibility of preventive military action and the need for missile defenses to protect America and our allies.

Fourth, increase in extremist religious and ethnic movements. The majority leader highlighted the many areas in which religious or ethnic passions have led to conflicts and identified those that pose a threat to American interests. America cannot become complacent he wisely warned his audience.

Fifth, rivalry with Russia. In perhaps in most important observations, Senator DOLE warned that ''geopolitical rivalry with Russia did not end with the demise of Soviet communism.'' Quoting Henry Kissinger, he noted that the Soviet threat was one of both communism and imperialism, and while communism was defeated the trend toward imperialism remains. While an early supporter of President Yeltsin, Senator DOLE warned against ''the Clinton administration's misguided devotion to a ''Russia First'' policy, which has turned into a ''Yeltsin First'' policy, and he quoted President Nixon who told the Duma ''when we have differences, we should not assume they will be overcome by a good personal relationship even at the highest level.'' To buttress his case, the majority leader listed numerous examples of how Moscow has taken actions in recent months that are in conflict with U.S. interests.

To address this situation, Senator DOLE prescribed a ''new realism'' about Russia. This would not mean a return to the cold war past, he noted, but would require ''developing a more honest relationship, one that does not paper over important policy differences with an appeal to personal ties.''

In conclusion, Senator DOLE reaffirmed the need for American leadership to secure peace and freedom for future generations of Americans.

In an article just published in the current issue of Foreign Affairs, Senator DOLE builds on these themes and defines his vision for the future American role in the world and 10 principles to guide our international relations. He also provides an incisive critique of the Clinton administration's foreign policy and how and why it has, in Senator DOLE's view, failed in various respects.

I will merely quote the final paragraph of his article:

> As the United States approaches the next century, two principles should remain constant: protecting American interests and providing American leadership. The end of the Cold War has provided us with a historic opportunity. Such an opportunity should not be forfeited in favor of the pursuit of utopian multilateralism or abandoned through intentional isolationism. We have seen the danger to America's interests, prestige, and influence posed by both of these approaches. Instead, we must look to the lessons of the Cold War to guide our future foreign policy: Put American interests first and lead the way. The future will not wait for America, but it can be shaped by an America second to none.

Mr. President, I think that in yesterday's speech and this new article with the majority leader has provided us with a clear vision and practical proposals for guiding American foreign policy. I would urge my colleagues to give the most careful attention to both these documents, and I would ask unanimous consent to insert them in the RECORD.

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

(See exhibit 1.)

Mr. COHEN. In his speech yesterday, President Clinton also reaffirmed that he gives very high priority to ratification of the Chemical Weapons Convention.

Mr. President, there have been many supporters on this side of the aisle for efforts to control and ban chemical weapons—Senator DOLE, Senator KASSEBAUM, Senator HATFIELD, Senator MCCAIN and others come to mind, and I have been pleased to work with them on different measures to achieve that goal.

During the 1980's, I supported replacement of our aging chemical stocks with binary weapons, a necessary step to get Moscow to negotiate seriously.

EXHIBIT 1

FOREIGN POLICY—WINNING THE PEACE: AMERICAN LEADERSHIP AND COMMITMENT

(By Senate Majority Leader Bob Dole)

I can't help but think back to the day in January of 1994, when President Nixon made his last visit to the United States Capitol.

The occasion was the 25th anniversary of his inauguration as President. And over 100 past and present Senators and Congressmen—Republicans and Democrats alike—attended a lunch honoring President Nixon that Bob Michel and I hosted.

At the conclusion of the lunch, President Nixon stood—and without a note in his hand—delivered one of the most compelling speeches many of us could remember.

As always, he talked politics, and he also shared some personal reflections on his life and career. But the majority of his remarks

were devoted to his life's passion—foreign policy.

President Nixon served as our guide, leading us on an around-the-world tour, offering his unique perspective on the strengths and weaknesses of our allies and adversaries, and on the future as he saw it.

In his remarks, he repeated a statement that he made again and again during the last year of his life. He said, ''The Soviets have lost the Cold War, but the United States has not yet won it.''

Those words were true then—and are just as true today. And while the title of this conference—''After Victory''—has a nice ring to it, I believe the declaration may be a bit premature. It is, after all, possible to win the war and lose the peace—as the years between World War I and World War II demonstrate.

WORLD STILL UNCERTAIN

Don't get me wrong. The stage is set. We are the world's only superpower. And the words spoken by Nikita Khrushchev in that famous ''kitchen debate'' were dead wrong. Not only will America's children never live under communism—neither will Russia's children. Still, there are far too many gains to consolidate, and far too many uncertainties in the world to say that a final peace has been won.

For example, there is a resurgent Russia, asserting its position around the globe. China has international ambitions of its own, and is in the midst of a leadership transition. There are international terrorists—often state-supported. There are global crime syndicates. There are extremist movements based on religion or ethnic origin. While none of these compare to the challenge of the Soviet empire, each of these can pose threats to important American interests.

FIVE GLOBAL REALITIES AFFECT AMERICA'S INTERESTS

It seems to me these multifaceted threats should be viewed in the context of five clear global realities which affect America's fundamental interests. Only by recognizing these realities—and dealing with them with the same commitment which led to the defeat of Soviet Communism—will America truly be able to claim victory.

REALITY NO. 1: THE ''GOLDEN AGE OF CAPITALISM''

The first new reality is that the whole world is plunging headlong into what David Hale of the Kemper Organization in Chicago has termed a ''new golden age of capitalism.''

I remember when Lech Walesa told me that the definition of a communist economy was ''100 workers standing around one shovel.'' Now, in places like Poland, Russia, India, Latin America, and even China—four billion people formerly under some form of socialism are now fighting with everything they can lay hands on to not just grab a shovel—but to build shovel factories.

There are now more than 30 stock markets in the developing world, and capitalization of the four-year-old Shanghai securities exchange has reached $30 billion. Deng Xiaoping himself has said that no one cares any more what color the cat is, as long as it catches mice. The bottom line is that everyone wants to trade, and everyone wants to create and use capital on a world-wide basis.

While this new ''golden age of capitalism'' offers great opportunity for America, we must remember that many of the countries so eager to enjoy the benefits of membership in the world trading system may not fully understand or accept the rules and discipline that go with it.

A trade war was averted with China, but other threats to U.S. commercial interests will surely arise in the coming months and years, and our continued vigilance and leadership will be required.

REALITY NO. 2: THE ''NEW WORLD ENERGY ORDER''

The second inescapable reality of the post-20th century world is that the security of the world's oil and gas supplies will remain a vital national interest of the United States and of the other industrial powers.

The Persian Gulf—the heartland of world energy for half a century—is still a region of many uncertainties. Saudi Arabia has been weakened financially. Iran and Iraq continue to exhibit great hostility to the West and pose threats to their neighbors. And the boundaries of the oil and gas heartland are being redrawn to the north, to include the great hydrocarbon deposits of the Caucasus, Siberia, and Kazakhstan.

In this ''new energy order,'' many of the most important geopolitical decisions—ones on which a nation's sovereignty can depend—will deal with the location and routes for oil and gas pipelines. In response, our strategy, our diplomacy and our forward military presence need readjusting.

REALITY NO. 3: SPREAD OF WEAPONS OF MASS DESTRUCTION

The third inevitable reality for America—and for the world—is the fact that while the Berlin Wall may have crumbled, weapons of mass destruction haven't.

Listen to just a partial roll call of countries and groups that already possess nuclear, biological or chemical weapons: North Korea. Iraq. Iran. Libya.

Have any of these nations earned our trust? And given their past behavior, is it any surprise that there are startling signs that a world wide black market in nuclear weapons has emerged?

All this is taking place as talks to review the global treaty limiting the spread of nuclear weapons will soon begin. Even if the Nuclear Non Proliferation Treaty is extended indefinitely, however, we must avoid falling into a false sense of security. We must prepare now for the future.

Iraq, Iran, and North Korea all illustrate the failures of traditional non-proliferation efforts, which depend largely on the cooperation of other states.

Only after Desert Storm did the West learn just how far Iraqi nuclear ambitions had progressed. And instead of announcing that the United States will veto any efforts to ease or end U.N. sanctions on Iraq, the administration dispatches an envoy to plead with the Europeans for cooperation. Where would such timidity have gotten us in the Cold War?

Iran also appears poised for a great leap forward in its nuclear program—thanks to a cash-hungry Russia doing for Iran what the Clinton Administration has done for North Korea.

And make no mistake about it, the Agreed Framework with North Korea has little prospect of successfully addressing the North Korean threat, and apparently, has already been violated by Pyongyang.

American leadership in addressing these non-proliferation challenges is essential if additional states are not to choose the nuclear option. It's worth asking: What would we have done—or not done—if Iraq had one or two nuclear weapons in 1990? Preventive military action as a non-proliferation policy tool cannot be ruled out.

There are defensive options, however, that could provide the United States and our allies with protection against accidental and limited ballistic missile strikes. Pursuing an effective ballistic missile defense capability should be a top priority for U.S. defense policy now and for the foreseeable future.

REALITY NO. 4: INCREASE IN EXTREMIST RELIGIOUS AND ETHNIC MOVEMENTS

The fourth new global reality is the increase in violence due to extremist religious and ethnic movements in many parts of the globe.

Some of these movements, like the tribal warfare in Rwanda, or conflicts in Burma or West Africa have little direct impact on American interests.

However, some of the instability and turmoil due to ethnic and religious violence *is* important for American interests—and could lead to the disintegration of key states. Serbian genocidal aggression in the Balkans, for example, threatens to spill over to Macedonia, Albania, and beyond. American and European inaction in the face of that aggression cannot help but embolden other radical ''ethno-nationalists'' by giving them a green light for ethnic cleansing.

The Indian rebellion in Mexico coupled with financial uncertainty has resulted in genuine security concerns on our southern border—and make no mistake that illegal immigration is a security threat.

A key NATO ally in Turkey faces Islamic extremism and a separatist ethnic movement. Violent Islamic fundamentalists threaten the government in Algeria, and have launched an assault on Egypt. How long would the Camp David Treaty be honored if fundamentalists took power in Egypt?

Islamic terrorists seek to destroy the peace process between Israel and the PLO—and may be having some success. With support from Iran and others, Islamic terrorists also demonstrated at the World Trade Center that America is not immune from attack.

And ethnic turmoil in the former Soviet Union cannot be ignored, as warfare has occurred in five former republics. And the Chechens may be just one of many ethnic groups willing to use violence to alter boundaries originally set by Joseph Stalin.

In short, the list of world ''hot spots'' is far too lengthy for anyone to conclude that America can become complacent.

REALITY NO. 5: RIVALRY WITH RUSSIA

And this leads to the fifth global reality we must face: the fact that geopolitical rivalry with Russia did not end with the demise of Soviet Communism.

On his last trip abroad, President Nixon spoke before the Russian State Duma, and he foreshadowed a change in Russian-American relations, saying: ''Russia is a great power, and Russia as a great power must chart its own course in foreign policy * * * When we have differences, we should not assume they will be overcome by a good personal relationship even at the highest level.''

And as we have seen time and time again, the foreign policy course that Russia is charting, is one that is often in conflict with American interests.

For example:

Russia stepped in the middle of the North Korea agreement by offering to provide nuclear reactors—which would have the clear effect of killing the U.S. brokered deal.

Russia continues to threaten prospective NATO members over alliance expansion, thereby confirming the need to enlarge NATO sooner rather than later.

In December 1994, Russia vetoed a sanctions resolution on Serbia in the U.N. Security Council, its first substantive veto since the height of the Cold War in 1985.

Russia persists in supplying weapons and nuclear technology to the rogue regime in Iran.

Russia continues to maintain an intelligence facility and support personnel in Cuba, thereby prolonging Castro's oppression.

Russian pressure, subversion and intimidation of the sovereign states in the ''Near Abroad'' follows a historical pattern set long before the Bolsheviks took power in 1917.

As Dr. Kissinger said last month before the Senate Armed Services Committee, ''* * * what we dealt with in the Cold War was both communism and imperialism, and while communism was defeated, the trend toward imperialism still exists.''

Let me be clear in saying that no one has been more supportive of President Yeltsin than I. In June 1991, I went to Andrews Air Force Base to meet President Yeltsin virtually alone, since the United States State Department believed Gorvachev was the ''only game in town.''

But just as it was wrong to place too much focus on Gorbachev in 1991, it is wrong in 1995 to ignore that fact that President Yeltsin has made serious errors, has moved toward authoritarian rule, and has lost the political support of virtually all reform-minded Russians.

The Clinton Administration's misguided devotion to a ''Russia First'' policy—which has turned into a ''Yeltsin first'' policy—resulted in the loss of a tremendous opportunity to state American concerns forcefully *before* thousands were slaughtered in Chechnya.

NEW REALISM ABOUT RUSSIA

A ''new realism'' about Russia and its prospects for the future does not mean a return to the Cold War past. It does mean developing a more honest relationship, one that does not paper over important policy differences with an appeal to personal ties.

New realism means emphasizing the significance of Russia's 1996 elections, and of the pivotal importance of a peaceful, democratic transition of power.

And new realism means that developments like arms sales to Iran, violence in Chechnya, and U.N. vetoes on behalf of aggressors should not be excused, ignored and minimized. Our differences with Russia should be identified—they should be negotiated when possible and condemned when necessary. Such an approach would ultimately serve both the Russian and the American people better than defending, denying and rationalizing Russian misdeeds.

TESTS FOR AMERICAN LEADERSHIP

Let me conclude by sharing with you words that Richard Nixon spoke at the announcement of the creation of the Center for Peace and Freedom in January 1994.

''Some are tired of leadership. They say (America) carried that burden long enough. But if we do not provide leadership, who will? The Germans? The Japanese? The Russians? The Chinese? Only the United States has the potential . . . to lead in the era beyond peace. It is a great challenge for a great people.''

Ladies and gentlemen, President Nixon was right. Leadership does come with a price tag. But it is a price worth paying.

Dealing with the five realities I have outlined will test America's resolve and her leadership. If we fail those tests—if we refuse the mantle of leadership—any declaration of victory will be a long time coming.

But I am an optimist. Like Richard Nixon, I believe in America and In American leadership. I believe we will pass our tests, and in doing so, we can claim the biggest victory of all—we will have secured the future of our great republic, and of peace and freedom, for generations to come.

SHAPING AMERICA'S GLOBAL FUTURE

(By Bob Dole)

It is now a cliché that America is the world's only superpower. But Americans would do well to reflect on how we got to this point—and on how unprecedented our status is in American history. America has always been blessed with security, protected by two oceans, our two land borders safe from invasion since the mid-nineteenth century. Never before, however, has America been so alone at the pinnacle of global leadership.

It was not always this way. America fought three major wars in this century-World War I in Europe; World War II in Europe, Africa, and Asia; and the Cold War across the globe. In each of these conflicts, Americans were asked to give their blood and treasure in support of U.S. interests and ideals overseas. Three times this century, America rose to the occasion.

It is sometimes said that Americans win the war and lose the peace. Clearly that was true after World War I, when Wilsonian idealist ambitions overran American interests, and when protectionism, isolationism, and decline were the result. Yet after the defeat in 1945 of Nazism in Europe and Japanese militarism in Asia, we rose to the challenge of winning the peace through American leadership. New multilateral institutions were established: the United Nations, the World Bank, and the International Monetary Fund. They were important, but they were insufficient. What made the difference was American will and power as reflected in the Marshall Plan, the Truman Doctrine, and the establishment of the North Atlantic Treaty Organization (NATO). These and other related actions cemented the American commitment to Europe and signaled America's determination to oppose Soviet expansionism.

It was American leadership and commitment—supported by our allies throughout the world—that led to the overwhelming victories in the Cold War: the crumbling of the Berlin Wall in 1989 and the breakup of the Soviet Union in 1991. For more than four decades, the central purpose and chief objective of American national security policy was the containment of Soviet communism. Who can doubt that U.S. policy played a central role in the disintegration of Soviet communism? The great success of America and its democratic allies in the Cold War is something to be proud of, and the costs of the victory should not be forgotten. While historic event occurred barely three years ago, myths contradicting the facts of why and how the Cold War was won have already surfaced.

Myth #1: Foreign policy was easier during the Cold War. While a common enemy often did serve to unite the United States and its allies during the Cold War, it is difficult to argue that security policy was easier when the Soviet Union was ready, willing, and able to oppose American interests. A nuclear-armed superpower committed to undermining the West created more difficult and demanding foreign policy challenges than any faced since 1991. No current challenge, for example, rivals the magnitude of the Cuban Missile Crisis of 1962 or the Yom Kippur War of 1973—either of which could have escalated to thermonuclear war.

Myth #2: The Cold War was supported by a great bipartisan consensus. In large part because of the historic partnership between President Harry Truman and Senator Arthur Vandenberg, the late 1940s saw considerable bipartisan cooperation in creating a new international security system. But ''politics stopping at the water's edge'' lasted only for two decades—until the Vietnam War. While there were partisan disagreements in the 1950s, for example over ''who lost China,'' it was the war in Southeast Asia that shattered the bipartisan consensus on waging the Cold War. In the 1970s, even Republicans were divided over the wisdom of pursuing the Nixon-Kissinger policy of détente. Moreover, in the later years of the Cold War, debates over the nuclear freeze, the Strategic Defense Initiative (SDI), opposing communist aggression in Central America, or using force to defend U.S. interests reflected very little bipartisanship. Despite the broad bipartisan agreement at the beginning of the Cold War, precious few ''Scoop Jackson Democrats'' were around by its end.

Myth #3: The doves were right. Unlike the revisionist history written by some in the Clinton administration, the ''doves'' were wrong all along in the Cold War. Why?

The doves advocated spending less on defense and doing less with American armed forces. In the end, as former Soviet leaders now reveal, American defense spending and activism in Afghanistan, Poland, and elsewhere were critical to the Soviet demise.

The doves argued for toning down anti-Soviet rhetoric no matter how accurate it was (remember the shock at President Ronald Reagan's proper characterization of the Soviet Union as the ''Evil Empire''?). More significantly, they preferred the resignation of U.S. policy to the permanent existence of the Soviet Union. Fortunately, the doves' self-fulfilling prophecy was not heeded.

The doves opposed SDI and supported the nuclear freeze and other arms control measures, arguing that weapons, not ideology and intentions, posed the threat to the United States.

The doves opposed the Reagan Doctrine of supporting freedom fighters opposing communist regimes around the world.

The breakup of the Soviet empire in 1991 came faster and happened more completed than virtually anyone envisioned. If the doves' policies had prevailed, however, that day would have been delayed for years, if not decades—and may never have come. The fall of the Soviet empire was not inevitable, nor was it foreordained by impersonal forces of history; rather, it was the leadership, actions, and sacrifices of the West that brought victory in the Cold War.

Debunking the mythologies of the Cold War does not automatically lead to prescriptions for a post-Cold War foreign policy. Our Cold War victory allows the United States to be more selective in its involvement around the world, but it is not a license for America to withdraw from the world. Exhaustion after a great conflict is natural, but American withdrawal would jeopardize the gains of the last 40 years, and it would inevitably mean less prosperity and less security for the American people.

Nevertheless, in the wake of the Soviet Union's defeat, numerous observers have suggested America should withdraw from the world. First, some claim America cannot be involved in the world because we do not have the resources—the ''declinist'' school. We won the Cold War and remain the only global power but, in the perverse logic of the declinists, this adds up to weakness.

The declinists have multilateralist cousins who promote a view that America must work with and within international organizations because we do not have the resources to act on our own. Other multilaterialists believe America does not have the legal or moral authority to act without the sanction of international organizations. The declinists—and their multilateralist kin—ignore the strength of America and underrate the power of American leadership. It is true that America must be strong domestically to be strong abroad, but America has the ability to do both if resources are used wisely and decisions are made soundly.

This is not necessarily the view in the current administration. The declinists and multilateralists are alive and well in the Clinton administration. First came the

''Tarnoff Doctrine'' of May 1993, when the State Department's undersecretary for political affairs, Peter Tarnoff, argued for retrenchment because the United States lacked the resources, inclination, and will to lead. Then there was the ''Halperin Doctrine'' expressed in these pages in the Summer of 1993, in which a current National Security Council staff member, Morton Halperin, argued that the United States should use force to defend its interests in cases like Grenada and Panama only with prior multilateral approval.

There are also protectionists who argue that America should engage in trade with the world only on a one-way basis—shutting our doors to foreign products in the vain hope that foreign doors will remain open to American products. American industries do not need protection, they need competition. Where there is truly free trade, U.S. businesses have prospered and the U.S. economy has grown.

Finally, some argue that America should not get involved in the world. Historically, the isolationists have had adherents on the Left who believe America will corrupt the world, and on the Right who believe the world will corrupt America. There are no serious and immediate threats to vital American interests, the isolationists say. While that may be true now, retreat from the world is the surest way to invite the emergence of such threats in the future. The fact is that America must remain firmly engaged in the world. If we do not protect our interests, no one else—neither other countries nor international organizations—will do the job for us. The various approaches of the declinists, multilateralists, protectionists, and isolationists all would make a dangerous world even more so.

TWO FAILURES OF VISION

We have witnessed two efforts to ''reinvent'' American foreign policy since the end of the Cold War: President George Bush's New World Order and the Assertive Multilateralism, or Engagement and Enlargement, of President Bill Clinton. Unfortunately, neither effort has been successful.

The New World Order—whatever it was meant to be—rapidly became a new world disorder; instead of strengthened collective security, enhanced international organizations, and a new partnership of nations, there was expansion of violent ethnic and religious unrest, proliferation of weapons of mass destruction, international aggression, and civil war. The flaw of the New World Order approach was its assumption that the end of the Cold War meant the end of international tension that could lead to hot war. President Bush and his advisers may be excused for over-optimism in the wake of the stunning multilateral coalition they built—under the United Nations auspices—to defeat Saddam Hussein's aggression. In retrospect, however, Operation Desert Shield/Desert Storm may have been the high point of post-Cold War U.N. collective security efforts. Just as United Nations action in Korea in 1950 was possible only because the Soviet Union was absent for the crucial authorizing vote, United Nations action in the Persian Gulf was possible only because the Soviet Union was inclined to cooperate with the West in the final months of 1990. Such cooperation is rapidly becoming a thing of the past as Russia pursues its traditional objectives in the ''near abroad'' and around the globe. In this regard, the first substantive United Nations Security Council veto exercised by Russia since 1984 (during the height of the Cold War) came in December 1994 on the issue of tougher sanctions against Serbia and may be the beginning of a trend.

Despite the conceptual flaws of the New World Order, to hear the current administration complain about its foreign policy inheritance is surprising and often merely an excuse for poor performance. In my view, no administration has ever received a stronger foreign policy inheritance. The legacy of 12 years of Reagan-Bush foreign policy included millions liberated in Central and Eastern Europe, finally closing the book on the post-World War II era after four decades; 15 independent states to replace the Soviet empire, and no near-term threat from Russia; a defeated Iraq in the Persian Gulf, and a newly invigorated peace process in the Middle East; the dramatic expansion of democratic governments around the world—best illustrated in the Western Hemisphere (where only Cuba and Haiti were exceptions to the democratic tidal wave); free trade agreements negotiated with Canada and Mexico (the North American Free Trade Agreement), nearly negotiated with the world (the Uruguay Round of the General Agreement on Tariffs and Trade), and outlined for the Western Hemisphere (Enterprise for the Americas); and a growing Asia-Pacific Economic Cooperation (APEC) forum for U.S. relations with Asia and the Pacific Basin. All added up to an America more secure and stronger than at any time in our history, and the only global power on earth.

In the two years since the end of the Bush administration, much has changed. In the minds of many, U.S. foreign policy has been marked by inconsistency, incoherence, lack of purpose, and a reluctance to lead. American lives have been risked, and lost, in places with little or no connection to American interests. From Bosnia to China, from North Korea to Poland, our allies and our adversaries doubt our resolve and question our commitments.

FIRM PRINCIPLES

The failures of Assertive Multilateralism/Enlargement lie not just in its execution or communication—they lie in its very conception. The following 10 principles, which should guide American foreign policy, have been ignored or misapplied by the Clinton administration.

WHILE MUCH HAS CHANGED, MUCH REMAINS THE SAME

The successful end of the Cold War has not changed the core interests of America:

Preventing the domination of Europe by a single power,

Maintaining a balance of power in East Asia,

Promoting security and stability in our hemisphere,

Preserving access to natural resources, especially in the energy heartland of the Persian Gulf,

Strengthening international free trade and expanding U.S. access to global markets, and

Protecting American citizens and property overseas.

These interests cannot be protected without American involvement in the world. Many states and many movements opposed to American interests are awaiting American withdrawal.

In addition to our interests, America has core ideals that we have supported throughout our history: freedom, democracy, the rule of law, observance of human rights, and deterring and responding to aggression. Too much has been made of the tensions between American interests and American ideals. Some went so far as to suggest that we should set aside our values during the Cold War to follow a policy of moral relativism. Nothing would have been more ill-conceived. The Cold War was won precisely because of the convergence of our interests and ideals. By preventing Soviet expansion into Europe, we stopped the domination of the continent by a hostile power and prevented the enslavement of millions more Europeans under communist rule.

Our interests and ideals converge in support for free-market economies and democratic pluralism as well. Capitalist democracies tend to make better trading partners and stronger allies, and also treat their own people and their neighbors better than authoritarian, closed societies. To retain the support of the American people and to protect the future of our children, American foreign policy must continue to combine the protection of American interests and the promotion of American ideals. That is our tradition.

AMERICAN LEADERSHIP IS ESSENTIAL

The United States, as the only global power, must lead. Europe—as individual states or as a collective—cannot. China, Russia, India, Brazil, and Japan are important regional powers, and some may be potential regional threats. But only the United States can lead on the full range of political, diplomatic, economic, and military issues confronting the world.

Leadership does not consist of posing questions for international debate; leadership consists of proposing and achieving solutions. The American attempt in May 1993 to discuss lifting the Bosnian arms embargo with NATO allies, for example, was simply wrong: It was a discussion, not a U.S. initiative, and was readily perceived by the Europeans as a half-hearted attempt lacking President Clinton's commitment. By comparison, if President Bush had followed a similar course after Iraq's invasion of Kuwait in 1990, Saddam Hussein would still be in Kuwait today—if not in Saudi Arabia—and he would very possibly be armed with nuclear weapons.

Leadership is also saying what you mean, meaning what you say, and sticking to it. That includes a willingness to use American force when required. To state that North Korea ''cannot be allowed to develop a nuclear bomb'' and then one year later to sign an agreement that ignores the issue of the existing arsenal is confusing to the American people and to our allies. To threaten to withdraw most-favored-nation trading status from China because of human rights violations and then to extend such status months later—despite no change in Chinese human rights practices—makes the world wonder why the linkage was made in the first place. To introduce a resolution in the U.N. Security Council to lift the arms embargo on Bosnia-Herzegovina, while top administration officials claim the war is over and the Serbs have won, severs any link between the words of U.S. policymakers and their deeds.

U.S. SOVEREIGNTY MUST BE DEFENDED, NOT DELEGATED

International organizations—whether the United Nations, the World Trade Organization, or any others—will not protect American interests. Only America can do that. International organizations will, at best, practice policymaking at the lowest common denominator—finding a course that is the least objectionable to the most members. Too often, they reflect a consensus that opposes American interests or does not reflect American principles and ideals. Even gaining support for an American position can involve deals or tradeoffs that are not in America's long-term interests. Acquiescence in Russian activities in Georgia and other border states, for example, may be too high a price for Russian acceptance of U.S. positions.

The choices facing America are not, as some in the administration would like to portray, doing something multilaterally, doing it alone, or doing nothing. These are

false choices. The real choice is whether to allow international organizations to call the shots—as in Somalia or Bosnia—or to make multilateral groupings work for American interests—as in Operation Desert Storm. Subcontracting American foreign policy and subordinating American sovereignty encourage and strengthen isolationist forces at home—and embolden our adversaries abroad.

INTERNATIONAL BUREAUCRATS ARE NO SUBSTITUTE FOR ALLIES

The United States should not look to the United Nations first, but to itself and its allies—preserving alliances inherited from the Cold War and leading to create new ones where necessary. Who could doubt that NATO has the power to address the tragic aggression against Bosnia? Instead, a misnamed ''United Nations Protection Force'' provides convenient ''hostages'' to the aggressors, thereby protecting them from NATO power. Substituting the judgment of international civil servants for NATO military professionals has severely damaged the credibility of the Atlantic Alliance.

Allies will not simply do our bidding in one area and ignore our policies in another. It was folly to pursue a policy of economic sanctions against North Korea while publicly criticizing China on human rights concerns and Japan on trade issues. And after proposing sanctions and gaining support from South Korea and Japan, allowing a freelance mission by a former president to reverse the policy suggests that America is not to be taken at its word. Alliances and allies require careful attention, not just episodic engagement.

DO NOT CONFUSE U.S. HOPES AND DESIRES WITH U.S. INTERESTS

The core interests outlined above have been played down, and sometimes superseded, by the desires of Clinton administration policymakers. Pollution or overpopulation in West Africa or South Asia are problems, but their effect on American interests is peripheral, at best. Famine and disease in Somalia or Rwanda are tragic. America should help in humanitarian disasters, consistent with our resources, and in a manner that does not undermine our military readiness. But events in Rwanda or Somalia have a marginal—at most—impact on American interests.

The promotion of free markets and fostering of democratic institutions are in America's interest, but they are not absolute goals. When democratic institutions are manipulated by enemies of America—as in the case of radical Islamic fundamentalists in Algeria—our long-term interests must take precedence over the short-term ideal of enlarging democracy. Likewise, when deviations from free-market trading principles threaten a key strategic alliance in the Western Pacific, such a trade dispute must be handled more carefully than one with a trading partner that is not also a strategic ally.

ALLOCATE RESOURCES BASED ON INTERESTS

Just as hopes and desires about the world have clouded American attention, American resources have been misallocated. Sometimes dollars speak louder than words. For example, nearly $2 billion will be spent on occupation and nation-building in Haiti, where American interests are marginal; yet only a small fraction of that amount has been spent supporting a free market and democratic transition in the strategically critical country of Ukraine. And defense dollars are spent on environmental projects and defense ''conversion,'' while military readiness, modernization, and personnel lack sufficient funding. Foreign aid and defense dollars should be instruments of national policy to enhance American security; they should not be squandered on nonessential programs.

USE ALL THE TOOLS OF STATECRAFT

Diplomacy without force is empty, and force without diplomacy is irresponsible. The fundamental relationship between diplomacy and force is not understood by the current administration. In Somalia and in Haiti (until saved by the Carter-Powell-Nunn mission), we saw force without diplomacy. In Bosnia, we see a clear example of diplomacy without force: Hollow threats are followed by countless concessions to the aggressor.

This administration has displayed a basic discomfort with American military power—unless that power is exercised pursuant to United Nations authorization. In Haiti, the 1823 Monroe Doctrine has been replaced with the Halperin Doctrine—unilateral action only after multilateral approval. An unfortunate precedent has been set in seeking prior United Nations support for what an American president proclaimed was in America's interests—interests that should not be second-guessed, modified, or subject to the approval of international organizations.

Failure by the administration to appreciate military assistance as a tool of diplomacy has resulted in dramatic reductions in such programs. Despite presidential doctrines from Truman to Nixon to Reagan advocating help for victims of aggression who are willing to help themselves, and despite campaign promises to the contrary, President Clinton refuses to lift the illegal and immoral arms embargo on Bosnia. One need only contrast this refusal to the significant military and political impact of providing Stinger antiaircraft missiles to the anti-Soviet resistance in Afghanistan. Finally, covert and overt political action can also further U.S. interests, providing important options between diplomacy and sending to the Marines.

REBUILD AMERICAN MILITARY POWER

America does not need the same defense posture in 1995 that it had in 1985. But just because American defense spending is a bargain does not mean that defending America is free. U.S. defense spending has been cut too far, too fast. The current administration initially planned to cut $60 billion in defense—but then added plans to slash $127 billion over 5 years. Despite these deep cuts—and a recent conversion to supporting higher levels of defense spending—the Clinton administration's thirst to commit U.S. military forces abroad has not declined. As a result, for the first time since the ''hollow Army'' of the 1970s, three American divisions were not ready for combat in late 1994. Soldiers who expect and deserve 12 months in between overseas tours are given half that. My old unit from World War II, for example, the 10th Mountain Division, has spent three straight Christmases overseas: deployed to Somalia in December 1992 (only weeks after cleaning up from Hurricane Andrew), and deployed again in September 1994 to Haiti—just six short months after returning from their tragic encounter in Somalia.

Furthermore, we cannot keep asking our men and women in uniform to do more with less. It is nothing short of scandalous when American enlisted soldiers have to work second jobs or receive food stamps to meet the needs of their families. And we cannot keep undermining our military force posture for ''humanitarian operations'' that do nothing to enhance American security.

America must take both a short-term and a long-term view of its military readiness. Not only must we have the ability to fight and win today, we must constantly prepare to fight and win future wars. The Clinton cuts to the defense budget create the grave risk that we will not make the investment necessary to re-equip and reorient our forces toward tomorrow's challenges. During the Cold War, we concentrated on blocking a Warsaw Pact invasion of Europe and deterring a nuclear attack on America, which meant that our doctrine, training, and equipment all were based on those threats.

In the future we will face new threats in places and under circumstances we cannot easily predict. To deal with them we will need unprecedented flexibility, agility, and mobility: no more gearing up for the central front in Europe with lavish prepositioning of equipment and a large permanent troop presence. In the future we will have to get to remote theaters of conflict quickly and with the most effective systems our technological prowess will enable us to field.

But the transition to a smaller, quicker, and more effective force will require a solid industrial base and will cost money: for a robust and well-targeted research and development program; for new weapons systems capable of breathtaking accuracy; for the capability to ''stand off'' and fire from safe distances, beyond the reach of enemy forces; and for training American troops to be the most powerful and best protected in history. If the money is not there, we will be forced to make do with what remains of our old Cold War force, even though it is the wrong force for the future.

Finally, we need to rely on our capabilities and not place our trust solely in multilateral regimes to ensure our security. For example, effective ballistic missile defenses would do more to enhance American and allied security by providing real protection against limited and accidental strikes than would nonproliferation policies, which rely on the goodwill and cooperation of others to halt the spread of nuclear technology and weapons of mass destruction to rogue states.

AMERICANS LIVES SHOULD BE RISKED ONLY FOR AMERICAN INTERESTS

Placing American soldiers, sailors, airmen, and marines in harm's way is the gravest decision a president can make. After the disaster in Mogadishu on October 3–4, 1993, some observers concluded the American public will no longer tolerate casualties. In fact, the ''Somalia syndrome'' stems from the shock of seeing American bodies dragged through the dust when the American people thought that Operation Restore Hope was about feeding the hungry—not about nation-building or enforcing U.N. arrest warrants. American lives should not be risked—and lost—in places like Somalia, Haiti, and Rwanda with marginal or no American interests at stake. Such actions make it more difficult to convince American mothers and fathers to send their sons and daughters to battle when vital interests are at stake. The American people will not tolerate American casualties for irresponsible internationalism. And like overreliance on the United Nations, such adventures ironically end up reinforcing isolationism and retreat.

BE CREATIVE: DO NOT CLING TO THE CONVENTIONAL WISDOM

In June 1991, I went to Andrews Air Force base to meet a Russian opposition politician arriving for an informal visit. The only ''official'' representative of the U.S. government there was a mid-level State Department official. The view of the foreign policy establishment and the Bush administration was that Mikhail Gorbachev was the ''only game in town.'' That Russian politician, Boris Yeltsin, later told me that he never forgot my willingness to see him.

Especially now that the certainties of the Cold War are gone, traditional views about foreign policy should be reexamined; some will remain valid while others may not. The conventional view of foreign aid, for example, is that it must be maintained in about

the same amounts in about the same programs to demonstrate that America is not retreating from the world. But it is hard to see how the billions of dollars of international aid spent in Rwanda or Somalia before their civil wars, for example, advanced any U.S. interest. Support for the peace process in the Middle East has paid great dividends, but much of the rest of the foreign aid program simply feathers the nests of old-boy contractors and further discredits ''development'' theories. Foreign aid should be transitional, to help an ally through a crisis or to help a developing country develop; it should not lead to a permanent state of dependency. Reform and reductions in the U.S. aid program are the overseas equivalent of welfare reform at home.

The world of 1995 and beyond is still a dangerous place. There are many new and emerging threats as we approach the millennium. A resurgent Russia filling a vacuum in Central Europe or looking for a foreign diversion from internal secessionist struggles; a revitalized Iraq threatening the oil fields of Saudi Arabia; a fundamentalist Iran seeking to dominate the Persian Gulf; a nuclear-armed North Korea threatening South Korea and Japan with ballistic missiles—all are scenarios that the United States could face in the near and medium terms. Islamic fundamentalism sweeping across North Africa could overwhelm the successes to date in achieving peace in the Middle East. A fourth conflict between India and Pakistan could escalate into the world's first nuclear war. Nuclear-armed terrorist states like Libya or Iran, emboldened by the North Korean example and armed with missiles from Pyongyang, could threaten allies in the Middle East or Europe. Economic competition between Japan and China could take a military turn. Radical ''ethno-nationalists,'' religious militants, terrorists, narcotics traffickers, and international organized crime networks all pose threats to states in regions of the world where America has core interests. While the collapse of Somalia or Rwanda may not affect those interests, the disintegration of states like Egypt, Indonesia, Mexico, or Pakistan would.

American leadership, however, can overcome the challenges of building a just and durable peace after the Cold War. The words of President Dwight Eisenhower's first inaugural address are as true today as they were in 1953:

To meet the challenge of our time, destiny has laid upon our country the responsibility of the free world's leadership. So it is proper that we assure our friends once again that, in the discharge of this responsibility, we Americans know and we observe the difference between world leadership and imperialism; between firmness and truculence; between a thoughtfully calculated goal and spasmodic reaction to the stimulus of emergencies.

As the United States approaches the next century, two principles should remain constant: protecting American interests and providing American leadership. The end of the Cold War has provided us with a historic opportunity. Such an opportunity should not be forfeited in favor of the pursuit of utopian multilateralism or abandoned through intentional isolationism. We have seen the danger to America's interests, prestige, and influence posed by both of these approaches. Instead, we must look to the lessons of the Cold War to guide our future foreign policy: Put American interests first and lead the way. The future will not wait for America, but it can be shaped by an America second to none.

THE BALANCED BUDGET AMENDMENT

PROTECTION FROM BIG SPENDERS? THE PEOPLE LOST BY ONE VOTE

Mr. HELMS. Mr. President, there are two disappointing things to mention today. The first is my regular daily report on the latest available disclosure of the total Federal debt, this time as of the close of business yesterday, Wednesday, March 1, stood at $4,848,389,816.26.

If this debt were to be paid off today, with every man, woman, and child in the country paying his or her proportionate share, each of us would have to fork over $18,404.57. Of course, since millions of Americans pay no taxes at all, the average share of the Federal debt would be far greater than the per capita amount referred to above.

The other sad thing? It is, of course, the Senate's failure today to approve a constitutional amendment requiring Congress to balance the Federal budget. If just one more Senator had voted today in favor of the amendment, it would have been approved by 67 Senators, exactly enough to pass the amendment and send it to the 50 States for ratification.

Don't look for a balanced Federal budget anytime soon. But one day it will come. The American people will demand it.

REDUCE THE DEFICIT WITHOUT AMENDING THE CONSTITUTION

Mr. WELLSTONE. Mr. President, over the course of the last 3 weeks, we have heard many arguments for and against the proposed balanced budget amendment to the Constitution. Those arguments were made in good faith, and I know they reflect a broad commitment by those on both sides of this question to bringing the deficit down to reasonable levels. But the balanced budget amendment is an empty promise, not a policy. It has little immediate political cost and very high poll ratings—hence its popularity. But enacting it would be a serious mistake. We should reject it in favor of a real, long-term deficit reduction program.

Since 1936, when Minnesota's own Harold Knutson revived the idea of a balanced budget constitutional amendment that has been originally rejected by the Constitution's Framers, Congress has debated various versions. The real question before us today, as it was 50 years ago, is whether we should weld onto the Founding document of our democracy, the U.S. Constitution, a budget gimmick that would do more harm than good to the economic well-being of our Nation, and our citizens.

As I have consistently argued, in my judgment we do not need to amend the U.S. Constitution to balance the Federal budget. Instead, we must continue to make tough choices on actual legislative proposals, as I have done, to cut wasteful and unnecessary post-cold-war defense spending, to continue to reduce low priority domestic spending, to completely restructure the way we finance and deliver health care in this country—in both the public and private sector—and to scale back special tax breaks for very wealthy interests in our society who have for a long time not been required to pay their fair share. That approach is the only responsible, fair way to bring our annual Federal deficits, and the much larger Federal debt, under control.

For the last 15 years or so, that is what the Congress has been unwilling to do, and that is the source of a lot of frustration in the country. Congress has been unable to muster and sustain a majority to make difficult budget choices. We have seen illustrated here in the Senate over and over again a central problem: The political gap between the promise to cut spending, and actual followthrough on that promise. I make this point because I want to underscore that many of those who have been beating their chests the hardest about a balanced budget amendment have often been among those who have consistently voted against these actual deficit reduction proposals. We cannot give over our budget-balancing responsibilities to a machine, a mechanism. That responsibility is ours.

Of course, I support balancing the Federal budget in a responsible, fair way. Despite all of the rhetoric today, we all at least agree on that basic goal. That's why some of us have voted consistently to reduce actual Federal spending when we've had the chance over the last few years on this floor. Not gimmicks, not smoke and mirrors, not deficit reduction formulas that never identify precise cuts, but actual reductions in Federal spending contained in actual amendments to appropriations bills. Votes on those proposed cuts have been important indicators of our willingness to make tough choices. This is where the budget rubber has met the road.

The President's $500 billion deficit reduction package in the 103d Congress, which I supported and which was approved without a single Republican vote, was a major downpayment toward balancing the budget. But Democrats had to do it alone. When we cut, the Republicans ran. While we acted, they talked. Still, much more must be done.

But now, instead of real budget choices we are presented with a gimmick that I do not believe will work to balance the budget, and that if it does work as it's designed, could do serious harm to the U.S. economy. It will also serve to reduce pressure in the next few years to actually reduce the deficit further, allowing Members of Congress to declare a temporary victory without cutting significantly from the Federal deficit. And then the reckoning will come, when we are up against the wall at the end of this century and have to balance the budget in just a few short years with massive spending cuts in all Federal spending, including Social Security and Medicare.

If that's true, then why is the amendment so popular, at least in the abstract? In recent years, the borrow-and-spend policies of the 1980's and early 1990's have come home to roost, rekindling public support for drastic measures. But just so that we don't lose our historical perspective in this debate, I think it's important to recognize that the problem of huge Federal budget deficits is a relatively recent one, going back only to the early 1980's. It's just not true, as some amendment proponents imply, that the Federal Government has been spending way beyond its means for decades.

The Reagan and Bush administrations gave America by far its 10 largest budget deficits in our history. The huge tax cuts and large defense increases of that era are still costing us. Whatever your party affiliation or perspective on enacting this amendment, that is indisputable. If it were not for the interest costs on the debt accumulated during the 1981–92 period, the Federal budget would be in balance in 1996 and headed toward surplus thereafter.

I am not trying to explain away large deficits over the last decade or so, but simply to point out that they are, more than anything else, a direct result of the misguided and now thoroughly discredited fiscal policy called supply side economics. Despite the urgings of some of our colleagues in the new House leadership, and some of the provisions of the Republican Contract for America, we must not turn down that supply-side road again.

Opposing the amendment has not been easy, or politically popular. But since I have spoken several times on various amendments that have been proposed over the course of the last few weeks, let me try to summarize one last time my major reasons for voting against this amendment.

AMERICANS HAVE A RIGHT TO KNOW HOW THE AMENDMENT WILL AFFECT THEM

Throughout this debate, I've argued that the people of Minnesota—and all Americans—have an enormous stake in the outcome of this debate, and that they have a right to know how the spending cuts required by the amendment could affect them and their families. I offered an amendment to one of the first bills before the Senate this year urging proponents of the constitutional amendment to detail the over a trillion dollars in cuts they would make to balance the budget by 2002, before it is sent to the States for ratification. This is simple ''truth-in-budgeting;'' it's the least we could have expected from proponents.

Indeed, the Minnesota State Legislature and Governor Carlson agree. And they sent a Minnesota mandate to Washington to prove the point. The legislature recently passed overwhelmingly a resolution, signed by the Governor, urging those of us here in Congress to continue our efforts to reduce the Federal budget deficit, and requesting financial information on the impact the balanced budget amendment would have on our State. By rejecting the amendment, which I introduced to provide the information to all the States that the Minnesota Legislature was seeking, the Senate sent States a chilling message.

Another major right-to-know amendment, offered by Senator DASCHLE, was also defeated. Despite the straightforward logic of this approach, these amendments were rejected on virtual party-line votes.

And so if we pass this constitutional amendment today, we would be sending it to the State legislatures for ratification without giving them, or the millions of American families whom they represent in each State, any idea of how we intend to cut over a trillion dollars from the Federal budget between now and the year 2002, or how it will affect their lives and the lives of their children and grandchildren. Families will not be told how deep the Medicare, Medicaid, school lunch, higher education, or Social Security cuts will be; at least not before we vote on the amendment.

That is, I think, a gross abdication of our sworn responsibility to serve those we represent, and a slap in the face to those who count on us for truth-in-budgeting. Recent polls show that over 80 percent of Americans believe we should be straight with them about how we intend to balance the budget under this amendment before we act on it. Even so, balanced budget proponents have rejected the right-to-know and instead offered Americans a ruse, an exercise in budget deception. In so doing, they have seriously breached the standard of public accountability that Americans should be able to expect from their leaders. In addition, there are a number of sound fiscal policy arguments against the amendment; I will raise just two examples.

AMENDMENT WOULD DEEPEN ECONOMIC RECESSIONS AND WORSEN DISASTERS

Consider the potential risk that the spending cuts required by the amendment could push soft economy into a recession, or in a worse case, deepen an existing recession and push us into a depression. Now when the economy slips into recession, Federal spending helps to cushion the fall by increasing unemployment insurance and other assistance programs for low- and moderate-income people. At the same time, income tax collections drop because people and businesses are making less money in a recession.

But under the amendment, Congress would be forced, perversely, to do the opposite: raise taxes, cut spending, and push the economy into an economic freefall. The so-called automatic economic stabilizers like unemployment insurance that have proven so useful in recent decades would be gone, and we would instead effectively enshrine in the constitution the economic policies of Herbert Hoover. With fiscal policy enjoined by the amendment, sole responsibility for stabilizing the economy would rest with the Federal Reserve. And with their almost exclusive focus on fighting inflation these days, more often than not they end up protecting Wall Street investors—not average working families.

As I have suggested, the amendment is an attempt to enshrine an economic dogma which would cripple our ability to offer pragmatic responses to changing economic conditions. Because our efforts to change the balanced budget amendment to take this problem into account also failed, this serious flaw remains.

Coupled with the absence of any exception for emergency disaster spending, that was included in a proposed amendment defeated last week, the lack of economic foresight this reflects is almost breathtaking to me. In just a few days, we will consider an emergency spending bill to help pay the Federal share of the California earthquake last year. The cost of this disaster is now up to $15 billion.

In the last two decades, the Federal Government has spent $134 billion in Federal disaster relief, including $33 billion in the last 5 years alone. Under a balanced budget requirement, what would we do in the face of a huge flood, earthquake, or other disaster that cost scores of billions of dollars in relief aid? How long would it take to garner the three-fifths votes necessary in both Houses to pay for it? And what special legislative prizes would opponents require for their votes? Those are all open to questions.

AMENDMENT COULD PUT FEDERAL DEPOSIT INSURANCE AT RISK

Another open question is the impact of the amendment on bank deposits. I am sure balanced budget amendment supporters don't intend to put the life savings of American families at risk, or to threaten the stability of the banking system. And yet that is precisely what this amendment would do. Since the Depression, the FDIC has insured depositors against bank failures. That limit is now up to $100,000 per account. And right now those guarantees cover private savings of about $2.7 trillion—that's a whole lot of money that's guaranteed by the U.S. Government. Some have observed that the balanced budget amendment could put the full faith and credit of the United States embodied in such guarantees at risk.

AMENDMENT DOES NOT SEPARATE DAY-TO-DAY EXPENSES FROM INVESTMENTS

Most Americans believe that a balanced budget, like a balanced checkbook, is a good idea. They argue that America, like a family, should always balance its budget. But this overlooks a key fact: The household budgets of most middle class Americans have substantial debt, either for a car, a home, or a college education for their kids.

This reflects a central problem with the amendment. It ignores the difference between two different types of spending: investments for the future,

and ''operating,'' or day-to-day, spending. Taking out a mortgage on a home is investing in your family's future; taking one out to pay for next year's vacation is not. This is acknowledged by most State governments, many of whom are required to balance their operating budgets—but not their investment budgets.

American business agrees; incurring debt to invest and expand a business has long been a hallmark of business strategies for sustained growth. With governments, as with families or businesses, borrowing isn't inherently bad; it depends what you're borrowing for. With families, businesses or State governments, the central question is: Will the debt we incur improve our long-term economic prospects? If this principle applies to household or business budgets, why shouldn't it apply to the Federal budget? Nonetheless, an amendment to address this problem was rejected.

NO PROTECTIONS FOR THE SOCIAL SECURITY TRUST FUNDS

This balanced budget amendment fails to protect the Social Security trust funds from being raided to balance the Federal budget. We tried to make sure that for the purpose of calculating the deficit under the balanced budget amendment, the huge surpluses in the Social Security trust fund would not be counted. In that effort, too, we failed; our proposed Social Security amendment was defeated. Make no mistake what this means: Despite the promises of the proponents that they will not balance the budget on the backs of Social Security recipients, they have refused to explicitly protect this program in the language of the constitutional amendment itself. In fact, they fought hard to defeat our Social Security amendment. That is as good an indication of their future intentions regarding Social Security as anything we have seen.

A SHELL GAME THAT WILL REQUIRE STATES TO RAISE TAXES

There is another problem with this constitutional amendment. For many in Minnesota, it will likely mean an increase in personal income, sales, and property taxes needed to offset the loss in Federal aid from crime control to higher education, roads and bridges to farm programs, rural economic development to Medicare. This shell game, in which costs are simply shifted from the Federal Government onto the States, would force Minnesota to fund these efforts on its own. A recent Treasury Department study concluded that an increase of between 9 and 13 percent in Minnesota taxes would be required to make up the difference. In reality, a vote for the balanced budget amendment is really a vote for a trickle-down tax increase.

A STANDARD OF FAIRNESS

I think it's a simple question of fairness. If this constitutional amendment passes, in the next 7 years we are going to have to make $1.48 trillion in spending cuts and other policy changes—assuming that we enact Republican-proposed tax cuts for the wealthy and defense increases. If we don't, we'll still have to make about $1.2 trillion in cuts. If we make these cuts to meet the balanced budget amendment requirement and timetable, then we should make sure that wealthy interests in our society, those who have political clout, those who hire lobbyists to make their case every day here in Washington, will be asked to pay their fair share. At least they should bear as much of the burden as regular middle class folks that we represent, who receive Social Security or Medicare or Veterans benefits, or who receive student loans to send their kids to college and offer them a better future.

That's just common sense, and I had hoped that during this debate we would signal that we would apply such a standard of fairness. For example, too often in discussions about low-priority Federal spending which ought to be cut, one set of expenditures has been notoriously absent. That is tax breaks for wealthy and well-positioned special interests. But that, too, was rejected by the constitutional amendment's proponents when I offered an amendment urging simply that we make sure such special tax breaks are on the table as we move forward in our deficit reduction efforts. Tax subsidies are heavily skewed to corporations and the relatively few people with very high incomes, while Government benefits and services go in far larger proportions to the middle class and the poor.

In the last few weeks, this issue of fairness has emerged more and more clearly to me, more by its absence than by its presence. It looks to me as though the current standard, at least as it has been applied so far in the published plans of balanced budget proponents, will not require much, if any, sacrifice from special interests in our society who have enjoyed certain tax breaks, benefits, preferences, deductions and credits that most regular middle-class taxpayers don't enjoy.

EFFORTS TO SCRUTINIZE TAX BREAKS FOR WEALTHY BLOCKED

But while the constitutional amendment's proponents don't seem to mind that it could require States to raise State taxes by large margins, they are adamantly opposed to making sure that wealthy corporations and others pay their fair share of the deficit reduction burden.

It is a fact, often overlooked, that we can spend money just as easily through the Tax Code, through what are called ''tax expenditures,'' as we can through the normal appropriations process. Spending is spending, whether it comes in the form of a government check or in the form of a tax break for some special purpose, like a subsidy, a credit, a deduction, or accelerated depreciation for this type of investment or that. These tax expenditures—in some cases they are tax loopholes—allow some taxpayers to escape paying their fair share, and thus make everyone else pay at higher rates. These arcane tax breaks are simply special exceptions to the normal rules, rules that oblige all of us to share the burdens of citizenship by paying our taxes.

The General Accounting Office issued a report last year titled, ''Tax Policy: Tax Expenditures Deserve More Scrutiny.'' It makes a compelling case for subjecting these tax expenditures to greater congressional and administration scrutiny, just as direct spending is scrutinized. The GAO noted that most of these tax expenditures currently in the Tax Code are not subject to any annual reauthorization or other kind of systematic periodic review. They observed that many of these special tax breaks were enacted in response to economic conditions that no longer exist. In fact, they found that of the 124 tax expenditures identified by the committee in 1993, about half were enacted before 1950. Now that does not automatically call them into question. It just illustrates the problem of their not being very carefully looked at in any systematic way over very long periods of time. Many of these industry-specific breaks get embedded in the Tax Code, and are not looked at again for years. And yet we refused by roll call vote to even commit to consider them as we move forward in our efforts to balance the Federal books.

When we begin to weigh, for example, scaling back the special treatment for percentage depletion allowances for the oil and gas industry against cutting food and nutrition programs for hungry children, we may come out with quite different answers than we have in the past about whether we can still afford to subsidize this industry. The nonpartisan Congressional Budget Office estimates that eliminating this particular tax break would save $4.9 billion in Federal revenues over 5 years.

And this is not an isolated example. The Congressional Joint Tax Committee has estimated that tax expenditures cost the U.S. Treasury over $420 billion every single year. And they estimate that if we don't hold them in check, that amount will grow by $60 billion to over $485 billion by 1999. Now some tax expenditures serve important public purposes, like supporting charitable organizations, and should be retained. But many of these must be on the table along with other spending as we look for places to cut the deficit.

I could not find any hint of interest in cutting corporate tax breaks in the Republican contract, I think because many of the benefits of these tax breaks go to very high-income people with wealth and power and clout in our society, and to corporations with high-powered lobbyists. They're the ones for whom the contract provides an estimated $169 billion windfall that would resurrect the tax-shelter industry and effectively slash corporate rates.

At a time when we are talking about potentially huge spending cuts in meat inspections designed to insure against

outbreaks of disease; or in higher education aid for middle class families; or in protection for our air, our lakes, and our land; or in highways; or in community development programs for States and localities; or in sewer and water projects for our big cities; or in safety net programs for vulnerable children, we should be willing to weigh these cuts against special tax loopholes on which we spend billions each year. And yet we could not even agree to put these on the table along with everything else as we move forward in our efforts to reduce the deficit.

ENSHRINES MINORITY RULE

Constitutional and congressional scholars have observed that the balanced budget amendment gives a veto power to a small minority of either the House or the Senate in key budget decisions, a profoundly antidemocratic shift away from our proud, 200-year-old tradition of majority rule. The need to win approval from three-fifths of both Houses to waive the balanced budget requirement in a recession would give added power to members whose votes might be needed to avoid plunging the country into a deeper downturn.

Thus, the price of an agreement to let the Government run even a modest deficit during a recession, and to provide recession-related unemployment benefits, might be a capital gains cut or other tax break touted by its backers as a ''growth incentive.'' As we saw in the 1980's, these tax breaks usually prove to lose revenues and increase the deficit over the long term, which in turn could lead to additional program cuts in subsequent years to bring the budget back into balance.

WEAKENS OUR ABILITY TO INVEST

As I have observed, the balanced budget amendment would largely deny to the Federal government a basic practice that most businesses, families, and States and local governments use—borrowing to finance investments with a long-term payoff. Borrowing to finance new investments is standard business practice. A business that failed to modernize because it could not borrow would soon be left behind.

We must continue to invest in our people. Our economy is creating new jobs at a near-record pace—over 5 million in the last 2 years alone—yet it doesn't give much help to those ordinary working families who are at the bottom, or in the struggling middle class. As one Iron Ranger in Minnesota recently told me, ''All these jobs being created doesn't do me much good if I have to hold three of them to keep my family together.'' His comment reflects the anger and economic insecurity many Americans feel because their personal economic experience doesn't jibe with what Government statistics tell them—that unemployment is down, inflation is in check, and economic growth and productivity are booming. Despite these statistics, standards of living and real wages of workers remain flat, or in slight decline; many are just one downsizing away from layoff, and feel less secure. We must invest in the skills and futures of our people if we are going to turn this situation around.

The amendment would force a scaling back of Government investment in areas where economists stress more investment is needed: infrastructure, education and training, early intervention programs for children, research and development. There is growing evidence we invest too little in these areas and that such under-investment has contributed to our Nation's weak economic performance in recent years.

It is true that for too long the Federal Government has been undisciplined in its borrowing, and that is what threatens our fiscal future. We have a responsibility to future generations to get our fiscal house in order, and to do it the Federal Government has to reprioritize spending in relation to this central question of investment, by re-examining programs across the board and eliminating or scaling back those that are wasteful and unnecessary. We must redesign cumbersome Federal structures to meet the challenges of the information age, of rapidly changing demographics, of our decaying inner cities. We should do this in a way that's fair, open and accountable, without the budget smoke and mirrors that have too often fogged the real choices facing voters.

Let me say a word about the impact that systematic disinvestment would have on working families, children and the elderly in my State, because ultimately that is what this whole debate is about.

THE IMPACT OF THE AMENDMENT ON MINNESOTA FAMILIES

Throughout this debate, I have tried to ask myself basic questions about the impact of this balanced budget amendment on the families in Minnesota whom I represent. I think it would inflict on Minnesotans serious harm, and that is why I cannot in good conscience support it. That is ultimately the deciding factor for me.

I've already talked about the shell game that this amendment would require by shifting the costs of government from the Federal to the State level, and forcing States to raise income, property and sales taxes—in Minnesota's case by about 13 percent, according to the Treasury Department. But what about the actual spending cuts? How would they be distributed? Who would have to sacrifice, and who would benefit?

Over 7 years, under the balanced budget amendment and accompanying Republican proposals, Minnesota would lose nearly $5.9 billion in Federal Medicare funds, Medicaid cuts would total nearly $3.7 billion, elementary and secondary education would lose $1.5 billion, and Federal law enforcement would lose $143.7 million. Minnesota farmers also would likely lose billions in farm payments, causing a serious decrease in family farm income. And it's not just rural areas that would be hit. The two largest urban counties in my State, Hennepin and Ramsey Counties, would alone lose about $10.3 billion in total Federal aid over 7 years.

In addition, despite Republican promises to temporarily protect this program, large cuts in Social Security benefits to Minnesotans—an estimated $2,000 annually per beneficiary—should also be expected if this program is slated for across-the-board cuts.

These are very large cuts, and they will have a major impact on the people of my State. I have heard from elderly couples in Minnesota on fixed incomes, terrified about the impact of the amendment on their Medicare funding. And they have reason to be fearful. I have sat with homeless men and women, Medicaid recipients, who are threatened with going without even the most basic health care under the amendment. Instead of this approach, we owe it to these people to do real comprehensive health care reform.

Despite the claims of some that opponents of the amendment are exaggerating the threat posed by these huge spending cuts, this is for real. I am not making this up. In fact, just the other day, Finance Committee Chairman PACKWOOD said that he thought we would have to make up to $550 billion in cuts in Medicare alone to meet its requirements—not to mention the huge cuts in Medicaid he acknowledged would be necessary. And it could go much higher than that, depending on budget decisions made in other areas.

Finally, let me say a word about the process by which this amendment has been considered. In recent weeks, balanced budget amendment proponents have rejected virtually every single good faith effort to improve the constitutional amendment. Amendments to prevent a raid of the Social Security trust funds, to exempt earned veteran's benefits, to strike the majority requirements, to prevent harm to hungry and homeless children, to separate investment from day-to-day operating budgets, to provide for exceptions for major disasters and economic recessions—and many others—were defeated.

I believe that if the Senate passes this amendment today, as we look back on this debate from the midst of a serious recession, major disaster, or even undeclared national security emergency, this unwillingness by proponents to accept even modest, reasonable changes in the amendment will prove seriously misguided.

While at first look this amendment appears to make sense and is widely popular, amending our Constitution in this way would be a mistake with potentially serious fiscal, economic, and social consequences and would seriously alter our democratic process. We can and should balance the budget without gimmicks and without changing the Constitution. I intend to continue to vote to do that. I urge my colleagues to join me in that effort, and to

vote no on the balanced budget amendment. I yield the floor.

Mr. LEVIN. Mr. President, I want deficit reduction and I am willing to work for it. That is why I supported the President's deficit reduction package in the last Congress. But while I have stood up for real deficit reduction, what I am not prepared to do is to write into the Constitution language that is more likely to lead to disillusionment and constitutional crisis than to a balanced budget.

I see five flaws in the proposed amendment. First, the proposed amendment would not balance the budget, it would just say that a future Congress has to pass a law to enforce a balanced budget. Why wait? Unless and until we make the tough choices needed to cut spending or raise revenues, we will not have a balanced budget, whether or not we pass the proposed constitutional amendment and whether or not the States ratify it. We will instead have passed what could turn out to be a cynicism-deepening illusion.

The proposed constitutional amendment says that starting no earlier than 2002, Congress has to have a law enacted which enforces a balanced budget. Why wait? Why wait to do the hard work of passing implementing laws and doing the actual budgeting? That's a dodge which allows some to say we are cured before we have taken the medicine. It puts a giant loophole in the Constitution to cover over congressional weakness.

In May 1992, Robert Reischauer, the Director of the nonpartisan Congressional Budget Office, testified before the House Budget Committee that a balanced budget amendment is not a solution; it is ''only a repetition in an even louder voice of an intention that has been stated over and over again during the course of the last 50 years.'' Dr. Reischauer stated:

> It would be a cruel hoax to suggest to the American public that one more procedural promise in the form of a constitutional amendment is going to get the job done. The deficit cannot be brought down without making painful decisions to cut specific programs and raise particular taxes. A balanced budget amendment in and of itself will neither produce a plan nor allocate responsibility for producing one.

Dr. Reischauer further stated:

> Without credible legislation for the transition that embodies an effective mechanism for enforcement, government borrowing is not going to be cut. But the transitional legislation and the enforcement mechanism are 95 percent of the battle. If we could get agreement on those, we would not need a constitutional amendment.

The public understands this. They know the difference between promises and action. Let me tell you what some of the commentators are saying about the balanced budget amendment back in my home State. Here is what the Detroit Free Press said on January 15:

> You wouldn't take seriously any politician who promised to be faithful to his spouse, beginning in 2002, so why do so many people take seriously the proposed balanced-budget amendment?
>
> It's the same kind of empty promise to be good—not now, but later. Putting it in the Constitution isn't likely to confer on Congress the spine or the wisdom to fulfill it.
>
> * * * [T]he way to cut the budget is to cut the budget, not to promise to do it sometime in the future. * * * Gluing a balanced budget amendment onto the Constitution only postpones the moment of truth.

And here is what the Battle Creek Enquirer said on January 29:

> If a balanced budget is such a good idea, we say to Congress: ''Just do it!'' After all, waiting until a constitutional amendment mandates it will just delay a balanced budget—perhaps by years.
>
> This Congress isn't likely to give the nation a balanced budget, that's for certain. But, by touting the need for this amendment, it sure can talk like a Congress that already has * * * [I]t's all an illusion.

''Just do it!'' That's what the American people want, Mr. President. They know the difference between promises and action, and they want the latter. A constitutional amendment can promise a balanced budget, but it cannot deliver a balanced budget. Only concrete action by the Congress can do that.

Put another way, Mr. President, the proposed constitutional amendment has no effective enforcement mechanism. The amendment relies on a future Congress to act to implement and enforce it. That is the bottom line. This is the same reed that proved so weak in the 1980's when the President and the Congress quadrupled the national debt from $1 trillion to $4 trillion.

The argument has been made that we have tried everything else, why not a constitutional amendment. We can't depend on legislation, the argument goes, so let's try a constitutional amendment.

So what does this amendment do? It depends on the same kind of legislation to be enacted which its sponsors say has not previously been effective.

When we were debating this amendment in 1986, Senator HATCH acknowledged the following:

> [T]here is no question that Congress would have to pass implementing legislation to make it effective. * * * It would be the obligation of Congress, after the amendment is passed by both Houses and ratified by three-quarters of the states to * * * enact legislation that would cause this to come about.

And again, CBO Director Reischauer pointed out that:

> Without credible legislation for the transition that embodies an effective mechanism for enforcement, government borrowing is not going to be cut. But the transitional legislation and the enforcement mechanism are 95 percent of the battle. If we could get agreement on those, we would not need a constitutional amendment.

Just a few weeks ago, on January 30, Senator HATCH stated:

> ''* * * [U]nder section 6 of the amendment, Congress must—and I emphasize must—mandate exactly what type of enforcement mechanism it wants, whether it be sequestration, rescission, or the establishment of a contingency fund.

In fact, the committee report accompanying this constitutional amendment itself states that it ''* * * must be supplemented with implementing legislation''.

Mr. President, I have offered an amendment to the constitutional amendment to require this Congress to address this issue by adopting legislation to implement and enforce a balanced budget requirement now. Without my amendment, there are no real teeth in the promise of a balanced budget contained in the proposed amendment.

Alexander Hamilton states in Federalist Paper No. 15, ''If there be no penalty annexed to disobedience, the resolutions or commands which pretend to be laws will, in fact, amount to nothing more than advice or recommendation.''

If congressional weakness is the reason for this amendment—and it is—then Congress will use the loopholes in this amendment to evade the responsibility which it sets forth. My fear is that this amendment will give us an excuse to duck the hard choices, as Congress has often chosen to do, until it would become effective in 2002—at the earliest. I am afraid that upcoming Congresses will say ''the balanced budget amendment will take care of our problems, so we don't need to address them now.''

Dr. Reischauer, in his 1992 testimony, listed a number of loopholes that Congress could use to get around an apparently rigid balanced budget rule:

Using timing mechanisms and other budget gimmicks to achieve short-run budget targets, including such actions as shifting pay dates between fiscal years, accelerating or delaying tax collections, delaying needed spending until future fiscal years, and selling government assets;

Basing the budget on overly optimistic economic and technical assumptions; and

Creating off-budget agencies that would have authority to borrow and spend but whose transactions would not be directly recorded in the budget.

That is what we did in the 1980's. We used optimistic estimates or ''rosy scenarios''. Here are some of those estimates. In 1981, our estimates were off by $58 billion. In 1982, our estimates were off by $73 billion. In 1983, our estimates were off by $91 billion, and on and on. In 1991, they were off by $119 billion—$119 billion in 1 year. You talk about a loophole. This one is big enough to drive a $119 billion deficit through. That is how big this loophole is.

The sponsors of the amendment say that the real enforcement mechanism is in section 2. That section provides that it will take 60 percent of the votes, a supermajority, to increase the debt ceiling. So if our estimates are too rosy—if, for instance, we follow the 1980's model of estimates in order to evade the constitutional requirement, then, we are told, we can fall back on

the requirement that the debt limit can only be increased by a 60 percent vote in each House.

As Senator GRAHAM of Florida has pointed out, however, the so-called debt limitation provision in the proposed amendment would allow us to run deficits in the first decade and a half of the next century of as much as $120 billion a year, masked by taking that money from the Social Security trust fund, without that counting toward the deficit. The proposed amendment applies the 60-vote requirement to ''the limit on the debt of the United States held by the public''. So the debt held by the Social Security Administration isn't covered and the usual majority rule would apply to raising that debt limit.

In any case, history has proven the debt limit is a weak reed to rely on, because when you vote on whether or not to increase the debt limit, you are voting whether or not to bring down the Government of the United States. We have to pay our legitimate debts, however many votes it may take. If we don't do that, we are finished economically. To make that point, let me quote from a July 8, 1987 letter from Secretary of the Treasury James A. Baker III to the Chairman of the Senate Finance Committee:

> I cannot overemphasize the damage that would be done to the United States' credit standing in the world if the Government were to default on its obligations, nor the unprecedented and catastrophic repercussions that would ensue. Market chaos, financial institution failures, higher interest rates, flight from the dollar and loss of confidence in the certainty of all United States Government obligations would produce a global economic and financial calamity. Future generations of Americans would have to pay dearly for this grave breach of a 200-year-old trust.

Mr. President, we are not going to achieve a balanced budget by threatening not to raise the debt ceiling, because that is a nuclear weapon aimed at the economy of this country. You don't balance the budget by threatening suicide, and that is what a failure to pay our debts would be. If we do not pay our debts, this country's economy is finished. So whether it takes the usual majority or 61 votes, it doesn't matter. We will have to increase the debt ceiling, because after the debts have been incurred, we won't have any choice.

Mr. President, my second problem with the amendment is that if a later Congress does adopt effective enforcement legislation, it would be putting in the hands of a minority of Senators, representing as little as 15 percent of the population, critical decision-making power over the economy of this Nation. Under the proposed amendment, it is intended that outlays not exceed receipts, and the debt limit not be increased, unless three-fifths of both Houses of the Congress agreed. The economic future of our country should not be put in the hands of a minority by a constitutional amendment which would be so difficult to change if it went awry.

My third problem with the amendment is that it would put the Social Security trust fund at risk. By my count, during this debate the Senate has rejected at least three amendments to protect the Social Security trust fund. As the senior Senator from Florida explained, Mr. President, that means that we will continue running deficits of at least $120 billion a year for more than a decade after this amendment would go into effect, and will conceal these deficits by taking the money from the Social Security trust fund. The money in that trust fund is exactly that—money that we have collected in trust. I cannot vote for a constitutional amendment which allows the use of that money to cover up huge deficit spending. That's simply wrong.

My fourth problem with the amendment is that, if effectively implemented, it would preclude the use of deficit spending to cushion the impact of a recession. A balanced budget amendment would force the Federal Government to raise taxes and cut spending in recessions, to offset the loss of revenue caused by declining income. These policies would deepen the impact of a recession and could even turn a mild recession into a depression.

Indeed, the Treasury Department has done a study showing that, were it not for countercyclical deficit spending, roughly one and a half million more people would have been unemployed in the 1991–92 recession. Mr. President, we should not ignore the real world hardships caused by recessions and we should not act in a way which could cause millions of Americans to lose their jobs.

Finally, Mr. President, I am troubled by the fact that the proposed amendment is intentionally ambiguous on the role of the President in carrying out the amendment. The resolution of this crucial issue will determine how the amendment will affect the checks and balances placed in the Constitution by our Founding Fathers.

With regard to Presidential impoundment, the Senator from Utah, Senator HATCH, says the President would have no power to impound funds unless expressly granted by Congress, but the sponsors refuse to make this explicit in the amendment itself.

There are some, including Members of this Senate, who already believe that the President has inherent impoundment powers under article II of the Constitution. Would not that argument be reinforced by a constitutional amendment prohibiting outlays from exceeding receipts, in view of the President's duty to preserve, protect, and defend the Constitution?

Former Reagan administration Solicitor General Charles Fried has testified that such a power would exist. He stated:

> Now, the command of section 1 is very unqualified. Total outlays shall not exceed total receipts unless you have the three-fifths vote. It seems to me that command would give the President—any President—a far better claim to impound funds than that which was asserted some years ago by President Nixon, because the President's warrant would not be drawn from, as President Nixon said it was, inherent powers of the Presidency. He could point to the Constitution itself. He would say that they shall not exceed, and he swears an oath to see that the laws are faithfully executed, and I would think his claim to impound would be very strong. Not only his claim, but he would argue with considerable plausibility his duty to do so.

So again, the record is, at best, unclear.

The question whether the President could enforce the amendment by impoundment would not be an insurmountable problem, had the majority not chosen to make it so. For instance, when we approved a balanced budget amendment in the Senate in 1982, we included language proposed by the Senator from New Mexico, Mr. DOMENICI, to ensure that the amendment could not be construed to grant the President impoundment powers.

This year, however, the sponsors of the amendment decided to remain silent on this issue. That is not the way we should address the question of amending the Constitution. This is the Constitution we are talking about, and we need to know what the amendment we are considering means in this critical area.

In conclusion, Mr. President, the proposed amendment provides too easy an excuse for Congress not to act now to reduce the deficit and it doesn't force congressional action later either.

It lets us off the hook now, and there is no hook later.

It's based on the argument that a constitutional amendment is needed because previous laws calling for a balanced budget didn't work. But its success, by its own terms in section 6, is dependent upon a future Congress enacting a similar law.

The amendment before us, in other words, is unlikely to reduce the deficit, but is likely to increase public cynicism about the willpower of Congress to act.

We can and we should adopt enforcement legislation to achieve a balanced budget now, with or without a constitutional amendment.

There is only one way to balance the budget now, or in 2002—and that is with the willpower to make the tough choices. I hope we will defeat this constitutional amendment and instead show the will power to make the tough choices and enact enforcement legislation actually needed to balance the budget.

Mrs. MURRAY. Mr. President, I voted against House Joint Resolution 1, the so-called balanced budget amendment.

I voted no because this amendment is a 10-second political sound bite with decades of economic implications. It will handcuff future generations to an

economic blueprint this Congress dictates in 1995. And, worst of all, it makes a mockery of the most important document this country has ever produced.

I am a member of the Budget Committee. When I came to the Congress 2 years ago, I faced the largest debt ever amassed by any country in the history of civilization. More debt was created during the 12 years of Republican administrations in the 1980's and early 1990's than in the entire 200 years preceding them.

I strongly support putting this country's economic house in order. Mr. President, I support a balanced Federal budget. The people of this Nation deserve nothing less. But this amendment does not get us there. Words on a piece of paper cannot balance the budget, only legislators like you and I can.

We have to make tough choices as we correct the fiscal mismanagement of the 1980's. We have to balance the budget with surgical cuts; with a scalpel, not a meat cleaver.

Mr. President, we have made some very tough decisions. I was one Member of this body who voted for a plan—a plan with specific cuts and common sense—which reduces the deficit by $505 billion over 5 years. Program-by-program, cut-by-cut. Most of the Members of the Senate who voted against the deficit reduction plan now support this constitutional amendment.

Mr. President, where are the specifics? What will they cut? Which taxes will they raise? Who will be hurt? The American people have a right to know. Under this amendment, we have no idea.

For example, will they cut out funding for the Federal Government's obligation to clean-up the Hanford Nuclear Reservation in my home State of Washington? Will they eliminate the home mortgage deduction? Will they cut Head Start, or WIC, or Ryan White? Will they stop guaranteeing student loans? Will they block further assistance to our depressed timber communities, or job training for laid-off aerospace workers?

Mr. President, just this week, we have seen some examples of how careless cuts can be when they are made with a meat cleaver. The rescissions package coming before the Senate soon is a mean-spirited and irrational piece of legislation. As nasty as those cuts are, they still do not get us to a balanced budget. Instead, they damage those we can least afford to harm: our children.

If this body is serious about deficit reduction, we should resume the debate on health care reform. Even cutting every discretionary program will not get us to a balanced budget. We must control the growth of health care costs. I find it ironic that many of the same Senators who opposed the health care reform bill last year now support this constitutional amendment.

This so-called balanced budget amendment is dangerous. It will remove all our flexibility in dealing with emergencies—economic troubles like recessions, or even natural disasters like volcanic eruptions, earthquakes, flooding, hurricanes, and massive fires. My home State has experienced many such disasters recently. If this amendment had been part of the Constitution, how would my friends and neighbors have coped?

Mr. President, I believe many of our colleagues would want to help in these emergency situations. That is why the Congress is the proper venue for deciding these issues—our Founding Fathers thought so, too.

This constitutional amendment throws our responsibility to the courts. The courts will decide if funding is appropriate. Supreme Court justices are not responsible to the people of my home State; they are not elected by anyone. They are not sent to the Nation's capital to tend to the needs of my constituents.

Mr. President, we have amended the Constitution only 17 times since we adopted the Bill of Rights. We have never changed the Constitution lightly. With each previous amendment, the American people voted to expand rights and outline responsibilities—we have never inserted an economic plan into the Constitution. This amendment sets a terrible precedent.

I voted in favor of several amendments to the House Joint Resolution 1. I could see that the resolution had considerable support, and I wanted to make sure that if it did indeed pass, we protected our most vulnerable populations; that we maintained the integrity of the Social Security trust fund; that we continued our fight against violent crime; that we respected our veterans; and that we exempt natural disasters from cuts.

I also believe that we should display common sense and work to reduce the massive deficit before we enacted sweeping, across-the-board tax cuts.

These safeguards all failed—every one of them. All attempts at tempering the resolution, or placing some sensible priorities into the legislation, were killed.

Mr. President, this is bad policy, and I cannot support any measure that will handcuff our country's economic policy. When I stand in this Chamber, I remember that I am not only a U.S. Senator but also a mother.

It might be popular to vote yes, but I won't worry about my own personal popularity until I know my children's economic future is safe. I do not believe we should trivialize our Constitution in order to give politicians a reason to make the kind of choices they should be making anyway.

This resolution will hurt our country and handcuff future generations. Amending the U.S. Constitution is not worth the gamble. For these reasons, Mr. President, I did not support House Joint Resolution 1.

Mr. PRESSLER. Mr. President, since 1981, there have been eight balanced budget amendment measures that have been approved by the Senate Judiciary Committee and reported to the Senate. Three of these measures have received floor consideration.

In 1982, the Senate passed Senate Joint Resolution 58 by a 69-to-31 vote. This marked the first time either House of Congress had approved such a measure. Although a substantial majority of the House of Representatives voted in favor of a counterpart of Senate Joint Resolution 58, the 236-to-187 margin fell short of the necessary two-thirds vote.

In 1986, the Senate rejected a balanced budget amendment (S.J. Res. 225) by a vote of 66-to-34, thus failing to achieve the necessary two-thirds majority by a single vote.

Then during 1994, the Senate defeated Senate Joint Resolution 41 by a vote of 63-to-37, 4 votes short of the two-thirds necessary for adoption.

Since coming to the Senate in 1979, I consistently have cosponsored and supported balanced budget amendment measures, and have voted for adoption of these measures at each and every opportunity. I strongly support the proposed amendment before us which was approved by the House of Representatives. With our vote today, the Senate will choose between a failed status quo or a new road toward true fiscal accountability.

Mr. President, there is compelling need for a balanced budget amendment to the Constitution. The Federal Government has run deficits for 23 years in a row and for 54 of the last 62 years. As a result, our national debt has spiraled to more than $4.8 trillion. The gross annual interest on the debt exceeds $300 billion.

Moreover, if we maintain the status quo—as reflected in the President's budget request for fiscal year 1996—the national debt would increase to more than $6.7 trillion in 2000. Mr. President, is this the kind of legacy we want to impose upon our children and grandchildren?

The harsh fact is that up until now we have tried every legislative means possible to lower deficit spending and achieve tax revenues in excess of outlays. In the past 10 years, we have seen Gramm-Rudman, Gramm-Rudman II, the 1990 budget amendment, and the failed 1993 budget plan. These well-intended measures have failed to move us closer to a balanced budget. Even if it were to succeed for one budgetary cycle, what assurances are there for continued balanced budgets and surpluses sufficient to eliminate our national debt?

There must be a measure beyond Federal statute and outside the present legislative process that would require continued balanced Federal budgets. That is why a constitutional measure is necessary.

The constitutional amendment before the Senate today would prohibit deficit spending except during any fiscal year in which a declaration of war

is in effect or when the country is engaged in an urgent national security crisis. Also, the limit on deficit spending and the limit on the national debt may be waived by a recorded vote of three-fifths of the whole number of each House.

It seems that if the limits on deficit spending and the national debt could be waived by a simple majority vote of the House and the Senate, the purpose of the constitutional amendment would be nullified. It is clear more than a majority should be required to waive the amendment. Year after year huge deficits have been incurred by simple majority votes.

Requiring a supermajority vote is not unique. The Constitution currently has nine supermajority requirements on specific actions or measures. These supermajorities include: ratification of treaties; veto overrides; expulsion of a Member of the Senate or the House; impeachment of the President, Vice President, and other Federal civil officers and judges; waiver of disability of certain persons who engaged in rebellion against the United States; election of a Vice President by the Senate; and amendment of the Constitution. Also, supermajorities are provided for in each House under its constitutional right to determine the rules of its proceedings.

Measures such as a declaration of war or an amendment to the Constitution were rightly considered by the framers to be the most serious of policy commitments. They believed a broader consensus was needed for these beyond a simple majority. The framers also imposed supermajority requirements to ensure that the fundamental rights of individuals were not overrun by the tyranny of a majority. Mr. President, we have reached a point in our history that any serious thought of further mortgaging the future of our children and grandchildren should require a broader consensus than a simple majority. It is for them that we must get our fiscal house in order. It is for them that we must pass this balanced budget amendment.

The proposed amendment would take effect within 2 years after ratification by three-fourths of the States, or by 2002, whichever comes later. It is significant that 48 States, including my home State of South Dakota, have constitutional provisions limiting their ability to incur budget deficits. Such constraints have proven workable in the States.

It is not surprising that a large majority of persons throughout the country who have been polled on this issue support a balanced budget amendment. Certainly, a large majority of South Dakotans from whom I have heard and with whom I have met urge that this resolution be adopted. They know it is the only way to achieve balanced Federal budgets and reduction of the national debt. I hope, Mr. President, our colleagues will bring that about.

Mr. LEAHY. Mr. President, during the past few days, I have been dismayed at the attempts of the proponents of this constitutional amendment to find a fix to pick up a vote or two in order to obtain passage. It may make for high drama, but it also makes for bad law. This is the United States Constitution that they are seeking to amend and its provisions should be carefully crafted, studied and considered. Back rooms and political dealmaking have no place in amending the Constitution.

At the center of these desperate negotiations has apparently been a belated effort to jerryrig some type of budget resolution or implementing legislation to protect the Social Security trust fund from being used to balance the budget under this so-called balanced budget amendment. This is absurd.

The language of House Joint Resolution 1 is very clear. Section 1 states: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.* * *'' And section 7 states: ''Total receipts shall include all receipts of the U.S. Government except those derived from borrowing. Total outlays shall include all outlays of the U.S. Government except for those for repayment of debt principal.'' The undisputed reading of this language is that the Social Security trust fund will be covered by this constitutional amendment.

In addition to the unambiguous language of the constitutional amendment itself, the legislative history of House Joint Resolution 1 makes it clear that the Social Security trust fund is not protected. In fact, the proponents have fought back all efforts in the Senate Judiciary Committee to amend the same language in Senate Joint Resolution 1 and all amendments offered here on the Senate floor over the past month.

During Senate Judiciary Committee consideration of this constitutional amendment, Senator FEINSTEIN offered an amendment to exclude funds going in and out of the Social Security trust fund from the definition of total receipts and total outlays. Unfortunately, a majority of members of the Senate Judiciary Committee tabled Senator FEINSTEIN's amendment by a vote of 10 to 8 on January 18, 1995.

During the Senate debate on House Joint Resolution 1, Democrats offered two separate amendments to take Social Security off the table. Senator REID offered an amendment to this constitutional amendment that would have legally protected the Social Security trust fund by excluding it from the definitions of total outlays and total receipts in section 7 of House Joint Resolution 1. But that amendment was tabled by a vote of 57 to 41 on February 14, 1995.

Just a few days ago, Senator FEINSTEIN offered a substitute balanced budget amendment that again would have legally protected the Social Security trust fund by excluding it from the definitions of total outlays and total receipts in the substitute amendment. Again, the proponents of this constitutional amendment tabled the Feinstein substitute amendment by a vote of 60 to 39. Whether the Tennessee Valley Authority is exempted and placed ''off budget'' may be in doubt, but there is no doubt that the Social Security trust fund is included by the proponents of this constitutional amendment.

Trying to craft some type of subsequent, legislative fix is folly. No court in the country would enforce a statute that tries to overrule the clear language of a constitutional amendment and the clear legislative history supporting that language. The only way to protect the Social Security trust fund from this so-called balanced budget amendment is to write that protection into the text of House Joint Resolution 1 itself. There is no other legally sound or enforceable way.

Moreover, any follow-up legislative effort to protect Social Security could be changed at any time by subsequent legislation and would offer no permanent protection. Unlike an amendment to the Constitution of the United States, a simple majority of Senators, or in the case of legislation changing the Budget Act 61 Senators, could change legislation trying to take Social Security off the tale. The legislation would fall far short of the protection of having something enshrined in the Constitution, which the Founding Fathers purposely made difficult to amend.

If proponents are finally willing to offer real protection for Social Security, why do it with only a budget resolution or statute? And if that is good enough for Social Security, why not cut the deficit through the same mechanism?

Let us be honest with the American people. The real reason the proponents of this so-called balanced budget amendment refuse to protect Social Security in the constitutional amendment itself is that they have no intention of protecting Social Security. Proponents of this constitutional amendment plan to use the annual surpluses in the Social Security trust fund to mask the true deficit. To make it easier to thump their chests that the budget is balanced, the supporters of this constitutional amendment hope to raid the $705 billion in annual surpluses in the Social Security trust fund that will accumulate between now and 2002.

It was most revealing that their recent offer to compromise with Senators CONRAD and DORGAN on this point was to stop counting the surpluses in the Social Security trust fund in 2012, or about the time that those surpluses are projected to dry up.

Let us put an end to this foolishness. Either protect Social Security in the language of House Joint Resolution 1 or not, but quit playing games with the Constitution of the United States. I have argued since this measure began

being considered that we needed to tackle the important questions of implementing legislation first. But the proponents of this measure have refused. They remain prepared to leave every concern and serious problem for later.

But their mantra, that fundamental flaws in the constitutional amendment itself can be fixed in implementing legislation, rings hollow. Even if we believed their sudden change of heart on these mattes signalled a real change in philosophy, some problems created by the amendment cannot be corrected in mere implementing legislation. The Constitution defines the ground rules, and the Constitution overrules any contradictory implementing legislation.

Let us bring this sorry spectacle to an end. Let us vote to defeat the so-called balanced budget amendment. Maybe then the Senate could get past this slogan of an amendment and let us get on with real business, making the tough choices needed to take real action to reduce the deficit.

Mr. BIDEN. Mr. President, last week I announced my decision to support the balanced budget amendment.

I rise today to explain my choice.

Considering amendments to our Constitution is one of the Senate's most profound responsibilities. Our Nation has made only 17 such changes since the Bill of Rights was ratified over 200 years ago.

But in recent decades a structural imbalance has occurred in the way the Federal Government finances its operations. Each year, we find ourselves deeper and deeper in debt, with no reasonable prospect for constraining either the deficit or the debt.

We cannot balance our budget. Or, more precisely, we will not.

As I considered the balanced budget amendment as a possible solution to this problem, I had to first answer an important question—Is this an issue worthy of constitutional consideration?

From the point over 10 years ago when I offered my own constitutional amendment to balance the Federal budget, up to my vote for Senator REID's balanced budget amendment last year, I have held that this is an issue worthy of constitutional consideration.

The decision to encumber future generations with financial obligations is one that can rightly be considered among the fundamental choices addressed in the Constitution.

If this issue meets the test of constitutional significance, Mr. President, then is House Joint Resolution 1 the way to address it?

Mr. President, many of my colleagues, whose very valid concerns I have shared, have honored this Chamber with an eloquent presentation of the problems this particular amendment could cause.

I will respond to some of those arguments later.

But none of their arguments has overcome my concern for the future of our Nation's economy—for the country we will pass on to our children.

After so many years of seeking alternative solutions, I can see no other reasonable prospect for sharply curtailing the debt than the adoption of this amendment into our Constitution.

Mr. President, it is one thing to have deficits of $20 to $40 billion per year, which we could live with for the foreseeable future. But it is quite another thing to have deficits of $200 to $400 billion. And just 6 years from now, Mr. President, $400 billion is just what our deficit will be, not counting the surplus in the Social Security trust fund.

Under these extraordinary circumstances, it seems reasonable to me to require an extraordinary majority of Congress to continue deficit spending.

Even if this amendment passes and is ratified by the States, I know that we will continue to have some deficits. It is the potential size of deficits that bothers me; there is nothing sacred about a balanced budget.

But if we do decide to add to our national debt, it should be for important reasons, such as managing recessions or natural disasters—or securing the future well-being of our children—for reasons that can command the support of three-fifths of both Houses.

Over a decade ago, Mr. President, we strayed from the course that had, since the end of World War II, shrunk the national debt as a share of our economy. Since the early 1980's, we have foolishly, and significantly, increased our national debt year after year.

In 1980, Federal debt held by the public totalled $710 billion, and the interest we paid on the debt was $52 billion. This year, that debt has reached $3.6 trillion, and our interest payments will be $234 billion.

Recognizing the folly of this course, in 1984 I proposed a freeze on every program of the Federal Government—across the board. Although I wrote the plan with two Republican Senators, we received little support for the proposal, from either side of the aisle.

By the way, I am convinced, Mr. President, that had we acted then, the harm to many of the programs that I hold dear, responsibilities that moved me to enter public life, would have been softened.

As it is, without the freeze—that we were warned would harm so-called liberal programs—I have had to watch as those programs have gone through the wringer.

In 1981, when we lost control of the deficit, human services programs were 8.6 percent of Federal outlays. A decade later, they were 6.9 percent, a 20-percent reduction in their share of spending.

In 1981, education, training, employment and social services were 3.7 percent of Federal outlays. Over the next decade, as deficits and interest payments grew, they shrank to 2.3 percent, a 40-percent cut in their share of Federal spending.

After failing to pass the freeze, in the hope of restoring some discipline to our finances and reducing the deficit, I supported the Gramm-Rudman process, that put caps on the amount of deficit allowed, and required a balanced budget.

But the requirements changed every year; the only constant in the process was the annual increase in the national debt, and the guarantee of annual deficits.

And in 1993, we passed an historic budget agreement at the beginning of the Clinton administration, that will cut $500 billion from our deficits over 5 years. The healthy economy that followed passage of that plan has meant even more deficit savings.

If I thought that we could sustain this trend, Mr. President, I would withhold my support for this amendment.

But, what was the political response to that serious deficit reduction plan? It was denounced by those who now claim they want to attack the deficit.

That plan was passed by a single vote in both Houses, without one Republican vote. Moreover, that plan has been used by so-called deficit hawks to defeat the very Members of Congress who had the courage to vote for it.

And now we see again a plan by the new majority for tax cuts, defense increases—including star wars—and, of course, the promise of a balanced budget.

Mr. President, I've read this story before. We are all living out the consequences of the first time we tried that program.

It is clear now that there are no options left before us to turn the short-term success of the 1993 budget plan into a longer-term program to bring down future deficits.

And there are no other options to force those who voted against deficit reduction back then to face the consequences—requiring them to look at everything including revenues rather than continue the charade that the only thing we need to do to balance the budget is to cut foreign aid and AFDC.

Because they—and we—have been so successful in misleading the American people about the problem, those aspects of the Government's responsibilities that I entered public life to support have already been badly harmed as a consequence of these gigantic deficits: children, education, fighting crime and drugs, supporting organizations that promote international stability.

And those areas of the budget that need help the least—tax loopholes for the privileged, exotic weapons systems, people who aren't middle class or poor but who make money off of their programs—those have done the best.

I offer as evidence the recent votes in the House. Now, without the balanced budget amendment, our fiscal disarray is the pretext for cuts in school

lunches, infant nutrition, the successful and effective Head Start Program, and educational programs that our future depends on. Do my friends who share my values—who share my indignation at this disregard for those least able to help themselves, this short-sighted slighting of the future—do they really believe that if we were to vote down the balanced budget amendment that those legislative priorities would change?

I am convinced—reluctantly—that unless we use this opportunity to try to restore control over our finances, we will not be able to re-establish our priorities.

Our fight is not—or should not be—against making deficit spending a more difficult choice.

Our fight, with or without a balanced budget amendment, is against those who would walk away from Government's responsibilities and who will sacrifice the future for short-term political advantage.

Despite the shrinkage in those programs in recent years, we still face a future of increasing national debt, and rising annual deficits, and those programs and responsibilities I feel most strongly about will continue to take the hits.

This year alone, we will pay $234 billion in interest on the debt. By 1997, interest will be $270 billion—more than either our defense or domestic spending.

If this trend is unsustainable—and it is—and if the hard choices we make are turned against us—and they are—What, then can we do?

I have concluded, Mr. President, that there is nothing left to try except the balanced budget amendment, forcing everything onto the table, and requiring us to justify why some areas have escaped the budget ax so far.

But what of the many arguments against this amendment—concerns that I have shared in the past. Let me explain my thoughts on some of those concerns today.

Mr. President, one of the strongest practical arguments raised against the balanced budget amendment is that it will cost us our ability to respond to recessions.

There are two points that I want to make in regard to that serious charge. First, the sad fact is that we have already lost that flexibility—by making deficits the norm in good times and in recessions. Until we regain control of our finances, deficits will remain an unintended consequence of our budget process, not a selective policy choice.

Second, Mr. President, even under the constraints of this amendment, it is possible to provide that flexibility. In Delaware, we have built a two percent surplus into each year's budget, to assure that we can cover unforeseen events that could raise spending or reduce revenues.

We could do that with the Federal budget, and restore its important stabilizing role, a role that is now lost in the annual red ink. This is not something that appears to be a realistic option in the near term, but if that is the only way to restore the effect of automatic stabilizers in the Federal budget, we will be able to choose that option.

This amendment will make automatic stabilization more difficult, but it will remain our choice to restore that function of the Federal budget to its former effectiveness.

There are other concerns that I share with my colleagues who oppose this amendment.

Together, we tried to make this a better proposal. I believe that this amendment could be improved by changes I have supported here on the floor and in the Judiciary Committee.

We tried to keep the Social Security trust fund off budget, where it is now, and where it should stay. We failed to pass that amendment, and this will allow us to continue to mask the current deficit with funds that are needed to meet future obligations.

I believe that this failure takes us further from the truth about our real deficit problems, and further from the truth about the very real problems in the Social Security system itself.

But let me stress for those who are concerned about the effect of this amendment on the Social Security system—this change in our Constitution does not, by itself, cut a dime from current benefits.

Under current rules, Social Security is now off budget, but by law its surpluses still go to purchase the accumulating pile Treasury bonds that we will have to pay off in the future.

Taking Social Security out of the balanced budget amendment would not change that aspect of the system, or prevent tampering with the commitments we have made in the past.

My concern, in addition to the ways in which that accumulating surplus will distort our definition of the budget, is that this amendment will increase the temptation to use the Social Security system to make the rest of the budget appear more balanced.

This is a valid reason to try to insulate Social Security from that temptation—but not reason to renounce what I have concluded is our last chance to restore control over our country's financial future.

We also tried, Mr. President, to assure that the real costs of a balanced budget amendment, and not just its surface allure, are apparent to the citizens who will be asked to ratify it in the coming months.

And we tried to provide a capital budget—to treat public investments the way families, businesses, and States treat their investments. And we failed.

But I want the record to show that we are not prohibited by this amendment from devising a capital budget. I predict that events and experience will show us that a capital budget is essential to setting priorities, and that we will find a way to fit such a process into our budget system.

We tried to avoid a potential shift in the constitutional balance of powers by ensuring that only the Congress would enforce a balanced budget, Mr. President, and we tried to avoid tying up the courts with constitutional questions about the President's role in enforcing a balanced budget.

Mr. President, I believe that these constitutional issues remain the greatest risk we will take when we add this amendment to our Constitution.

Now, with the acceptance of Senator Nunn's amendment, Mr. President, some of my concern on that issue has been relieved.

So where do we stand?

We can vote for this less than perfect amendment, that requires 60 percent majorities to permit deficits—and I predict that we will choose to permit those deficits, but smaller deficits, and less frequently, than before.

Or, Mr. President, we can continue to add every year to the debt burden of future generations.

We will steal today from the next generation, squeezing out the savings and investment that could increase future wealth.

We will continue to tie our own hands, to restrict our own ability—indeed, our responsibility—to set priorities in our annual budget process.

This year, interest on the national debt will cost the United States $234 billion; the entire domestic discretionary budget will be $253 billion.

By the time this amendment is intended to become law, in the year 2002, interest on the debt will be $344 billion, larger than every other category in the budget except for Social Security.

Given that prospect, Mr. President, I choose to take a chance on the balanced budget amendment.

I hope that reverence for the Constitution and the procedural roadblocks in the amendment will establish an ethic of budget balance and a new, responsible, tradition will grow from the action we take here today.

But only history will tell.

But I have sufficient confidence in our citizens and in our political institutions that we will learn from any flaws that remain in this amendment, and will make the best of its virtues.

Two hundred years of American history tells me it is right to have that confidence.

But at the end of the day, Mr. President, I am willing to take the first step today down this new path. I will vote for the balanced budget amendment, but I will do so with my eyes open.

It is not the panacea some of its proponents have advertised, but neither is it the plague its opponents have portrayed.

For me, it as a reluctantly chosen opportunity to regain responsible control over our affairs.

And I hope that the record of my words and actions on this amendment will help my fellow citizens, both in my

State of Delaware and in the other States, as they consider its ratification.

I hope that they consider fully the record of debate we have worked to establish here in the Congress. That record should make us all, on both sides of this profound issue, proud.

Mr. NUNN. Mr. President, on Wednesday, March 1, a story in the Washington Post discussing my judicial review amendment to the balanced budget amendment referred to the views of Prof. Kathleen Sullivan of the Stanford Law School. The views of Professor Sullivan, as reported in the Post, could be viewed as critical of my amendment limiting judicial review. That would not be an accurate reflection of Professor Sullivan's views.

I received a letter from Professor Sullivan yesterday in which she notes:

> I have had the opportunity to read your remarks in the floor proceedings yesterday, and agree with you completely that it would be imprudent to pass the [Balanced Budget] Amendment in the mere unfounded hope that courts would not entertain lawsuits arising under it. Addressing the judicial review issue squarely, as you did, is plainly a step in the right direction.

I ask unanimous consent that the text of the letter from Professor Sullivan and the article in the Post be printed in the RECORD.

Mr. President, I am pleased that the Senate overwhelmingly adopted the amendment to limit judicial review under the balanced budget amendment. My amendment will ensure that no court interjects itself into the balanced budget process except as specifically authorized by Congress.

I look forward to working with the chairman of the Judiciary Committee, Senator HATCH, in drafting implementing legislation, including implementing legislation on the subject of judicial review. To the extent that Congress exercises the authority in the amendment to regulate the judicial role, there are ample precedents for statutory provisions to ensure that judicial review does not interfere with the taxing and spending powers of Congress. These could include, for example, providing exclusive jurisdiction in the Federal courts or in a designated Federal court; removal to Federal court of any case filed in a State court; and restriction of the remedies, if any, that a court could grant.

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

STANFORD LAW SCHOOL,
March 1, 1995.

Senator SAM NUNN,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN: Congratulations on your success yesterday in persuading your colleagues of the danger that the Balanced Budget Amendment, in its unamended form, would unwisely transfer constitutional authority from the Congress to the courts. I have had the opportunity to read your remarks in the floor proceedings yesterday, and agree with you completely that it would be imprudent to pass the Amendment in the mere unfounded hope that courts would not entertain lawsuits arising under it. Addressing the judicial review issue squarely, as you did, is plainly a step in the right direction. I am glad that you found my letter useful in addressing this issue.

You may have read me quoted in the Washington Post this morning as saying that your amendment renders the Balanced Budget Amendment more an ''exhoration'' than an ''enforceable requirement'' along the lines of many other constitutional provisions. While this quote is accurate, it leaves out my further comment to the reporter that the Balanced Budget Amendment is, for that very reason, better with the Nunn Amendment than without it. While I continue to believe that there are strong reasons not to tamper with the existing constitutional machinery in this area at all, I believe that any measure that reduces the net transfer of power from the legislative to the judicial and executive branches is desirable.

Very truly yours,

KATHLEEN M. SULLIVAN.

[From the Washington Post, Mar. 1, 1995]

DOLE DELAYS BUDGET AMENDMENT VOTE

ONE SUPPORTER SHORT OF PASSAGE, GOP PRESSED HOLDOUT DEMOCRATS

(By Eric Pianin and Helen Dewar)

Senate Majority Leader Robert J. Dole (R–Kan.) last night abruptly put off a final vote on the proposed balanced budget amendment after GOP leaders failed in a desperate daylong bid to pluck the critical 67th vote from among wavering Democrats.

Faced with almost certain defeat, Dole delayed the vote—until today or perhaps later in the week—to buy time while Republicans stepped up efforts to win over one of a handful of Democrats, particularly North Dakota Sens. Kent Conrad and Byron L. Dorgan, who have demanded changes in the measure to protect Social Security as well as other safeguards.

Sen. Robert C. Byrd (D–W.Va.), a leading opponent of the measure and a senior figure in the Senate, lashed out at Dole for postponing the vote, charging that Republicans appeared to be engaging in ''a sleazy, tawdry effort to win a victory at the cost of amending the Constitution of the United States.'' Byrd charged that Dole's action flouted a unanimous agreement to hold the critical vote yesterday, following more than a month of intense debate.

''This is a sad spectacle,'' Byrd said.

''I think the sad spectacle is that we may lose this vote,'' Dole retorted.

Dole refused to back down, saying there was still a chance Republicans could recruit at least one more senator to help pass the amendment by the two-thirds majority required. He said that in the wake of last fall's elections, when Republicans swept to control of Congress pledging to balance the budget and make dramatic changes in the face of government, the Senate owed it to the American people to make one more try.

''We still think there's some chance of getting this resolved by tomorrow and getting 67 votes,'' Dole said. ''If we fail, we fail.''

Dole's decision came after an extraordinary day of back-room dealing in which Dole, Senate Judiciary Committee Chairman Orrin G. Hatch (R–Utah) and other leaders pleaded with and cajoled every Democrat they could collar.

Republican leaders had assumed until early yesterday that the key to winning passage of the amendment was appeasing Sen. Sam Nunn (Ga.), a highly influential Democrat who had threatened to oppose the measure unless it was changed to prohibit the courts from intervening in future congressional tax and budget matters.

But even after Dole and other GOP leaders relented and the amendment was revised to satisfy Nunn and one other waffling Democrat, Sen. John Breaux (La.), Republican vote counters still came up one vote shy of the two-thirds majority.

In the end, it came down to whether Republicans could win the support of one or both of the Democrats from North Dakota. While the packed Senate chamber buzzed with anticipation during a half hour quorum call last evening, Conrad moved back and forth between the Republican and Democratic cloakrooms, conferring with each side.

Conrad had vowed to oppose the constitutional amendment unless it were rewritten to guarantee that the budget would not be balanced by using the Social Security trust fund. He also has advocated other changes, including language to ensure that Congress has some flexibility in responding to economic crises.

At one point, Conrad, Dorgan, Sen. Wendell H. Ford (Ky.) and other Democratic holdouts rejected a pledge from Dole and House Speaker Newt Gingrich (R–Ga.) that Congress would pass the Social Security guarantee in later legislation. But Republicans said they were still discussing ways of trying to guarantee passage of the bill protecting Social Security.

Hatch said last night that for a while it appeared Republicans could reach agreement with Conrad on the Social Security issue, but talks broke down when Conrad said he also wanted an exclusion for economic emergencies. Republicans said they hoped to pick up Dorgan's support if Conrad agreed to back the amendment.

Last night's dramatic developments capped five weeks of heated debate and political maneuvering over the amendment, which requires a three-fifths majority of both houses before Congress could spend in excess of projected revenue, except in times of war.

The House approved the amendment in late January, 300 to 132. While the overwhelming support in the House reflected the broad popular appeal of the measure in the abstract, Senate Democrats, who hold the balance of power in passing or defeating it, have played on voter concerns that Social Security, Medicare and other politically sensitive programs would become vulnerable if the amendment were adopted.

Others warned that it would dangerously alter the balance of power in Washington, hamstringing Congress in times of economic crisis and giving the president the upper hand in controlling spending.

''The amendment is so full of flaws, so reflective of flabby thinking, so arrogant in its disregard for the traditional checks and balances and separation of powers that its consequences could be nothing short of calamity,'' Byrd said. Senate Minority Leader Thomas A. Daschle (D–S.D.) described it as a ''shoot-now, ask-later approach'' that Congress will regret.

Nunn's provision was the only change that Democrats succeeded in making in the amendment; Republicans said they agreed to it after getting assurances that the House will accept it.

The provision would be unique in the Constitution. By removing the balanced budget requirement from the jurisdiction of federal courts, it would enable only Congress to enforce the amendment's provisions.

''This is like tying yourself to the mast but ensuring that you can untie yourself any time,'' said Stanford University law professor Kathleen M. Sullivan. Laws ''only work when there is pressure. [The Nunn amendment] renders the balanced budget amendment an exhortation to the Congress to be

good, rather than an enforceable requirement.''

The tension-filled day began with an early morning meeting in which Hatch and Sen. Paul Simon (D–Ill.), a major proponent of the measure, told Nunn they would accept his proposal, reflecting a decision reached by Dole the night before that this was the only way to win passage of the amendment.

On the floor, Breaux, another of the Democrats who had been uncommitted, announced he would vote for the constitutional amendment as long as it was changed to include Nunn's proposal. In a soft voice, Hatch then said he would be willing to accept Nunn's proposal. The night before, Hatch had fervently vowed to oppose any change in the amendment's language, even if that meant its defeat. Nunn thanked Hatch and said he would now vote for the amendment.

But Nunn had hardly sat down before Dorgan was on the floor, saying he could not vote for the amendment unless Congress made clear in advance that it was not going to tap the Social Security trust fund for revenue to balance the budget.

While Democrats were resisting Republican entreaties, Senate GOP freshmen trooped into the chamber, sitting in a group in the back two rows, a visible reminder of the political earthquake that brought them to Congress and the balanced budget amendment to the forefront of the agenda of the new GOP majority.

Sen. Rick Santorium (R–Pa.) got right to the heart of their political message: ''The people who will stand in the way of this balanced budget amendment today will not be around long to stand in the way next time. It will pass. It is just a matter of when.''

Mr. CRAIG. Mr. President, I rise in support of House Joint Resolution 1, the bipartisan, bicameral, consensus balanced budget amendment to the Constitution.

There are many individuals who deserve special recognition for their efforts on behalf of this amendment—more than it is possible to include here at one time.

I want to begin by commending the former chairman of the Judiciary Subcommittee on the Constitution, the senior Senator from Illinois [Mr. SIMON]. He has toiled for many years in this vineyard. In this area, and in many others, Congress will miss his courage and leadership—and we all will miss his warmth—when he retires at the end of the 104th Congress. His staff, particularly Aaron Rappaport on the Judiciary Committee, have always been professional, hardworking, and invaluable to this effort.

It would not have been a debate on the balanced budget amendment without the able leadership of the President pro tempore of the Senate, Senator THURMOND of South Carolina. He has always been ahead of his time, as he was some 40 years ago when he first arrived in this body and became a principal sponsor of the balanced budget amendment.

I also want to recognized the chairman of the Judiciary Committee, Senator HATCH of Utah, and his skilled and helpful staff. Senator HATCH is an estimable constitutional lawyer, a skilled floor manager, and a long-time leader in this effort.

On the committee, on the floor, and at every step, the Senators from Alabama [Mr. HEFLIN] and Illinois [Mrs. MOSELEY-BRAUN] have poured much time and dedication into this effort for years.

Many more Senators deserve recognition. I think almost every one who votes ''aye'' today on final passage has done a lot of additional work on behalf of this amendment. I don't know when I've seen so many give so much for so worthy a cause.

Finally, I must recognize our distinguished majority leader, Senator DOLE of Kansas, the principal sponsor of Senate Joint Resolution 1, this measure as introduced and reported in this body. Without his guidance and leadership, the movement to pass this amendment would have faded long ago. I also appreciate the long hours and capable work put in by this staff over these recent, arduous weeks.

This extraordinary accomplishment, a bicameral, bipartisan, consensus version of the most important legislation, never could have come this far without the leadership and courage of my former colleagues in the other body, Representatives CHARLIE STENHOLM of Texas and DAN SCHAEFER of Colorado. When the House made history last month by passing this amendment for the first time in its history, it could not have happened without the blood, sweat, and dedication of these two statesmen.

Representative STENHOLM was my cofounder, 11 years ago, of CLUBB—Congressional Leaders United for a Balanced Budget, an informal bicameral group formed to keep this amendment alive after a decisive House defeat in 1982. Pete Wilson of California was our first Senate cochair. Former House CLUBB cochair JIM INHOFE of Oklahoma is now a Member of this body, as are other veteran House leaders, including Senators SNOWE of Maine and KYL of Arizona.

In language as well as congressional support, the language before us today has a long and distinguished pedigree.

Outside Congress, this amendment is supported by a great groundswell of public support and grass roots activism.

Otherwise the balanced budget amendment would not have come back after losing in the House in 1982 and the Senate in 1986. Otherwise it would not have come to the floor of one Chamber or the other a combined total of seven times in the last 5 years—in 1990 in the House, in 1992 in both bodies, in 1994 in both bodies, and this year in both.

While a great many citizens, taxpayer groups, public interest organizations, and trade associations have supported this movement over the years, particular emphasis should be given to the work of the National Taxpayers Union and, particularly, within that organization, to Mr. Al Cors, the chairman of the nationwide Balanced Budget Amendment Coalition.

I ask unanimous consent that, Mr. President, that at the end of my statement I may include correspondence from that Coalition supporting House Joint Resolution 1, as well as from other organizations.

THIS IS THE VOTE THAT COUNTS; DO WE TRUST THE PEOPLE?

Mr. President, when the 55 delegates to the Philadelphia Convention of 1787 convened at Independence Hall, they came with 55 perfect Constitutions for the young republic. They emerged with one version that, from any one of their points of view, was less than perfect.

But more than 200 years of history have shown that imperfect version, full of compromise and an occasional complication, has been eminently workable, has endured, and has remained a model for the world.

No matter how any of my colleagues may have voted on any amendment earlier, you now have a chance to pass an amendment that unites the underlying principle of virtually all versions of the balanced budget amendment.

No matter what any one of my colleagues would have wanted in your perfect version of such an amendment, we now have just one balanced budget amendment remaining before us.

The only effective balanced budget amendment is the one that passes.

Your constituents will understand, and I know you understand: Vote no, and you kill the only chance for an amendment, here and now.

Vote yes, and you will carry forward one of the great debates of our age. This amendment will go back to the House of Representatives, and from there to every State capital.

That's what this vote is really about—engaging the American people in the most sweeping public debate about the appropriate size, scope, and role of the Federal Government since the original Bill of Rights was sent to the States by the First Congress.

The question is clear: Do we trust the people with that debate? Do we trust the 80 percent of the people who demand this amendment? Do we trust the voters who demanded last November that the Federal Government change its ways?

This Senator does trust the American People.

That's why we have this process of amending the Constitution—because the Constitution is the people's law, not the government's law, and because the people have a right to take part in such a momentous debate.

FUNDAMENTAL RIGHTS, LIMITS ON GOVERNMENT

Before I start responding to points made in debate over the last few days, I want to refocus us on why we are here considering this amendment, in the first place.

A constitution is a document that enumerates and limits the powers of the government to protect the basic

rights of the people. Within that framework, it sets forth just enough procedures to safeguard its essential operations. It deals with the most fundamental responsibilities of the government and the broadest principles of governance.

Our balanced budget amendment, House Joint Resolution 1, fits squarely within that constitutional tradition.

The case for the balanced budget amendment can be summed up best as follows:

The ability of the Federal Government to borrow money from future generations involves decisions of such magnitude that they should not be left to the judgements of transient majorities.

The right at stake is the right of the people—today and in future generations—to be protected from the burdens and harms created when a profligate government amasses an intolerable debt.

The Framers of the Constitution recognized that fundamental right. I return once more to the words of Thomas Jefferson, who explicitly elevated balanced budgets to this level of morality and fundamental rights when he said:

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

Woodrow Wilson said, ''Money being spent without new taxation . . . is as bad as taxation without representation.''

Mr. President, deficit spending is taxation without representation. Americans are told that deficit are Uncle Sam's way of giving them a free lunch, providing $1.18 worth of government for just $1.00 in taxes. In reality, taking gross interest into account, the government has to spend $1.19 for every $1.00 of benefits, goods, services, and overhead in the budget.

THE DEBT IS THE THREAT

Even as we speak, we are adding to the Federal debt: $829,440,000 a day, 34,560,000 an hour, 576,000 a minute, and 9,600 a second.

In its January baseline, the Congressional Budget Office projects that annual Federal deficits will grow from $176 billion this year to more than double that amount, $351 billion, in fiscal year 2003, and to $421 billion by fiscal year 2005.

Deficits are really the cruellest tax of all, since they never stop taking the taxpayers' money. Americans are paying now, with a sluggish economy, for the Government's past addiction to debt. According to the Federal Reserve Bank of New York, the deficits of the 1980's already have depressed our standard of living by 5 percent. Unless things change, the next generation will pay even more dearly.

According to the National Taxpayers Union, for each year with a $200 billion deficit, a child born today will pay $5,000 in additional taxes over his or her lifetime.

The President's own fiscal year 1995 Budget, in its ''Analytical Perspectives'' volume, projects that future generations will pay as much as 82 percent of their lifetime incomes in taxes, under the current policies of borrow-and-spend.

In 1992, the nonpartisan General Accounting Office issued its report, ''Budget Policy: Prompt Action Necessary to Avert Long-Term Damage to the Economy.'' At that time, GAO projected that failure to take action on the deficit and the growing debt would produce a stagnant—even slightly declining—standard of living for Americans in the year 2020. In contrast, GAO said that simply balancing the Federal budget by 2001, and keeping it balanced, would raise our children's standard of living by 36 percent.

GAO and the Congressional Budget Office now project lower deficits, as a result of their scoring of last year's budget plan. However, the intermediate- and long-term deficit outlook has done no better than decline form cataclysmic to intolerable.

The current CBO baseline looks a great deal like—indeed, a little worse than—GAO's muddling through scenario report, in which the deficit is held at 3 percent of gross domestic product.

Under this muddling through scenario, our children's standard of living in 2020 would be 7 percent lower and the Federal debt would be 3 times larger than if the budget is balanced by 2001.

Our national economic policy should not be one of muddling through.

Even that scenario is based on somewhat optimistic assumptions. Interest rates are now near a 30-year low. If they bounce back upward some, the cost of interest payments on the debt will explode. Senator MURKOWSKI had a chart out here on the floor during this debate that displayed that graphically.

So, we must keep in mind that small changes for the worse in our economic picture over the next few years will make the deficit picture far worse.

Today, Federal budget deficits are the single biggest threat to our economic security. The Federal debt now totals $4.8 trillion, or about $18,500 for every man, woman, and child in America, and is growing.

As deficits grow, as the national debt mounts, so do the interest payments made to service that debt. Besides crowding out other fiscal priorities, these amount to a highly regressive transfer of wealth. About 20 percent of these payments go overseas.

Interest on the Federal debt is largely a transfer from middle-income taxpayers to large institutions, banks, corporations, wealthy individuals and foreign investors.

In fact, interest payments to wealthy foreigners make up the largest foreign aid program in history. According to the President's budget, in fiscal year 1994, the U.S. Government sent $44.5 billion overseas in interest payments. That's more than twice as much as all spending on actual international programs, including foreign aid and operating our embassies abroad, which totalled about $21 billion. Also in fiscal year 1994, 33.9 percent—$62.6 billion—of the dollars borrowed from the public came from overseas.

Annual gross interest on the debt now runs about $300 billion, making it now the second largest item of Federal spending, and equal to about half of all personal income taxes.

THE FRAMERS' ASSUMPTIONS

The Framers thought that the limited size and enumerated powers of Government, the limits on the money supply created by a gold standard, the moral imperative of the unwritten constitution, and the House's exclusive power to originate bills raising revenue all would protect this right. Jefferson would have preferred to put this protection in the Constitution. But others at the time viewed the idea that a restraint on indebtedness would be needed as being beyond belief.

Times have changed, as have the nature of government, monetary policy, and politics. The original constraints that protected the people from a profligate government, all of which had constitutional status, have all but dissolved. It's now about 60 years past time to replace them.

POLITICAL WILL

Critics of the balanced budget amendment argue that all we need is the political will, the leadership to balance the budget. That argument ignores the reality that the way the Federal Government makes its economic and political decisions has changed fundamentally over the last two generations.

The system is broken. The Government has spent more than it has taken in for 57 of the last 65 years. The budget was last balanced in 1969, and in 1960 before that. We are not talking here about some short-term failure of will that was cured with the last election or will be cured with the next one.

The impetus to borrow and spend has become a structural one in our system of government. It is a constitution-class crisis that demands a constitution-class solution.

NOT NARROW POLICY, BUT PERFECTING DEMOCRACY

The balanced budget is not narrow economic or fiscal policy. It is structural, systemic change that would help perfect representative democracy.

Over the last two generations, the political and budget processes have evolved in such a way that virtually all of the political rewards are for spending more and borrowing more. Narrow, highly organized, interest groups mobilize to reward spending increases for specific constituencies. The more general, public interest in restraining the size and fiscal appetite of government

has been put at a systematic disadvantage.

The only way to put the general public interest back on a level playing field with the special interests is to make it harder to borrow and spend.

That's what our amendment does. For the first time, it creates accountability by requiring that deficits occur only when Members of Congress cast an identifiable vote to run a deficit.

By providing for accountability and by restoring the general public interest to a stronger representative voice, our amendment actually perfects our democratic process.

The essence of this reform is that we finally restore the principle that the government should grow no larger than the people are willing to pay for and we should pay for all the government we demand.

It's often said that Congress underestimates the wisdom of the people. Well, the people have spoken once again, and it's time for Senators to realize that, today, as is usually the case, good policy is good politics. The American people understand the balanced budget amendment, they want Congress to pass it, and they are right.

MAJORITY RULE

One of the curious objections raised against the balanced budget amendment is that it would threaten majority rule.

Those that dwell on the difficulty of getting three-fifths majorities to unbalance the budget or raise the debt limit are missing the point: They are still thinking, ''What do we need to do in order to keep deficit spending?''

That's why we put supermajorities in the amendment—not just to make it harder to deficit spend and increase the debt, but to deter Congress from deficit spending in all but legitimate and extraordinary circumstances. Under our amendment, when you balance the budget, you don't have to worry about mustering a supermajority.

Such a requirement is consistent with other provisions in the Constitution. Freedom of speech is protected by a supermajority requirement. So is freedom of religion. So is the right to keep and bear arms and every other right in the Constitution.

Because it takes supermajorities to amend the Constitution, every right protected in the Constitution by limiting the power of government is protected by supermajorities.

In addition, as has been noted by both sides in this debate, specific supermajorities are written into several procedures in the Constitution, including treaty ratification and overriding vetoes.

In our amendment, we create procedural restraints on the Federal Government to protect the right of the people to be free from excessive government debt. We use 60 percent supermajorities instead of two-thirds or absolute prohibitions because we foresee that the process will need to be flexible on occasion.

The Framers wanted to protect majority rule for the transaction of most of the Government's business. But sometimes, to protect fundamental rights or the integrity of specific process, they employed supermajority requirements to protect against, in the words of the Federalist Papers, a tyranny of the majority.

Let's look at the will of the majority from one more angle.

Two-thirds to four-fifths of the American people want the balanced budget amendment. Clear majorities of Congress want it. If it doesn't pass today, if it doesn't go the American people for a full public debate, it will be because a minority has blocked it here.

DISASTER ASSISTANCE

Some are concerned about whether requiring a three-fifths vote to deficit spend would thwart efforts to deal with natural disasters. From 1978–94, supplemental disaster appropriations topped $7 billion in only 1 year, 1992. We generally are talking about a very small portion of the Federal budget.

As Senator SIMON and others have suggested, creating a small disaster revolving fund, or for that matter, just planning to run small surpluses, would be sufficient to meet such needs.

On the other hand, Congress also has a history of dealing promptly and compassionately in such situations. Only one time over the last 15 years did a disaster bill fail to clear either body with less than a 60 percent majority. That was in 1992, in the House, amid much contention over the Budget Enforcement Act firewalls, the balanced budget amendment and other issues. And that bill fell only one vote short of 60 percent.

Congress is not going to turn its back on natural disaster victims under this amendment. To suggest it will is to ignore reality and history.

SEPARATION OF POWERS

Perhaps the most curious concern I have heard raised about the Simon-Hatch-Craig amendment is that it would transfer powers from the legislative branch to the Executive or the courts.

Let's look at the amendment. That doesn't occur in section 6, which begins with the words, ''The Congress shall enforce and implement this article * * *.''

This transfer doesn't appear later in section 6, which recognizes the need of Congress to use estimates in implementing legislation, obviously foreclosing some of the more inventive scenarios that might tempt Executive or court action.

It certainly doesn't appear in the clarifying language that the amendment's authors have added to section 6 to make sure that no one thinks the courts can raise taxes or construct equitable remedies.

There's no lint-item veto in here. There's no delegation of Congress' legislative power, implied or explicit, to anyone else.

In the same way that the first amendment begins with the words, ''Congress shall make no law * * *,'' this amendment restricts the power of the entire Government by making it harder to enact something into law.

The balanced budget amendment does not change in any way the balance of power among the branches of government. It is absolutely consistent with the spirit, the style, and the operations of the rest of the Constitution.

SLASH-AND-BURN SCENARIOS FOR PRIORITY PROGRAMS

During the course of this debate, as seems to happen every time a balanced budget amendment comes to the floor, the Treasury Department and various special interest groups did a disservice to serious public debate by releasing so-called studies that they tried to make look legitimate by attaching tables of numbers.

In reality, they were scare tactics, using dubious assumptions, and filled with manufactured numbers.

Such studies rely on sometimes questionable economic assumptions. But in every case, they did not look to the long-range benefits of balanced budgets. And in every case, they assumed a mindless, across-the-board, meat-ax approach to budget changes.

One of the chief benefits of the balanced budget amendment is that it will make Congress and the President set priorities. You don't have to set priorities when you don't have a credit limit. In an effort to scare as many people as possible, and attract as much attention as possible, these studies, including one issued by the Treasury Department, imply that the President and Congress have no priorities and would not select or change priorities under the amendment.

To this Senator, what their arguments really say is, these opponents are afraid that the amendment will work and that, when the Government must set priorities, the American people may not agree with their priorities.

Balanced budgets will produce a stronger economy, better able to sustain its defense capabilities while meeting its other needs. And I am confident that the people will demand, and willing to risk that Congress will deliver, an adequate defense budget.

DRI/McGraw-Hill, which is one of the world's leading nonpartisan economic analysis and forecasting firm has called on Congress to approve the balanced budget amendment.

DRI believes BBA is the path to the benefits of a balanced Federal budget. Their report, released just a few weeks ago, said, in part:

> A major argument for the Constitutional amendment is the credibility it may lend to the process. This credibility may permit a sharper drop in bond yields and thus an earlier boost in the economy.

The firm strongly endorsed the balanced budget amendment during a recent news conference on Capitol Hill.

They predicted that 2.5 million new jobs could be created by 2002 as more

resources are freed up for private investment, interest rates drop, and businesses can afford to expand, buying more equipment and training.

The firm says the amendment should lower borrowing costs for businesses, encouraging private investment. Real nonresidential investment could grow by 4 to 5 percent by 2002, absent the $200 billion in Federal deficits which currently soak up capital.

The balanced budget amendment is the best friend of those who rely on essential Government programs, and of all other Americans. Interest payments on the Federal debt are already crowding out discretionary spending. As DRI said:

> The current generation does not need to sacrifice its living standard to protect that of future generations from an unbearable federal debt. Budget balance demands neither recessions nor the dismantling of the federal government.

The amendment would relieve, rather then intensify, budget pressures in part through lower interest rates, according to DRI:

> A ''virtuous cycle'' of lower structural deficits, lower federal debt, and lower interest rates can create half the required long-term deficit reduction through lower federal interest payments.
>
> The lower interest rates and reduced borrowing would cut interest costs for the federal government; in fact, by 2002 half the savings in our budget simulations come from lower interest costs.

Lower interest rates mean the real glide path to a balanced budget will involve less short-term pain than some have warned. Even the Treasury Department, for example, in its study, which did not take into account the positive economic impact of balancing the budget, assumed interest cuts would provide less than a quarter of total savings in fiscal year 2002.

DRI/McGraw-Hill predicts that in the course of creating 2.5 million new jobs following passage of the BBA, increased business activity will allow the Federal budget to be balanced 2 years ahead of schedule. This could also provide the opportunity for an even more gradual glide path to a balanced budget, moderating spending slow-downs.

> Cutting federal spending and balancing the budget will greatly benefit the U.S. economy in the long run. Shifting spending from personal and government consumption toward private investment raises the national capital stock, our proportionate domestic (rather than foreign) ownership of wealth, and thus our standard of living. (Source: DRI/McGraw-Hill Special Report, February 1995).

Finally, DRI/McGraw-Hill is convinced that balancing the Federal budget is in the best economic interest of the United States. They put it in concrete terms:

> Balancing the budget clearly helps the U.S. economy. By the end of the 10 year forecast, real DGP is up $170 billion, or 2.5% from its baseline level. This is far from trivial and translates to about $1000 per household at today's prices.

THOMAS JEFFERSON—REVISITED

I turn one more time to the words and works of Thomas Jefferson.

Jefferson balanced the budget in all 8 of his years in the White House. He reduced the national debt by half during his first term and set policies in motion that resulted in a national debt of a mere $38,000—that's 38 thousand—in 1834 and 1855.

Jefferson's Louisiana Purchase has been tossed about as an example of how going into debt can be beneficial. But let's look at what we can learn from his experience.

It's true that the Louisiana Purchase was twice the size of the Federal budget in 1803, as noted by the Senator from West Virginia [Mr. BYRD]. But the Federal budget was only 1.63 percent of gross national product at the time.

Relative to the size of the gross domestic product, the Louisiana Purchase would translate into just under $225 billion in today's dollars probably because the Federal deficit last year was $203 billion.

Jefferson and his successors sold the land acquired from France and made a profit for the Federal Government.

Every year the Federal Government is borrowing the equivalent of a Louisiana Purchase. And what are we getting for it? Nothing except a higher bill for interest costs and a legacy of crushing debt to leave behind for our children.

OTHER ISSUES, CONCLUSION

There are many other issues relating to this amendment, too numerous to discuss in the time allotted. To address those as a matter of legislative history, I ask unanimous consent to insert various other materials in the RECORD.

As for those additional facets of the debate, I want to note that, with our approximately 4,000 pages of legislative history over the last 15 years, every question has been answered, every objection has been dealt with.

This amendment has a history, it has a pedigree. It is the bipartisan, bicameral, consensus that has been looked at by constitutional scholars, economists, public interest groups, and members of both bodies.

This is our one chance to vote, up or down, to send a balanced budget amendment to the House and then to the people.

I'll turn one last time to the words of Thomas Jefferson, when he wrote, in a 1798 letter to John Taylor:

> * * * 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.

And again, in 1798, he wrote:

> If there is one omission I fear in the document called the Constitution, it is that we did not restrict the power of government to borrow money.

Just 3 years ago, 38 states ratified the 27th amendment, concerning variations in congressional pay, as proposed by James Madison 200 years ago.

It just goes to prove that occasionally it's time to turn to a new idea, and sometimes the answer is to turn to a classic.

Today, Mr. President, my colleagues, it's time to add Mr. Jefferson's amendment to the Constitution, right behind that of his friend, Mr. Madison. We could hardly be in better company, we could hardly seek wiser guidance, in contemplating this addition to our Constitution.

Thomas Jefferson also said:

> I am not an advocate for frequent changes in laws and constitutions. But laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of the their barbarous ancestors.

If you want to ignore the lessons of the last 35 years of excessive debt, vote no on this amendment.

If you are willing to leave our children a stagnant or declining standard of living, vote no on this amendment.

If you want to continue the failed status quo, vote no on this amendment.

If you agree with Jefferson that, ''as new discoveries are then vote yes on the balanced budget amendment.

If you trust the American People, and understand their demand that government change its ways, then vote yes on the balanced budget amendment.

If you want today to be the first day of new hope and opportunity for our Nation, our economy, and our children, then vote yes on the balanced budget amendment.

I ask unanimous consent that I may have printed in the RECORD numerous supporting materials, including letters and statements of endorsement from citizens' groups, information on public support of the balanced budget amendment, substantive analyses prepared by outside groups, and supporters here within Congress, fact sheets, and newspaper articles.

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

THE BALANCED BUDGET AMENDMENT COALITION,

Washington, DC, February 6, 1995.

DEAR SENATOR: The undersigned organizations strongly urge you to vote for and support the Balanced Budget Amendment, S.J. Res. 1, introduced by Senators Dole, Hatch, Simon, Thurmond, Heflin, Craig, Moseley-Braun and others. This bipartisan proposal (over 40 total Senate cosponsors) has already passed the Senate Judiciary Committee on a 15 to 3 vote and is now being considered on the Senate floor.

The framers of the U.S. Constitution assumed each generation of Americans would pay its own bills—and that the federal budget would, over time, remain roughly in balance. According to Thomas Jefferson, ''we should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.''

In today's era of mass media, special interest politics, and expensive and sophisticated election campaigns, the checks and balances established 200 years ago are not up to the job of controlling the federal deficit. Recent

Congresses and presidents have proven themselves incapable of acting in the broader national interest on fiscal matters. Whenever Congress considers spending cuts that could help balance the budget, only a few Americans are aware of it, and fewer still express their views about it. By contrast, those who stand to lose from budget restraint—typically the beneficiaries and administrators of spending programs—are well aware of what they stand to lose. They mount intensive lobbying campaigns to stop fiscal restraint.

This pro-spending and pro-debt bias has led to 25 straight unbalanced budgets. It took our nation 205 years—from 1776 to 1981—to reach a $1 trillion debt. Now, just 14 years later, the debt is $4.8 trillion. Each year, interest payments rise as the overall debt grows. These payments have been one of the fastest-rising items in the federal budget—they now account for the entire deficit, all by themselves. A succession of statutory remedies has failed to stem this historic and highly dangerous turn of events.

S.J. Res. 1 is a sound amendment that has evolved through years of work by the principal sponsors. It provides the constitutional discipline needed to make balanced federal budgets the norm, rather than the rare exception (once in the past 34 years), and it offers the proper flexibility to deal with national emergencies.

In addition to requiring a three-fifths majority vote to deficit spend or increase the federal debt limit, S.J. Res. 1 is designed to make raising federal taxes more difficult. It would require the approval of a majority of the whole number of both the House and Senate—by roll call votes—in order to pass any tax increase. This adds much-needed accountability.

Unless action is taken now, higher federal spending and debt will continue to cripple our economy and mortgage our children's future. We urge you to support S.J. Res. 1, the Balanced Budget Amendment.

Sincerely,

National Taxpayers Union; International Food Service Distributors Association; National Association of Wholesale-Distributors; American Legislative Exchange Council; National Association of Manufacturers; National Association of Home Builders; The Seniors Coalition; Financial Executives Institute; Concerned Women for America; The Business Roundtable; American Farm Bureau Federation; American Furniture Manufacturers Association; United We Stand America; United Seniors Association, Inc.; Howard Jarvis Taxpayers Association; Independent Bakers Association; Citizens for a Sound Economy; Council for Citizens Against Government Waste; Traditional Values Coalition; Automotive Service Association; National Retail Federation; National Truck Equipment Association; Truck Renting and Leasing Association.

National-American Wholesale Grocer's Association; U.S. Chamber of Commerce; National Cattlemen's Association; Associated Builders and Contractors, Inc.; National Ready Mixed Concrete Association; U.S. Business and Industrial Council; National Federation of Independent Business; National Association of Realtors; Small Business Survival Committee; Christian Coalition; The Concord Coalition; Printing Industries of America; International Council of Shopping Centers; Motorcycle Industry Council, Inc.; American Tax Reduction Movement; International Mass Retail Association; Texaco, Inc.; U.S. Federation of Small Business; American Machine Tool Distributors Assn.; Union Pacific; Common Sense for America; Americans for Tax Reform; American Bakers Association.

[IRET—Congressional Advisory, Feb. 27, 1995]

KEYNES IS ALIVE, BUT NOT WELL, IN WASHINGTON

(By Norman B. Ture, President)

Opponents of a Balanced Budget Amendment assert that recessions will be deeper and more prolonged if the amendment prohibits the federal government from running budget deficits. According to this Keynesian article of faith, increases in federal spending relative to federal tax revenues expand total—government, household, and business—spending and thereby produce increases in total production, employment, and income.

Much of this increase in government spending and decrease in government tax revenues occurs automatically as the economy moves into recession. With falling output, employment, and income, payroll and income taxes decrease, while government outlays for such things as unemployment compensation and food stamps go up. These so-called ''automatic stabilizers'' allegedly cushion the decline in households' and businesses' disposable incomes, allowing them to maintain higher spending levels than they otherwise would be able to undertake. Moreover, according to this argument, the federal government should take action to increase other spending and/or to reduce taxes to fortify the automatic bolstering of disposable income.

The argument is wrong analytically. It is also rejected by history. It should be rejected by the Senate as the basis for deciding the fate of the Balanced Budget Amendment.

It is certainly true that the government's revenues automatically decline and certain of its outlays automatically increase during a recession. These automatic fiscal changes, however, don't—can't—increase total real spending. The resulting gap between government spending and government revenues has to be financed, either by the government's borrowing the difference or by resorting to the monetary printing press. If the government borrows the money to finance the deficit, the lenders' disposable incomes—the amount of their current after-tax incomes available to purchase consumption products or business assets—is reduced by the amount they lend the government—the same amount as the increase in the disposable incomes of other people. No net increase in income available for spending occurs.

The same thing is true if the government takes discretionary actions to increase its spending and/or to cut taxes. The government's borrowing to make up the difference between its additional outlays and reduced revenues cancels any increase in disposable income that allegedly would be produced by running a deficit.

Of course, the government might resort to the money printing press to finance the deficit. This might lead to an increase in nominal aggregate demand but only at the cost of pushing up the price level. Real disposable income and spending would increase only if people were fooled and failed to spot the inflationary erosion of their actual incomes and purchasing power.

Public policy makers should not disregard Abe Lincoln's famous homily in making their policy decisions. They should, instead, rely on some homely, basic truths. Increases in the nation's income can't be produced by fiscal sleight of hand. Increases in real income depend on increases in real output. Increases in real output depend on increases in production inputs and/or in the efficiency of their use. Increases in production inputs depend on increases in the real rewards for supplying them.

Budget deficits will not maintain, let alone increase, real disposable income unless they result from fiscal actions that increase incentives for people to work, save, invest, innovate, start new businesses or expand existing enterprises.

History is no kinder to the Keynesian fiscalism than analysis. The record of the economy's aggregate performance reveals no evidence that budget deficits, *per se*, allay or moderate recessionary developments, or, indeed, that they exert any expansionary influence. Even the least demanding statistical tests of a relationship between federal budget outcomes and gross domestic product reject the notion that budget deficits are significant in moderating recessionary forces.

In this era of heightened concern about the federal government's preempting too much of the nation's production capability and misdirecting its use, opposition to curbing the growth in government spending and federal deficits by imposing a budget-balancing constitutional requirement is truly bizarre. Basing that opposition on the Keynesian fiscal mythology is even weirder. It is to be hoped that the U.S. Senate will base its decision about a Balanced Budget Amendment on consideration of the really relevant concern about how most effectively to discipline fiscal and budget policy decision making.

[American Legislative Exchange Council, Feb. 24, 1995]

MORE THAN 200 ECONOMISTS PUBLICLY SUPPORT BALANCED BUDGET AMENDMENT

(By Kerry Jackson and Ian Calkins)

Washington, DC., February 24, 1995—By endorsing a letter outlining their support for the Balanced Budget Amendment (BBA), 219 economists from across the country have publicly recognized the threat federal deficit spending poses to America's future.

Included in the list are such prominent economists as Dr. Richard Vedder of Ohio University, Dr. William Niskanen of the CATO Institute, and Dr. Gordon Tullock of the University of Arizona. The list was solicited by the American Legislative Exchange Council (ALEC) in response to news reports that many economists are opposed to the BBA. ALEC, the nation's largest bipartisan membership organization of state legislators, instead believes economists recognize the harm in an annual spending deficit that has hit $200 billion and is growing. With support from roughly 3,000 member state legislators, ALEC has been at the forefront of the Balanced Budget Amendment issue for 20 years.

''This list represents the most respected and brilliant minds in the field of economics'' said ALEC Executive Director Samuel A. Brunelli. ''What that tells us is simply this: the Balanced Budget Amendment is sound economic policy.''

Brunelli presented the letter and list Monday morning to Senator Paul Coverdell (R-Ga.) during a BBA Coalition meeting, where he reported the list was still growing as he left his office.

''There is a strong intellectual foundation in support of the Balanced Budget Amendment,'' Brunelli told Coverdell. ''This is just a representative group of scholars who realize the danger reckless deficit spending has on our present and future economy.''

By endorsing the letter, the economists are saying ''there is no rational argument against the Balanced Budget Amendment. Simple observation of the fiscal record of recent years tell us that the procedures through which fiscal choices are made are

not working.'' And they understand the ''immorality of the intergenerational transfer that deficit financing represents cries out for correction.''

They also acknowledge the BBA would produce an ''increase in investor and business confidence, both domestic and foreign.''

One of the primary arguments against the BBA is the prospect that states will be forced to bear an inequitable financial burden if costs are shifted in balancing the budget, making them unwilling to ratify the measure. ALEC, however, has addressed that problem in its recently published Issue Analysis: Up to the Challenge: Why State and Local Governments Can Flourish Under the Balanced Budget Amendment. The paper exposes the cost-shifting argument as groundless and goes on to outline a number of ways states can actually save money if the BBA were enacted. As a membership organization that is closely associated with state lawmakers, ALEC believes there is enough support among the states to ratify the BBA.

''Already 29 states have passed a resolution calling for a limited Constitutional Convention to write a BBA,'' Brunelli said. ''That's more politically difficult legislation to pass than ratification, and it's only nine states shy of the number of states required to amend the Constitution.''

BALANCED BUDGET AMENDMENT—AN OPEN LETTER TO CONGRESS, FEBRUARY 1995

It is time to acknowledge that mere statutes that purport to control federal spending or deficits have failed. It is time to adopt constitutional control through a Balanced Budget Amendment. In supporting such an amendment, Congress can control its spending proclivities by setting up control machinery external to its own internal operations, machinery that will not be so easily neglected and abandoned.

Why do we need the Balanced Budget Amendment now, when no such constitutional provision existed for two centuries? The answer is clear. Up until recent decades, the principle that government should balance its budget in peacetime was, indeed, a part of our effective constitution, even if not formally written down. Before the Keynesian-inspired shift in thinking about fiscal matters, it was universally considered immoral to incur debts, except in periods of emergency (wars or major depressions). We have lost the moral sense of fiscal responsibility that served to make formal constitutional constraints unnecessary. We cannot legislate a change in political morality, we can put formal constitutional constraints into place.

The effects of the Balanced Budget Amendment would be both real and symbolic. Elected policitians would be required to make fiscal choices within meaningfully-constructed boundaries; they would be required to weigh predicted benefits against predicted tax costs. They would be forced to behave ''responsibly,'' as this word is understood by the citizenry, and knowledge of this fact would do much to restore the confidence of citizens in governmental processes.

It is important to recognize that the Balanced Budget Amendment imposes procedural constraints on the making of budgetary choices. It does not take away the power of the Congress to spend or tax. The amendment requires only that the Congress and the Executive spend no more than what they collect in taxes. In its simplest terms, such an amendment amounts to little more than ''honesty in budgeting.''

Of course, we always pay for what we spend through government, as anywhere else. But those who pay for the government spending that is financed by borrowing are taxpayers in future years, those who must pay taxes to meet the ever-mounting interest obligations that are already far too large an item in the federal budget. The immorality of the intergenerational transfer that deficit financing represents cries out for correction.

Some opponents of the Balanced Budget Amendment argue that the interest burden should be measured in terms of percentage of national product, and, so long as this ratio does not increase, all is well. This argument is totally untenable because it ignores the effects of both inflation and real economic growth. So long as government debt is denominated in dollars, sufficiently rapid inflation can, for a short period, reduce the interest burden substantially, in terms of the ratio to product. But surely default by way of inflation is the worst of all possible ways of dealing with the fiscal crisis that the deficit regime represents.

Opponents also often suggest that Congress and the Executive must maintain the budgetary flexibility to respond to emergency needs for expanding rates of spending. This prospect is fully recognized, and the Balanced Budget Amendment includes a provision that allows for approval of debt or deficits by a three-fifths vote of those elected to each house of Congress.

When all is said and done, there is no rational argument against the Balanced Budget Amendment. Simple observation of the fiscal record of recent years tells us that the procedures through which fiscal choices are made are not working. The problem is not one that involves the wrong political leaders or the wrong parties. The problem is one where those whom we elect are required to function under the wrong set of rules, the wrong procedures. It is high time to get our fiscal house in order.

We can only imagine the increase in investor and business confidence, both domestic and foreign, that enactment of a Balanced Budget Amendment would produce. Perhaps even more importantly, we could all regain confidence in ourselves, as a free people under responsible constitutional government.

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Dr. Mario Rizzo, New York University.
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Dr. Simon Rottenberg, University of Massachusetts.
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Dr. Jerrold Zimmerman, University of Rochester.

[National Taxpayers Union, Dec. 29, 1994]

FACTS ABOUT THE NATIONAL DEBT

In FY 1995, interest payments on the National Debt are expected to be $310.0 billion. This is: the second largest item in the budget. (20% of all Federal spending); more than the total revenues of the Federal government in 1976; 92% of Social Security payments; $4,628 per family of three; $5,979 million per week, $854 million per day, $593,151 per minute, or $9,886 per second; 23% of all Federal revenues; and 52% of all individual income tax revenues.

The National Debt has now topped $4.75 trillion.

The Federal government has run deficits 56 out of the last 64 years and 33 out of the last 34 years.

The national debt has increased 1536% since 1960, 777% since 1975, 423% since 1980, 162% since 1985 and 49% since 1990.

During the 1960's deficits averaged $6 billion per year.

During the 1970's deficits averaged $35 billion per year.

During the 1980's deficits averaged $156 billion per year.

During the 1990's deficits averaged $248 billion per year.

It took over 200 years to accumulate our first trillion dollars in national debt. In the next four years, we will accumulate well over $1 trillion in additional debt.

[Congressional Leaders United for a Balanced Budget, Jan. 30, 1995]

THE REGRESSIVE EFFECT OF DEFICIT SPENDING—INTEREST PAYMENTS

While we hoard the crumbs, the whole loaf is being taken away from us.—Joe Kennedy, in testimony before the House Budget Committee.

Until we control our deficit problem, interest payments will continue to devour increasingly larger portions of the budget. Interest payments have increased from 6% of the budget in 1960 to more than 14% of the

budget today. After adjusting for inflation, gross interest payments have increased by 97% since 1980. This explosion in debt payments has forced a corresponding reduction in the goods and services the government can provide. Until we bring the budget under control, interest payments will continue to devour a increasingly larger portion of the budget.

Interest payments will cripple the ability of future generations to make necessary investments in health care, education, and other programs. Interest payments will continue to crowd out funding for discretionary programs. GAO has estimated that interest payments will reach $400 billion dollars by the year 2020 if we fail to bring the deficit under control. The growth of interest payments and entitlement spending will force a half a trillion dollars of deficit reduction each year just to maintain a deficit path of three percent of GDP by the year 2020. All government programs would be subject to severe cuts every year under this scenario.

Interest payments already are crowding out worthy programs. Net interest will be over $235 billion this year. This money will not be available for federal investment, social programs or defense. Interest payments are: 8 times higher than expenditures on education; 50 times higher than expenditures on job training; 55 times higher than expenditures on Head Start; 140 times higher than expenditures on childhood immunizations.

Interest payments represent a transfer of wealth from middle-class taxpayers to upper-income individuals and foreign investors. Interest is paid to individuals who own Treasury Bills—primary the wealthiest 10% of citizens and institutional investors. Nearly 20% of interest payments are sent overseas to foreign investors. In 1993, the Treasury sent $41 billion overseas in interest payments.

[Congressional Leaders United for a Balanced Budget, Jan. 30, 1995]

FACTS ABOUT OUR NATIONAL DEBT AND INTEREST PAYMENTS

Our national debt currently exceeds $4.7 trillion—about $18,500 for every man, woman and child in the United States. (Source: Department of Treasury, Monthly Treasury Statement.)

The national debt has increased by $3.6 trillion since the Senate last passed (but the House defeated) the Balanced Budget Amendment in 1982. The debt has also increased by more than $160 billion since the House voted on the BBA in March 1994. (Sources: Department of Treasury, Monthly Treasury Statement; FT '95 Budget of the United States, Historical Tables.)

Under current policies, future generations are projected to face a lifetime net tax rate of 82% in order to pay the bills that we are leaving them. (Source: FY '95 Budget of the United States, Analytical Perspectives.)

If we continue current policies into the next century, we may be forced to enact half-a-trillion dollars in deficit reduction each year just to restrain the deficit to three percent of GDP. (Source: General Accounting Office, Budget Policy: Prompt Action Necessary to Avert Long-Term Damage to the Economy)

In 1994, gross interest payments exceeded $296 billion. This is greater than the total outlays of the federal government in 1974. (Source: FY '95 Budget of the United States, Historical Tables.)

In 1994, gross interest payments consumed about half of all personal income taxes. (Source: National Taxpayers Union)

In FY '94 we spent an average of $811.7 million a day on gross interest payments. That's $33.8 million an hour, and $564,000 per minute. (Source: Congressional Budget Office, The Economic and Budget Outlook: Fiscal Years 1995–1999.

In 1993, the U.S. government sent $41 billion overseas in interest payments on Treasury bills held by foreign investors. This represents more than twice the amount of spending on all international programs. (Source: FY '95 Budget of the United States, Analytical Perspectives.)

Net interest payments in 1994 were five and a half times as much as outlays for all education, job training and employment programs combined. (Source: FY '95 Budget of the United States, Historical Tables.)

The drain on national savings caused by the deficit during the 1980's resulted in a loss of 5% growth in our national income. This translates into roughly three and a quarter million jobs lost. (Source: The New York Federal Resource Board, CBO)

[Congressional Leaders United for a Balanced Budget, Jan. 30, 1995]

THE ECONOMIC CONSEQUENCES OF MAINTAINING THE STATUS QUO

According to the Congressional Budget Office, under current policies the deficit will bottom out at $176 billion in FY 1995 before increasing again, reaching $284 billion in 2000 and $421 billion in 2004. In 1995, the year in which the deficit is the lowest, the deficit will equal 2.5 percent of Gross Domestic Product. The deficit will rise as a percentage of GDP, reaching 3.1 percent of GDP in 2000 and continuing to increase to 3.6 percent of GDP by 2005.

In June of 1992, the General Accounting Office released a study entitled *Prompt Action Necessary to Avert Long-Term Damage to the Economy,* which set out several scenarios for budget policy, including one that is remarkably similar to current budget projections—reducing the deficit enough to hold annual deficits to approximately 3 percent of GDP. The GAO found that this scenario, which it called the ''muddling through option'' would not be sufficient to avoid the severe economic consequences of deficit spending. Among the conclusions that GAO reached:

A failure to reverse current trends in fiscal policy ''will doom future generations to a stagnating standard of living, damage U.S. competitiveness and influence in the world, and hamper our ability to address pressing national needs.''

Simply maintaining a deficit at three percent of GDP ''offers no escape either from progressively harder decisions or from an unacceptable economic future. It only postpones the date of a full confrontation with the underlying problem.''

If we continue on the current ''muddling through'' path, by 2005 ''the amount of deficit reduction that will be required to limit the deficit to three percent of GDP will increase exponentially. By the year 2020, it will require *a half a trillion dollars of additional deficit reduction each year* just to maintain a deficit path of three percent of GDP.''

''The muddling through path requires one to make harder and harder decisions just to stay in place, partly just to offset the growing interest costs that compound with the deficit. . . . To select this path is to fend off the disaster of inaction, but it would lock the nation into many years of unpleasant and relatively unproductive deficit debates rather than debates about what government ought to do and should be done. It is death by a thousand cuts.''

[From Government Waste Watch, Winter 1994]

THE BALANCED BUDGET AMENDMENT:—OUR ECONOMIC SECURITY IN THE BALANCE

(By Larry Craig and Paul Simon)

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

That statement, as relevant as today's headlines, was made almost 200 years ago by Thomas Jefferson. This perspective, once at the very foundation of our political system, urgently needs to be reasserted.

It should be, as early as February, when Congress takes up our Balanced Budget Amendment to the Constitution, S.J. Res. 41.

Our nation's founders saw a balanced budget and prompt repayment of debt not merely as issues of fiscal policy, but as a moral imperative. Failure to meet these goals was considered not simply economic folly, but a violation of the basic right of the people to be free from a profligate government.

Yet today, federal budget deficits are the single biggest threat to our economic security. The government has spent more than it has taken in for 55 of the last 63 years. The budget was last balanced in 1969. The result is a federal debt totaling $4.4 trillion, or more than $17,000 for every man, woman, and child in America, and growing.

WHAT ARE THE HARMS OF BUDGET DEFICITS?

Like every family and business, when the government borrows, it must make interest payments. Annual gross interest on the debt now runs about $300 billion, making it the second largest item of federal spending next to Social Security. This equals an incredible 57 percent of all personal income taxes.

Now in a sluggish economy, Americans are paying for the government's past addiction to debt. Unless things change, the next generation will pay even more dearly.

Last year, Congress's nonpartisan General Accounting Office (GAO) said that, under current trends, our children's standard of living in the year 2020 would stagnate at today's levels—extinguishing the prospect that each generation of Americans would be able to leave the next a legacy of greater opportunity. In contrast, GAO found that balancing the budget by 2001 would produce a 36 percent improvement in the nation's standard of living by 2020.

An added danger exists because the national government has a power that families and business don't: It can put the Treasury's printing presses in high gear, devalue the currency, and monetize the debt. Of course, the resulting inflation would depress the worth of people's incomes and assets and produce the same outcome: a lower standard of living.

WHY HAS IT BEEN SO HARD TO BALANCE THE BUDGET?

Our system of government has changed fundamentally: While almost all Americans want a balanced budget, there's no way to put this general public interest on a level playing field with the specific demands of mobilized, organized interest groups.

The unlimited ability to borrow naturally leads to unlimited demands to spend beyond our means. Every American belongs to at least one group that benefits from federal spending. And everyone would like to see his or her taxes held down. If they don't have to say ''no,'' many elected officials see political peril in doing so.

That is, there's no way to make it a fair fight until we put a rule in place that the government can't break or amend with impunity, that guarantees we get no more government than we are willing to pay for, and calls on us to pay for all the government we demand.

HOW THE BALANCED BUDGET AMENDMENT WORKS

The amendment would prohibit federal outlays from exceeding receipts unless three-fifths of both houses of Congress specifically vote to run a deficit. Similarly, the limit on the national debt could be increased only with a 60-percent super majority vote. A ''constitutional,'' or absolute majority on a roll call vote would be required to raise taxes, contrasted with the current requirement for only a simple majority of those present and voting—or even just a voice vote. The president would be required to balance the budget he or she submits to Congress.

By making it more difficult to continue deficit spending and by requiring specific recorded votes, the amendment would make Congress more accountable to the public. The difficulty in obtaining ''super majorities'' to increase borrowing or raise taxes would force the president and congressional leaders to find ways to live within the confines of the amendment.

WHAT DO THE AMENDMENT'S OPPONENTS HAVE TO SAY?

We have spent years working with colleagues, legal scholars, economists, and public policy groups like the Council for Citizens Against Government Waste to refine our amendment and find out how it would work. We have become more committed to passing the amendment, more certain of the need for it, and more confident of its appropriateness to become part of the Constitution, as we have seen every question answered and every criticism solidly rebutted. For example:

IT'S NOT NEEDED

Opponents argue that ''political will'' and budget process reforms should be sufficient to balance the budget. Perhaps they should be; in reality, they haven't been.

In 1978, 1979, 1982, 1985, 1987, and 1990, Congress enacted and presidents signed laws requiring balanced budgets. Every one was amended or ignored when push came to shove. After all, it is as easy to amend a law or waive a rule as it is to pass it. Amending the Constitution requires two-thirds majorities in Congress and ratification by three-fourths (38) of the states, formidable hurdles that have allowed the enactment of only 17 amendments since the original Bill of Rights in 1789.

IT WON'T WORK

Skeptics contend that presidents and congresses would evade the amendment by using accounting gimmicks, such as putting items off-budget. Our amendment is carefully drafted to avoid this kind of danger. For example, precise definitions ensure that no category of outlays or receipts can be placed outside the scope of the amendment.

IT WOULD WORK TOO WELL

Forgetting that they also said the amendment wouldn't work at all, opponents argue that it would put a ''straitjacket'' on the economy by preventing Congress from using fiscal policy to counteract economic downturns.

Our amendment anticipates the need for flexibility that could arise in the long term. During a true emergency, Congress should be able to muster the three-fifths vote needed to stimulate the economy through temporary deficit spending. Our amendment would ensure that such spending is the exception rather than the rule.

Years of unbalanced budgets, in good times and bad, have made deficits the greatest danger to our economic well-being. Keep in mind that most of the deficit spending this year went simply to pay interest on the debt. To the extent that deficits can stimulate the economy, today there's almost nothing left over to do so after making interest payments.

IT WOULD THWART THE WILL OF THE MAJORITY

The Constitution's framers wrote that one of the purposes of a constitution is to protect certain rights deserved by all Americans by placing these rights beyond the reach of a ''tyranny of the majority.''

The rights enshrined in the Constitution, such as freedom of speech and religion, represent absolute prohibitions on government action. Jefferson favored an absolute prohibition on government borrowing. Our amendment does not go that far. But it does recognize that to protect our children from a tyranny of debt, deficit spending should require more than a simply majority vote.

Moreover, our amendment requires a 60-percent majority in exactly one circumstance: when spending in the budget would exceed revenues. The amendment in no way affects the majority's ability to set budget priorities within a balanced budget. Therefore, the amendment would restore our system to working the way the framers of the Constitution intended.

GOOD PROGRAMS MIGHT GET CUT

Every dollar borrowed incurs interest costs which already result in significantly fewer dollars for high-priority programs and in higher taxes. In fact, if no federal debt ever had been accumulated in the first place, the government would run a $200 billion surplus over the 1995–1999 period.

Some worry, if the budget must be balanced, it will be done fairly. However, the government's escalating interest payments—with gross interest totaling $294 billion in 1993—are blatantly regressive. These represent a transfer of funds from the working middle class—who pay the bulk of federal taxes—to the large banks, corporations, and wealthy individuals who hold Treasury securities. About 15 percent of these payments go to rich investors of governments overseas.

The greatest unfairness is for the government to live off a giant credit card today and send the bill to the next generation amounting to a massive taxation without representation.

CONCLUSION

The best way to ensure the continued soundness of essential programs, stabilize the economy and pass on a legacy of economic opportunity to our children is to reverse the growth in the federal debt. Without a balanced budget amendment to the Constitution, it is unlikely we will ever find the discipline to restore this rationality to our budget decisions.

[From the Washington Times, October 1993]

ECONOMIC SECURITY IN THE BALANCE

(By Larry Craig and Paul Simon)

''Once the budget is balanced and the debts paid off, our population will be relieved from a considerable portion of its present burdens and will find out new motives to patriotic affection, (and) additional means for the display of individual enterprise.''

That statement, as relevant as today's news, was made more than 150 years ago by President Andrew Jackson. This perspective on the federal government and the economic well-being of the people, once at the very foundation of our political system, urgently needs to be reasserted.

It should be, early in November when Congress takes up our Balanced Budget Amendment to the Constitution, S.J. Res. 41.

Federal budget deficits are not an abstract problem; they are now the single biggest threat to our nation's economic security. When the economy is unstable, seniors on fixed incomes suffer the most.

The government has spend more than it has taken in for 55 of the last 63 years; the budget was last balanced in 1969. The result is a federal debt totaling $4.3 trillion, or about $17,000 for every man, woman and child in America, and growing.

Like every family and business, when the government borrows, it must make interest payments. Annual gross interest on the debt now runs about $300 billion, making it the second-largest item of federal spending, next to Social Security. This amount equals an incredible 57 percent of all personal income taxes.

Every dollar borrowed incurs interest costs that result in significantly fewer dollars for high-priority programs and in higher taxes. With a growing population depending on Social Security, the best way to ensure its continued soundness is to stabilize the economy and reverse the growth in interest costs—which compete with Social Security for dollars—by balancing the budget.

The fiscal costs and economic drag of the federal debt imperil both seniors today and their children. Last year, Congress' nonpartisan General Accounting Office said that, if nothing changes, our children's standard of living in the year 2020 will stagnate at today's levels—putting an end to the American dream of each generation leaving the next a legacy of opportunity. In contrast, balancing the budget by 2001 would produce a 36 percent improvement in the nation's standard of living by 2020.

Who collects interest payments on the federal debt? About 15 percent goes overseas. Almost all of the rest goes to large banks, corporations, state and local governments, and wealthy investors. Thomas Jefferson objected to any federal indebtedness, fearing that taxes on farmers, laborers, merchants and their families would escalate forever to pay the interest on a growing debt.

Why has it been so hard to balance the budget? The unlimited ability to borrow leads naturally to unlimited demands to spend. Every American belongs to at least one group that benefits from federal spending. And everyone would like to see his or her taxes held down. If you don't have to say ''no,'' then many elected officials see only political peril in doing so.

Our system of government has changed fundamentally: While almost all Americans want a balanced budget, there's no way to put this general, public interest on a level playing field with the specific demands of mobilized, organized interest groups.

That is, there's no way to make it a fair fight until we add to the Constitution a rule the government can't break, that guarantees we get no more government than we are willing to pay for and calls on us to pay for all the government we demand.

Fifty years before Jackson, Jefferson said, ''We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.... I wish it were possible to obtain a single amendment to our Constitution...an additional article, taking from the government the power of borrowing.''

It's time to live up to Mr. Jefferson's vision.

[From CLUBB—Congressional Leaders United for a Balanced Budget, Revised January 30, 1995]

FACTSHEET: ALARMIST ATTACKS ON THE BALANCED BUDGET AMENDMENT

Yesterday, the Treasury Department released a study projecting several ''horror story'' scenarios of the kinds of policy decisions the Administration foresees might be

necessary if the Balanced Budget Amendment, is added to the Constitution. The ''results'' of these studies were broken down by state. Other studies have been released by other organizations purporting to demonstrate the impact that a balanced budget amendment will have.

These studies actually send four messages: (1) Opponents fear the amendment will work; (2) The case against the amendment is so weak that opponents must resort to scare tactics; (3) The methodology used assumes arbitrary, across-the-board approaches; and (4) The study represents a failure to face up to long-term responsibilities and consequences.

(1) Opponents fear the amendment will work: Critics raise the specter of what budget policy options might be considered if Congress and the President must comply with a Balanced Budget Amendment. However, their arguments are directed against the deficit reduction that will be required to balance the budget.

The study ignores the impact on government services, program beneficiaries, and taxpayers from remaining on a course that will result in the federal debt increasing 90% over the next ten years, and annual spending on interest payments increasing by two-thirds. As Senator Paul Simon has pointed out, every dollar spent on interest payments is a dollar that can not go to valued programs.

Forcing the government to live within its means will require setting priorities and making some difficult decisions. This will not happen without the Amendment and it must happen to safeguard our future economic security.

(2) Scare tactics: As Rep. Olympia Snowe said in a 1994 Budget Committee hearing, people start pounding the table when they're losing the argument. Arguments like those in the Treasury and Wharton studies rely on alarming individuals and groups about how severely they might be impacted. However, even if federal spending continued to increase 3.1% a year, it would fall into balance with revenues (as projected in CBO's January baseline) by the year 2002. Currently, spending is projected to grow an average of 5% a year through 2001.

If we act promptly, reasonable restraint, not massive spending cuts or tax increases, will take us to a balanced budget. However, CBO projects deficits again increasing rapidly after 1996. The longer we wait, the greater the pain of deficit reduction will become.

(3) Arbitrary, unrealistic methodology: The study assumes that Congress will abdicate its responsibility to set priorities and that the deficit reduction will occur in an across-the-board manner. This approach, which is common in such ''horror story'' reports regarding a BBA, implies that the President and Congress have no priorities and assumes they would not set priorities within a balanced budget framework. The Treasury Department study manufactures per-program and per-state numbers that likely bear no resemblance to the decisions Congress and the President eventually will make.

This very lack of priority-setting is at the root of the $4.7 trillion national debt; today, marginal programs are funded because they never have to compete with essential programs. Under the amendment, Congress and the President would be faced with a fiscal and political imperative to set priorities. Government could promise no more than the people were willing to pay for and we would pay for all the government we demand.

Treasury acknowledges that its ''estimates are static in nature and reflect no macroeconomic feedback.'' Thus, the study does not discuss the long-term economic security, growth, and higher living standards that will result from balanced budgets and are at the core of the case for the amendment. In 1992, the non-partisan General Accounting Office compared the economic effects of balancing the budget by the year 2002 with a ''muddling through'' scenario that assumed policies to maintain deficits of 3% of GDP. GAO found that balancing the budget by the year 2000 would promote significantly greater economic growth than the muddling through option.

(4) Failure to take responsibility for the long term: CBO's preliminary budget projections found that the deficit will leap back upward to $421 billion by FY 2005. The deficit as a share of gross domestic product (GDP) would pass the 3% mark before the next century.

The preliminary CBO baseline resembles the ''Muddling Through'' scenario set out in GAO's 1992 report, Budget Policy: Prompt Action Necessary to Avert Long-Term Damage to the Economy. Under that scenario, by 2020, per capita GDP would be 7% lower and the federal debt three times larger than if the budget were balanced from the year 2001 on. Moreover, the annual deficit reduction required to maintain the deficit at 3% of GDP (''muddling through'') would give rise to more than $500 billion a year by FY 2020.

Approaches like those taken by Treasury imply that Americans will find each and every federal program so indispensable, so sacred, that protecting every single program, every interest today, outweighs our children's standard of living and the government's ability to continue providing priority services and benefits in the coming years.

(Prepared by the Offices of Senator Larry Craig (202) 224–2752 Congressman Nathan Deal (202) 225–5211.)

[CLUBB—Congressional Leaders United for a Balanced Budget]

FACTSHEET: BALANCED BUDGET REQUIREMENTS IN THE STATES

Debate on a proposed Balanced Budget Amendment to the U.S. Constitution highlights the status of the states as ''laboratories of democracy.'' While the supporters of H.J. Res. 1 do not argue that the federal Constitution should have a balanced budget requirement *because* the states have such restraints, the experiences of the states are instructive.

While they vary widely in form, 49 of the 50 states have significant balanced budget requirements.

It is also true that, while, standing alone, many of the state provisions appear to be less restrictive than H.J. 1 for the federal government, there are important institutional differences which dictate the terms of the federal proposal.

In 35 of the states, balanced budget requirements are written into constitutions. In 13 others they are statutory. Nine of those have constitutional debt limits that are usually interpreted as constitutional balanced budget requirements. In one (Wyoming), the unwritten imperative is strong enough that it is regarded as having ''constitutional status.''

But that's only a glimpse into the rich diversity through which states control indebtedness.

In 43 or more states, balanced budget requirements are supplemented by special executive branch budget powers. Twenty-one states have spending limits, 7 have revenue limits, and 3 have both. Fifteen require more than a simple majority to pass any budget.

Noteworthy differences include whether capital, trust fund, or other budgets are included under state balanced budget requirements.

There's a lot we can learn from specific state balanced budget initiatives and apply to the federal proposal.

The states can afford to exempt portions of their budgets because state bond ratings—generally applying to capital investments—serve as the ultimate disciplinarian. There are no bond rating services for the federal government in part because foreigners and others line up to bank on the full faith and credit of the U.S. government. In addition, some bond issues are subject to public referenda.

States sometimes mislead when defining a ''deficit.'' That led to the language before Congress now, ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . .''

The processes of defining and amortizing ''capital investments'' can be abused. For example, New York City, prior to its financial crisis in the s, wrote off spending for school textbooks by declaring their ''useful life'' to be 30 years.

Some states can use revenue and borrowing to meet balanced budget requirements. Under H.J. Res. 1, raising the debt limit requires a ⅗ majority to counter this state-proven tendency.

The imposition of budget discipline on states whether from balanced budget requirements or bond ratings has led to establishment of ''rainy day'' funds. Many states now set aside excess revenues in good times requiring less indebtedness during recessions.

Despite such diversity, the experience of the states shows that balanced budget requirements have had a salutary effect.

From 1980 to 1992, the states' outstanding long-term debt rose from $120 billion to $369 billion, a 208 percent increase; total state spending growth was about 4 percent greater than revenue growth. During the same period, federal debt grew from $905 billion to $4.002 trillion, a 340 percent increase; federal spending growth was about 38 percent greater than revenue growth.

The similarities between state and federal budget experiences support adoption of a federal balanced budget amendment; the differences demonstrate why H.J. Res. 1 is the approach best suited to the federal level.

That variance and relative complexity of state provisions contributed to the development of the one-page simplicity of the Stenholm/Smith federal amendment. An amendment to the U.S. Constitution should state a broad, fundamental principle and provide the bare bones of process necessary to enforce that principle.

The states' experiences demonstrate that exempting any portion of federal spending from a balanced budget amendment would create potential loopholes. The ''higher authorities'' that generally check abuses at the state level do not exist at the federal level. ''Pet programs'' could easily be pushed into whatever funding category was not covered by a BBA. Debt would continue to soar, and the Constitution would be affronted.

The federal government has no line item veto and a relatively weak rescission process. The lack of such supplementary means for imposing discipline is among the reasons why the federal BBA needs to be more restrictive than state counterparts. At the same time, a BBA is the single most important mechanism, and the most constitutionally elegant, for enforcing the fundamental principle that the people should be protected from the abuses of profiligate government borrowing.

SILVER SPRING, MD, *February 15, 1994.*

Hon. PAUL SIMON,
U.S. Senate,
Washington, DC.

DEAR SENATOR SIMON: I am pleased to have this opportunity to express my support for the Balanced Budget Amendment.

For 37 years I worked for the Social Security Administration, serving as Chief Actuary in 1947–70, and as Deputy Commissioner in 1981–82. In 1982–83, I served as Executive Director of the National Commission on Social Security Reform. And I continue to do all that I can to assure that Social Security continues to fulfill its promises.

The Social Security trust funds are one of the great social successes of this century. The program is fully self-sustaining, and is currently running significant excesses of income over outgo. The trust funds will continue to help the elderly for generations to come—so long as the rest of the federal government acts with fiscal prudence. Unfortunately, that is a big ''if.''

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

Regaining control of our fiscal affairs is the most important step that we can take to protect the soundness of the Social Security trust funds. I urge the Congress to make that goal a reality—and to pass the Balanced Budget Amendment without delay.

Sincerely,

ROBERT J. MYERS.

CLUBB—CONGRESSIONAL LEADERS UNITED FOR A BALANCED BUDGET

The following quotes are from a News Conference held by Senators Craig, Simon and Robb joined by former Senator Tsongas, and Robert Myers on February 7, 1995.

Concord Coalition co-chair and former Democratic Senator Paul Tsongas responded to President Clinton's budget proposal released Monday, which, as reported in the media, breaks Clinton's campaign ledge to cut deficits in half during his first term.

''The budget which came from the President yesterday said, I've given up; that as long as I am President of the United States there will never be a balanced budget. That is an astonishing statement.''

Paul Tsongas, talking about Social Security and the BBA:

''It is embarrassing to be a Democrat and watch a Democratic President raise the scare tactics of Social Security.''

''It pains me that the Democratic party should be the party that turns its back on the young.''

Paul Tsongas talked about those who've supported BBA in the past, but who now say they will vote against a BBA without a Social Security exemption.

''It's flushing out those who never meant it, those whose cynicism I think is now going to be on display.''

''The calculation is quite explicit, how do I somehow kill the Balanced Budget Amendment without having my fingerprints on the deed. And the use of Social Security is the chosen weapon.''

''The question is, where is the cover? And the cover is the Social Security subterfuge.''

''Those who vote to exclude Social Security are voting to kill the Balanced Budget Amendment. It is that simple, it is that clean and should be stated.''

Senator Paul Simon (D–IL):

''Every time we have a deficit, we're borrowing from your six year-old. And what we're saying is let's stop borrowing from six year-olds.''

Tsongas, responding to Simon:

''Eventually the six year-old will rebel, having been given massive debt by you and I.''

Paul Tsongas' general comments on BBA and balancing the budget:

''Without the Balanced Budget Amendment the budget will never be balanced—that's a given. There is simply not the discipline and self will in this place to do it.''

''This is not rocket science. It's not what is in your head or in your heart. It's what is in the lower part of your regions that is in question.''

Tsongas responded to a question about how much budget cuts to balance the budget would hurt people across the country.

''If you don't do it now; if you let those numbers run themselves out for ten years, then you are looking at far more draconian measures.''

THE SENIORS COALITION,
Fairfax, VA, March 1, 1995.

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: I wanted to take just a moment to thank you for your dedication and extraordinary effort to get a Balanced Budget Amendment passed. We believe very strongly that a bankrupted country cannot care for its elderly, its young or its poor, and that a Balanced Budget Amendment is desperately needed at this time.

The Seniors Coalition commissioned The Luntz Research Companies to conduct a poll late last week to determine if public support for the Balanced Budget Amendment was still as strong as it had been at the end of January. I would like to share some of the results with you.

As far as we have been able to determine, this nationwide poll contains the most recent data available on the public's opinion of the Balanced Budget Amendment. The questions were asked as part of an omnibus national survey conducted of 1,000 registered voters from February 22nd to 23rd. The survey has a margin of error of ±3.1% at the 95% confidence level.

When people were asked if they supported the Senate passing the same Balanced Budget Amendment passed by the House of Representatives, an overwhelming 79% of respondents supported Senate passage of this measure. This figure is identical to the results of a Wirthlin poll conducted January 25th to 28th. Public support for the Balanced Budget Amendment has not fallen over this past month.

Of those supporting the Balanced Budget Amendment, 61% were strongly supporting the BBA and 18% were somewhat supportive of the BBA. Compared to the Wirthlin poll: 52% strongly favored and 27% somewhat favored a BBA at the end of January. This suggests that not only do people still support a BBA, but they do so with a stronger conviction.

When senior citizens were asked how they felt about the Balanced Budget Amendment, 80% of those age 55–64 and a strong 71% of those age 65+ supported the BBA. By geographic region, people in the Northeast support the BBA at 80%, those in the South by 79%, those in the Midwest by 76%, in the West by 78% and along the Pacific by 81%.

We were also curious to know how people would feel about their Senator if the Balanced Budget Amendment failed. Respondents were asked if they would vote for or against their Senator in the next election if he or she were the one to cause the BBA to fail by one vote. Nearly half, 46%, said they would vote against their Senator if this were the case. These were evenly split, 23% each, along the lines of definitely against or probably against. Comparatively, of the 34% who answered they would vote for their Senator, only 11% were firm in their conviction.

Senior citizens were consistent with this trend and 45% of those age 55–64 and 41% of those age 65+ indicated they would vote against their Senator if they blocked passage of the Balanced Budget Amendment. Of interest in these numbers is that seniors were lower than the general average of 34% in stating they would vote for their Senator under this scenario. Of those age 55–64, only 30% would vote in the affirmative and 31% of those age 65+ would vote to re-elect their Senator.

By geographic region, those that would vote against their Senator if they were responsible for the failure of the Balanced Budget Amendment was as follows: Northeast—43%; South—50%; Midwest—46%; West—45%; and Pacific—48%.

The respondents were also asked if they felt that those Senators who have claimed they want to learn more about the Balanced Budget Amendment were correct in opposing the BBA, or were they putting politics ahead of the national interest. An astounding 60% of the voters surveyed thought that politics was being put ahead of the national interest. This number held strong among seniors of all ages at 59% in both the 55–64 and 65+ categories.

In geographic regions, 58% of those in the Northeast, 65% of those in the South, 56% of those in the Midwest, 60% of the West and 58% of the Pacific thought that politics were taking precedence over the national interest.

The results of this poll clearly show that despite all the rhetoric and debate over the past month on what a Balanced Budget Amendment would mean for America, seniors—and voters in general—are still strongly committed to forcing Congress to balance its budget, and they want their Senators to do the right thing.

Sincerely,

JAKE HANSEN,
Vice President for Government Affairs.

THE SENIORS COALITION,
Fairfax, VA, March 2, 1995.

MEMORANDUM

Re The American Association of Retired Persons and the Balanced Budget Amendment.
To: All Interested Parties.
From: Kimberly Schuld, Legislative Analyst.

The AARP commissioned The Wirthlin Group to conduct a survey for them January 25–28, 1995 on a variety of questions pertaining to the BBA. Since then, the AARP and the National Council of Senior Citizens have been twisting the poll's results and methodology to claim that public support for a BBA is low—once Americans are told what the BBA will mean to them.

The key word here is TOLD. The poll utilizes a series of questions designed to lead people to a mis-informed and generally incorrect impression of what the BBA will do. Namely, the line of questioning implies that Social Security and Medicare will face drastic cuts, and state and local taxes will skyrocket as the federal faucet is turned off.

An AARP Press Release announcing the poll results states, ''. . . most Americans do not understand the potential impact of the Balanced Budget Amendment and are adamantly opposed to using Social Security and Medicare to reduce the federal deficit.''

Quite bluntly, the AARP has effectively provided a political scare campaign for those members of Congress wishing to avoid facing

their constituents with the news that they want to vote against the BBA. We all know the arguments against excluding Social Security from the constitutional amendment, but the AARP has electrified the ''third rail'' to the political benefit (is it really?) of the White House.

ANALYSIS OF THE AARP/WIRTHLIN POLL

The poll consisted of sixteen questions to 1,000 adults, with a 200 oversample to adults 50 and older. The margin of error is ±2.8% at a 95% confidence level. A copy of the questions is attached.

The poll starts off with a question about the direction of the country and then asks: ''Do you favor or oppose a balanced budget amendment to the U.S. Constitution that would require the federal government to balance its budget by the year 2002?'' Favor: 79%. Oppose: 16%.

The next question tests how people perceive the budget can be balanced: spending cuts, taxes or both. This is followed by a question on equal percentage across-the-board cuts in every federal program.

The next two questions ask specifically if Social Security and Medicare should be included in across-the-board cuts. As could be expected, the respondents would favor exemptions for both programs. A key element to these two questions (#5 and #6) is the use of the word ''exempt''. The word ''exempt'' is not used anywhere in the poll except in relation to Social Security and/or Medicare. This sets up a connection in people's minds that these programs may be in graver danger than other government programs.

Question #7 sets up the respondent for the ''truth in budgeting'' excuse the Administration has been spinning. When offering people the choice between passing the BBA first, or identifying cuts first, the poll throws in ''consequences'' associated with cuts. The connotation is that there are going to be dire ''consequences'' to balancing the budget. This sets up the respondent to answer question #15 (open-ended) with a negative response on how they think the BBA will affect them personally.

Questions #8, #9 and #10 ask about whether respondents think it is necessary to cut Defense. Social Security and Medicare to balance the budget, or whether the budget could be balanced without these programs. As could be expected, the response for cutting Defense is overwhelming compared to SS and Medicare. The group of questions sets up a ''good cop/bad cop'' scenario in the mind of the respondent whereby they identify Defense as the ''bad guy'' as well as being reminded which party tends to support Defense. It is also important to remember that at the time this poll was taken the newspapers and network news broadcasts were full of stories about the Republicans wanting to increase Defense spending in the Contract With America.

Questions #11 and #12 address taxes; their role in the budget balancing process and reform ideas. This also serves to set up negative responses to question #15. In #11, 48% of the people believe there will have to be tax increases to balance the budget. Then the next question, they are asked to declare a preference for one of a variety of tax cuts. This conflict sets up a negative impression that tax cuts are good and the BBA is bad because there must be tax increases to accomplish its goal.

Question #13 throws together ''programs for the poor, foreign aid, and congressional salaries and pensions''. Respondents are asked how far these programs COMBINED would go toward balancing the budget if they were cut. By throwing these widely divergent programs together, the pollsters are setting up the respondent to believe that balancing the budget will mean higher taxes and cuts in taxpayer-financed programs.

Question #14 is the keeper. Respondents are asked if they still support a BBA with the following choices: Social Security should be kept separate from the rest of the budget and exempted from a BBA because it is a self-financed by a payroll tax or Social Security is part of the overall government spending and taxing scenario, thus should be subject to cuts along with the rest of the budget.

The results of this questions dramatically flip the BBA support from question #2: BBA with SS Exempt: 85%. BBA that cuts SS: 13%.

Question #16 now asks: ''Do you favor or oppose the balanced budget amendment, even if it means that your state income taxes and local property taxes would have to be raised to make up for monies the federal government no longer transfers to your state?'' Favor: 38%. Oppose: 60%.

This question ends the phone call on a gross mis-interpretation that dire consequences of doom and gloom are on the horizon, all at the voter's expense. This is exactly the type of question that re-reinforces the ''angry voter'' complex of the middle class family.

These anti-BBA results are achieved by planting the seed of doubt slowly but surely that:

1. It is the intention of BBA supporters to cut Social Security and Medicare.
2. It is the intention of BBA supporters to beef up Defense spending at the expense of everything else.
3. Taxes will inevitably go up with a BBA.
4. A BBA will have a negative direct impact on families ''beyond the beltway.''

Any time a Senator, Congressman, reporter or lobbyist starts to talk about poll results showing 85% of Americans oppose a BBA unless it exempts Social Security, bear in mind that the spin-meisters achieved this number by forcing the assumption that draconian Social Security cuts are a foregone conclusion.

Leaders from the Republican party, the Democratic party, the Administration and the President himself have all gone to great lengths to state that social security benefits are off the table.

Any member of congress who contends NOW that the new Republican leadership cannot be trusted to keep their hands off Social Security is also implicating their own party leaders and the President of the same un-trustworthiness.

TESTIMONY OF JAKE HANSEN, DIRECTOR OF GOVERNMENT AFFAIRS, THE SENIORS COALITION FOR THE JOINT ECONOMIC COMMITTEE, JANUARY 23, 1995

BALANCED BUDGET AMENDMENT: IMPERATIVE TO SOCIAL SECURITY

Mr. Chairman, this is not a new issue to The Seniors Coalition. Since our inception we have fought for a Balanced Budget Amendment. We have had experts on Social Security and an expert economist look at the issue, as well as hearing from thousands of our members. Their conclusion: give us a Balanced Budget Amendment.

During the elections and in recent debate, we have heard from many politicians that a Balanced Budget Amendment will destroy Social Security. However, the question is not ''Will a Balanced Budget Amendment destroy Social Security'', but rather ''Can Social Security survive without a Balanced Budget Amendment?''

As you know, up until 1983, the Social Security system ran on a pay-as-you-go basis. That is, the amount of money going into the Trust Funds from payroll deductions was basically equal to the amount of money being paid to beneficiaries of the day.

In the late seventies, the economy was a disaster. Inflation was up, leading to higher cost of living payments than had been anticipated. Unemployment was up, meaning that less money was being paid into the system than had been anticipated. The result: Social Security was headed for bankruptcy at break-neck speed.

In 1983, a bi-partisan effort saved Social Security by changing the benefit structure and raising Social Security payroll taxes. This effort created a new—and potentially worse—problem: a rising fund balance in the Social Security Trust Funds. For the past ten years, more money has been pouring into the Trust Funds than is needed to meet today's obligations.

This balance has been ''borrowed'' by the federal government. Today, the federal government owes the Trust Funds about $430 billion. By the year 2018, according to the Social Security Board of Trustees, that figure will be a shade over three trillion dollars. At that time, the entire federal debt will be—who knows, eight, ten, twelve trillion dollars?

The point is, how will the government ever pay back the Trust Funds? They could: turn on the printing presses and monetize the debt, so that a Social Security check would buy a loaf of bread; borrow the money—hurting both the economy and the Federal Budget; make massive cuts in benefits; raise taxes, and thus, destroy the economy for everyone; or simply renege on the debt.

Mr. Chairman, The Seniors Coalition doesn't find any of these alternatives acceptable.

The Chairman of our advisory board, Robert J. Myers (often referred to as the father of Social Security) wrote of his support of a Balanced Budget Amendment last year and said: ''In my opinion, the most serious threat to Social Security is the federal government's fiscal irresponsibility. If we continue to run federal defects year after year, and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the trust funds to pay for our current prolificacy, or we will print money, dishonestly inflating our way out of indebtedness. Both cases would devastate the real value of the Social Security Trust Funds.''

The bottom line, is that if we want to protect the integrity of Social Security the only way is through a Balanced Budget Amendment.

With that said, the question becomes will just any old Balanced Budget Amendment do? The answer is, some are better than others, and some are absolutely not acceptable.

First, some people are suggesting that Social Security should be exempted. That should be something that an organization like ours would leap at. The fact is, we are concerned that such an Amendment would end up destroying Social Security as more and more government programs would be moved to Social Security to circumvent the Balanced Budget Amendment. We believe this would destroy Social Security, and will not support such an Amendment.

Our first choice would be a Balanced Budget Amendment that controls taxes as well as spending—such as the Amendment that has been presented by Congressman Barton. We support tax limitation and would like to see this Amendment voted on. We would urge every Member of Congress to vote for this Amendment.

If, this Amendment does not pass, then we willingly support a Balanced Budget Amendment such as the one offered by Senators Hatch and Craig. While I am concerned about taxes, I believe that last year's elections

showed us that we, the people, do have the ultimate power. And, I believe that had we been forced to pay for all the government we were being given, we would have made massive changes much sooner.

Mr. Chairman, we believe that what is most important is that America be given a serious Balanced Budget Amendment as soon as possible. We will work with you and your colleagues in every way possible to make that happen. Thank you.

THE SENIORS COALITION,
Fairfax, VA, January 24, 1995.

MEMORANDUM

Re Balanced Budget Amendment.
To: Senator Craig.
From: Jake Hansen, Vice President for Government Relations.

The Seniors Coalition has supported a balanced budget amendment for several years. On behalf of our one million members nationwide. I am requesting your support of S.J. Res. 1 in the next few weeks.

It is vital that Congress pass a measure that would require the federal budget to be balanced. Our members feel that if the government were forced to evaluate its spending the way every family in America evaluates their own, this country would not be ''heading down the wrong path.'' While there are a great many factors that contribute to this public perception, the bottom line for many Americans is that the government takes too much from them and spends too much on programs that do not work. The time to end the cycle of taxing and spending has come.

I also want to touch briefly on the role of Social Security in the balanced budget amendment. We feel that there is no reason to exempt Social Security from a balanced budget. In fact, such an exemption would create a serious policy and political crisis for Congress, and would lead to the destruction of the Social Security system.

If Social Security is exempted, the total force of balancing the budget will find its way to Social Security. There will be an overwhelming temptation to either redefine government programs as Social Security programs, or pull money out of the Trust Fund to balance the budget by cutting Social Security taxes to offset tax increases elsewhere. In fact, there would be nothing to stop Congress from ''borrowing'' as much money as it wanted from the Trust Funds to finance any other government program.

We feel confident that the political climate surrounding Social Security is enough to protect it, thus engaging in destructive policy in the name of protection will only lead us down the path of truly committing damage to the Social Security system.

What is most important is that America be given a serious balanced budget amendment as soon as possible.

BALANCED BUDGET AMENDMENT ALERT FROM THE SENIORS COALITION, JANUARY 26, 1995.

This morning the opponent of a BBA launched a full scale attack on the Balanced Budget Amendment with Social Security bombs. Seniors across the country are watching C–SPAN with renewed and unjustified fear. It is vital that their scare campaign be stopped.

Exempting Social Security from the Balanced Budget Amendment will destroy the Social Security system—NOT protect it.

Balancing the budget will create tremendous pressure and that pressure will blow through any available escape hatch. Whatever is exempted from the balanced budget requirement becomes that escape hatch!

As the total force of balancing the budget falls on Social Security, there will be overwhelming pressure to redefine many government programs as Social Security programs. This endangers its original purpose. There would be nothing to stop Congress from ''borrowing'' as much money as it wanted from the trust fund to finance any government program if Social Security is exempted from the Balanced Budget Amendment.

Exempting Social Security from the Balanced Budget Amendment would open a loophole in the requirement that would completely gut its effectiveness by allowing all social welfare and other programs (such as Medicare and Medicaid) to be financed off-budget, in deficit, as the ''New Covenant Social Security.''

Failure to pass a Balanced Budget Amendment will destroy Social Security.

Eventually, $400 billion plus will have to be returned to the Social Security trust fund to pay benefits to retired baby-boomers. Without starting a balanced budget process now, the battle over Social Security will be like nothing Congress has ever seen thirty years from now.

Without balancing the budget, Social Security benefits will always be subject to cuts, new taxes and means-testing. This permanently erodes any confidence in discussions of systemic reforms for future generations.

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60 PLUS,
Arlington, VA, February 9, 1995.

Hon. LARRY E. CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: I am writing to you to express the strong support of the 60/Plus Association for the Balanced Budget Amendment to the Constitution, which is now being considered by the U.S. Senate.

The 60/Plus Association is a two-year-old, nonpartisan, seniors advocacy group with more than 225,000 members. For the 103rd Congress, we presented the Guardian of Seniors' Rights award to 226 House and Senate Members.

The Balanced Budget Amendment is the best friend the Social Security system and our nation's seniors could have. The Senate should pass H.J. Res. 1, as passed by the House of Representatives in a strong bipartisan vote, and submit it immediately to the States for ratification.

Continuted, growing deficit spending is the greatest threat to the integrity of the Social Security system and to the present and future benefits paid from Social Security trust funds. Past deficits have created a national debt of $4.8 trillion—an alarming 70 percent of our Gross Domestic Product. Gross interest payments now consume nearly one-fifth of total federal spending and will surpass Social Security as the largest item of spending by the end of the decade.

This national debt already has depressed the economy and lowered seniors' standard of living. As the costs of servicing that debt continue to climb and to squeeze all other budget priorities, they threaten the very existence of Social Security. Today's Social Security surpluses represent a commitment to seniors tomorrow. But a debtor bankrupted by an excessive debt load is not able to meet any of its commitments. Bitter experience has shown that only the Balanced Budget Amendment can save our nation from that fate.

While well-intentioned, these attempts to exempt Social Security from the discipline of the Balanced Budget Amendment are completely misguided. Instead of protecting seniors, exemptions like that in the Reid Amendment would allow the Social Security trust funds to run unlimited deficits. This would create an irresistible temptation to pay for all sorts of unrelated programs out of the trust funds, completely destroying the unique purpose for which they were created and rendering them insolvent.

The debt is the threat to Social Security and America's seniors. A ''clean'' balanced budget amendment, such as H.J. Res. 1. is their best protector. The 60/Plus Association urges you and your colleagues to pass their urgently needed legislation and resist the scare tactics of those who create any loopholes that would compromise either balancing the budget or protecting Social Security.

Former Senator Paul Tsongas summed it up best when he said he was ''embarrassed as a Democrat to watch a Democratic President raise the scare tactics of Social Security.''

In other words, it's 'scare us old folks time again' as opponents drag a 30-year-old red herring across the trail.

Many seniors—including this one—vividly remember the scare tactics then—the LBJ TV ad—a giant pair of scissors cutting through a Social Security card—with the clear implication that a vote for Barry Goldwater and Republicans would mean the end of Social Security.

Seniors didn't buy that canard then, nor do they now, 30 years later, judging by the response we get from a vast majority of seniors.

Sincerely.

JAMES L. MARTIN,
Chairman, 60+.

NATIONAL TAXPAYERS UNION,
February 6, 1995.

[Legislative memo]

Re Balanced Budget Amendment—Critique of Amendment To Exempt Social Security and Scoring in NTU Annual Rating of Congress.
To: U.S. Senators.
From: David Keating, Executive Vice President.

An amendment to SJR 1 by Senators Reid, Feinstein, and others will propose to exempt Social Security trust funds (OASDI) from a balanced budget rule. A vote against this proposal will be heavily counted as a pro-taxpayer vote in our annual Rating of Congress.

NTU strongly supports prompt passage, early this year, of the best Balanced Budget Amendment (BBA) that can get the needed two-thirds vote. This means a genuine, effective BBA, not the dishonest ''cover'' substitutes offered by BBA opponents.

KEY REASONS WHY CONGRESS SHOULD NOT EXEMPT SOCIAL SECURITY FROM THE BALANCED BUDGET AMENDMENT

Exempting Social Security would render a Balanced Budget Amendment meaningless and endanger Social Security. It would give Congress an excuse to delay action on huge Social Security deficits that will occur as today's younger workers retire. Although the Social Security system currently collects more in taxes than it spends on benefits, this will change early in the next century and eliminate the effectiveness of the balanced-budget rule. At that time, other federal funds should be in a surplus position to prevent large government budget deficits that would harm the economy. But the Reid Amendment would only require a balancing of non-Social Security receipts and outlays, resulting in huge legal federal budget deficits at that time.

1. It would create a huge loophole in the Amendment and encourage Congress to raid trust fund revenues.—A future Congress that wished to circumvent the Amendment could, by a simply majority vote, authorize deficits by reducing trust fund taxes and revenues and increasing ''operating'' fund taxes and revenues by an equal amount. Trust funds could pay for Social Security benefits by

running a deficit. This has the potential to be more than a $300 billion loophole.

2. Congress could also create deficits by channeling other programs aimed at aiding the elderly through the trust funds.—Candidates include veterans' benefits and pensions, which total over $20 billion a year. Supplemental Security Income at over $25 billion a year is another likely candidate, as is Medicare (over $110 billion) and the approximately three-fourths of Medicaid spending (or over $65 billion) that benefits the aged. A portion of funds spent on the retired poor by the Food Stamp, low-income home energy assistance, housing subsidy, and other social service programs might be transferred to newly exempt trust funds. Some or all of federal employee or military retirement programs may also become part of Social Security.

3. It would legalize an ANNUAL total budget deficit of over $2,000,000,000,000 ($2 trillion) in the year 2050!—Even if the Social Security exemption was faithfully observed, it would allow huge deficits in the Social Security trust funds in the next century that will occur under current policies as today's children retire.

4. Such loopholes could result in spending money from trust funds for other programs.—A future Congress and president that wished to circumvent the balanced-budget rule could do so simply by funding non-Social Security programs from trust fund accounts. There is nothing in the proposed exemption that would prohibit spending money from trust funds for non-retirement or non-disability programs. A simple majority of Congress could thus effectively circumvent any debt limit.

5. It would endanger Social Security.—Net interest on the national debt has grown from a mere 7.7 percent of federal spending in 1978 to 14 percent in 1995. Not only will interest begin to crowd out Social Security, but the continued buildup of debt will impair the ability of future taxpayers to refund moneys borrowed from the trust fund. Only an all-inclusive Balanced Budget Amendment will force Congress to balance the budget and create a sound environment for the future of Social Security.

IRET CONGRESSIONAL ADVISORY,
February 8, 1995.

A BALANCED BUDGET AMENDMENT MUST NOT EXCLUDE SOCIAL SECURITY

A few Senators who voted for a balanced budget amendment last year are saying they may oppose the amendment this year unless a special exemption for Social Security is attached to it. This may be a gambit to kill the amendment. Granting Social Security special constitutional status is not morally or economically justified, would greatly weaken the amendment, and ironically would add new burdens to the Social Security System in the long run.

The purpose of a balanced budget constitutional amendment is to compel Congress and the President to balance the federal budget. That means holding overall government expenditures at or below total government revenues. It does not mean holding some spending to no more than some revenues—with exemptions for national defense or the highway trust fund or medicaid or Social Security or any other program that might have a legitimate national purpose or powerful constituency.

Carving out Social Security benefits and taxes from the budget calculations would leave an especially large hole because Social Security benefits are the federal government's largest expenditure and second largest tax. Social Security benefits already exceed total national defense spending, formerly the largest expenditure category, and are growing much more rapidly; by the end of the decade federal payments of Social Security benefits will be about 60 percent greater than what the nation spends on national defense. On the tax side, the Social Security payroll tax is exceeded in size only by the individual income tax. Millions of individuals owe more in Social Security taxes than they do in income taxes. The employer share of the Social Security tax is, by itself, a bigger revenue source than the corporate income tax. A balanced budget amendment that leaves out Social Security would be seriously incomplete on both the expenditure and tax sides.

A Social Security exclusion would jeopardize passage of a balanced budget amendment in two ways. First, the exclusion would complicate the task of balancing the (redefined) budget in the near term. The Social Security trust fund is running a surplus for the time being. If Social Security were artificially removed from budget calculations, the deficit would suddenly appear bigger and reducing it to zero over the next several years would require extra large spending cuts or tax increases. That would make a balanced budget amendment appear more painful, which could scare away some potential supporters. Second, the version of the amendment with the exclusion gives political cover to opponents of a balanced budget amendment. Because a balanced budget amendment has strong public support, resisting it openly is politically risky. By putting forward the flawed version, which has no chance of passing Congress, opponents can to claim to voters that they back a balanced budget amendment even as they fight versions that would be more acceptable and effective. That is known as having your cake and eating it too.

In addition, as Senator Dole and others have cautioned, a Social Security exemption would create a giant loophole in the amendment. The contents of Social Security are defined by statute and can be modified by statute. If Social Security were excluded from the amendment while other spending were not, Congress could shield other programs from tough budget choices by passing statutes to shift them into Social Security. Under the pressure of dodging a constitutional amendment, some of the government programs that might be reclassified as part of Social Security are unemployment compensation, worker retraining, and spending on the earned income tax credit. And because Congress is inventive, this is just for starters.

At present, the Social Security trust fund is running a surplus. That would allow many other programs to be shifted into Social Security without busting its trust fund in the short run. When the baby boom generation starts retiring, however, Social Security will experience unsustainably large deficits under present benefit formulas. That looming crisis has nothing to do with a balanced budget amendment. It will be caused by the expanding number of retirees and other taxpayers. If the Social Security System has become a repository for myriad government programs when the demographic crunch arrives, the squeeze on the core program, benefits for the elderly, will come sooner and be harsher because of the extraneous spending that has become embedded in the Social Security System and is also making demands on its revenues.

Social Security projections under current budget formulas point to an enormously adverse impact on the availability of saving for private sector uses. Federal ''entitlements'', of which Social Security is the largest, already preempt much private saving, and, if nothing is done, entitlement spending will before very long consume all private saving. The core economic objective of a balanced budget amendment is to prevent federal budget developments from commandeering private saving. The Social Security System is projected to go into deficit early in the next century and thereafter fall deeper and deeper into debt, becoming the biggest federal government consumer of private saving. It makes no sense to enact a balanced budget amendment but allow Social Security to escape balanced budget discipline. To protect private saving from the inroads of federal deficits, a balanced budget amendment must apply to all government programs, including Social Security and other ''entitlements''.

A balanced budget amendment would force hard choices to be made regarding federal spending programs. Some defenders of a special exemption for Social Security assert that Social Security deserves privileged treatment. Although Social Security is politically popular (which in itself affords much protection), it is not clear on economic or moral grounds why Social Security should receive higher priority than other federal spending. For instance, is paying Social Security benefits a more noble or urgent federal government function than providing for the national defense, enforcing federal laws, or undertaking basic scientific research?

Treating Social Security benefits and taxes differently from all other government outflows and inflows would have some economic justification if Social Security were analogous to private saving, but it is not. Unlike private saving, Social Security payments are not voluntary choices reflecting individuals' preferences. As with other taxes, people can face fines and prison if they refuse to pay Social Security taxes.

With private saving, the funds are invested productively and the eventual payouts to savers come from the returns on those investments. Whereas many advocates of the Social Security program describe it as an efficient government-run saving program, it is, in reality, the largest Ponzi scheme in the history of the world. Social Security payroll taxes go to the U.S. Treasury, and the Treasury, after issuing IOUs to the Social Security trust fund, uses the taxes to help pay the government's current bills. That is not real saving. It is akin to a person earning income, writing himself a bunch of IOUs, putting those IOUs in a piggy bank, and then spending all the money. No matter how full of IOUs the piggy bank becomes, it will not hold even a dime of saving. In other words, the government no more directs Social Security revenues into productive investments than it does other tax revenues.

If a balanced budget amendment to the constitution is to be meaningful in subjecting federal budget policy to financial discipline, it must apply to all federal spending and revenues. It should not exempt the largest spending item and the second largest tax. The national issues the amendment addresses are too important to fall victim to a parliamentary ploy.

MICHAEL S. SCHUYLER,
Senior Economist.

CONGRESSIONAL LEADERS UNITED FOR A BALANCED BUDGET,
January 24, 1995.

FACT SHEET—HOW THE BALANCED BUDGET AMENDMENT PROTECTS SOCIAL SECURITY

THE BBA WOULD PUT AN END TO THE RAPID GROWTH IN INTEREST PAYMENTS THAT THREATEN TO CROWD OUT SOCIAL SECURITY SPENDING

Interest payments on the federal debt have nearly quadrupled since 1980. Net interest payments in 1993 were $200 billion and are expected to exceed $300 billion annually by the

end of the decade. Until we balance the budget, spiralling interest payments will continue to crowd out other spending, including Social Security.

BALANCING THE BUDGET WOULD AVERT THE THREAT OF RUNAWAY INFLATION

No industrialized nation has reached the level of debt we will face next century without monetizing the debt by printing more dollars. Monetizing the debt would lead to explosive inflation. Huge debt burdens contributed to ruinous inflation in Germany in the 1920's and several Third World nations in the 1980's. Runaway inflation would have a particularly severe impact on senior citizens living on a fixed income. It would not do any good to get a $1,000 retirement check if bread costs $100 a loaf.

THE BBA WOULD FORCE CONGRESS TO DEAL WITH DEFICITS IN TIME TO PREVENT A BUDGET CRISIS FORCING DRACONIAN CUTS EACH YEAR JUST TO ''MUDDLE THROUGH''

The General Accounting Office has warned that if the amount of deficit reduction required just to limit the deficit to three percent of GDP would increase exponentially by the year 2005. By the year 2020, Congress would be required to enact a half a trillion dollars of additional deficit reduction each year just to retrain the deficit to three percent of GDP. No program—including Social Security—would be able to escape deep spending cuts under this scenario.

BALANCING THE BUDGET WOULD PROMOTE THE ECONOMIC GROWTH NECESSARY TO SUSTAIN THE SOCIAL SECURITY TRUST FUNDS

GAO, CBO and most economists warn that continued growth in deficit spending would result in lower productivity and deteriorating living standards. As real wages for taxpaying workers decline, there will be increasing resistance to the taxes necessary to meet the growing commitments of the Social Security program. GAO found that balancing the budget by the year 2001 would lead to the higher productivity and growth in real wages that would be necessary to support our commitments to the growing elderly population.

THE AMENDMENT WOULD HELP ENSURE THAT CONGRESS TAKES ACTION BEFORE THE SOCIAL SECURITY TRUST FUNDS BEGIN RUNNING YEARLY DEFICITS

Although the Social Security trust funds currently run a surplus, within a generation, they will face cash shortfalls. A balanced budget amendment would provide Congress and the President with the necessary incentive to take corrective action to deal with this threat and provide for the long-term solvency of the trust funds.

THE AMENDMENT PRESERVES STATUTORY PROVISIONS PROTECTING SOCIAL SECURITY

The current statutory protections for Social Security would not be eliminated by the BBA. For example, under current law, any legislation that would change the actuarial balance of the social security trust funds are subject to a point of order which requires a 3/5 vote to waive in the Senate. Under the 1985 Gramm-Rudman-Hollings Act and the 1990 Budget Enforcement Act, Social Security was completely protected from all sequesters. Social Security is not subject to the spending caps in the 1990 budget agreement. Given political realities, Congress would be likely set budget priorities in such a way that protections for Social Security are maintained or even enhanced.

EXEMPTING SOCIAL SECURITY WOULD OPEN UP A LOOPHOLE IN THE BBA AND TEMPT CONGRESS TO DEFUND THE TRUST FUNDS, THREATENING RETIREMENT BENEFITS AND THE TRUST FUND SURPLUSSES

Exempting the Social Security trust funds from the amendment would create a perverse incentive for Congress to use them as a source to fund new or totally unrelated programs, threatening the ability of the trust funds to fulfill their current obligations to retirees. For example, Congress could pay for current and new non-Social Security spending by simply depositing FICA taxes into general Treasury revenues, instead of into the trust funds. Congress also could pass legislation to shift spending for Medicare, other retirement programs, or any number of programs to the Social Security trust funds to avoid a 3/5 vote to unbalance the budget. Thus, non-Social Security outlays and receipts could be ''balanced'' simply changing program definitions and draining the Social Security trust funds.

THE CONSTITUTION IS NOT THE PLACE TO SET BUDGET PRIORITIES

A constitutional amendment should be timeless and reflect a broad consensus, not make narrow policy decisions. As noted above, the financial status of Social Security will change drastically, and perhaps quite unpredictably, in the next century. We should not place technical language or overly complicated mechanisms in the Constitution and undercut the simplicity and universality of the amendment.

CONGRESSIONAL LEADERS UNITED FOR A BALANCED BUDGET,
January 18, 1995.

FACT SHEET—A BALANCED BUDGET AMENDMENT EXEMPTION WOULD IMPERIL SOCIAL SECURITY

A BBA EXEMPTION WOULD THREATEN THE REVENUES FOR THE SOCIAL SECURITY TRUST FUND

Placing the OASDI/Social Security trust funds outside the Amendment's deficit restrictions would provide a perverse incentive for a future Congress to shift FICA (and related income) taxes out of the trust funds. Portions of those taxes could be transferred to general Treasury accounts to balance the ''operating'' budget covered by the BBA, but at the cost of gutting the OASDI trust funds. The current stable revenue stream for Social Security could be critically diverted in small steps which would add up to disaster for the system. A precedent for this already exists: The income taxes on Social Security benefits in the 1983 ''bailout'' go directly into the trust funds, but higher income taxes imposed on Social Security retirees in 1993 are diverted to general Treasury revenues.

SOCIAL SECURITY COULD EASILY BE OVERWHELMED BY NON-SOCIAL SECURITY PROGRAMS MOVED TO SOCIAL SECURITY'S LEDGER IN AN ATTEMPT TO HIDE THEM BEHIND THE CLOAK OF ITS EXEMPT STATUS

It's easy to predict well-meaning efforts to protect a whole range of social programs by arguing they fall under the general intent of Social Security to provide a safety net. Contrary to the claims of those who want an exemption, funding for current Social Security would not be set aside for protection, but would be pilfered by reclassifying more and more programs as Social Security. This is an even greater threat than simply providing a loophole for deficit spending. As other programs intrude on Social Security, its stability will steadily erode.

A SOCIAL SECURITY EXEMPTION DEFEATS THE INTENT OF THE BBA BY PROVIDING THE GREATEST DEFICIT LOOPHOLE IN HISTORY

As if the direct threat to Social Security isn't enough, exempting it would create an enclave for additional federal debt while at the same time, government could proudly proclaim a ''balanced budget.'' Projects which risk being assigned a low priority under the BBA could avoid facing scrutiny and be paid for by draining the Trust Funds. The Social Security deficit tomorrow could be bigger than the total deficit today.

THE DEBT IS THE THREAT

The greatest threat to Social Security is the federal debt itself. Gross interest payments on the debt already are nipping at the heels of Social Security as the second largest single item in the federal budget. Social Security is in no way immune to the increasing pressure interest payments place on every single federal spending item as the growing debt forces ever larger debt service costs.

EVERY CURRENT STATUTORY PROTECTION FOR SOCIAL SECURITY CAN CONTINUE UNDER BBA

Social Security is the best statutorily protected program in the federal budget. Those laws are perfectly compatible with a BBA and can remain in force, continuing to protect the system. The BBA takes away the major threats to Social Security so existing statutes can do their jobs. But if the federal budget does not have the spending restraint imposed on it by a Constitutional Amendment, we cannot guarantee that the statutes which protect Social Security now can be maintained.

CONGRESSIONAL LEADERS UNITED FOR A BALANCED BUDGET,
January 30, 1995.

THE BALANCED BUDGET AMENDMENT—A NECESSARY AND APPROPRIATE ADDITION TO THE CONSTITUTION

THE AMENDMENT CORRECTS AN INSTITUTIONAL BIAS TOWARD DEFICIT SPENDING

Representatives may know that chronic deficits threaten the nation's long-term prosperity, but they also know that their short-term interest lies in spending more on the demands of various special interests. When faced from all sides with demands for more spending and less taxes, Congresses and Presidents have taken the easy way out by borrowing more money. A Balanced Budget Amendment corrects this bias by creating immediate political and economic consequences for running a deficit.

THE AMENDMENT PROTECTS RIGHTS DESERVING CONSTITUTIONAL PROTECTION

The ability to borrow money from future generations is a power of such magnitude that should not be left to the judgments transient majorities. Thomas Jefferson favored a Constitutional prohibition of federal indebtedness, fearing that taxes on farmers, laborers, merchants and their families would escalate forever to pay the interest on a growing debt. The threat of economic and political harm from deficit spending is the type of governmental abuse appropriately proscribed by the Constitution.

Even Professor Laurence Tribe of Harvard, a leading opponent of the amendment, told the Senate Budget Committee in 1992 that ''The Jeffersonian notion that today's populace should not be able to burden future generations with excessive debt, does seem to be the kind of fundamental value that is worthy of enshrinement in the Constitution. In a sense, it represents a structure protection for the rights of our children and grandchildren.''

THE AMENDMENT IS CONSISTENT WITH THE AMERICAN PRINCIPLE OF PROTECTING THE INTERESTS OF POLITICALLY UNDER-REPRESENTED GROUPS FROM MAJORITY ABUSE

The Constitution has always served to protect unrepresented minorities from the abuses of government. The framers of the Constitution were extremely concerned that the rights of the public would be trampled by the tyranny of the majority and crafted a Constitution that balanced the protection of minority rights against the principal of majority rule. Senator Byrd made an eloquent

statement on behalf of this principal during a debate regarding the Senate filibuster, stating that ''There have come times when the protection of minority is highly beneficial to a nation. Many of the great causes in the history of the world were at first only supported by a minority. and it has been shown time and time again that the minority can be right. So this is one of the things that's so important to the liberties of the people.''

Living off a giant credit card and sending the bill to the next generation is a form of taxation without representation in a very real sense. Requiring a higher threshold of support for deficit spending will protect the rights of future generations who are not represented in our political system but will bear the burden of our decisions today.

Requiring a higher threshold of support for deficit spending will protect the rights of future generations who are not represented in our political system but will bear the burden of our decisions today. The ability to borrow money from future generations is a power of such magnitude that it should not be left to the judgments of transient majorities.

Thomas Jefferson agreed with BBA proponents that, ''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.'' With what does a constitution deal, if not with ''the fundamental principles of government?''

The BBA is based on exactly the same principles as the rest of the constitution.—It would protect the fundamental rights of the people by restraining the federal government from abusing its powers. Morally dubious things should be difficult to do. That's the underlying principle for requiring 3/5 votes in both Houses to approve deficit spending.

Conclusion.—Thousands of pages and hundreds of hours of committee testimony, floor debate, and committee reports have answered every question and concern about the BBA. The only reason left for voting against the BBA is if you believe that it's all right to leave our children a legacy of excessive—and growing—debt. The determination of BBA opponents shows that they fear what BBA supporters have promised all along: the amendment will work.

CONGRESSIONAL LEADERS UNITED FOR A BALANCED BUDGET,
January 30, 1995.

WOULD THE BBA ''END MAJORITY RULE?'' NO. IT WOULD PROTECT FUNDAMENTAL RIGHTS.

A common criticism of the balanced budget amendment is that it would ''end majority rule.'' Those who focus on the difficulty of achieving a 3/5 majority to approve deficit spending are missing the point about this amendment. They are stuck in the status quo, revealing their reverence to an outdated pattern of thought; that deficits are the norm. Or, alternately they betray preferences FOR deficit spending. The mind-set exposed is, what would we need to do under the BBA to continue deficit spending?

Opponents of requiring super majorities to approve deficit spending ignore one point, intentionally or otherwise: Under a balanced budget amendment simple majorities will continue to rule. The amendment does not affect the ability of a majority to spend on programs it deems important and to set budget priorities as it sees fit. Super majorities would come into play only when deficit spending looms because the majority abdicates its responsibility to produce a balanced budget. They would serve as a deterrent to irresponsible fiscal policy, while allowing necessary flexibility when a consensus emerges to deal with a national emergency.

Some opponents of the amendment write as though super majorities were a foreign concept to the framers of the constitution. One of their explicit purposes outlined in the Federalist Papers, was to put certain rights and powers beyond the reach of the ''tyranny of the majority,'' and protect current minorities and future majorities from abuse by transient, coalescing ''factions.'' The BBA is very much within that spirit.

Every right protected in the constitution is protected with super majority requirements. That's what is necessary to amend the explicit rights stated in the document.

Senator Byrd of West Virginia, a leading opponent of this measure, might himself have made our point best when he said, ''There have come times when the protection of a minority is highly beneficial to a nation. Many of the great causes in the history of the world were at first only supported by a minority. And it has been shown time and time again that the minority can be right. So this is one of the things that's so important to the liberties of the people.''

The unfettered power to deficit spend carries with it the temptation to exercise that power to the point of abuse. Incurring huge debts on behalf of our children really is a form of taxation without representation. Our children are a minority whose economic interests demand to be represented through the super majorities provided for in the balanced budget amendment.

[U.S. Chamber of Commerce, Washington, DC]

BALANCED BUDGET AMENDMENT: CONSTITUTIONAL ISSUES

The U.S. Chamber of Commerce, the nation's largest business federation, has endorsed S.J. Res. 1, the Balanced Budget Amendment to the U.S. Constitution. The Chamber believes that this measure will help move the federal government toward fiscal responsibility. This paper discusses the most significant constitutional and legal questions raised by this landmark legislation, along with some of the conclusions reached by the U.S. Chamber.

IS A BALANCED BUDGET REQUIREMENT APPROPRIATE SUBJECT MATTER FOR THE CONSTITUTION?

Some commentators have argued that a balanced budget requirement is a mere rule of accounting, incompatible with the broad principles embodied in the Constitution. It is worth noting that the Constitution already contains several narrowly-focused economic and fiscal provisions, including the requirement of ''a regular statement and account of the receipts and expenditures of all public money'' (Article I. Section 9) and the requirement that ''duties, imposts and excises . . . [be] uniform throughout the United States'' (Article I, Section 8).

Moreover, the Balanced Budget Amendment embodies two principle themes of the Constitution: limitation on federal power, and protection of politically under-represented groups against majoritarian abuse. Thomas Jefferson, who perceived the inherent tendency of central government to expand, supported a constitutional prohibition of federal borrowing as a means of protecting individual liberty. For most of the nation's history the growth of the federal government was held in check by an implicit policy against deficits, except during war or recession. In recent times, the erosion of this principle has created persistent structural deficits, removed the need to limit and prioritize programs, and led to an excessively large federal sector. The BBA requirement that federal operations be funded from current revenues restores an important principle of fiscal responsibility and limited government.

Likewise, the protection of groups with limited access to the political process has emerged as a major theme of Constitutional law.[1] Limitations have been placed on governmental actions which unfairly impact racial minorities, aliens and other ''discreet and insular'' groups.[2] Because future generations who will bear much of the burden of current policy lack input in to the electoral process, it may be that their interests are undervalued in federal budget decisions. The Balanced Budget Amendment seeks to ensure that the vital interest of young and future Americans are reflected in the decisions of Congress, embodying a principle of fairness and political inclusion consistent with the best provisions of the Constitution.

CAN THE DEFICIT PROBLEM BE SOLVED SHORT OF AMENDING THE CONSTITUTION?

Statutory attempts to impose fiscal discipline upon the federal government have failed, largely because Congress was able to change the rules in mid-game. The ambitious deficit reduction targets of the 1985 Gramm-Rudman-Hollings law were repeatedly modified when they conflicted with Congress' spending ambitious. Likewise, big-ticket items such as unemployment compensation payments and disaster relief are customarily designated as ''emergency'' spending, which exempts them from spending caps. Between 1980 and 1990, each year's actual spending exceeded the targets of that year's budget resolution by an average of $30 billion (the excess was $85 billion in 1990).[3]

Each statutory response to the deficit has shown the same vulnerability: hard-won budget rules can be waived or modified by a simple majority vote. Not surprisingly, a majority can usually be assembled to support more spending. The key advantage of a Constitutional amendment is that tough budgetary rules can be placed beyond the reach of simple Congressional majorities *S.J. Res. 1* requires yearly enactment of a balanced budget, unless Congress approves a specific deficit for that fiscal year by a three-fifths vote of each house. (A simple majority of each house can waive the balanced budget requirement during a time of war.) The supermajority requirement reflects the view that incurring a deficit should be an exceptional event that requires clear consensus. This legislation commits future Congresses to avoid structural deficits, while providing them the flexibility to respond to true emergencies.

IS THERE ANY PLACE FOR STATUTORY SOLUTIONS?

While the Balanced Budget Amendment mandates a zero deficit by FY 2002 (or the second fiscal year after enactment), it does not specify how to get there. The Chamber believes that enactment of a BBA will force Congress to take a close look at statutory mechanisms designed to reach that goal, and this will probably begin well in advance of final ratification by the states. In approving *S.J. Res. 41*, the Senate Judiciary Committee contemplated enactment of ''legislation that will better enable the Congress and the President to comply with the language and intent of the amendment.''[4] Additional budget process reforms may include tax and spending limitations, line-item veto authority, and the creation of an independent commission to recommend spending cuts. The BBA will thus lay the groundwork for further budget process reforms at the statutory level.

Footnote at end of article.

WILL CONGRESS AND THE PRESIDENT STILL HAVE THE FLEXIBILITY TO RESPOND TO NATIONAL EMERGENCIES?

S.J. Res. 1 does not prohibit Congress from running a deficit in a given year; it merely requires that this decision be approved by three fifths of each house. This degree or consensus is required for many important decisions, including the approval of a treaty, and override of a Presidential veto. In the BBA, the three-fifths requirement reflects the view that incurring a deficit should be an exceptional event that is carefully scrutinized. At the same time, this provision allows Congress and the President the flexibility to respond to genuine emergencies. Should large-scale domestic problems such as recessions or natural disasters alter budget needs, it will be possible to assemble a three-fifths consensus that recognizes this. In the case of foreign aggression, the balanced budget requirement can be suspended by a simple majority vote of each house.

WILL THE AMENDMENT THRUST THE COURTS INTO AN INAPPROPRIATE ROLE OF CUTTING PROGRAMS AND RAISING TAXES?

Some commentators have raised questions about the enforcement of a Balanced Budget Amendment. A primary concern is that Congressional efforts to meet the balanced budget requirement would be challenged in the courts, and the judiciary would be thrust into the role of weighing policy demands, slashing programs and increasing taxes. On the other hand, there is a legitimate and necessary role for the courts in ensuring technical compliance with the amendment. The Chamber believes that these concerns can be reconciled in implementing legislation, which draws upon existing legal principles.

In general, the courts have shown an unwillingness to interject themselves into the fray of budgetary politics. The New Jersey Supreme Court observed that ''it is a rare case . . . in which the judiciary has any proper constitutional role in making budget allocation decisions.''[5] The judiciary has remained clear of most budget controversies through doctrines of ''nonjudiciability,'' including ''mootness,'' ''standing,'' and the ''political question'' doctrine.

A case is considered moot and can be rejected by the court, if the matter in controversy is no longer current (this will be a factor in many budgetary controversies, such as those based on unplanned expenditures or flawed revenue estimates which become apparent near the end of the fiscal year). The doctrine of standing limits judicial access to parties who can show a direct injury over and above that incurred by the general public. The logic is that the grievances of the public (or substantial segments thereof) are the proper domain of the legislature.[6] The U.S. Supreme Court has held that status as a taxpayer does not automatically confer standing to challenge federal actions,[7] and has barred taxpayer challenges of budget and revenue policies in the absence of special injuries to the plaintiffs.[8] The political question doctrine is a elated principle that the courts should remain out of matters which the Constitution has committed to another branch of government. The Supreme Court has held that a ''political question'' exists when a case would require ''nonjudicial discretion.''[9] This would be the case with many budgetary controversies, such as the choice to cut particular programs, which by their nature require ideological choices and the balancing of competing needs.

In contrast, courts have asserted jurisdiction over politically tinged controversies where they find ''discoverable and manageable standards'' for resolving them. In *Baker v. Carr,*[10] the U.S. Supreme Court reasoned that objective criteria guide judicial decisionmaking and limit the opportunity for overreaching. In the balanced budget context, the ''discoverable and manageable standards'' principle can help demarcate lines between impermissible judicial policymaking, and the needed enforcement of accounting rules and budget procedures.

In all likelihood, a strong framework of accounting guidelines will emerge from implementing legislation. The Senate Judiciary Committee has interpreted Section 6 of the bill to impose ''a positive obligation on the part of Congress to enact appropriate legislation'' regarding this complex issue.[11] Judiciary Committee staff on both the House and Senate side have indicated their intention that implementing legislation embrace stringent accounting standards that will minimize the potential for litigation. Should legitimate questions arise concerning the methods by which Congress balances the budget, these standards will also provide objective criteria which meet constitutional standards for judicial intervention.

The implementing package is also likely to establish guidelines for judicial involvement, defining what issues are judiciable and which parties have standing to challenge Congressional decisions. State budget officers, for example, could be given standing to contest unfunded federal mandates. The enforcement procedures, coupled with budget process and accounting guidelines, will operate against a backdrop of traditional legal principles to rationally limit judicial action. The effect should be to prevent judicial overreaching into legislative functions, while providing a check on Congressional attempts to evade the requirements of the BBA through procedural and numerical gimmickry.

FOOTNOTES

[1] See John Hart Ely, *''Toward A Representation-Reinforcing Mode of Judicial Review,''* 37 Md. Law Review 451 (1978).

[2] *United States* v. *Carolene Products Co.,* 304 U.S. 144 (1938), footnote 4.

[3] Source: *''The Economic and Budget Outlook,''* Congressional Budget Office (January 1993), p. 108.

[4] S. Rpt. 103–163, 103rd Congress, 1st Session (1993), p. 6.

[5] *Board of Education* v. *Kean,* 457 A.2d 59 (1982).

[6] *Flast* v. *Cohen,* 392 U.S. 83 (1968) (Harlan, J., dissenting).

[7] *Massachusetts* v. *Mellon,* 262 U.S. 447 (1923).

[8] *United States* v. *Richardson,* 418 U.S. (1974) (plaintiffs challenged a statute allowing the CIA to avoid public reporting of its budget); *Simon* v. *Eastern Kentucky Welfare Rights Organization,* 426 U.S. 26 (1976) (plaintiffs challenged a Revenue Ruling granting favorable tax treatment to certain hospitals as inconsistent with the Internal Revenue Code).

[9] Id.

[10] *Baker* v. *Carr,* 369 U.S. 186 (1962).

[11] S. Rpt. 103–163, 103rd Congress, 1st Session (1993).

U.S. CHAMBER OF COMMERCE,
Washington, DC, 20062–2000.

THE ECONOMIC EFFECTS OF THE BALANCED BUDGET AMENDMENT

The U.S. Chamber of Commerce, the nation's largest business federation, endorses S.J. Res. 1, the Balanced Budget Amendment of the U.S. Constitution. The Chamber believes that this measure will help move the federal government toward fiscal responsibility. This paper discusses the most significant economic questions raised by this landmark legislation along with some of the conclusions reached by the U.S. Chamber.

Q. Why should we balance the federal budget?

A. There are several reasons why the federal budget should be balanced. Most fundamentally, the Balanced Budget Amendment would improve accountability in federal spending decisions. Government officials are generally inclined to increase government spending to improve services to their constituents. This, of course, is countered by their reluctance to raise taxes. But since borrowing can substitute for raising taxes, legislators find they can offer high level of services without the pain of raising the current level of taxes. Consequently, when it's time to make tough spending decisions, Congress finds it can dodge the question by just borrowing the difference. The proper counterweight to higher government spending—raising taxes—is circumvented by the seemingly painless act of federal borrowing. This leaves us with more government than taxpayers are willing to pay for. Over time, such borrowing leaves us with a bloated government sector and the problem of paying off the debt.

The Balanced Budget Amendment restores the proper balance between spending and taxes, and forces government officials to prioritize difficult spending choices. It improves the process whereby such decisions are made, forcing Congress to use much greater discipline.

Also, no matter whether the government finances its spending through taxes or borrowing, its still spending and therefore commanding economic resources. To those who believe in limited government and market systems, the *level* of federal spending is as much of a concern as how the amount is financed. Limiting government borrowing blocks the path of least resistance to government expansion, and so we expect that a Balanced Budget Amendment would act to limit the reach of government into the economy.

Q. Wouldn't Congress just raise taxes to close the deficit?

A. In a way. Congress already has. After all, the difference between Government borrowing and raising taxes is just a question of taxes today or taxes tomorrow. The important point is that, no matter how it's financed, the government is spending economic resources, and the amount of spending will surely be greater when government is allowed to use deficit spending.

And tax increases to close the deficit gap are being used now anyway—witness the tax increases in 1982, 1983, 1984, 1985, 1988, 1989, 1990 and 1993. In other words, we're already getting the tax increases. By requiring a balanced budget, we expect to place additional pressure on Congress to tackle the spending cuts that should be made.

To answer the question more directly. Congress can't just raise taxes, leave spending intact, and walk away—if it could, it would have done so a decade ago and spared us this long debate on deficit spending. So while it may raise some taxes to close the deficit, Congress will have to confront its voracious spending habit. The end result will be a lower level of government spending, and less government involvement in the economy.

In addition, a couple of provisions in the BBA make it more difficult to raise taxes. Under the amendment, tax increases require both a roll call vote (instead of anonymous voice votes) and a constitutional majority (which means 51 votes would be required in the Senate and 218 votes in the House to raise taxes, instead of a majority of those voting). This may not sound like much of a hurdle, but note that President Clinton's 1993 tax increase would have needed an additional two Senate votes under such a requirement. Instead, it passed after Vice President Gore's vote broke a 49–49 deadlock.

Finally, of course, congressmen and women would have to face the political consequences of raising taxes at the voting booth. Because a roll call vote would identify those who voted to raise taxes, legislators would be held to a higher level of accountability.

Q. What is the primary economic impact of running government deficits?

A. The worst thing about government deficit spending is that it distorts the economy's

balance between saving and investment, producing adverse long-term productivity growth. The funds the government is borrowing have to come from somewhere, and generally they come from private saving and private investment. Throughout the 1980's and early 1990's, we've seen the saving rate fall from about 8% to consistently below 4%—too low to fuel the kind of investment we need to keep up our high productivity. Since long-term productivity growth is the key to rising standards of living, it's dangerous to be skimping on investment.

Federal borrowing is not inherently wrong or bad for the economy; it depends on how the funds are used. If the funds were being used exclusively to create stronger schools, better highways, safer bridges, and so forth, we would be increasing the productive capacity of the economy. This means that we would be creating the means by which future generations can create the wealth to pay back the borrowed funds. But if we're using those funds to provide ourselves with consumption-oriented short-term benefits that don't improve our long-term productive capacity, then we're raising our standard of living by lowering that of future generations. To quote NationsBank economist Mickey Levy: ''Deficits matter most because they distort the way current national resources are allocated, generally favoring current consumption at the expense of private investment.''[1]

Q. Are there other effects of deficit spending that harm the economy?

A. In a complex, interlocking, international economy, you can expect sustained deficit spending to cause other distortions as well. First, chronic government borrowing tends to put upward pressure on interest rates. Businesses seeking to raise capital and households applying for mortgages have to compete with the federal government in securing loanable funds. This increase in demand pushes interest rates up. Consequently, fewer loans are made to the private sector, and those that are made carry a higher interest rate. This is known as ''crowding out,'' since government borrowing displaces some private borrowing.

Second, because our economy is increasingly linked to the global market, there are important international impacts related to the budget deficit.[2] Higher interest rates tend to raise the foreign exchange value of the dollar, meaning that our trading partners face price increases on the goods and services they buy from the U.S. This lowers our exports, pushing up our trade deficit. Many contend that one of the major forces behind the huge trade deficits of the 1980s was the federal budget deficit.

Third, the amount we're paying to service our national debt has grown almost fivefold since 1979—from $43 billion to $203 billion in 1994. As a share of total government outlays, interest payments on the debt have about doubled from 7.4% during the 1970s to over 14% currently. That means that for the same amount of revenue, there's less money for other government programs, whether it's for national defense, our court system, Head Start, or environmental clean-up. No matter what the budget priorities are, fewer funds are available.

To sum up, there are serious economic side-effects of deficit spending that Washington tends to ignore. In addition to restoring discipline to the spending decisions of Congress, the Balanced Budget Amendment seeks to remove the economic distortion caused by chronic deficit spending.

Q. Back to that notion of ''crowding out'' for a moment. If increased government borrowing leads to higher interest rates, as you claim, then why did interest rates fall during the 1980s just as the budget deficit was expanding?

A. The key to this apparent paradox is the behavior of inflation during the 1980s. After starting out the decade in the double-digits, the inflation rate fell sharply due to tighter monetary policy and, in mid-decade, the collapse of oil prices. Since expectations of future inflation are embedded in market interest rates this decline in inflation pushed interest rates down. This more than offset the impact of increasing federal deficits which were working at the same time to push interest rates up.

So while it's true that market interest rates fell significantly during the 1980's it's correct to say that they would have fallen even further had the federal budget been brought into balance. In fact later in this document we'll present results from an econometric study that show significally lower interest rates as a result of moving to a balanced budget.

Q. Doesn't government spending represent an investment in the economy, with highway and transportation construction, funds going to education, etc?

A. Some government spending can be regarded as ''investment spending,'' meaning that funds spend now will generate stronger economic growth later. Spending on infrastrucutre—highways, bridges, dams, and mass transit, for example—and other programs such as education are often thought of that way, since they provide benefits over a long period of time. But the bulk of government spending goes to projects and programs that don't provide much of a return over time, but instead represent ''current spending.'' Such programs include Social Security, Medicare, federal retirement programs, unemployment insurance, agricultural extension offices, and so forth. While many of these programs are desirable, we need to recognize that we're borrowing vast sums to pay for benefits that are only short-lived. If this generation believes that the current level of spending on entitlements such as Social Security is appropriate, that's fine, but the funding should therefore come from the current generation, not the next.

Because an extra dollar of private investment is generally more efficient that an extra dollar of government investment, our productive capacity generally grows less when funds are diverted away from the private sector. This means that productivity and wage growth will be held back, lowering our standard of living.

Q. Why a Balanced Budget Amendment now? After all, we've gotten along without it for 200 years.

A. Until about 1960 or so, running a balanced over time was almost an unwritten Constitutional amendment. The U.S. government ran deficits during the War of 1812, the severe recession of 1837–43, the Civil War, and the Spanish American War, to name a few episodes. But in other periods, the federal government ran surpluses to reduce its outstanding debt. On the whole, only emergencies justified running a deficit.

But since 1960, this informal rule apparently has gone by the wayside. In the past 34 years, the U.S. has avoided a deficit only once, when in 1969 there was a surplus of $3 billion. Given the chronic deficits we've come to expect, its time to make explicit through a Constitutional amendment the old implicit principle of government living within its means.

Q. Will passing a Balanced Budget Amendment really add discipline to the federal government?

A. Lawmakers have tried statutory measure to rein in government deficit spending, but they just haven't worked. For example, in 1985 Congress passed the Gramm-Rudman-Hollings deficit reduction bill, which was supposed to reduce the deficit to zero by fiscal year 1991 from the $293 billion deficit projected at the time for fiscal year 1991.[3] As it turned out, even with passage of GRH, we ended up with a $196 billion deficit in 1991 and a $289 billion deficit in 1992. That's because hard-won budget rules can be waived or modified by a simple majority vote. The Balanced Budget Amendment, on the other hand, requires a three-fifths vote of each house to enact a budget with a deficit (in times of war, only a simply majority is required).

It's clear that these statutory measures haven't worked, and so it's time to turn to the stronger medicine of a balanced budget amendment.

Q. Didn't we move to balancing the budget with the passage in August 1993 of President Clinton's budget package, the Omnibus Budget Reconciliation (OBRA)?

A. Washington made some progress in trimming the deficit in 1993 when it passed OBRA. The nonpartisan Congressional Budget Office estimated in September 1993 that OBRA will cut $433 billion of debt over the next five years from the projected baseline (i.e., pre-OBRA) level of debt.[4] But not only is the post-OBRA deficit still at $222 billion in FY 1998 (CBO January 1995 estimate), but it's also on the rise. By 2005, according to CBO, the deficit is projected to hit $421 billion. As a percentage of total output, that means the deficit rises from 2.7% of GDP in FY 1998 to 3.6% in FY 2004.[5]

Like the budget deals in the previous decade before it, OBRA clearly does not solve the deficit problem. That's why it's imperative to turn to a constitutional, rather than a statutory, remedy for our chronic deficit problem.

Q. What's the relationship between the federal deficit and federal debt?

A. The federal deficit is the difference between the government's outlays and receipts in any one year, while federal debt is the total amount of government debt outstanding. The debt, in other words, is the total accumulation of deficits over the years. In 1994, the federal deficit was $203 billion, and the total federal debt by year-end was $4.64 trillion.[6]

Q. A federal debt of $4.6 trillion sounds like a lot, but is it historically high?

A. In absolute terms, it's the highest it's ever been. But because of inflation and the growth of our economy, it's best to answer this question by measuring the federal debt relative to the size of the economy; that is, to look at the ratio of debt to GDP. Today, the total debt held by the public is 52% of current GDP.[7] While that's less than half of 1946's 114% of GDP, we don't have as much to show for it. The debt then paid for victory in World War II, while the current debt is simply funding higher levels of consumption.

Moreover, this ratio is currently moving in the wrong direction. It's grown from below 30% during the 1970s to just over 40% during the mid-1980s, and now to over 50%. In contrast, the federal debt ratio in the postwar period was pruned from 114% to 68% by 1951, and generally kept falling until the early 1970s.

Q. So the federal debt's higher, and it's been growing for twenty years. But while some continue to feel economic discomfort from structural changes unrelated to the higher federal debt (such as the defense build-down and the commercial real estate overhang), the U.S. seems to be doing fine. What's the crisis?

A. The growing federal debt is not a problem that can be characterized as ''a wolf at the door,'' which requires immediate attention. Instead, to use the analogy introduced by President Carter's top economist, Charles

[1] Footnotes at end of article.

Schultze, it's a ''colony of termites in the wall.''[8] In other words, it's a serious long-term problem that can be ignored in the short-term. The damage—lower investment, lower productivity, slower wage growth, etc.—may be hard to perceive or even hidden by other economic forces, but that doesn't mean it's not occurring. The termites are still chomping away and must still be dealt with, because the destruction can be massive.

Q. Won't the Balanced Budget Amendment hamper government activity in times of a national emergency, such as a war?

A. The Amendment will not compromise America's ability to respond to national emergencies. In general, the Amendment can be suspended for a specific fiscal year whenever three-fifths of both Houses of Congress vote to do so. In wartime, this requirement is lowered to a simple majority.

Q. Won't balancing the budget cause a serious disruption of economic growth?

A. If the deficit were reduced all at once—from FY 1995's projected $162 billion to zero next year, for example—there indeed would be a severe disruption. Because the removal of so much fiscal stimulus in one year is not advisable, the Balanced Budget Amendment calls for the provision to become law in FY 1999 or two years after the ratification by three-quarters of the states, whichever is later. The Amendment does not provide a specific path for deficit reduction in the meantime, but Congress would have five years to implement the needed changes.

While we should expect some disruption—balancing the budget is not, in the short-term, an economic growth policy—we will see several long-term benefits after the budget is balanced. And the short-term distress can be mitigated, according to economic simulations performed in a 1992 study conducted by Laurence H. Meyer & Associates, a nonpartisan and highly regarded macroeconomic consulting firm based in St. Louis, Missouri. If we had started in 1993 and balanced the budget by 1998, using Federal Reserve policy to cushion the economy, the LHM&A model shows that total output would be between 1% to 1.6% higher in 2003.[9] Even 1% additional output means an economy that's $80 billion larger (measured in today's dollars).

Q. Does it make any difference whether Congress balances the budget using tax increases or spending cuts?

A. It makes a big difference. In the study cited above, LHM&A found that the highest gains from deficit reduction come from expenditure cuts. That is because increases in taxes create disincentives for labor and investment, mitigating some of the beneficial effects of deficit reduction on interest rates.

In the following table we report the results of two policy simulations conducted by LHM&A in which the budget is balanced, and compare it to the baseline case where policy is left as is.

The first column shows where the economy would be if no action were taken.

The second column shows where the economy would be if expenditures were cut by the entire amount necessary to balance the budget (''All Spending'').

The final column shows the results of balancing the budget by raising spending and cutting expenditures by exactly the same amount (''Mix'').

The two balanced budget scenarios assume that the Federal Reserve eases monetary policy enough to maintain the unemployment rate at the baseline level of 5.2%. The following table compares how the economy would look with and without deficit reduction by showing some of the results for the first five years.

THE ECONOMIC IMPACT OF BALANCING THE BUDGET

[The First 5 Years of Deficit Reduction]

	No deficit reduction	Deficit reduction scenarios	
	Baseline	All spending	Mix
Levels in the fifth year:			
Federal deficit ($ bill)	−251	0	−1
3-month T-bill rate (percent)	5.5	4.7	4.6
30-year Government bond yield (percent)	6.9	5.7	5.8
AAA corporate bond yield (percent)	7.1	5.8	5.9
Average annual growth, first 5 years (percent):			
Real GDP	2.6	2.8	2.7
Inflation	3.3	3.5	3.4
Real personal disposable income	2.3	1.7	1.5

Notice how interest rates are significantly lower in the scenarios where the deficit has been reduced. This is the fuel for the higher level of business investment. In fact, the inflation-adjusted value of the nation's plant and equipment (what economists call the real capital stock) is 2% higher after the first five years of deficit reduction, and 6% higher after ten years, when comparing the result of the ''All Spending'' scenario to the baseline. While those figures may sound small, they mean $120 billion worth of additional computers and manufacturing plants within five years, and $390 billion more in ten years. And it should be noted that the capital stock is almost 2% higher when the budget is balanced entirely through spending cuts rather than an equal mix of spending cuts and tax increases.

While inflation is a bit higher in the deficit-reduction scenarios (due to the Federal Reserve's cushioning), growth in real GDP (inflation-adjusted output) is stronger, on average, in the five-year period, as the deficit is reduced. Real personal disposable income grows at a slower rate (1.7% and 1.5% versus 2.3%) in the cases where the deficit is lowered. But note that it's stronger in the case where all of the deficit reduction comes from reductions in government spending. This shows that moving to a balanced budget will inflict some economic pain. The short-term pain is unavoidable, but it helps set the stage for stronger growth in the years after the deficit has been balanced.

Of course, the active participation of Federal Reserve is an important component of LHM&A's simulations, and it comes with the price tag of slightly higher inflation. But the important point is that the model suggests a path that the economy can follow to get to a balanced budget without severe economic hardship.

Another factor that would help the transition that's hard to model is the boost to consumer and business confidence we would expect to find once a credible balanced-budget plan were enacted. Business investment should be higher, and the return of resources from the public to the private sector as government spending cuts are carried out should improve overall productivity in the economy.

Q. Most of the states have some sort of balanced budget requirement. What has been their experience?

A. According to the National Association of State Budget Officers, the application of the state experience to the Federal experience is not clear-cut. The state balanced budget requirements are diverse and written so generally that they're subject to varying interpretations. According to their 1992 statement, the tradition of balanced budgets, rather than the enforcement provisions or the threat of lower bond ratings, plays the most important role in developing balanced budgets.[10]

FOOTNOTES

[1] Mickey D. Levy, *Deficitphobia: Right for the Wrong Reasons,* in ''Economic and Financial Perspectives,'' CRT Government Securities Ltd., New York, December 1993, pg. 1.

[2] Benjamin M. Friedman, *U.S. Fiscal Policy in the 1980s: Consequences of Large Budget Deficits at Full Employment,* in ''Debt and the Twin Deficits Debate,'' James M. Rock, ed. Mayfield Publishing Company, 1991.

[3] Laurence H. Meyer & Associates, *Balancing the Budget by 1991: The Gramm-Rudman-Hollings Proposal,* November 1985, pg. 5.

[4] Congressional Budget Office, *The Economic and Budget Outlook: An Update,* September 1993, pgs. 26–29.

[5] Congressional Budget Office, *The Economic and Budget Outlook: FY 1996–2000,* January 1995, pg. 58.

[6] Ibid, pg. 51.

[7] Congressional Budget Office, *Federal Debt and Interest Costs,* May 1993, pg. 92.

[8] Charles L. Schultze, *Of Wolves, Termites and Pussycats,* ''The Brookings Review,'' Summer 1989, pgs. 26–33.

[9] Laurence H. Meyer & Associates, *Balancing the Budget: An Analysis of the Economic Effects of Deficit Reduction,* prepared for the Chase Manhattan Bank, December 1992, pg. 1.

[10] National Association of State Budget Officers, *State Balanced Budget Requirements: Provisions and Practices,* June 1992, pg. 3.

U.S. CHAMBER OF COMMERCE,
Washington, DC.

BALANCED BUDGET AMENDMENT: THE ROLE OF THE COURTS

Some lawmakers and commentators have raised questions about the enforcement of a Balanced Budget Amendment to the U.S. Constitution. A primary concern is that Congressional efforts to meet the balanced budget requirement would be challenged in the courts, and the judiciary would be thrust into a non-judicial role of weighing policy demands, slashing programs and increasing taxes.

On the other hand, there is a legitimate and necessary role for the courts in ensuring compliance with the amendment. Congress could potentially circumvent balanced budget requirements through unrealistic revenue estimates, emergency designations, off-budget accounts, unfunded mandates, and other gimmickry. Certainly, the track record of the institution under the spending targets of Gramm-Rudman-Hollings and other statutory provisions is no cause for optimism.

It is our view that the need to proscribe judicial policymaking can be reconciled with a

constructive role for the courts in maintaining the integrity of the balanced budget requirement. Congress is expected to address technical issues such as accounting standards, budget procedures and judicial enforcement in followup implementing legislation. By drawing on the existing legal principles of ''mootness,'' ''standing'' and ''nonjudiciability,'' implementing legislation can define an appropriate role for the courts in making the amendment work. The net effect can be to prevent judicial assumption of legislative functions such as selecting program cuts, while allowing the courts to police a framework of accounting standards and budget procedures.

TRADITIONAL LIMITS ON JUDICIAL INTERVENTION

In general, the courts have shown an unwillingness to interject themselves into the fray of budgetary politics. The New Jersey Superior Court observed that ''it is a rare case * * * in which the judiciary has any proper constitutional role in making budget allocation decisions.''[1] The judiciary has remained clear of most budget controversies through the principles of ''mootness'' and ''standing,'' as well as the ''political question'' doctrine.

A case is considered moot, and can be rejected by the court, if the matter in controversy is no longer current. In *Bishop v. Governor,* 281 Md. 521 (1977), taxpayers and Maryland legislators claimed that the governor's proposed budget violated the state's balanced budget law, because $95 million was contingent upon enactment of separate federal and state legislation. The Maryland Court of Appeals dismissed the case as moot because by that time the separate legislation had been approved, and the relevant fiscal year had elapsed. Mootness will be a factor in many potential challenges to Congressional action under a federal Balanced Budget Amendment, particularly those based on unplanned expenditures or flawed revenue estimates which become apparent near the end of the fiscal year.

The doctrine of standing limits judicial access to parties who can shoe a direct injury over and above that incurred by the general public. The logic is that the grievances of the public (or substantial segments thereof) are the proper domain of the legislature.[2] The U.S. Supreme Court has generally held that status as a taxpayer does not confer standing to a challenge federal actions[3], and has barred taxpayer challenges of budget and revenue policies in the absence of special injuries to the plaintiffs.[4] A state cannot sue the federal government on behalf of its citizens,[5] and it is doubtful that Members of Congress have standing to challenge federal actions in court.[6]

The political question doctrine is a related principle that the courts should remain out of such matters which the Constitution has committed to another branch of government. The U.S. Supreme Court has held that a ''political question'' exists when a case would require ''nonjudicial discretion.''[7] This would be the case with many budgetary controversies, such as the choice to cur particular programs, which by their nature require ideological choices and the balancing of competing needs. In theory, at least, Congress brings to this task a ''full knowledge of political, social and economic conditions. * * *,'' as well as the legitimacy of elected representation.[8] The New Jersey Supreme Court recognized this in a case where local governments challenged funding decisions made by the governor and legislature, holding that the allocation of state funds among competing constituent groups was a political question, to be decided by the legislature and not the judiciary.[9] The Michigan Supreme Court has likewise held that program cutting decisions are a non-judicial function.[10]

A ROLE FOR THE COURTS

The courts have asserted jurisdiction over politically tinged controversies where they find ''discoverable and manageable standards'' for resolving them. In *Baker v. Carr,* the U.S. Supreme Court reasoned that objective criteria guide judicial decisionmaking and limit the opportunity for overreaching. In the balanced budget context, the ''discoverable and manageable standards'' principle can help demarcate lines between impermissible judicial policymaking, and the needed enforcement of accounting rules and budget procedures.

In all likelihood, a strong framework of accounting guidelines will emerge from implementing legislation. The Senate Judiciary Committee has interpreted Section 6 of the bill to impose ''a positive obligation on the part of Congress to enact appropriate legislation'' regarding this complex issue.[11] Judiciary Committee staff on both the House and Senate side have indicated their intention that implementing legislation embrace stringent accounting standards that will minimize the potential for litigation. Should legitimate questions arise concerning the methods by which Congress ''balances'' the budget, these standards will also provide objective criteria which meet constitutional standards for judicial intervention.

The implementing package is also likely to establish guidelines for judicial involvement, defining what issues are judiciable and which parties have standing to challenge Congressional decisions. Where Congress has defined standing within the relevant statute, the courts have generally deferred to this request for judicial input, and entertained suitable cases.[12] This approach has the advantage of defining appropriate controversies and plaintiffs more precisely. In the Balanced Budget context, the right to raise particular arguments could be delegated to specific public officials. State budget officers, for example, could be given standing to contest unfunded federal mandates.

We are satisfied that such enforcement procedures, coupled with budget process and accounting guidelines, will operate against a backdrop of traditional legal principles to rationally limit judicial action. The effect should be to prevent overreaching into legislative functions, while providing a check on Congressional attempts to evade the requirements of the BBA through procedural and numerical gimmickry.

FOOTNOTES

[1] *Board of Education f. Kean,* 457 A.2d 59 (N.J. 1982).

[2] *Flast v. Cohen,* 392 U.S. 83 (1968), (Harlan, J., dissenting).

[3] *Massachusetts v. Mellon,* 262 U.S. 447 (1923). The courts have allowed taxpayer claims that public funds were used to support an unconstitutional purpose. The two important decisions in this area are both establishment of religion cases. *Flast v. Cohen,* 392 U.S. 83 (1968); *Valley Forge Christian College v. Americans United for Separation of Church and State,* 454 U.S. 464 (1982).

[4] *United States v. Richardson,* 418 U.S. 166 (1974) (plaintiffs challenged a statute allowing the CIA to avoid public reporting of its budget); *Simon v. Eastern Kentucky Welfare Rights Organization,* 426 U.S. 26 (1976) (plaintiffs challenged a Revenue Ruling granting favorable tax treatment to certain hospitals as inconsistent with the Internal Revenue Code).

[5] *South Carolina v. Katzenbach,* 383 U.S. 301 (1966).

[6] *Goldwater v. Carter,* 444 U.S. 996 (1979).

[7] *Baker v. Carr,* 369 U.S. 186 (1962).

[8] *Id.*

[9] *Camden v. Byrne,* 82 N.J. 133 (1980).

[10] *Michigan Assn. of Countries v. Dept. of Management and Budget,* 418 Mich. 667 (1984).

[11] *S. Rpt. 103–163,* 103rd Congress, 1st Session (1993).

[12] Nowak, John E. et al. Constitutional Law, West Publishing Co. (1983), p. 87. In Lujan v. Defenders of Wildlife, 112 Sup. Ct. 2130 (1992), the Court voided a citizen suit under the Endangered Species Act, holding that Congress' power to define standing by statute is limited by Article III of the Constitution. The decision that citizen suit provisions must be carefully articulated and supported by clear legislative goals.

Footnotes at end of article.

U.S. CHAMBER OF COMMERCE,
Washington, DC, Thursday, February 9, 1995.

U.S. CHAMBER THROWS SUPPORT BEHIND BALANCED BUDGET AMENDMENT

WASHINGTON.—The U.S. Chamber of Commerce today pledged to ''pull out all the stops'' to ensure passage of the balanced budget amendment.

In a press conference rallying support for the upcoming Senate vote, Chamber Senior Vice President Bruce Josten said, ''We believe that passage of the balanced budget amendment is imperative if we are to restore the critical principle of fiscal responsibility and limited government. It is the lynch pin in our approach to taming government spending and shrinking government waste.

''Large and growing federal deficits reduce savings and investment, stymie income and job growth and lower productivity growth and our standard of living,'' Josten said. ''Deficits result in the accumulation of government debt and ultimately lead to higher taxer.

''Together with the line-item veto and the prohibition on unfunded mandates, passage of this balanced budget amendment will place renewed emphasis on fiscal discipline, force Congress to cut spending and constrain its ability to raise taxes.''

Josten promised the full extent of the Chamber's capabilities to ''pull out all the stops and pledge to use every aspect of our broad grassroots organization to ensure the passage of a balanced budget amendment.

''We urge all the senators to vote for its passage and we will count it as a key vote in our chamber rating system,'' he said.

NFIB,
SMALL BUSINESS NEWS,
Washington, DC.

BALANCED-BUDGET AMENDMENT CRUCIAL TO SMALL-BUSINESS GROWTH

WASHINGTON, February 9.—Jack Faris, president of the National Federation of Independent Business, the nation's largest advocacy group for small business, urged small-business owners to write and call Congress to support the idea of adding a balanced-budget amendment to the Constitution.

Faris said Congress must heed broad-based public support for a balanced-budget amendment, especially that coming from the small-business sector.

''Small-business owners have voted overwhelmingly for a balanced budget and deficit reduction in several NFIB surveys,'' Faris said. ''They understand that high deficits rob small businesses of available capital and mean less money for private investment. When small firms can't afford to expand and buy equipment, fewer jobs are created and less revenue is sent to the Treasury.''

The 1994 deficit hit $223 billion, Faris said, pointing out that the public debt, the accumulation of each year's deficit, reached $4.7 trillion.

''It's inconceivable that a business could spend or borrow as irresponsibly as the federal government has,'' Faris said. ''A small firm has to live within a budget. If owners spent and borrowed money like the federal government, they'd be out of business in a heartbeat.''

The NFIB Education Foundation, the organization's research arm, found that federal taxes and frequent tax law changes rank among the top problems of entrepreneurs.

''Small-business owners voted in November in greater numbers than ever before to elect lawmakers who wouldn't conduct 'business as usual,' Faris said. ''and a balanced-budget amendment would be a major step toward controlling the size of the federal government.''

NFIB represents more than 600,000 small and independent firms. Small business makes up 99 percent of the private sector, hires approximately half of the country's workforce, and creates some two-thirds of all new jobs, according to NFIB.

[News release from Financial Executives Institute]

FINANCIAL EXECUTIVES INSTITUTE ANNOUNCES TOP 10 LEGISLATIVE AGENDA

MORRISTOWN, NJ, January 16, 1995.—Financial Executives Institute, a professional association of corporate financial executives, is prepared to work with the Congressional leadership to enact the initiatives contained in the ''Contract with America.'' In a letter that outlines its legislative agenda for 1995, FEI urged its 14,000 members to support such ''Contract'' initiatives as deficit reduction, product-liability reform, regulatory reform, and capital-gains reform.

''For years we've been urging Congress to put a lid on spending and manage the taxpayers' money more wisely,'' says P. Norman Roy, president of FEI. ''Now, we seem to have people in Congress who are determined to give the taxpayers good value for their tax dollars. It's a good start.''

Heading FEI's agenda of ten key issues is passage of the Balanced Budget Amendment, which would prohibit federal outlays from exceeding total receipts. If the amendment passes, it will require a three-fifths majority in both houses of Congress for the federal government to incur a deficit. Despite strong Republican support, passage of the Amendment is not certain; passage will require a two-thirds majority in each house.

Other FEI ''top ten'' initiatives include:

Line-Item Veto—give the president the authority to strike any appropriation or specific tax provision from proposed legislation;

Product-Liability Reform—create uniform product-liability laws, covering state and federal actions;

Securities-Litigation Reform—limit the growth of lawsuits filed by class-action attorneys on behalf of shareholders whose stock prices have shown unusual market performance and make losing litigants responsible for winners' costs;

Tax Reform—allow individuals to exclude 50 percent of capital-gains income from taxes and reduce the corporate capital-gains tax to 17.5 percent. Also, explore alternatives to the current tax system, such as a flat rate with higher exemptions or replacing both corporate and individual taxes with value-added and/or personal-consumption taxes;

Regulatory Reform—eliminate regulations that stifle business initiative and competitiveness; also reduce paperwork and require federal agencies to calculate the costs and benefits of compliance;

Federal Financial Management Reform—strengthen the Chief Financial Officers Act, the goal of which is to get the government's fiscal house in order;

Entitlement Reform—resolve the long-term imbalance between the government's entitlement promises and its ability to pay for them and ensure the long-term solvency of Social Security and Medicare;

Health-care Reform—develop broad national agreement on a specific health-care reform initiative rather than leave the solution to the individual states, which could lead to multiple state rules and an onerous administrative burden for companies with multi-state operations;

Procurement Reform—Pass and implement the Federal Acquisition Streamlining Act of 1994, which is expected to save taxpayers $12.3 billion over the next 5 years by reducing cumbersome regulatory burdens and needless bureaucracy in the government's acquisition of products and services from the private sector.

Financial Executives Institute, the leading advocate for the views of corporate financial management, is a professional association of 14,000 senior financial executives from nearly 8,000 major corporations throughout the United States and Canada.

[News release from Associated Builders and Contractors, Inc., Rosslyn, VA, February 9, 1995]

ABC SUPPORTS BALANCED BUDGET AMENDMENT

Passage of the Balanced Budget Amendment (S.J. Res. 1) would promote much needed restraint in government taxation and spending, according to Charlie Hawkins, senior vice president of Associated Builders and Contractors.

''We can no longer tolerate the practice of freely granting exceptions to budget rules in order to accommodate funding demands. Congress must respond to the call to cease runaway spending and begin the kind of reform that the Balanced Budget Amendment dictates,'' Hawkins said.

Hawkins said the amendment would force the president and Congress to set priorities rather than to continually postpone making difficult choices. The prospect of having to move toward balanced budgets in the near future would have an immediate positive impact on the budget process and would provide a Constitutional gurantee that we will adhere to a deficit reduction plan, he said.

''Deficit spending should no longer be a way of life for the federal government. Every American family must live within its means and balance its budget. Forty-nine of the 50 states operate under some form of a balanced budget requirement—it makes sense that the federal government would compel itself to work with similar self-control,'' he said.

Hawkins added that the amendment should not include an exemption for Social Security. Such an exemption would put Social Security at risk by creating an incentive to link other programs to the entitlement program to exempt them from deficit calculations. ''The best protection for Social Security is a balanced budget,'' he said.

Associated Builders and Contractors is a national association representing more than 17,000 construction and construction-related companies located in 80 chapters throughout the country.

NAW CALLS ON THE SENATE TO PASS THE BALANCED BUDGET AMENDMENT

WASHINGTON, DC February 9, 1995.—The National Association of Wholesaler-Distributors (NAW) today called on the United States Senate to pass S.J. Res. 1, the Balanced Budget Amendment to the Constitution.

''On behalf of the 45,000 companies represented by NAW, we strongly urge every Member of the Senate to support S.J. Res. 1. An historic opportunity for national fiscal discipline has finally arrived, and we must seize it,'' said Dirk Van Dongen, NAW President.

''NAW and its member companies have actively supported a Constitutional Amendment for a balanced Federal budget for many years. After decades of uncontrolled Federal spending, our members again state the obvious: government budget discipline is essential. No longer should Federal outlays exceed receipts. Furthermore, we strongly believe that Congress should rely on spending restraints—not tax increases—to balance the budget, rather than further burdening hard-working American taxpayers.''

''There is little doubt that for too long American companies have felt the effects of the Federal deficit; a deficit that is projected to begin growing again soon. Now is our best chance to show real leadership—to permanently rein in government spending. If we are unsuccessful, Federal debt and deficits—and politics—will continue to cripple our economy and mortgage our future. The Balanced Budget Amendment moves our country in the right direction and it unburdens our employers and employees along the way. The Senate should pass it and send it to the states without hesitation,'' concluded Van Dongen.

(NAW represents 45,000 companies through a federation of wholesale distribution firms and national, state and local associations.)

CITIZENS GROUP URGES SENATE TO PASS BALANCED BUDGET AMENDMENT

STATEMENT OF PAUL BECKNER, PRESIDENT CITIZENS FOR SOUND ECONOMY

WASHINGTON, DC.—On behalf of Citizens for a Sound Economy (CSE), I offer my strong support of the proposed balanced budget amendment to the Constitution. Our 250,000 members are among the 80% of Americans who believe it is time for the federal government to put its fiscal house in order by doing what every American family must do—balance its budget.

The federal government continues to be plagued by wasteful deficit spending; Congress appropriates money it does not have and should not spend. The American people are fed up with the status quo that has given them $200 billion deficits, a $4.8 trillion national debt, bigger government, higher taxes, and a reduced standard of living. The House of Representatives has acted. Now it is time for the Senate to do its part.

The balanced budget amendment is about so much more than November's elections or the ''Contract with America.'' It is about Democrats and Republicans joining together to rise above partisan interests to act in the national interest. It is about the people's representatives finally standing up and saying, ''Passing The Buck Stops Here.''

I urge the Senate to do the right thing—for America and its future generations that we are so shamelessly willing to burden with our debt. Pass the balanced budget amendment. Pass it now.

CSE is a 250,000 member grassroots advocacy organization founded in 1984 to defend and promote America's free enterprise system.

COALITION URGES PASSAGE OF BALANCED BUDGET AMENDMENT IN THE SENATE ''GET WITH THE PROGRAM,'' SAYS SMALL BUSINESS GROUP

WASHINGTON, DC.—The Small Business Survival Committee [SBSC] urged members of the United States Senate to swiftly pass the Balanced Budget Amendment to begin restoring fiscal sanity, as well as America's faith, in the federal government.

''It is no surprise that those Senators lined up against the Balanced Budget Amendment [BBA] are those who continue to support big government, and continue to view government as the solution—not the problem. President Clinton, Senator Robert Byrd and the ''right to know'' crowd are fighting a losing battle and should get with the fiscal accountability program,'' said SBSC President Karen Kerrigan.

SBSC and a coalition of organizations supporting passage of the Balanced Budget Amendment held a press conference today to

collectively voice support for swift action in the United States Senate.

''I find it particularly insincere that Senators called for a ''right to know'' amendment, are the same Members who secretly stuff appropriation bills with pork and special interest programs, and continue to push funding for programs which have proven to be an abysmal failure. It seems to me that these practices are now in ''the know,'' after years of hiding such fiscal abuse, and taxpayers want this to end,'' added Kerrigan.

The Small Business Survival Committee is a 40,000-member nonpartisan, nonprofit advocacy organization.

STATEMENT ON THE BALANCED BUDGET AMENDMENT

(By Grover G. Norquist)

Americans for Tax Reform, the national clearinghouse for the grassroots taxpayers movement, strongly supports the Balanced Budget Amendment to the United States Constitution.

In addition, as the organization which opposes all tax increases as a matter of principle, we are delighted to support the Constitutional amendment requiring a 60% supermajority to raise taxes, to be voted in the House of Representatives on April 15, 1996. We are grateful for the leadership of freshman Representatives John Shadegg (R–AZ) and Linda Smith (R–WA) on this issue. In addition, we are pleased to see the supermajority as a likely initiative issue in several new states next year. Voters will choose the next President of the United States in November, 1996 as they vote on these initiatives.

Tax increases are not the solution to reducing the budget deficit: they merely feed politicians' appetite for increased federal spending. However, politicians use the federal deficit as a bogus rallying cry for the supposed need to raise taxes. That is why a balanced budget requirement and a supermajority requirement are necessary to keep taxes down and control federal spending. The Balanced Budget Amendment shuts off one spigot feeding federal spending by prohibiting deficit spending. The supermajority amendment shuts off the other spigot by making tax increases difficult. Together, they shut the valve which finally chokes off runaway federal spending. In the nine states which currently have a supermajority requirement, spending growth has slowed dramatically.

Taxpaying Americans have been robbed of their prosperity in the last half-century by the explosion of federal spending, fueled by deficit spending and dramatic increases in taxes. As Congressman Joe Barton has pointed out, federal taxes went from 5% of a family's income in 1934 to almost 19% in 1994. It is time that we reign in the beast. It is time that taxpaying Americans finally have leverage over spending interests. That is why we are strongly in support of the Balanced Budget Amendment and the supermajority amendment.

FARM BUREAU CALLS FOR BALANCED BUDGET AMENDMENT

WASHINGTON, Jan. 5, 1995.—Passage of a balanced budget amendment should be the first step in a series of needed changes in the federal government's policies on taxation, spending and regulations, Farm Bureau told the Senate Judiciary Committee today.

''Farm Bureau has supported a balanced budget amendment to the U.S. Constitution for 15 years,'' said Utah Farm Bureau President Ken Ashby. ''Farmers and ranchers believe a balanced budget amendment can help provide much needed budget discipline that, unfortunately, seems impossible to achieve in government today.''

Ashby, who grows alfalfa, hay and grain, said a more hands-off approach of federal regulations on private economic activity and on state and local governments, in combination with a reduction in deficit spending, would benefit all Americans. He said if a balanced budget amendment is passed, Congress must not slow down on spending reform.

''These changes in public policies will take months of serious consideration and debate by the Congress,'' Ashby said. ''You cannot do everything at once, and we do not expect you to. But we also do not want you to simply pass a balanced budget amendment and then go back to business as usual.''

As part of the Farm Bureau proposal, Ashby called on the senators to push for a balanced budget amendment that would require a three-fifths ''super majority'' vote of both houses of Congress to ignore the balanced budget requirement. He said ''this provision will elevate the scrutiny of proposed new spending and force Congress to go on record when it decides to increase spending.''

He told the Judiciary panel that as a result of the 1990 farm bill and the 1990 Omnibus Budget Reconciliation Act, government payments to farmers have been reduced by approximately one-third. He recognized some cuts as necessary to reduce the Federal debt, but said farmers are not the only segment of the population that needs to pitch in.

''Farmers have not been entirely happy with these reductions but understand that cuts are necessary if a balanced budget is to be achieved,'' Ashby said. ''Now it is time for all government programs, including social security and defense, to follow agriculture's example and contribute to spending control.''

Farm Bureau, he said, also believes any amendment proposal should require the president to submit a balanced budget to Congress. Ashby said this provision would help spread the responsibility for balancing revenue and spending among the legislative as well as the executive branch.

Ashby told the panel that the current practice of allowing passage of tax increases by a majority of the members present on the floor of either house must change. He told the committee that a majority of the total membership of each house, recorded by a roll call vote, should be required for future tax increases, making them more difficult to achieve.

CHRISTIAN COALITION,
CAPITOL HILL OFFICE,
Washington, DC, February 24, 1995.

DEAR SENATOR: On behalf of the 1.5 million members and supporters of the Christian Coalition, we urge you to support the balanced budget amendment [BBA] to the Constitution.

The mounting national debt threatens our nation's economic future. Unless we act today to restore fiscal sanity, more private savings will be drawn away from investments necessary for lasting economic growth. Without a BBA, the nation will grow deeper in debt to foreign creditors, and the interest payments on the soaring debt will preclude other budget priorities. This is indeed a bleak legacy to leave our children and grandchildren.

Moreover, we do not believe that the American people are taxed too little. Rather we believe that the federal government spends too much. According to the Tax Foundation, federal, state and local taxes claimed 39.5 percent of the income earned by a median two-earner family in 1994. Every additional four year delay without a balanced budget could result in another trillion dollars of debt, and another $55 billion in annual interest costs. According to the National Taxpayers Union, these interest payments alone will cost today's child over $130,000 in extra taxes, on average, over his or her lifetime.

A balanced budget amendment is long overdue. We urge you to pass it now to secure a sound fiscal future for America's families.

Sincerely,

MARSHALL WITTMANN,
Director, Legislative Affairs.
HEIDI SCANLON,
Director, Governmental Affairs.

CONGRESS OF THE UNITED STATES,
Washington, DC, March 15, 1994.

DEAR COLLEAGUE: What did Thomas Jefferson get for $225 billion? The Louisiana Purchase, which became all or part of 15 States.

What are we getting for $223 billion? Absolutely nothing, except another year older and deeper in debt.

THOMAS JEFFERSON AND THE LOUISIANA PURCHASE

OVERVIEW—FEBRUARY 1994

When Balanced Budget Amendment (BBA) supporters have quoted Thomas Jefferson's sentiments against government debt, Sen. Byrd cited the Louisiana Purchase, arguing:

The purchase amount, $15 million, all borrowed, was almost twice the size of the total annual federal budget in 1804. The comparable figure would be translated into $2.8 trillion today—a ''whopper'' of a transaction.

Jefferson talked tough against going into debt before he was President, but obviously saw how the need for borrowing could arise once he became President.

Jefferson had virtually no association with writing the Constitution; Madison, who did, said that the wise incurring of debt could benefit posterity.

RESPONSES

To buy the Louisiana Territory, Jefferson did borrow an amount equal to twice the amount the federal government was spending annually at the time. However, total federal outlays amounted to only about 1.6% of gross domestic product in 1804 (compared to 22% in 1994). Jefferson's purchase was equal to a less than 3.5% of GDP, the equivalent of about $224.5 BILLION in 1993 dollars.

In other words, in GDP-adjusted terms, the Louisiana purchase cost Jefferson about the same amount the government now deficit-spends every year, and about the same amount the government spends on net interest payments just to service the debt every year.

The BBA follows both Jefferson's philosophy and his example. Obviously, his ultimate position was that debt was acceptable (1) for extraordinary needs and (2) if it was repaid.

S.J. Res. 41, requiring a ⅗ vote to deficit spend or raise the debt limit, provides both a norm of balanced budgets and the flexibility to meet extraordinary needs.

Jefferson reduced the federal debt by half during his first term.

Unlike today's general indebtedness, Jefferson paid for the Louisiana Purchase with a specific, dedicated note. The debt so incurred was paid off fully within 20 years, by 1823.

When Jefferson submitted the treaty and related legislation to Congress in 1803, he stated his expectations that: (1) The remaining national debt would be paid off before the Louisiana note came due; and (2) the then-current growth in revenues would enable retirement of the Louisiana debt in a relatively short time.

The Louisiana Purchase was a once-in-a-lifetime opportunity. Certainly you would expect to obtain a ⅗ vote for such an extraordinary and beneficial investment. And in fact, all of the relevant Congressional

votes related to the Louisiana Purchase far exceeded the ⅗ margin required to borrow under S.J. Res. 41.

Madison, too, dedicated his Presidency to balanced budgets, promising ''to liberate the public resources by an honorable discharge of public debt.'' In fact, he retained Jefferson's Treasury Secretary to continue Jefferson's responsible fiscal policies.

This year the federal budget deficit will be, adjusted for size of GNP, about equal to the amount that President Jefferson borrowed for the Louisiana Purchase.

But the government is not ''investing'' this $223 billion. Unlike that of 1804, 1994's borrowing is not buying us 306,573,740 acres of fertile prairies, navigable waterways, and abundant natural resources, to resell at a profit and with which to enrich the lives and well-being of our children. Today's borrowing is for current consumption, simply allowing government programs to spend beyond their income.

Every year, this generation's government is incurring additional debt of a magnitude that Jefferson and his generation felt was appropriate only for a once-in-a-lifetime endeavor.

The $15 million (in 1804 dollars) worth of bonds issued to finance the Louisiana Purchase was paid off completely within 20 years. In GNP-adjusted 1993 dollars, this purchase turned a $74 billion profit in land sales alone by 1823, and another $132 billion profit in land sales by 1834. These proceeds helped reduce the federal debt to $38,000—that's $38 thousand—in 1834 and '35, its lowest level before or since.

In contrast, over this past 20 years, the gross federal debt will have increased by 869 percent—from $484 billion in fiscal year 1974 to $4.69 trillion at the end of FY 1994, as projected by CBO. In fact, the red ink has flowed in 56 of the last 64 years.

The federal government has been accumulating debt so fast and in such massive amounts that American taxpayers are now servicing that debt with interest payments about equal—again, adjusted for size of GNP—to what Jefferson and the 8th Congress borrowed to double the size of the nation. (CBO-projected gross interest in FY 1994: $298 billion; Net interest: $201 billion.)

Jefferson's government invested. Ours has been eating the seed corn in increasing quantities for decades.

The above information on Jefferson's Louisiana Purchase has been drawn from two papers prepared at our request: Jefferson's Constitutional Dilemma with the Louisiana Purchase, by James M. Hamilton (Stenholm staff), and An Economic Analysis of the Jefferson Administration and the Louisiana Purchase, by William A. Duncan, PhD (National Taxpayers Union Foundation). Rather than send you a 22-page Dear Colleague, we invite you to contact any of us or Ed Lorenzen (5–6605), Andy Moore (5–6730), Donna Tobias (4–2752), or Aaron Rappaport (4–5573) for copies of these papers.

Sincerely,

CHARLES W. STENHOLM.
ROBERT F. SMITH.
LARRY E. CRAIG.
PAUL SIMON.

gressional Leaders United for

A BALANCED BUDGET.

H.J. RES. 1, THE JEFFERSON AMENDMENT

For over 140 years in this nation, balanced federal budgets were part of the unwritten constitution just like the two party system and the workings of the electoral college. Modern necessity dictates change through a balanced budget amendment to the constitution. Jefferson foresaw this some 200 years ago:

''I am not an advocate for frequent changes in laws and constitutions. But laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors.'' (The Jefferson Memorial, Washington, D.C.)

Quotes from the Framers and others on the evils of public debt:

''It is a miserable arithmetic which makes any single privation whatever so painful as a total privation of everything which must necessarily follow the living so far beyond our income. What is to extricate us I know not, whether law, or loss of credit. If the sources of the former are corrupted, so as to prevent justice the latter must supply its place, leave us possessed of our infamous gains, but prevent all future ones of the same character.'' (Jefferson, 1787)

''I place economy among the first and most important of republican virtues, and public debt as the greatest of the dangers to be feared.'' (Jefferson, 1816)

''If we run into such debts, as that we must be taxed in our meat and in our drink, in our necessaries and our comforts, in our labors and our amusements, for our callings and our creeds, as the people of England are, our people like them, must come to labor sixteen hours in the twenty-four, give the earnings of fifteen of these to the government for their debts and daily expenses . . .'' (Jefferson, 1816)

I believe it may be regarded as a position warranted by the history of mankind that, in the usual progress of things, the necessities of a nation, in every stage of its existence, will be found at least equal to its resources. (Alexander Hamilton in the Federalist #30)

To liberate the public resources by an honorable discharge of public debts. (President James Madison, Stating one of the primary goals of his Administration)

Interest is now paid to capitalists out of the profits of labor; not only will this labor be released from the burden, but the capital, thus thrown out of an unproductive use, will seek a productive employment; giving thereby a new impetus to enterprise in agriculture, the arts, commerce, and navigation. (Samuel Inghams, Secretary of the Treasury under Andrew Jackson)

President Andrew Jackson, in proposing to effect substantial reductions in the war debt, observed:

We should look at the national debt, as just as it is, not as a national blessing but as a heavy burden on the industry of the country to be discharged without unnecessary delay.

President Benjamin Harrison described unnecessary public debt as ''criminal.''

[Even during unsatisfactory economic conditions,] * * * ''the government should not be permitted to run behind its debt.'' (President William McKinley)

The nation must make financial sacrifices accompanied by a stern self denial in public expenditures until we have conquered the disabilities of our public finance * * * we must keep our budget balanced for each year. (President Calvin Coolidge)

''To preserve our independence, we must not let our rulers load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude.'' (Jefferson, 1816)

''There does not exist an engine so corruptive of the government and so demoralizing of the nation as a public debt. It will bring on us more ruin at home than all the enemies from abroad against whom this army and navy are to protect us.'' (Jefferson, 1821)

''The payments made in discharge of the principal and interest of the national debt, will show that the public faith has been exactly maintained.'' (Jefferson, 1801)

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

''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.'' (Jefferson, 1798)

''The consequences arising from the continual accumulation of public debts in other countries ought to admonish us to be careful to prevent their growth in our own.'' (President John Adams in his Inaugural Address)

''Stewards of the public money should never suffer without urgent necessity to be transcended the maxim of keeping the expenditures of the year within the limits of its receipts. (President John Quincy Adams)

''As the vicissitudes of nations begat a perpetual tendency to the accumulation of debt, there ought to be a perpetual, anxious, and unceasing effort to reduce that which at any time exists, as fast as shall be practicable, consistent with integrity and good faith.'' (Alexander Hamilton)

''Once the budget is balanced and the debts 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.'' (President Andrew Jackson)

''After the elimination of the public debt, the Government would be left at liberty * * * to apply such portions of the revenue as may not be necessary for current expenses to such other objects as may be most conducive to the public security and welfare.'' (President James Monroe)

''Money being spent without new taxation and appropriation without accompanying taxation is as bad as taxation without representation.'' (President Woodrow Wilson)

If there is one omission I fear in the document called the Constitution, it is that we did not restrict the power of government to borrow money. (Thomas Jefferson, 1798)

A wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities. (Thomas Jefferson, First Inaugural Address, March 4, 1801)

The public debt is the greatest of dangers to be feared by a republican government. (Thomas Jefferson)

The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequences as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves. (Thomas Jefferson, Quoted by George Will in ''It Ought To Be A Crime,'' Washington Post, April 30, 1992)

[Factsheet from Congressional Leaders United for a Balanced Budget]

CAPITAL BUDGETING—NOT A CAPITAL IDEA FOR THE CONSTITUTION

A Constitutional Amendment should reflect broad principles and should not contain narrow policy decisions such as defining a capital budget. There is wide disagreement among policymakers about what should be included in a federal capital budget. We should not place a concept such as capital budgeting in the Constitution when there is no consensus on what constitutes a capital budget.

State and local governments have a check on their use of capital budgets through bond ratings. If a state government were to abuse its capital budget, the states bond rating would drop and the state would be unable to continue to finance new capital expenditures for borrowing. In addition, many states require that bond issues be approved by the voters. These checks on the abuse of capital budgets would not exist under a federal capital budget, making it far more likely that a federal capital budget would be abused.

The justification that most businesses and state and local governments have for capital budgeting is that they occasionally need to make one-time, extraordinary expenditures that are amortized over a long period of time. The federal budget is so huge—$1.5 trillion in 1994—that almost no conceivable, one-shot project would make even a small dent in it.

Even the Federal Interstate Highway System, which has been called the largest peacetime undertaking in all of human history, was financed on a pay-as-you-go basis. President Eisenhower initially proposed that the Interstate System be financed through borrowing. However, Congress kept it on-budget and financed it through a gas tax at the suggestion of Senator Albert Gore, Sr. We are unlikely to have another capital expenditure of this magnitude in the foreseeable future.

While state capital spending is often placed off-budget, so are trust fund surpluses. According to a Price-Waterhouse study, state budgets would be roughly in balance if both capital expenditures and trust funds were included on budget.

Exempting a capital budget from budget restraints ensures that spending on capital investments—financed entirely by debt—will increase. The debt incurred as a result of these expenditures will crowd out spending on items other than physical capital.

Less than four percent of federal outlays are for non-defense physical investment. Given the relatively small and constant share that capital expenditure have in the federal budget, there is no need to remove capital expenditures from the general budget.

S.J. Res. 1/H.J. Res. 28 does not prevent the creation of a separate operating and capital accounts, but the total budget must remain in balance. This is consistent with the recommendations of GAO, which stated,

''. . . the creation of explicit categories for government capital and investment expenditures should not be viewed as a license to run deficits to finance those categories . . . . The choice between spending for investment and spending for consumption should be seen as setting of priorities within an overall fiscal constraint, not as a reason for relaxing that constraint and permitting a larger deficit.''

[Congressional Leaders United for a Balanced Budget—Revised January 30, 1995]

BALANCED BUDGET AMENDMENT—PROMOTING HONESTY IN BUDGETING

H.J. Res. 1/S.J. Res. 1, the bi-partisan consensus Balanced Budget Amendment to the Constitution, is written to foreclose loopholes or evasions in its implementation and enforcement, while allowing for necessary and beneficial flexibility. It also will have the salutary effect of providing incentives for more honest and accurate budgeting than now or in the past.

The general self-enforcing mechanism in the BBA: The 3/5 vote on the debt limit:

No matter what accounting techniques are used to depict a balanced budget, and regardless of any ''rosy scenario'' economic assumptions, smoke and mirrors, or honest estimating mistakes, if *actual* outlays exceed *actual* receipts, the Treasury ultimately would need to borrow in order to meet the government's obligations. This would require 3/5 votes in both the Senate and House to raise the debt limit.

The threat of a ''train wreck'' on the debt limit provides a powerful incentive for truth-in-budgeting, because Congress and the President could not escape the consequences of policies that increased the debt. Opponents who focus on the difficulty of achieving a 3/5 majority miss the point. They are still focused on what's necessary to run a deficit. The possibility of a 3/5 debt vote is a *deterrent*. Facing it is so undesirable that Congress and the President generally would do anything to avoid it—even balance the budget!

H.J. Res. 1/S.J. Res. 1 rules out loopholes and ''gimmicks;'' for example:

The amendment could not be evaded by moving items off-budget. H.J. Res. 1 does not require that a single document, a ''budget,'' be written in balance. It deals with how *total* outlays conform to *total* receipts. Taking an item ''off-budget'' in statute still could be used to give that item priority over others or give it certain protections in the budget process (as has been done with Social Security), but would not affect the operation of the BBA. The amendment would remove the current incentive to move items off-budget for the purpose of masking a deficit. The possibility of a 3/5 debt limit vote would deter moving deficit spending ''off-budget.''

Definitions of terms could not be manipulated to evade the BBA. Terms such as ''receipts,'' ''debt,'' ''revenue,'' ''whole number,'' and ''war'' already appear in the Constitution and have long-established meanings. Others, such as ''outlays,'' ''debt held by the public,'' ''budget,'' and ''declaratory judgment'' are universally and solidly understood, having been long-defined and used in OMB, CBO, Congressional, legal, and other documents. Committee reports and floor debates since 1981 have gone to great lengths to establish a legislative history for, and preventing misinterpretation of, these and other terms.

H.J. Res. 28/S.J.Res. 1 would promote honesty and accuracy in budget estimates:

Congress and the President *can not* plan for a coming fiscal year without making estimates. Section 1, requiring that *actual* outlays and receipts be in balance, and Section 6, allowing for the use of estimates, operate together as follows:

Section 6 says estimates may be used in preparing a budget plan;

Section 1 requires that such planned budgets be in balance;

Following such a budget plan, so long it is reasonable to do so, complies with Section 1. This means Congress and the President need not re-open the budget throughout the fiscal year, simply because of month-to-month fluctuations in receipts or outlays. (E.g., A wave of last-minute tax payments could cause actual receipts to fall short of estimates in one month's and exceed them in the next.) Indeed, some previous versions have been criticized as inflexible because they lacked estimates language.

The threat of a 3/5 debt limit vote will enforce the accuracy of budget estimates.

The experience of our compliance with the caps on discretionary outlays enacted as part of the 1990 Budget Enforcement Act illustrates how budgetary restraints provide an incentive for sound estimates. Although Congress appropriates budget authority and must rely on estimates of outlays, it has complied with the outlay caps by taking care to ensure that the appropriations bills enacted did not pose a risk of breaching the outlay caps. A balanced budget amendment would provide a similar, but far stronger, incentive for improving *all* budget estimates.

To be safe, Congress should, and probably would, plan small surpluses in most years.

The BBA would be promoting honesty and accuracy in dealing with contingent liabilities:

Currently, there is no incentive for Congress and the President to tackle the politically difficult issues associated with contingent liabilities such as government pensions and savings and loan insurance. For example, Congress repeatedly postponed action on the S & L cleanup, even though that ultimately resulted in increased costs to the federal government. By restraining the government's ability to borrow, H.J.Res. 28/S.J.Res. 1 will provide a powerful incentive to deal with contingent liabilities promptly—before they result in unnecessary costs—and honestly.

EMERGENCY APPROPRIATIONS SHOULD NOT BE EXEMPTED FROM THE BALANCED BUDGET AMENDMENT

An amendment to override the balanced budget in case of disaster or national emergency is unnecessary.

According to the Congressional Budget Office, since 1978 there have been only seven years in which supplemental appropriations for natural disasters have exceeded $100 million. The incidence of natural disasters requiring large supplemental appropriations is historically unusual.

The text of the balanced budget amendment provides for the constitutional requirement for a balanced budget to be waived with a three-fifths vote of both Houses.

In the past five supplemental bills put before Congress, both Houses have voted with at least a three-fifths majority to approve the supplemental funding.

Congress has consistently voted to appropriate funds by at least three-fifths majority, in the case of national disaster, economic emergency and war.

In 1991 the Senate passed a bill to offset the costs of Desert Storm to various governmental agencies, as well as additional appropriations for food stamps, State unemployment compensation operations, veterans compensations and pensions, 92 to 8. It passed the House 365 to 43.

Later that year the Senate passed another supplemental bill providing disaster assistance funds to FEMA and to meet costs of Desert Storm, 75 to 17. The House passed the same bill 303 to 114.

In 1992 the Senate passed a bill appropriating emergency funds for hurricane Andrew and hurricane Iniki, 84 to 10. The House had already passed this bill 297 to 124.

In 1993, the Senate passed a bill for emergency relief for the major widespread flooding in the Midwest, by voice vote, the House passed it 400 to 27.

In the most recent emergency supplemental bill that went in large part to fund victims of the most recent Los Angeles earthquake, the Senate approved the measure 85 to 10, the House approved it 337 to 74.

EMERGENCY SUPPLEMENTAL VOTES FEBRUARY 1994

This is a summary of emergency supplemental appropriations from FY '78 through FY '94. The statistics are based on a review of funds appropriated to FEMA. There are a wide variety of disaster bailout funds, but this is the best measure because no broader study of federal disaster funding is available.

The measures cited here include two non-FEMA supplemental appropriations for the Small Business Administration and which appear on the dollar amount list in this section.

HISTORY OF DISASTER SUPPLEMENTALS AS OF FEBRUARY 1994

The table below from the Congressional Budget Office shows that in the sixteen years since 1978 there have been only seven years in which Supplemental Appropriations for Natural Disasters have exceeded $100 million. The incidence of natural disasters requiring large supplemental appropriations is historically unusual and the use of these funds has clearly not been a ''budget buster.''

CERTAIN SUPPLEMENTAL APPROPRIATIONS FOR NATURAL DISASTERS [1]

[By fiscal year, in millions of dollars]

	1978	1980	1989	1990	1992	1993	1994
P.L. 95–255:							
Disaster relief (floods)	300	.....	.....	.....	.....	.....	.....
P.L. 95–284:							
SBA disaster loans (floods)	758	0	0	0	0	0	0
P.L. 96–304:							
FEMA (Love Canal, NY)	0	870	0	0	0	0	0
SBA disaster loans (Mt. St. Helens)	0	1,177	0	0	0	0	0
P.L. 101–100:							
FEMA disaster relief (HUGO)	0	0	1,108	0	0	0	0
P.L. 101–130:							
Loma Prieta:							
Stafford disaster relief	0	0	0	1,100	0	0	0
Federal-aid to highways	0	0	0	1,000	0	0	0
SBA disaster loans	0	0	0	500	0	0	0
Unanticipated needs	0	0	0	250	0	0	0
P.L. 102–229:							
FEMA disaster relief	0	0	0	0	943	0	0
Commodity Credit Corporation	0	0	0	0	1,750	0	0
P.L. 102–302:							
FEMA disaster relief	0	0	0	0	300	0	0
SBA disaster loans	0	0	0	0	195	0	0
Employment & training	0	0	0	0	500	0	0
P.L. 102–368:							
Commodity Credit Corporation	0	0	0	0	430	100	0
SBA disaster loans	0	0	0	0	357	0	0
FEMA disaster relief	0	0	0	0	2,517	0	143
Assisted housing	0	0	0	0	183	100	0
P.L. 103–76:							
Commodity Credit Corporation	0	0	0	0	0	1,050	0
Prior contingency; released 8/12/93	0	0	0	0	0	300	0
Borrowing authority	0	0	0	0	0	0	900
Economic development assistance	0	0	0	0	0	100	0
Corps of Engineers	0	0	0	0	.....	.....	.....
Flood control, Mississippi River	0	0	0	0	0	120	60
Federal-aid to highways	0	0	0	0	0	100	0
Community development grants	0	0	0	0	0	200	0
FEMA disaster loans	0	0	0	0	0	1,735	265
P.L. 103–121:							
SBA disaster loans (LA earthquake)	0	0	0	0	0	0	140
Total	1,058	2,047	1,108	2,850	7,175	3,805	1,508

[1] The estimates on this table are for major disasters where the appropriations exceeded $100 million.

TABLE 1.—HOUSE AND SENATE VOTES ON SELECTED APPROPRIATION MEASURES INCLUDING DISASTER FUNDS, FY1978–FY1994

[as of February 1994]

Fiscal Year/bill number/name (Public law number)	Final passage [1]	
	House	Senate
FY1978:		
H.J.Res. 873, Supplemental (P.L. 95–284).	Voice [2]	
H.J.Res. 796, Supplemental (P.L. 95–255).	393–4 [3]	Voice [3]
FY1979:		
H.R. 4289, Supplemental (P.L. 96–38).	284–132	Voice
FY1980:		
H.R. 7542, Supplemental (P.L. 96–304).	291–117	37–19
FY1981:		
None		
FY1982:		
None		
FY1983:		
None		
FY1984:		
None		
FY1985:		
None		
FY1986:		
H.R. 4515, Supplemental (P.L. 99–349)	355–52	Voice
FY1987:		
None		
FY1988:		
None		
FY1989:		
H.J.Res. 407, Continuing Resolution, (P.L. 101–100)[4].	Voice [2]	
FY1990:		
H.J.Res. 423, Supplemental (P.L. 101–130).	303–107 [2]	
H.R. 4404, Supplemental (P.L. 101–302).	308–108	Voice
FY 1991:		
None		
FY 1992:		
H.R. 5620, Supplemental (P.L. 102–368).	Voice [5]	Voice [5]

TABLE 1.—HOUSE AND SENATE VOTES ON SELECTED APPROPRIATION MEASURES INCLUDING DISASTER FUNDS, FY1978–FY1994—Continued

[as of February 1994]

Fiscal Year/bill number/name (Public law number)	Final passage [1]	
	House	Senate
H.R. 5132, Supplemental (P.L. 102–302).	249–168	Voice
H.J. Res. 157, Supplemental (P.L. 102–229).	303–114	Voice
FY 1993:		
H.R. 2667, Supplemental (P.L. 103–75).	Voice [5]	Voice [5]
FY 1994:		
H.R. 2519, Commerce, Justice, State (P.L. 103–121).	303–100	90–10
H.R. 3759, Supplemental (P.L. 103–211).	245–65	Voice

Sources: Library of Congress. Bill digest files in Scorpio (C103, C102, C101, CG99, CG96); Daily Digest. Congressional Record, v. 124, March 22, 1978, p. D 230, March 23, 1978 p. D 234, & May 12, 1978, p. D 403; Daily Digetst. Congressional Record, v. 132, June 24, 1986. p. D 433. U.S. Library of Congress. Congressional Research Service. Federal Funding for Disasters. Memorandum by Keith Bea, dated November 3, 1993.

[1] Votes on final passage are votes on conference reports, unless otherwise noted.

[2] No conference report, House agreed to Senate amendments.

[3] On initial passage, the House and Senate passed the same bill.

[4] This was a continuing resolution, which included supplemental appropriations.

[5] No conference report, both Houses considered amendments between the two Houses. All votes were voice votes.

CRS REPORT FOR CONGRESS,
April 30, 1992.

(By Robert Keith and Edward Davis)

A BALANCED FEDERAL BUDGET: MAJOR STATUTORY PROVISIONS

SUMMARY

During the remainder of the 102nd Congress, the House and Senate are expected to consider whether the Constitution should be amended to require a balanced Federal budget. Both chambers have addressed this issue in past years, but Congress has never enacted such an amendment for ratification by the States. Although the Constitution does not prescribe a balanced Federal budget, provisions have been enacted into law on several occasions stating this as a goal or policy of the Federal Government.

This report identifies and briefly discusses the major statutory provisions that pertain to the goal or policy of a balanced Federal budget. These provisions range in scope from a simple, one-line statement to a lengthy set of provisions involving complicated implementing procedures. Most of them state that a balanced Federal budget is a national goal, or require that the President include proposals or information applicable to such a goal in his annual budget submission and economic report to Congress, but do not establish procedures to enforce compliance. While most of the provisions remain in effect, some were applicable to fiscal-year periods that have expired and have been repealed.

The most well-known statute in this category is the Balanced Budget and Emergency Deficit Control Act of 1985, commonly referred to as the Gramm-Rudman-Hollings (GRH) Act. The 1985 GRH Act set forth annual deficit targets leading to a balanced Federal budget by fiscal year 1991 and established an automatic process for across-the-board spending cuts (known as ''sequestration'') aimed at keeping the deficit within the statutory targets. The detailed enforcement mechanism distinguishes the GRH Act from other balanced-budget statues.

The GRH Act was amended extensively in 1987 and 1990. The 1987 amendments postponed the balanced-budget goal until fiscal year 1993; the most recent amendments extend the sequestration process through fiscal year 1995, provide for adjustable deficit targets, and change the focus of the GRH Act from achieving budgetary balance to controlling the growth of discretionary spending and maintaining deficit neutrality regarding legislative changes in mandatory spending and revenues. During the period from fiscal year 1986 through fiscal year 1991 (when fixed deficit targets were in effect), the actual deficit exceeded the deficit target in the GRH Act by between about $6 billion (fiscal year 1987) and $205 billion (fiscal year 1991).

Other major statutes pertaining to the goal of a balanced Federal budget include: a law increasing the public debt limit in 1979, the Byrd Amendment of 1978, the Humphrey-Hawkins Act of 1978, the Revenue Act of 1978, the Revenue Act of 1964, and the Budget and Accounting Act of 1921.

INTRODUCTION

During the remainder of the 102nd Congress, the House and Senate are expected to consider whether the Constitution should be amended to require a balanced Federal budget. Both chambers have addressed this issue in past years, but Congress has never enacted such an amendment for ratification by the States.[1] Although the Constitution does not prescribe a balanced Federal budget, provisions have been enacted into law on several occasions stating this as a goal or policy of the Federal Government.

This report identifies and briefly discusses the major statutory provisions that pertain to the goal or policy of a balanced Federal budget. These provisions range in scope from a simple, one-line statement to a lengthy set of provisions involving complicated implementing procedures. Most of them state that a balanced Federal budget is a national goal, or require that the President include proposals or information applicable to such a goal in his annual budget submission and economic report to Congress, but do not establish procedures to enforce compliance. While most of the provisions remain in effect, some were applicable to fiscal-year periods that have expired and have been repealed.

GRAMM-RUDMAN-HOLLINGS ACT OF 1985

The most well-known statute in this category is the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99–177, Increase in the Public Debt Limit; 99 Stat. 1038–1101; December 12, 1985), commonly referred to as the Gramm-Rudman-Hollings (GRH) Act. The 1985 GRH Act set forth annual deficit targets leading to a balanced Federal budget by fiscal year 1991 and established an automatic process for across-the-board spending cuts (known as ''sequestration'') aimed at keeping the deficit within the statutory targets. The detailed enforcement mechanism distinguishes the GRH Act from other balanced-budget statutes.

The Act was modified extensively in 1987 by the Balanced Budget and Emergency Deficit Control Reaffirmation Act 1987 (Title I of P.L. 100–119, Increase in the Public Debt Limit; 101 Stat. 754–784; September 29, 1987), which extended the goal of a balanced budget to fiscal year 1993.

Most recently, the GRH Act was amended extensively by the Budget Enforcement Act (BEA) of 1990 (Title XIII of P.L. 101–508, Omnibus Budget Reconciliation Act of 1990; 104 Stat. 1388–573 through 1388–630; November 5, 1990). The BEA revised the deficit targets in the GRH Act, making the targets adjustable rather than fixed, and extended the sequestration process for two more years—through fiscal year 1995 (although the budget is not required, and is not expected, to be in balance by that time). Additionally, two new procedures enforceable by sequestration were established: (1) adjustable limitations on different categories of discretionary spending funded in the annual appropriations process and (2) a ''pay-as-you-go'' process to require that increases in direct spending (i.e., spending controlled outside of the annual appropriations process) or decreases in revenues due to legislative action are offset so that there is no net increase in the deficit.

The 1990 amendments changed the focus of the GRH Act from achieving budgetary balance to controlling the growth of discretionary spending and maintaining deficit neutrality regarding legislative changes in mandatory spending and revenues. This change in focus is reflected in Table 1, which shows the original and revised GRH deficit targets.

TABLE 1. ORIGINAL AND REVISED DEFICIT TARGETS

[In billions of dollars]

Fiscal year	Original target	1987 revision	1990 revision	Revision in fiscal year 1993 budget
1986	171.9	.....	.....	.....
1987	144	.....	.....	.....
1988	108	144	.....	.....
1989	72	136	.....	.....
1990	36	100	.....	.....
1991	0	64	327	.....
1992	.....	28	317	.....
1993	.....	0	236	419.4
1994	.....	.....	102	304.9
1995	.....	.....	83	300.5

Note: The targets set in 1990 and revised subsequently, unlike the targets set in 1985 and revised in 1987, do not reflect the Social Security trust fund surpluses or the Postal Service.

The GRH Act is linked to the Congressional Budget Act of 1974 (P.L. 93–344, as amended), principally by the requirement in Section 606 of the 1974 Budget Act that budget resolutions not recommend deficits in excess of the GRH Act targets. Additionally, the unadjusted deficit targets and discretionary spending limits are set forth in Section 601(a) of the 1974 Budget Act.

During the period that the GRH Act has been in effect, sequestration has been triggered five times—once each for fiscal years 1986, 1988, and 1990, and twice for fiscal year 1991. The sequestration reductions made for fiscal year 1986 were voided by court action and later reaffirmed, the reductions for fiscal year 1988 were later rescinded, the reductions for fiscal year 1990 were modified substantially, and the reductions for fiscal year 1991 were applied in one instance to domestic discretionary programs and in another to international discretionary programs (the latter reductions were later rescinded). With regard to the other two fiscal years, sequestration was forestalled for fiscal year 1987 by the enactment of alternative deficit reduction measures and was avoided for fiscal year 1989 because the estimated deficit excess was less than the $10 billion margin-of-error amount.

During the period from fiscal year 1986 through fiscal year 1991 (when fixed deficit targets were in effect), the actual deficit exceeded the deficit target in the GRH Act (see Table 2). The overage ranged from about $6 billion for fiscal year 1987 to nearly $205 billion for fiscal year 1991.

TABLE 2.—ACTUAL DEFICIT COMPARED TO MAXIMUM DEFICIT AMOUNT: FISCAL YEAR 1986–1991

[In billions of dollars]

Fiscal year	Maximum deficit amount	Actual deficit	Actual deficit over target
1986	171.9	221.2	49.3
1987	144.0	149.8	5.8
1988	144.0	155.2	11.2
1989	136.0	153.5	17.5
1990	100.0	220.5	120.5
1991	64.0	268.7	204.7

Note: Deficit amounts are presented on a consolidated basis (including the transactions of off-budget entities—the Social Security trust funds and the Postal Service).

The major provisions of the Gramm-Rudman-Hollings Act and the 1974 Budget Act are codified in Titles 2 and 31 of the United States Code. The text of these laws is contained in publications of the House and Senate Budget Committees: (1) House Budget Committee, Congressional Budget and Impoundment Control Act of 1974 and Part C (and Sections 274 and 275) of the Balanced Budget and Emergency Deficit Control Act of 1985 and Subtitles C and E of Title XIII of the Budget Enforcement Act of 1990 as Amended Through December 31, 1990, committee print, serial no. CP–2, February 1991, and (2) Senate Budget Committee, Budget Process Law Annotated, committee print, S. Prt. 102–22, April 1991.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT (1979)

In 1979, Congress added two sections to a measure providing an increase in the debt limit (P.L. 96–5, Temporary Increase in the Public Debt Limit; 93 Stat. 8; April 2 1979). The provisions were intended to bring balanced budget proposals for fiscal year 1981 and 1982 before Congress for consideration by requiring both the Budget Committees and the President to submit them. Both sections were repealed on September 13, 1982, upon the enactment of P.L. 97–258, which recodified Title 31 of the United States Code (''Money and Finance'').

Budget Committee Reports.—The first provision, Section 5, required the House and Senate Budget Committees to report balanced budgets by April 15 of 1979, 1980, and 1981. Section 5 stated:

Congress shall balance the Federal budget. Pursuant to this mandate, the Budget Committees shall report, by April 15, 1979, a fiscal year budget for 1981 that shall be in balance, and also a fiscal year budget for 1982 that shall be in balance, and by April 15, 1980, a fiscal year budget for 1981 that shall be in balance and by April 15, 1981, a fiscal year budget for 1982 that shall be in balance; and the Budget Committees shall show the consequences of each budget on each budget function and on the economy, setting forth the effects on revenues, spending, employment, inflation, and national security.

1979 Reports. In 1979, the House Budget Committee complied with the requirement by issuing Toward a Balanced Budget: Report Pursuant to Public Law 96–5 (House Report 96–96, April 13, 1979, 102 pages) and a companion committee print that included majority and minority staff reports. The Committee reported the budget resolution for fiscal year 1980 (H. Con. Res. 107) the same day, but it did not include recommendations for fiscal years 1981 or 1982 (House Report 96–95, April 13, 1979)

The Senate Budget Committee reported two budget resolutions for fiscal year 1980 (Senate Report 96–68, April 12, 1979); both resolutions included recommendations for fiscal years 1981 and 1982. The principal budget resolution, S. Con. Res 22, proposed a surplus of $0.5 billion for fiscal year 1981 and $0.7 billion for fiscal year 1982. The second resolution, S.

[1] For a discussion of House and Senate action on this issue, see: (1) ''Congress and a Balanced Budget Amendment to the U.S. Constitution,'' by James V. Saturno, CRS Report 89–4 GOV, January 3, 1989, 19 pages; and (2) ''Balanced-Budget Amendment Fails in House; Act OK'd,'' by George Hager, Congressional Quarterly Weekly Reports, vol. 48, no. 29, July 21, 1990: 2284–2285.

Con. Res. 23, was referred to as the ''alternative congressional budget.'' It recommended a deficit of $18.2 billion for fiscal year 1981, but a surplus of $12.3 billion for fiscal year 1982.

The House and Senate agreed to a final version of H. Con. Res. 107 (the House adopted the Senate amendment of May 24, 1979) that recommended surpluses of $5.0 billion and $4.1 billion for fiscal years 1981 and 1982, respectively.

1980 Reports. In 1980, the House Budget Committee reported a budget resolution for fiscal year 1981 (H. Con. Res. 307, House Report 96–857, March 26, 1980) that recommended surpluses of $2.0 billion and $11.7 billion for fiscal years 1981 and 1982, respectively. The Senate Budget Committee reported a budget resolution (S. Con. Res. 86, Senate Report 96–654, April 9, 1980) that recommended a balanced budget for fiscal year 1981 (a deficit of zero) and a surplus of $10.0 billion for fiscal year 1982.

The final version of the budget resolution (H. Con. Res. 307) agreed to by the House and Senate (the Senate adopted the House amendment of June 12, 1980 to its amendment) recommended a surplus of $0.2 billion for fiscal year 1981. With respect to fiscal year 1982, the House recommended a surplus of $26.8 billion and the Senate recommended a surplus of $5.8 billion.

1981 Reports. In 1981, the House Budget Committee reported a budget resolution for fiscal year 1982 (H. Con. Res. 115, House Report 97–23, April 16, 1981) that recommended a deficit of $25.6 billion for that fiscal year, but a surplus of $25.8 billion by fiscal year 1984. The Senate Budget Committee reported a budget resolution (S. Con. Res. 19, Senate Report 97–49, May 1, 1981) that recommended a deficit of $48.8 billion for fiscal year 1982, but a balanced budget (a deficit of zero) for fiscal year 1984.

The House and Senate finally agreed on a budget resolution (H. Con. Res. 115, House Report 97–46, May 15, 1981) that recommended a deficit of $37.65 billion for fiscal year 1982, but a surplus of $1.05 billion for fiscal year 1984.

Alternate Budget Proposals of the President.—The second provision, Section 6, required the President to submit alternate proposals for a balanced budget if his budget submission for fiscal years 1981 or 1982 recommended a deficit for either fiscal year. Section 6 stated:

(a) If a budget which is transmitted by the President to the Congress under section 201 of the Budget and Accounting Act, 1921, would, if adopted, result in a deficit in fiscal year 1981 or in fiscal year 1982, the President shall also transmit alternate budget proposals which, if adopted, would not result in a deficit.

(b) Such alternate budget proposals shall be transmitted with the budget and, except as provided in subsection (c), shall be in such detail as the President determines necessary to carry out the purposes of this section.

(c) Alternate budget proposals for a fiscal year transmitted under subsection (a) shall include a clear and understandable explanation of specific differences between the budget and alternate budget proposals.

Fiscal Year 1981 Budget. President Carter submitted his budget for fiscal year 1981 to Congress on January 28, 1980. The President proposed a deficit for fiscal year 1981 of $15.8 billion and a surplus for fiscal year 1982 of $4.8 billion. The alternate proposals required by P.L. 96–5 were set forth on pages 319–326 of the budget and explored the impact of both $20 billion in revenue increases and spending reductions (including such options as a six-percent surtax on individual and corporate income, increased payroll taxes, the elimination of Federal pay raises, no real growth in defense, and holding cost-of-living increases in indexed programs to three-fourths of the increase in the Consumer Price Index).

On March 31, 1980, President Carter sent a package of budget revisions to Congress, calling for surpluses of $16.5 billion for fiscal year 1981 and $41.5 billion for fiscal year 1982.

Fiscal Year 1982 Budget. President Carter submitted his budget for fiscal year 1982 to Congress on January 15, 1981, shortly before leaving office. He proposed a deficit of $55.2 billion in fiscal year 1981 and $27.5 billion for fiscal year 1982. The alternate proposals required by P.L. 96–5 were included on pages 312–320 of the budget.

On March 10, 1981, President Reagan submitted to Congress revisions to the Carter budget for fiscal year 1982. The revised budget proposals recommended deficits for fiscal year 1981 and 1982 of $54.9 billion and $45.0 billion, respectively.

The actual deficits (on a consolidated basis) for fiscal years 1981 and 1982 were $79.0 billion and $128.0 billion, respectively.

BYRD AMENDMENT OF 1978

The ''Byrd Amendment,'' named for former Harry F. Byrd, Jr. of Virginia, was included in the Bretton Woods Agreements Amendments Act of 1978 (Section 7 of P.L. 95–435; 92 Stat. 1053; October 10, 1978). In its original form, the Byrd Amendment stated: ''Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.''

Two years later, the Byrd Amendment was modified by the Bretton Woods Agreements Amendment Act of 1980 (Section 3 of P.L. 96–389; 94 Stat. 1553; October 7, 1980) to read as follows: ''The Congress reaffirms its commitment that beginning with fiscal year 1981, the total outlays of the Federal Government shall not exceed its receipts.''

In 1982, as part of the recodification of Title 31 of the United States Code (P.L. 97–258; 96 Stat. 908; September 13, 1982), the Byrd Amendment was restated in its current form: ''Congress reaffirms its commitment that budget outlays of the United States Government for a fiscal year may not be more than the receipts of the Government for that year'' (see 31 U.S.C. 1103 (Budget Ceiling)).

HUMPHREY-HAWKINS ACT OF 1978

The Full Employment and Balanced Growth Act of 1978 (P.L. 95–523), commonly known as the Humphrey-Hawkins Act, included two provisions (in the form of amendments to the Employment Act of 1946) that pertain to the goal of a balanced Federal budget. First, Section 103(a) of the Act (92 Stat. 1892–1893) amended the required elements of the President's annual economic Report to Congress to include numerical goals for certain measurements of economic activity consistent with, among other things, a balanced Federal budget. The amended provision of the Employment Act of 1946 (15 U.S.C. 1022, Economic Report of the President) states in part:

The President shall transmit to the Congress during the first twenty days of each regular session * * * an economic report (hereinafter in this chapter referred to as the ''Economic Report'') together with the annual report of the Council of Economic Advisers, submitted in accord with section 1023(c) of this title, setting forth—

(2)(A) annual numerical goals for employment and unemployment, production, real income, productivity, Federal outlays as a proportion of gross national product, and prices for the calendar year in which the Economic Report is transmitted and for the following calendar year, designated as short-term goals, which shall be consistent with achieving as rapidly as feasible the goals of full employment and production, increased real income, balanced growth, fiscal policies that would establish the share of an expanding gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities, *a balanced Federal budget*, adequate productivity growth, price stability, achievement of an improved trade balance, and proper attention to national priorities * * * [*Emphasis added;* other provisions relating to the Economic Report and the goal of obtaining a balanced Federal budget are contained in 15 U.S.C. 1022a and 1022b]

Second, Section 106 of the Act (92 Stat. 1895–1896) added a new section to the Employment Act of 1946 (15 U.S.C. 1022c, inclusion of Priority Policies and Programs in President's Budget), which states in part:

To contribute to the achievement of the goals under the Full Employment and Balanced Growth Act of 1978, the President's Budget for each fiscal year beginning after October 27, 1978, shall include priority policies and programs, which shall include, to the extent deemed appropriate by the President, consideration of the following—

(I) proper attention to balancing the Federal budget; * * *

REVENUE ACT OF 1978

The Revenue Act of 1978 (P.L. 95–600) called for a balanced budget in fiscal years 1982 and 1983. Section 3 of the Act (Policy With Respect to Additional Tax Reductions; 26 U.S.C. 1 note; 92 Stat. 2767), stated:

As a matter of national policy the rate of growth in Federal outlays, adjusted for inflation, should not exceed 1 percent per year between fiscal year 1979 and 1983; Federal outlays as a percentage of gross national product should decline to below 21 percent in fiscal year 1980, 20.5 percent in fiscal year 1981, 20 percent in fiscal year 1982 and 19.5 percent in fiscal year 1983; *and the Federal budget should be balanced in fiscal years 1982 and 1983.* If these conditions are met, it is the intention that the tax-writing committees of Congress will report legislation providing significant tax reductions for individuals to the extent that these reductions are justified in the light of prevailing and expected economic conditions. *[Emphasis added]*

REVENUE ACT OF 1964

The Revenue Act of 1964 (P.L. 88–272) included a statement that Congress' action on the measure was intended to bring about a balanced budget, although no reference was made to a specific fiscal year. Section 1 of the Act (Declaration by Congress; 78 Stat. 19), stated:

It is the sense of Congress that the tax reduction provided by this Act through stimulation of the economy, will, after a brief transitional period, raise (rather than lower) revenues and that such revenue increases should first be used to eliminate the deficits in the administrative budgets and then to reduce the public debt. To further the objective of obtaining balanced budgets in the near future, Congress by this action, recognizes the importance of taking all reasonable means to restrain Government spending and urges the President to declare his accord with this objective.

BUDGET AND ACCOUNTING ACT OF 1921

Section 202 of the Budget and Accounting Act of 1921 (P.L. 67–13; 42 Stat. 21; June 10, 1921) requires the President to make appropriate recommendations to Congress in the budget whenever the estimates of revenues and spending in the budget show a deficit or a surplus. In its original form, the section directed the President to recommend ''new taxes, loans, or other appropriate action'' to meet a projected deficit. When the section was restated in the 1982 recodification of

Title 31 of the United States Code, the specific reference to new taxes and loans was removed. In its current form (31 U.S.C. 1105(c)), the section states:

The President shall recommend in the budget appropriate action to meet an estimated deficiency when the estimated receipts for the fiscal year for which the budget is submitted (under laws in effect when the budget is submitted) and the estimated amounts in the Treasury at the end of the current fiscal year available for expenditure in the fiscal year for which the budget is submitted, are less than the estimated expenditures for that year. The President shall make recommendations required by the public interest when the estimated receipts and estimated amounts in the Treasury are more than the estimated expenditures.

Mr. LEAHY. Mr. President, I am proud of the action taken by the Senate today. This vote was what serving in the Senate is really about—having the courage to do what is right, refusing to pass the buck to the States, standing up to special interest groups and voting our conscience. Once it become obvious that proponents of this constitutional amendment planned to use the annual surpluses in the Social Security trust fund to mask the true deficit, the so-called balanced budget amendment was doomed.

If this vote had been a secret ballot, it would have been lucky to get 40 votes. This is a lesson in why you don't amend the Constitution by taking a poll.

I have commended many of my colleagues for voting against the so-called balanced budget amendment. In particular, I believe that the senior Senator from West Virginia [Mr. BYRD] and the senior Senator from Oregon [Mr. HATFIELD] should be commended. They were true profiles in courage and the country is indebted for their courageous leadership.

THE PROPOSED CONSTITUTIONAL AMENDMENT REQUIRING A BALANCED BUDGET

Mr. ROCKEFELLER. Mr. President, this has been a historic day in the U.S. Congress. This afternoon, each of us casted our vote on whether to attach an amendment to the U.S. Constitution that would require in the strictest possible terms a balanced Federal budget in the next 7 years. And I joined my fellow and senior Senator from West Virginia, Senator BYRD, who led a serious and important battle against the amendment, in voting against this idea. I voted to defend West Virginians from the flaws and dangers of this amendment, and to help ensure that our State is not forced once again to pay the costs of others' political agendas, past mistakes, and potential for reckless harm.

Today's vote was another victory for the idea that promises like Social Security should be kept. That Congress should focus on making real choices and setting priorities in dealing with the Federal Government's budget, instead of using the Constitution to blindly do the job.

I have no doubt this idea for a constitutional amendment will be pushed again. For that reason, I want to outline my concerns again.

This proposed constitutional amendment will affect the lives of every single West Virginian, and every single American—children, parents, and grandparents; seniors, workers, and students; our large and small businesses, and all their workers; the poor and the disabled—everyone. So it is critical that we fully understand what it proposes to do and how it will work.

I suggest that we all have to be able to answer a few key questions: First, can the constitutional balanced budget amendment accomplish its goal of bringing the deficit down to zero in 7 years? Second, how it will accomplish that goal? And third, what are the consequences of moving to a zero deficit over a short period of time? Who will sacrifice, what programs will be cut, what programs will be spared?

In short, who wins and who loses? That's what West Virginians tell me they want to know about the balanced budget amendment. They're willing to participate in a national crusade to get the deficit down—they supported the significant downpayment we made on reducing the deficit in 1993. As always, West Virginians are willing to do their fair share—but they want to know what that share will be. They want to know up front. And so do I. Before I give you my best answers to those three key questions, I want to note why the answers to these questions are essential.

West Virginia has been told to trust Washington's promises about balancing the budget and cutting taxes in the past, as recently as the early 1980's. We didn't have the say in the matter then, and we were devastated. we don't want to let that happen again. We remember very well what happens when the Federal Government claims it can reduce its own costs, and then ignores the costs it foists onto the States.

I remember well because I was Governor of West Virginia, when all too similar promises were made. I watched Congress promise to balance the budget while cutting taxes. I saw what happened in living Color. West Virginia's plants shut down and threw working families into foreclosures and bankruptcies. Our kids were forced to drop out of college because tuition money had to go to their families' mortgage payments and medical expenses. Our senior citizens had to keep their thermostats at 58 degrees because they could not afford heating oil. When I say I want to see the hidden details of this balanced budget amendment, it is not a political ploy or out of intellectual curiosity.

It is because I have a contract with West Virginia. This time around I am here in Congress, not working in the State House, and I insist that West Virginia be told how this is going to be done. I insist on behalf of the residents of West Virginia. West Virginians take their right to know so seriously that the West Virginia Legislature passed a bipartisan resolution on February 14, 1995, reaffirming the importance of their right to know the details of the balanced budget amendment.

The West Virginia resolution urged Congress to submit:

[A] Balanced Budget Constitutional Amendment to the States for ratification only if Congress provides a detailed projection of what reductions will be made in the Federal budget and how these will affect the government and people of West Virginia, including, but not limited to, the effect on Social Security benefits, Medicare, Medicaid, education, highway moneys, including completion of the Appalachian corridor system, and other programs necessary to the health and well-being of the people of our State.

It's that simple. If you don't tell me how reaching a balanced budget is going to be achieved so I can share that information with West Virginia, you won't have my vote.

Democrats proposed just such an amendment. This amendment, the citizens' right to know amendment, would have given the States and their residents the right to know how we intend to reach a zero deficit by 2002. This improvement was offered by Senator DASCHLE on behalf of our Democratic Senate colleagues. It was summarily rejected, mostly on party lines, early in the debate on the balanced budget amendment.

I am both shocked and disappointed that a majority of Members serving in the U.S. Senate chose to deny the people whom they represent the right-to-know what it would take to reach a balanced budget. And I am forced to conclude what a number of Republican leaders have stated publicly is the case, they believe that if the people knew what it would take to balance the budget—they might not support the constitutional amendment.

The Senate also considered a proposed revision to this constitutional amendment to protect Social Security's trust funds. I voted for that idea, and watched my colleagues in support of the amendment proceed to vote to not protect Social Security. How can West Virginians—working people and seniors—trust their elected officials when they pay into a trust fund that's supposed to be dedicated only to Social Security, and see this rejection of the idea of keeping that promise. The failure of this constitutional amendment to protect Social Security is a reason alone to reject it.

In fact, surveys of public opinion show over and over again that support for this amendment plummets to 32 percent when they learn that Social Security could be cut. I want to be clear. The constitutional amendment before the Senate today could lead to cuts in Social Security, and if it had prevailed, I am sure it would result in cuts in Social Security.

Having said that, let us turn to the key questions: Can the amendment do what its exponents claim and how, and what does that mean?

Question 1—Can the constitutional amendment achieve a balanced budget by 2002?

A careful reading of the actual legislative language of the balanced budget amendment makes clear the amendment alone will do nothing to balance our budget. It will not make us any smarter or wiser, or fairer when it comes time to proceed with the actual budget bills required to make tangible progress toward deficit reduction.

This Congress does not need a constitutional amendment to perform its job of deficit reduction and fiscal prudence. Nothing in this provides Congress with any new authority to reduce the deficit, make tough budget cuts, or increase revenues. What the amendment says is that the Constitution requires Congress to balance the budget—and little more. Provisions are included which permit waiving the balanced budget requirements, but they have extraordinary hurdles attached to them in the form of supermajority rollcall votes. Other unprecedented provisions in this amendment would rewrite our Constitution's system of checks and balances, in addition to the provisions which upset the fundamental principles of majority rule.

The amendment does not lay out explicit definitions of what should or should not be counted in tallying up the deficit, or reducing it. It doesn't protect any program, not Social Security, not Medicare, not defense, not veterans, not children's programs, not disaster aid.

Congress already has the power to reduce the deficit. It doesn't need the algebra of fiscal policy written into the Constitution to do its job. And some of us in Congress, myself and my fellow West Virginian, the great Senator BYRD included, have stepped up to the plate and helped reduce the deficit. Congress has proven it can reduce the deficit on its own. We proved that in 1993 during the budget reconciliation debate—and we should all learn from that lesson. That congressional budget resolution, not a constitutional dictate, reduced the deficit. And Congress can and should reduce the deficit again. We should make our choices about how to do it prudently. We should take into consideration the benefits provided by certain Government programs and services, from Medicare to veterans benefits to public health programs to environmental protection. But continue on the path of deficit reduction we can and must.

In 1993, when the Vice President had to cast the final Senate vote for the President's budget to put us over the edge and ensure we made a sizeble downpayment on the deficit, Democrats voted to streamline and cut popular Federal programs, to ask individual Americans to contribute to our national effort to reduce the deficit, and to increase Federal revenues where appropriate.

That vote was about real deficit reduction—not a popular gimmick, not a quick constitutional fix that pretends to reduce the deficit, but is nothing more than a soundbyte so we can say we've resolved to get our financial house in order.

Should a balanced budget amendment pass this year, the national deficit for 1995 will be exactly the same tomorrow as it is today, even if this constitutional balanced budget amendment were to pass overwhelmingly. That fact seems to have been obscured by much of the talk surrounding this amendment.

The truth is that those who believe we need to start making the tough choices about how to reduce the deficit won't find any tough choices in the actual amendment. Indeed, I would argue that this amendment is an easy way out—it allows Members to declare their support for a balanced budget amendment, and lets them avoid the question of how we're going to do it. That's a copout in my book. And it is a huge step backward from the progress we made under the administration's 1993 budget that put us on the path to a reduced deficit with explicit, program-by-program cuts.

A specific budget plan that details how we will achieve a balanced budget is the only real way to reduce the deficit and balance the budget—with or without this constitutional amendment. We have seen no such plan from the Republican majority during the debate of this amendment, although the new majority leader has shared his speculation about the level of some cuts which might be necessary with some news organizations.

Just this week, the new chairman of the Finance Committee, Senator PACKWOOD, has speculated what kind of cuts would be necessary out of the health care programs for the elderly and disabled, and for poor children and pregnant women—$250 billion out of Medicare and Medicaid over the next 5 years, and some $400 billion over the full 7-year timeframe to reach balance. That's late breaking news from some of the Republican leaders and it raises real questions about why we have been provided with so little in terms of hard numbers to date.

I know West Virginia seniors, rural hospitals, the disabled, and doctors who care for Medicare and Medicaid patients will be significantly affected by the unprecedented cuts described by Senator PACKWOOD. But even as the new congressional leadership begins to give us real numbers about what will be required of certain programs—I have heard very little about how they are going to make those cuts—which providers' rates will be cuts, how much more seniors will pay out-of-pocket, if children can still count on receiving basic health care services, and so on. The lack of details has been astounding.

Question 2—How will we achieve the goal of a balanced budget in 7 years?

My answer to question 1 was that the constitutional amendment would not, of and unto itself, balance the budget. It merely says we have to do it. The only answer I can offer to question 2 is those in control of the numbers haven't told us how they will achieve the goal. They just say they will. They say ''trust us.'' That is it. Thats all the detail you get from the amendment.

True, by thinking about the basic components of the Federal budget, you can start figuring out what programs will take major hits under a balanced budget amendment—the health programs, Medicare and Medicaid, Social Security if Congress reneges on its ephemeral promise to protect it. Even the staff of the Republican chairman of the Budget Committee, Senator DOMENICI's staff, has concluded that over $664 billion in cuts will be required in non-Social Security, non-defense mandatory entitlement programs to reach a zero deficit by the year 2002. That's nearly $100 billion in cuts every year if you spread it out. But they will not tell you how.

I want to take a moment to explain a couple of very important amendments to the balanced budget resolution, and my views of them. You will recall that the Democratic amendment to exempt the Social Security Program from the calculations of the constitutional balanced budget amendment was rejected by a majority of Members. I voted for that initial amendment to protect Social Security because I saw it as a way to protect Social Security—and other—people from unfair harm, from broken promises, and for the sound financial reason that Social Security has not contributed to our deficit problems. It is a trust fund.

During the amendment process, I also voted for additional protections for other vital programs as well, but that approach to protecting certain populations from the ravages of the balanced budget amendment failed.

Recognizing that a series of those protective amendments failed to win passage, I could not vote for the substitute balanced budget amendment offered by Senator FEINSTEIN. The amendment has the laudable goal of, once again, attempting to protect Social Security beneficiaries as I voted to do earlier in this process, but it still would have required a balanced budget in a 7-year timeframe. This amendment would still put a straitjacket on the country's economic and budget policy, it could still cause the devastating effects that the main proposal before us poses for West Virginians and the rest of Americans. It still could turn a period of high unemployment into a recession. In protecting Social Security, but serving as the same speeding train, the Feinstein amendment might also mow down benefits for war-injured veterans, Medicare payments that rural hospitals depend on to survive, the programs that help create jobs in our communities, funds for our schools. Had the Feinstein amendment prevailed, it would have forced even more draconian cuts in services and benefits where

they shouldn't be made. You can be sure that I will fight as hard as anyone to protect Social Security, but slapping a balanced budget amendment onto the Constitution is not the way to do that.

Many Members also claim they want to protect defense from cuts as a result of the balanced budget, but haven't made any hard promises that they will do it. Other programs like veterans compensation and health care were not protected during the amendment process either—despite my offering what I believe to be a very surgical way to protect a special category of particularly needy and deserving veterans. It failed. Veterans have no guarantees that they are safe from the balanced budget's requirements for cuts.

And that leads us to question three.

Question 3—What are the consequences for our families, for our businesses, and for our States, of balancing the budget in 7 years?

Even if one accepts the lack of specific information regarding how we would actually reach a balanced budget, one of the things Congress is always responsible for doing is assessing the consequences of our actions. That's impossible to do without the detailed plan or road map of how we are going to get from here to there.

The amendment itself has been the subject of serious debate over the last few weeks in the U.S. Senate. Much of that debate has been a direct result of the tremendous effort and careful analysis of the senior Senator from West Virginia, ROBERT C. BYRD—we all owe him a debt of gratitude for the numerous illuminations he has provided. And I thank each of my colleagues for their various contributions and commentary on a whole list of amendments which have been offered as modifications to the amendment. I would like to be able to point to a single strengthening amendment beyond the limitation of how the courts can intervene in setting our budgetary and tax policies, but cannot.

But I do honestly believe that the Senate has come to understand what is decipherable from the text of the amendment, and the intent of its proponents, because of this debate—even though we have not been provided the critical road map which would show us how we would achieve the balance of the Federal budget. What we do know about how this amendment would work is troubling to me as well.

It astounds me to see Senators voting for this amendment without knowing how this amendment affects their States and our citizens, how vulnerable populations like children and seniors would fare under this amendment. I believe the citizens of West Virginia deserve to know how this amendment will affect their daily lives, the safety of the water they drink, the quality of the air they breathe, the health care services they need, the student loans their children need to make college affordable, and the roads which they drive on to get to and from work every day.

They deserve to know how this amendment will affect the basics of their daily lives—and because the majority voted down the right to know amendment offered by the minority leader they will not know. They cannot know because Congress does not know. All Congress knows is the amendment will constitutionally mandate us to find a way to make sure we do not spend any more than we take in every year—that's the only assurance in the entire amendment—every other provision is a maybe.

The cost-shifting that the balanced budget would cause to families and businesses in my State of West Virginia and in every State is mammoth. Statistics compiled by the Treasury Department, by the respected Wharton School, and by the Center for Budget and Policy Priorities, among others, give us a picture of how the amendment will affect our citizens even in the absence of detailed numbers, and program by program explanations.

The different analyses I have seen tell us that under the balanced budget amendment, in West Virginia, 22,000 jobs will be lost, personal income will drop, health care services will be limited, and State and local taxes will have to be increased by over 20 percent to compensate for lost Federal dollars.

The studies show that the State of West Virginia would have to raise its State and local taxes 20.6 percent across the board to compensate for the funds it would lose under the balanced budget amendment; that 22,000 jobs are projected to be lost in West Virginia as a result of the balanced budget amendment (in 2003); that personal income in West Virginia is projected to drop by 8 percent as a result of the balanced budget amendment (in 2003); that the balanced budget amendment and the House contract's fiscal agenda would result in a loss of $96 million in Federal grants in 1996—which is $53 per resident.

West Virginia would lose $322 million in 1998, $175 per resident of West Virginia.

West Virginia would lose $841 million in 2002, $457 per person in West Virginia.

West Virginia Medicare benefits would be cut by $824 million per year (by the year 2002), and total over $3 billion cumulatively.

West Virginia Medicaid funding would be cut by $488 million per year (by the year 2002).

Those projections provide a pretty stark picture of the consequences of this amendment. They tell me I cannot support this balanced budget amendment. And they raise a whole lot of additional questions about how this amendment will affect our national economy. How will the amendment affect West Virginia's economic recovery, and the economic future of our States? How will our most vulnerable populations fare under the amendment? How will defense be treated in the process? What kind of cuts, reforms, or increased revenues are necessary to take us from today's deficit, (which has steadily been reduced over the last 3 years for the first time since Harry Truman was President due to Democratic budget initiatives), to a zero deficit and how will we maintain that during natural disasters, recessions, or national security threats? How will we get from here to there?

These are more of the kind of questions that West Virginians have called my office asking me and my staff. These are the kind of questions I want hard answers to before I vote in favor of any balanced budget amendment. Because this is such a serious matter, amending the document which enshrines our Nation's guiding principles and which is our Nation's organic law, I would like to list a series of additional concerns about the amendment which the Senate debate of recent weeks has only served to highlight.

In some cases, we have had assurances from the amendments' proponents that some of these concerns will be met in implementing legislation, or because there is strong support for certain programs. But West Virginians have no guarantee of anything under this amendment. I cannot cast my vote on a constitutional amendment based on personal assurances of Members, even those from Members for whom I have the utmost regard. I have to cast my vote based on the actual language of the constitutional amendment and it remains deeply troubling to me.

First, I reiterate, nothing in the balanced budget amendment makes government more efficient, less wasteful, or stops unnecessary spending. Only specific legislation, like the President's own deficit reduction initiative, which passed without a solitary Republican vote, can do that. The debate makes it sound like this amendment is a magic bullet to our perplexing budget dilemmas.

Second, this amendment would result in big increases in State and local taxes. One Governor concludes that without seeing the plan for how balancing the budget will be accomplished, this amendment should be considered a vote to raise State and local taxes. He dubbed the existing amendment a ''trickle down tax increase''.

Third, the balanced budget amendment is bad economic policy. Basic economics tells us the size of the deficit is directly related to the health of the economy. The deficit rises when the economy weakens—but temporary increases in the deficit act as automatic economic stabilizers. When family and business incomes decline, their tax liabilities decline more than proportionately. The resulting deficit means the government is paying out more than it takes in, counterbalancing the fall in the economy. This is true on the spending side as well. For example, when workers lose their jobs, higher outlays

for unemployment, Medicaid, and other programs help fill the gap in family budgets, and in overall economic activity, until the economy or people's individual situations improve. If a balanced budget were required every year, that cushioning effect would not be there.

A balanced budget amendment would force us to cut spending or raise taxes to eliminate increases in the deficit caused by a slowing economy. Our fiscal policies would make the natural swings in the economy more pronounced—recessions will be deeper and longer.

The proposed super-majority vote that would permit a deficit to exist during times of economic weakness is ineffective. Congress would have to be more prescient than private sector forecasters in order to develop the needed consensus to waive the strict balanced budget requirement.

Fourth, the amendment does not adequately address how it will be enforced—making it either unenforceable or turning over enforcement to the courts or the President. The amendment would fundamentally restructure the balance of power set forth in the Constitution and could still empower unelected judges to raise taxes or cut spending, despite a restriction placed on the courts in an amendment offered by Senator NUNN in the closing moments of this debate. If the amendment were deemed unenforceable, respect for the Constitution would be severely diminished and rule of law would be undermined.

The question of who will enforce this amendment has not been adequately answered by its proponents. Will it be the courts or the President—or is it intended not to be enforceable? Placing an unenforceable amendment in our Nation's charter would result in countless constitutional violations and make all other constitutional rights, by extension, violable as well.

Judicial involvement in the budgetary process would be unprecedented, even for declaratory judgments, and yet the balanced budget amendment significantly increases judicial authority. Under this amendment, judges may be the ones asked to make the hard choices about that the Congress is accountable for making today—and I strongly believe judges lack the institutional capacity to make those decisions. It's wholly inappropriate to shift that duty to them.

The Constitution's decision to give the ''power of the purse'' to the legislature was not made lightly. This amendment could transfer some of that power to the courts.

Fifth, rules for fiscal policy should not be written into the Constitution. The Constitution is a miraculous document precisely because it establishes transcendent national ideals and freedoms and the structure of our Government, without micromanaging its performance. It sets individual rights and creates a system of separation of powers, our checks and balances, which protect against any one branch of government becoming too powerful.

Fiscal policies respond to current economic conditions and the structure of the economy—those conditions and structures are constantly changing and should not be restricted to today's needs. Fiscal policy should reflect a constantly changing economic environment, not written in stone in the Constitution.

Sixth, the amendment violates the our traditionally democratic principle of majority rule. The amendment requires a three-fifths supermajority vote to pass a law that allows deficit spending or a debt increase. For more than two centuries, the Constitution has only required a supermajority vote for measures vetoed by the President. Giving a minority the power to absolutely block legislative action would be an unprecedented undermining of majority rule. The wholesale transfer of power from the majority to the minority in cases where there is a recession, need to respond to an international or natural crisis, or to extend the Treasury's ability to borrow to pay the government's bills should not be permitted.

Seventh, the balanced budget amendment will create uncertainty about the reliability of government services and obligations. There is a real practical difficulty in insuring the government's budget is balanced every year. If estimates are inaccurate (as they can very well be) and mid-year revised projections show a deficit by year's end—where will the money to compensate for the deficit come from? Interest payments can't be defaulted on, cutting entitlement programs like Medicare with millions of beneficiaries count on would be extremely unpopular, especially in the circumstance that there is very little notice—which means discretionary programs would probably take the mid-year hit. Discretionary programs like student loans could be totally shut down.

In sum, this constitutional amendment is the most expansive amendment to our Constitution brought to a vote in both Houses in the last 206 years. The amendment is almost as long as the entire Bill of Rights, and it would embed fiscal policy in our Constitution. It's called the balanced budget amendment but does nothing more than say we should balance the budget—the amendment is misnamed, it should be called the ''Let's Use the Constitution to Promise We Will Balance the Budget Amendment.''

When the rhetoric of the virtues of financial responsibility or balance has to be translated into action which will cut the deficit, it will mean across the board cuts in programs which millions of Americans rely on for their health care and nutritional needs, to help send their children to college, to improve their highways and bridges, and to protect our environment. It dodges the toughest questions of how we can get our national health care costs, private and public, under control—and that is both a fundamental flaw of this amendment and a disgrace. In my judgment it will hurt West Virginians and have the harshest effect on the most vulnerable people in my State and in our country. I cannot in good conscience vote for this amendment.

But I can, and will, continue my efforts to reduce the deficit, and to make government programs more responsive to those they serve, and to eliminate duplication and waste as we strive to make government leaner and more efficient, and to manage the costs of priority government programs. A lion's share of that work will be in finally dealing with health care costs and access problems that we failed to address, in part, because the importance of comprehensive health care reform to getting our national deficit under control was not sufficiently understood.

I will continue to be willing to stand up and cast the tough votes if they are necessary to improve our Nation's overall economic health. But I cannot vote for this amendment because my constituents have been denied the basic information about how this amendment would affect their daily lives. In the absence of real information of its consequences, I have had to piece together the effects based on common sense assumptions of what will happen. I am dismayed that there has been a almost uniform refusal to improve this amendment to address the real concerns which have been raised.

It seems appropriate to reflect upon the words of our Founders. I close with the words of Thomas Jefferson who drafted the venerable Constitution which this amendment proposes to radically alter. Thomas Jefferson said:

> I know of no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion.

That is a perpetual responsibility of Congress and the business we should be getting about today.

THE 159TH ANNIVERSARY OF THE INDEPENDENCE OF TEXAS

Mrs. HUTCHISON. Mr. President, I think the relevance of what I am going to talk about today will be brought into what has just happened. The historic opportunity that we had that was missed actually falls on the 159th anniversary of the independence of Texas.

One of my predecessors in this Chamber, Sam Houston, led the Texas army to victory at San Jacinto on March 2, 1836, his birthday.

Today, Texans everywhere celebrate that historic victory, and now that we have joined ranks in the United States, we invite all to join us in honoring the victory at San Jacinto.

Texans also remember on this day the soldiers who did not live to see that

victory, because they died a few days earlier at the Battle of the Alamo. One hundred eighty-four brave men held the Alamo for 13 days before falling to 6,000 Mexican troops.

Following a tradition begun by my recent predecessor, John Tower, on the birthday of our more distant predecessor, Senator Sam Houston, I would like to read a letter sent by the commander of the Alamo, Col. William Barret Travis, during the siege. I think it will serve as a reminder of how many people spilled blood to make our country what it is today:

To the people of Texas and all Americans in the world—Fellow citizens and Compatriots—I am besieged by a thousand or more of the Mexicans under Santa Anna. I have sustained a continual Bombardment and cannonade for 24 hours and have not lost a man. The enemy has demanded a surrender at discretion, otherwise, the garrison are to be put to the sword if the fort is taken. I have answered the demand with a cannon shot, and our flag still waves proudly from the walls. I shall never surrender or retreat. Then, I call on you in the name of Liberty, of patriotism and everything dear to the American character to come to our aid with all dispatch. The enemy is receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. If this call is neglected, I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due his own honor and that of his country. Victory or death. William B. Travis, The Alamo, 2/24/1836.

Today is a great day in the history of Texas. I am sorry that it is a sad day for America. It will be remembered as the day we did not declare independence from the debt accumulated over the last 34 years. We did not close the back door to become heroes of future generations, but while the Alamo is just a memory in our minds, we will be back to fight the battle of the balanced budget amendment. We will amend our Constitution, and we will do the right thing some day.

So while I am not able to celebrate the vote that just happened on this floor a few minutes ago, perhaps we will remember the lesson of the Alamo and perhaps we will remember that it was those who died at the Alamo, who thought they had failed to hold that bastion that paved the way for the success of the Battle of San Jacinto.

Mr. President, our Battle of San Jacinto has yet to come on the balanced budget amendment, but it will. It will come, and we will do what is right for the future generations of our country. The battle has just begun. Today was the Alamo and San Jacinto will follow.

Thank you, Mr. President.

Mr. THURMOND. Will the Senator yield?

The PRESIDING OFFICER. Will the Senator yield?

Mrs. HUTCHISON. Mr. President, I yield.

Mr. THURMOND. Mr. President, I want to commend the able Senator from Texas on what she has had to say about the Alamo. I am very pleased that South Carolina played a big part in that historic event. William Barret Travis, the commander at the Alamo, was born in Edgefield County in South Carolina, the county in which I was born. He was a brave soldier. He fought to the end. Every person there was killed.

James Bonham, another man prominent to the Alamo, was also born in Edgefield County, SC. So we are proud that South Carolina has played a big part in the history of Texas. They saw they could not win over the Mexicans, they were overpowered. James Bonham asked for permission to go out in the countryside to search for reinforcements. He had to fight through the Mexican lines to get out. He could find no help. He fought to get back to the Alamo.

He came back to the fort and fought to his death. He knew they would die because they did not have enough support. Again, I want to commend the able Senator from Texas for telling us about the history of the Alamo.

Mrs. HUTCHISON. Mr. President, let me just say that the Senator from South Carolina, as usual, is right. The people of South Carolina did come and die at the Alamo. They were very much an important part of the independence of Texas.

I want to say that there were people from Tennessee, Kentucky, and Georgia who also played a major part. I would not be standing here today as the Senator from Texas but for the blood of those great men who migrated from the East and came over and were a very important part of the history of our Nation.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Chair.

(The remarks of Mr. FEINGOLD pertaining to the submission of S. Res. 83 are located in today's RECORD under ''Submissions of Concurrent and Senate Resolutions.'')

Mr. FEINGOLD. I yield the floor.

Mr. LEAHY. Mr. President, all of Vermont is saddened today by the loss of a great leader in agriculture, George Dunsmore.

George was a strong advocate for Vermont agriculture. He worked tirelessly promoting it here and abroad, and fighting for it in the legislatures of Montpelier, VT and Washington, DC.

In addition to serving in the State legislature, he had two tenures as Commissioner of Agriculture. Under his leadership the high quality image of Vermont food and agricultural products has flourished. George always looked for ways to find new markets for Vermont products. He knew that it was important for Vermont and New England to look beyond our Nation's borders to the export market.

George understood Vermont agriculture so well because he was a part of it. A dairy farmer in Franklin County, he worked both on the farm and in Montpelier for many years.

He also understood how Washington worked. He was a leader in the National Association of State Departments of Agriculture. He also served as the agricultural specialist for my good friend JIM JEFFORDS when he was a Member of the House of Representatives.

George was a strong supporter of the State's dairy industry and the Northeast Interstate Dairy Compact. I think it is fitting that Senator JEFFORDS and I introduce this measure, Senate Joint Resolution 28, today and do so in memory of him.

Whether he was defending the purity of Vermont's maple products, looking for new markets for our apple growers or fighting for higher prices for dairy farmers, George was always a true advocate for agriculture.

My deepest sympathies go to his wife Bette Ann, and their three children.

TO MY FATHER, BY PETER TORRIERI

Mr. SARBANES. Mr. President, I want to call the attention of our colleagues to a very moving poem by my good friend Peter Torrieri of Baltimore. ''To My Father'' is a tribute not only to those of Italian-American heritage, but also to all of those who crossed the seas to establish families in this great Nation of ours. The immigrant legacy, deeply rooted in our history as Americans, is a facet of our society that should inspire pride and honor.

Peter Torrieri's father, Domenico, came to America during the wave of immigration in the early 1900's. His dream of a better life for himself, his wife, and their children was one that he would see slowly come to fruition. The sacrifices made by the entire Torrieri family illustrate both the strong work ethic displayed by so many immigrant families and the bonds of love and devotion that connect their family.

Domenico Torrieri, then a young man far from his home of Abruzzo, labored day in and day out all for the benefit of his family. Peter's poem shows the highest respect and esteem for his father and for all of the fathers and mothers who made this pilgrimage to the New World, hopeful that their journey would lead them to a bright future.

Peter and his wife Mary are leaders in Maryland's Italian-American community, playing important roles in preserving and passing on their heritage to the next generation as well as working tirelessly on behalf of community, health and civic organizations. As the son of immigrants and as an American who remains deeply devoted to my ethnic heritage, I invite all of our colleagues to read Peter's poem, which pays homage to his father and to all those who sailed the seas in search of a new life in America.

I ask unanimous consent the poem be printed in the RECORD.

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

TO MY FATHER

I praise you, my father, and all your brothers a million strong,
You, dauntless ones who crossed the ocean vast at the early dawn of the century,
Came from distant lands, and gained free access to our friendly shores,
You, challengers of water and wind and the unknown in search of bread and honest toil.
I praise you, Domenico, my father, who shared
Your scant bread with me and gave me the sweat of your brow.
I praise you and your brothers a million strong,
You, anonymous, unrecognized, unsung ones,
The laborers, the toilers, the workers, the builders of America.

I honor you, my father, and all your brothers a million strong,
You, amorphous neglected masses who slept on the earth bare,
Tamed the sooty demons in the coal mines, pushed the plows in the furrows,
Made the deserts bloom, and the stingy soils yield copious crops,
Hammered the spikes that held the rails that span the continent,
And raised the skyscrapers that flirt with the sky.
I honor you, my father, and all your brothers a million strong,
The laborers, the toilers, the workers, the builders of America.

I acclaim you, my father, and all your brothers a million strong,
You, red-eyed-from-soot-and-sweat, bare-chested smiths
Who wrought the steel that forged the spine and backbone of our mighty cities
And powerful industries and ships that sailed the seven seas;
Who dug the subways and laid the roadbeds of the spacious highways;
Who quarried the stones that raised the monuments, the cathedrals, the museums,
And the schools that taught brawn and brain, races and creeds to amalgamate.
I acclaim you, my father, and all your brothers a million strong,
The laborers, the toilers, the workers, the builders of America.

I bow before you, my father, in both humility and pride.
You were just sixteen when your mother, crying,
Gave you her blessings and kissed you good-bye.
Good-bye. You never saw your mother again alive.
You were still a boy when you waved farewell
To the seagulls on the Adriatic shores of Abruzzo,
A boy unbearded, unschooled, unskilled,
But unafraid of the heights and depths,
Driven only by unbending will to find your place in the sun.
I'll always remember you with love, my father,
The barrel-chested, broad-shouldered, five-foot-five
With thick, callus-gloved hands and sinewy biceps,
Face scorched by fierce summer suns and winter icy winds,
But face that greeted friends as well as strangers with a smile.

You, my father, and all your brothers a million strong
May have passed by unnoticed, unrecognized, unappreciated, and anonymous,
But in the juster spheres above, your names are carved on immortal granite.
Millions of you have come and gone
But Someone keeps making you and growing you by the millions more,
Because that Someone loves you, my father,
And all your brothers a million strong.

SHERIFF JOHNNY MACK BROWN: A TRIBUTE

Mr. HOLLINGS. Mr. President, I would like to take this opportunity to pay tribute to a leader in the law enforcement field, Sheriff Johnny Mack Brown from Greenville, SC.

Sheriff Brown's community-oriented approach to law enforcement has proved an effective and innovative way to help maintain law and order. Thanks to Sheriff Brown, agencies from across the country travel to observe this concept of bringing law enforcement back into the community.

Mr. President, it gives me great pride to see South Carolinians hard at work insuring that our State remains a safe place to raise a family and conduct business. Sheriff Brown has taken a bold stance against crime.

''We must not, we cannot fall into the trap of believing we are there to do law enforcement work for the community. We are there to do law enforcement work with the community,'' advised Sheriff Brown in a 1993 newsletter for the National Sheriff's Association.

Johnny Mack Brown has been recognized as a leader by his colleagues both at the national and State level. In 1993 he served as president of the National Sheriff's Association and from 1989–91 he was commissioner for the Commission on Accreditation for Law Enforcement Agencies, Inc. And, under the leadership of Sheriff Brown, the Greenville County Sheriff's Department was the first to achieve accreditation from the commission in 1988. He also served as president of the South Carolina Sheriff's Association in 1983.

Mr. President, I am delighted to commend Sheriff Johnny Mack Brown's dedication to improving the community. His efforts will have a lasting effect not only in South Carolina but across the country.

Recently, the Greenville News wrote of the Greenville County sheriff's exemplary law enforcement methods as a model for the country. I ask unanimous consent that the article be made a part of the RECORD.

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

NATIONAL STUDY LOOKS AT SHERIFF'S OFFICE

(By Bryan Gilmer)

The Greenville County Sheriff's Office is one of 12 law enforcement agencies nationwide being studied for its innovative use of community law enforcement strategies, a researcher said.

Community law enforcement includes getting law officers heavily involved with communities where they work a permanent beat. Then, rather than just responding to calls when trouble arises, the officer can work with community members to solve underlying problems that cause crime.

Gerald L. Williams, who teaches at Sam Houston State University in Huntsville, Texas, spent Thursday and Friday interviewing deputies and their commanders at the Sheriff's Office and touring the county.

In his research project, Williams and a colleague from the University of Kentucky are each examining six agencies. Their research is funded by a grant from the National Institute of Justice.

''This was the only sheriff's department that was selected,'' Williams said. ''It's difficult to be objective when you come into an organization like this one and you see the wonderful things they're doing. It's difficult to remain distant and not become a real cheerleader.''

Williams said he's gathered good information during his visit.

''One of the things that is really key to me is that I've been absolutely impressed with the amount of enthusiasm that exists in the people I've talked to, and a commitment toward community-oriented law enforcement here. There's a true sense of, 'We're going to make this work.'''

TRIBUTE TO COMMISSIONER TILLMAN HILL

Mr. HEFLIN. Mr. President, on March 16, a community committee will hold a special event to recognize the many contributions and hard work of Madison County, AL District One Commissioner Tillman Hill. Proceeds from this most-deserved event honoring an outstanding public servant will go to the Hazel Green Public Library Building Fund. Commissioner Hill opened this library at its temporary location in 1991.

The library is Tillman Hill's pride and joy, and it is entirely fitting and appropriate for his community to thank him by raising funds for the facility he has supported and been instrumental in establishing. He has always remembered his roots and has never forgotten his people's needs. Today, the Hazel Green Library checks out more books than any other rural branch in Madison County—over 40,000 volumes in 1994. Tillman's dream is to build a permanent building for the library on 2 acres of donated land. Plans for a 4,500 square foot facility have already been prepared.

Tillman Hill has dedicated his life to serving his community. He is a native son of Madison County, AL, born there, and having attended high school and college there. During the Korean war he was a noncommissioned officer with the 151st Engineering Battalion. Over the years, he has been a member of the Alabama Housing Authority; the Chamber of Commerce; the Jaycees; and the Lions Club. He is a past president of the Alabama Association of Counties.

Tillman is best known as a veteran county commissioner. He was first elected in 1976 and has served as a commissioner for 19 years. His quest to bring about a county building inspection function is only the most recent of

his efforts that characterize his expertise and talent as a public official. Throughout his career, he has been the driving force behind many other special projects, including the Sharon Johnston Park; Chase Industrial Park; an expanded county water system; senior citizen and nutrition centers; low-interest housing loans; the restoration of historic cemeteries; and, of course, the Hazel Green Public Library. Since being appointed a Madison County license inspector by Alabama Governor Albert Brewer in 1969, Tillman Hill has been living proof that one individual's concern and commitment can make a tremendous and lasting difference in people's lives.

I am proud to commend and congratulate my good friend Tillman Hill for his many years of service—service which reflects great credit upon him, his community, and his State. The success of the Hazel Green Library will long serve as only one testament to his selfless determination and generosity. He truly embodies the very best of what public service is all about.

A TRIBUTE TO THE KNIGHTS OF MALTA FOR WORLDWIDE GOOD DEEDS

Mr. SPECTER. Mr. President, at a time when citizen participation and volunteerism are uniquely important in addressing problems of our society, with the contemplated reduction of governmental expenditures I consider it worthwhile to note the important humanitarian contributions of The Sovereign Order Of Malta and its American foundation, the American Knights and Dames.

Some of the important activities of The Knights of Malta have been called to my attention by a longstanding friend and distinguished Philadelphia lawyer, Mr. James Binns:

(1) This year the Order plans to support the Medical Research Center of New York University, for finding and improving the care, and prevention of Parkinson's Disease and Movement Disorders, which unfortunately affects more and more people every day.

(2) This year also, a 400-bed hospital and a byomedical university is now under construction in Frosinone, Italy, for all students from throughout the world.

(3) For Christmas 1994 the Order donated food, toys and clothing to an entire orphanage in Oradea, Rumania.

(4) In 1992 in the State of Nueva Esparta, Venezuela, the Order donated medical equipment to the Civil Defense and to the Firefighter. In 1993, substantial humanitarian help was sent by the Order to Fiume, Yugoslavia, through the Red Cross.

(5) In 1988 a ''Proclamation'' was signed by Prime Minister Yitzchak Shamir, with a special Ambassador of the Order, sent to Israel, to encourage the spirit of ''Vatican II'', that Jews and Christians are brothers and sisters under Almighty God. Further, to uphold through dialogue, commerce and diplomacy, the World Council of Nations to recognize the State of Israel's inherent rights through Her Sovereign History in perpetuity, as stated in the United Nations Resolution of November 29, 1947.

(6) In 1984 in Rome, Italy, the Order collected over a million US dollars for the Institute, ''Regina Elena'', specializing in the research of the Hyperthermic Treatment or Cancer.

(7) In 1980 the Belgium branch of the Order donated medical assistance to Africa and a special machine to be utilized for the search of water.

(8) In 1978, in Salvador, Bahia, Brazil, an orphanage for 900 children, was founded with complete facilities, including a school up to the 8th grade.

These humanitarian contributions continue activities of The Knights of Malta which originated with the Order of St. John of Jerusalem in 1099 with assistance to the wounded when the first crusaders arrived at the Holy City.

After being expelled from Jerusalem in 1291, the Knights established a new headquarters of the Order at Limassol in Cyprus until 1309. They fortified the city and laid down the armaments regulations for the vessels carrying traders and pilgrims to the Holy Land. In doing so, the maritime power of the Order was established and the Mediterranean Sea was substantially liberated from pirates.

The Knights continuously played a significant role with the siege of the Island of Rhodes in 1309, the defeat of the Ottomans who attempted to seize Rhodes in 1480 and the later battle with the Ottomans in 1522 resulting in the Knights leaving for Candia in 1523. After the Holy Roman Emperor Charles V ruler of Spain and Sicily granted the Island of Malta to the Order, the Knights of Malta reigned over Malta until 1798. After the surrender of the Island to Napoleon Bonaparte in 1798, many of the Knights returned to their own countries forming different commanderies.

During the 19th and 20th centuries, The Knights of Malta sought to avoid political affairs in order to pursue philanthropic activities which its 40,000 members do to this day.

The Knights of Malta, with its unique history over nine centuries, have established a model for worldwide efforts which should inspire other individuals and organizations to do similar good deeds.

THE PEACE PROCESS IN NORTHERN IRELAND

Mr. PELL. Mr. President, last week, British Prime Minister Major and Irish Prime Minister Bruton took an important step toward lasting peace in Northern Ireland. The two leaders unveiled a framework document designed to serve as the basis for negotiations on Northern Ireland's future.

I believe it is important to note, as both Mr. Major and Mr. Bruton have, that the framework document is not a done deal or final settlement to be imposed, but a basis for talks among all the parties of Northern Ireland. This assurance should go a long way toward putting the various parties on the negotiating track.

Both the British and Irish Governments have signaled their willingness to make some difficult compromises in the name of enduring peace and reconciliation—compromises that cut to the heart of each country's traditional constitutional doctrines and that could cost each government political support at home. I believe that Mr. Major and Mr. Bruton should be commended for their courage. Similarly, Irish Foreign Minister Dick Spring, who was in Washington yesterday, deserves great credit for his efforts—in providing continuity and credibility to the process.

For its part, the British Government will propose changes to its constitutional legislation to ensure that the will of the majority of the people of Northern Ireland is respected in determining Northern Ireland's status. Similarly, the Irish Government will introduce and support proposals to end its constitutional claim to Northern Ireland. The document also proposes to create cross-border institutions, such as a North/South body with elected representatives from a Northern Ireland Assembly and the Irish Parliament.

The fate of the process now lies squarely in the hands of the various parties in Northern Ireland. I sincerely hope that they will not miss this historic opportunity to create a permanent peace. An editorial in Monday's Washington Post makes this point rather well, and I ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Post, Feb. 27, 1995]

AGENDA FOR NORTHERN IRELAND

British Prime Minister John Major and his Irish counterpart, John Bruton, took an important first step last week in opening negotiations for the permanent resolution of the Ulster crisis. The leaders released a frame work for talks that offers a set of opening suggestions they hope will lead to permanent reconciliation.

As usual, the Rev. Ian Paisley and his colleagues were not impressed. Blasting the agreement as a conspiracy to force Ulster Protestants into union with the Irish Republic, the 68-year-old hard-liner seeks to block talks before they begin. But other, younger men who might have stood with him in year past were more responsive. One leader of a Protestant paramilitary group rejected the Paisley position and announced that he is tired after 25 years of killing, and ready to talk. That sentiment was echoed by a Protestant member of the Senate of Northern Ireland whose own daughter was killed by an IRA bomb. If that view is widespread, there is reason for hope.

The framework announced is simply the opening move in what may be a protracted series of negotiations. Devise over 18 months of consultations between the British and Irish governments, the document suggests steps that could be taken to heal divisions in the province. The British, for example, want to create a new legislative assembly in Northern Ireland, with voting procedures that will protect the Catholic minority. The Irish government will support changes in that country's constitution that will revoke legal and political claims to the countries in the North. Both governments suggest the

creation of a cross-border authority composed of elected legislators from Ulster and the Republic, which would work together on matters of common interest such as tourism, economic development and environmental regulation. ''These are our ideas,'' Mr. Major stressed, ''but the future is up to [the people of Northern Ireland.]''

That last assurance is critical. No steps will be taken without the consent of the governed. There will be parliamentary debates ahead, counterproposals, compromise and eventually referendums. But there is no rush so long as the cease-fire holds, as it now has for many months. Peace has given a whole generation of combatants an idea of what life should be like. Young people who, until last September never experienced a day free of fear that some indiscriminate killer or hidden bomb would destroy then don't want to see the old days return. Neither do most of their elders who have borne the full brunt of the violence.

INTERNATIONALISM OR ISOLATIONISM—A CHOICE FOR THE NEXT GENERATION OF AMERICAN LEADERS

Mr. PELL. Mr. President, in the opening words of a major foreign policy address last evening, President Clinton said that ''we live in a moment of hope.''

Mr. President, I concur with that sentiment. With the demise of the cold war, with the nascent friendship between the United States and Russia, and with the emergence of democratic trends across the globe, the world is experiencing a realignment in the fundamental relationship between states. It is, as the President suggests, a time of extraordinary opportunity for the United States.

I commend President Clinton for his rejection of an inward-looking course, and endorse his ambitious call to support international peacekeeping, to reduce the nuclear threat by extending indefinitely the Nuclear Non-Proliferation Treaty and implementing other arms control agreements, and to be an aggressive player in the global economy. I also ask unanimous consent that the President's speech be printed in the RECORD at the conclusion of my remarks.

The present circumstances call to mind the watershed period after World War II. Then, as now, the United States faced a stark challenge: whether to assume the mantle of international leadership and become engaged in the establishment of a new diplomatic order, or whether to retreat into isolation, comfortably sheltered by two great oceans from the turbulent world of European balance of power politics.

Due to the courage and foresight of our political leadership—visionaries such as Harry Truman, George Marshall, Dean Acheson, and Arthur Vandenberg—America chartered a firm course of internationalism, guided by the principle of containment of the Soviet Union. Recognizing the shortsightedness of isolationism, the United States chose not to repeat the mistakes it made in ignoring the League of Nations, and became a driving force behind and host of the new United Nations. Our decisions then, and in the ensuing decades, solidified our role as the preeminent power in world affairs.

The changes we have witnessed in the past 6 years are the direct result of the policies we, along with our allies, conceived, refined, and implemented during the course of the cold war. None of these changes, however, could have occurred without American leadership and engagement.

I am therefore troubled by the emerging desire, expressed both in Congress and in public fora across the Nation, to retreat from our international commitments and obligations. And nowhere is this sentiment more dangerous and ill-conceived than in the emerging obsession with the United Nations.

I am now and have been an ardent supporter of the United Nations since 1945, when I was part of the International Secretariat of the San Francisco Conference that drew up the U.N. Charter. In the years since then, I have tried to help to make the United Nations become the effective world organization—the very symbol of the international community of nations—that was envisioned in the charter.

I am not so naive as to profess that the United Nations has always lived up to its potential. The United States-Soviet rivalry tended at times to hamstring the Security Council, and U.N. history occasionally has been interspersed with examples of waste and ineffectiveness. But for every example of failure, I can think of numerous countervailing examples of success—Cambodia, El Salvador, Namibia, and countless others. And now that we are entering a new era of cooperation with Russia, the Security Council harbors even greater promise for becoming a first-rate arbiter of international conflict and discord. U.N. peacekeeping has helped to serve American interests in the Middle East, in Africa, in Latin America, and in Asia. And I know that there will be situations in the future where we will rely on the U.N. peacekeepers to support our foreign policy aims.

Now that we no longer are forced to dedicate such a sizable proportion of our resources to the containment of Russia, we can see before us an entire new range of opportunity for international cooperation and prosperity. But the growth industries and salient political issues of the future—be they in telecommunications, the exchange of information, the flow of capital, the sound use of our environmental resources, or the prevention of the proliferation of conventional and unconventional arms—are heading in a direction that transcends national boundaries. If the United States is to keep pace, it cannot afford to slide back into inward-looking detachment.

In his address, the President set out a challenging and crucially important arms control agenda. I was quite pleased to note the high priority he attaches to achieving the indefinite extension of the Non-Proliferation Treaty at the conference of the parties beginning next month. The President has decided to underscore the importance he attaches to the preservation of international barriers to nuclear proliferation by asking Vice President Gore to lead our delegation. The Vice President will be ably supported by Ambassador Thomas Graham, Jr., and other experts from the Arms Control and Disarmament Agency.

The President also reaffirmed his commitment to the quick completion of a complete ban on nuclear testing. Substantial progress has been made in the negotiations. With a dedicated effort, the remaining stumbling blocks can be overcome.

I was pleased also that the President attaches high priority to the ratification of the START II Treaty. The START I and START II effort is truly bipartisan, spanning three administrations. Under the leadership of Senator HELMS and Senator LUGAR, the Committee on Foreign Relations is in the process of wrapping up hearings started in the last Congress under my chairmanship.

In addition to these priorities, the President told his audience:

> There are other critical tasks we also face if we want to make every American more secure, including winning Senate ratification of the Chemical Weapons Convention, negotiating legally binding measures to strengthen the Biological and Toxin Weapons Convention, clarifying the ABM Treaty so as to secure its viability while permitting highly effective defenses against theater missile attacks, continuing to support regional arms control efforts in the Middle East and elsewhere, and pushing for the ratification of conventional weapons which, among other things, would help us to reduce the suffering caused by the tens of millions of antipersonnel mines. * * *

The President understands that this agenda is both far-reaching and imperative. He said:

> Now, in this year of decision, our ambition for the future must be even more ambitious. If our people are to know real lasting security, we have to redouble our arms control, nonproliferation and antiterrorism efforts. We have to do everything we can to avoid living with the 21st century version of fallout shelters and duck-and-cover exercises to prevent another World Trade Center tragedy.

Mr. President, it is very important to understand that many aspects of arms control and nonproliferation are truly bipartisan. To be sure, Senators have and have had disagreements. Nonetheless, working together in a bipartisan fashion, we have moved steadily forward. During my chairmanship of the Committee on Foreign Relations, we were able to craft bipartisan bills, with the strong involvement of Senator GLENN and other Members, imposing effective sanctions against both nations and individuals engaged in reprehensible activities involving chemical, biological, and nuclear weapons-related activities.

It is indicative of the bipartisan nature of our arms control efforts that every treaty the committee and the Senate approved while I was privileged to be chairman won overwhelming support in the end. We were careful in every instance to resolve all legitimate concerns along the way to committee and floor consideration, and there was never a question with any of the arms control treaties voted out—including the Intermediate-Range Nuclear Forces Treaty, the Conventional Forces in Europe Treaty, the Threshold Test Ban Treaty, the Peaceful Nuclear Explosions Treaty, and the START II Treaty—that the approval would be well beyond the required two-thirds support.

Mr. President, I am gratified that President Clinton has embraced an ambitious agenda that will merit continued bipartisan support. He will thus be able to bring to fruition major initiatives of the Bush administration, as well as his own. The end result will assuredly be a safer, more stable world.

It is important to understand that these efforts represent a continuum in arms control that covers much of the post-World War II period. Presidents Eisenhower and Kennedy initiated the first efforts to curb nuclear testing, and each succeeding administration has built on the successes of its predecessors.

Mr. President, I wish that I could say that the major challenges of arms control and nonproliferation are behind us. Despite the many successes, the challenges ahead are formidable. I am extremely pleased that the President is able and willing to face these challenges. I trust that the Congress will continue a truly bipartisan effort to control, reduce, and even eliminate weapons of mass destruction.

Mr. President, we stand at the crossroads of history. The tenor of current political discourse—focused as it is on disengagement, withdrawal, and neoisolationism—suggests we are heading toward a colossal error in judgment. Those who seek to retreat into a Fortress America offer no constructive suggestion for filling the vacuum to be left by America's withdrawal. We would lose our political and moral authority, our ability to exercise influence in matters vital to our interests, and do grave harm to our standing as one of the greatest powers in history.

In his speech last night, President Clinton mentioned one of the most distinguished members ever to have served in this body—Arthur Vandenberg—who advanced the principle that politics should stop at the waters edge. But many of our interests, Mr. President, only begin there. I stand behind President Clinton's conviction that America can prosper in the next century only through international engagement and the assertion of leadership.

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

[From the White House, Office of the Press Secretary, Mar. 1, 1995]

REMARKS BY THE PRESIDENT TO THE NIXON CENTER FOR PEACE AND FREEDOM POLICY CONFERENCE

The PRESIDENT. To Tricia and John Taylor, and all the people from the Nixon Center; our distinguished guests from Germany and from Russia; of course, to Henry Kissinger—I was thinking when he said we both spoke with accents, judging from the results of the last election, his native country is still claiming him more than mine is claiming me. (Laughter.) But I'm a big one for reconciliation. (Laughter.) And there's plenty of time to achieve it.

I am honored to be here tonight. Just a month before he passed away, President Nixon wrote me the last letter I received from him about his last trip to Russia. I told some people at the time that it was the best piece of foreign policy writing I had received, which angered my staff but happened to be the truth. (Laughter.) And as with all of our correspondence and conversations, I was struck by the rigor of his analysis, the energy of his convictions, and the wisdom of the practical suggestions that he made to me.

But more than the specifics of the letter, which basically argued for the imperative of the United States continuing to support political and economic reform in Russia, I was moved by the letter's larger message—a message that ran throughout Richard Nixon's entire public life and all of his prolific writings. President Nixon believed deeply that the United States simply could not be strong at home unless we were strong and prepared to lead abroad.

And that made a big impression on me. When I was running for President in 1992, even though there was this little sticker up on the wall of my campaign headquarters that said, ''It's the economy, stupid,'' I always said in every speech that we had to have two objectives. We had to restore the American Dream for all of our people, but we also had to make sure that we move into the next century still the strongest nation in the world, and the world's greatest force for peace and freedom and democracy.

Tonight I want to talk about the vital tradition of American leadership and our responsibilities, those which Henry Kissinger mentioned and those which President Nixon recognized so well. Our mission especially I want to discuss—to reduce the threat of nuclear weapons.

Today if we are going to be strong at home and lead abroad, we have to overcome what we all recognize I think is a dangerous and growing temptation here in our own land to focus solely on the problems we face here in America. I want to focus on the problems we face here in America. I've tried to do it for the last two years. I look forward to working with this new Republican-led Congress in the next two. But not solely.

There is a struggle now going on between those of us who want to carry on the tradition of American leadership and those who would advocate a new form of American isolationism. A struggle which cuts curiously across both party and ideological lines. If we're going to continue to improve the security and prosperity of all our people, then the tradition of American leadership must prevail.

We live in a moment of hope. We all know that. The implosion of communism and the explosion of the global economy have brought new freedoms to countries on every continent. Free markets are on the rise. Democracy is ascendant. The slogan says, ''after victory.'' Today, more than ever before, people across the globe do have the opportunity to reach their God-given potential. And because they do, Americans have new opportunities to reach theirs as well.

At the same time, the post-Cold War world has revealed a whole web of problems that defy quick or painless solutions—aggression of rogue states, transnational threats like overpopulation and environmental degradation, terrible ethnic conflicts and economic dislocation. But at the heart of all these complex challenges, I believe, lies an age-old battle—for power over human lives. The battle between the forces of freedom and tyranny, tolerance and repression, hope and fear. The same idea that was under attack by fascism and then by communism remains under attack today in different ways all across the world—the idea of the open society of free people.

American leadership is necessary for the tide of history to keep running our way, and for our children to have the future they deserve. Yet, there are some who would choose escapism over engagement. The new isolationists oppose our efforts to expand free trade through GATT or NAFTA through APEC and the Summit of the Americas. They reject our conviction that democracy must be nurtured with investment and support, a conviction that we are acting on from the former Soviet Union to South Africa. And some of them, being hypocritical, saying that we must trumpet the rhetoric of American strength; and then at the same time, they argue against the resources we need to bring stability to the Persian Gulf or to restore democracy to Haiti, or to control the spread of drugs and organized crime around the world, or even to meet our most elemental obligations to the United Nations and its peacekeeping work.

The new isolationists both on the left and the right would radically revise the fundamentals of our foreign policy that have earned bipartisan support since the end of World War II. They would eliminate any meaningful role for the United Nations which has achieved, for all of its problems, real progress around the world, from the Middle East to Africa. They would deny resources to our peacekeepers and even to our troops, and, instead, squander them on Star Wars. And they would refuse aid to the fledgling democracies and to all those fighting poverty and environmental problems that can literally destroy hopes for a more democratic, more prosperous, more safe world.

The new isolationists are wrong. They would have us face the future alone. Their approach would weaken this country, and generated build into a tidal wave. (Applause.)

If we withdraw from the world today, mark my words, we'll have to contend with the consequences of our neglect tomorrow and tomorrow and tomorrow. This is a moment of decision for all of us without regard to our party, our background or our accent. This is a moment of decision.

The extraordinary trend toward democracy and free markets is not inevitable. And as we have seen recently, it will not proceed easily in an even, uninterrupted course. This is hard work. And at the very time when more and more countries than ever before are working to establish or shore up their own freedom in their fragile democracies, they look to us for support. At this time, the new isolationists must not be allowed to pull America out of the game after just a few hours of debate because there is a modest price attached to our leadership. (Applause.)

We know now, as President Nixon recognized, that there must also be limits to

America's involvement in the world's problems—limits imposed by clear-headed evaluation of our fundamental interests. We cannot be the world's policeman; we cannot become involved in every problem we really care about. But the choice we make must be rooted in the conviction that America cannot walk away from its interests or its responsibilities.

That's why, from our first day in office, this administration has chosen to reach out, not retreat. From our efforts to open markets for America to support democracy around the world, to reduce the threat posed by devastating weapons and terrorists, to maintaining the most effective fighting force in the world, we have worked to seize the opportunities and meet the obligations of this moment.

None of this could have happened without a coalition of realists—people in both Houses of Congress and, importantly, people from both parties; people from coast to coast in our towns and cities and communities who know that the wealth and well-being of the United States depends upon our leadership abroad. Even the early leaders of our republic who went to great pains to avoid involvement in great power conflicts recognize not only the potential benefits, but the absolute necessity of engaging with the world.

Before Abraham Lincoln was elected President, our farmers were selling their crops overseas, we had dispatched the trade mission all the way to Japan trying to open new markets—some problems don't go away—(laughter)—and our Navy had already sailed every ocean. By the dawn of this century, our growing political and economic power already imposed a special duty on America to lead; a duty that was crystallized in our involvement in World War I. But after that war, we and the other great powers abandoned our responsibilities and the forces of tyranny and hatred filled the vacuum, as is well-known.

After the second world war, our wise leaders did not repeat that mistake. With the dawn of the Nuclear Age and the Cold War, and with the economies of Europe and Japan in shambles, President Truman persuaded an uncertain and weary nation, yearning to shift its energies from the front lines to the home front, to lead the world again.

A remarkable generation of Americans created and sustained alliances and institutions—the Marshall Plan, NATO, the United Nations, the World Bank, the IMF—the things that brought half a century of security and prosperity to America, to Europe, to Japan and to other countries all around the world. Those efforts and the special resolve and military strength of our own nation held tyranny in check until the power of democracy, the failures of communism, and the heroic determination of people to be free, consigned the Cold War to history.

Those successes would not have been possible without a strong, bipartisan commitment to American's leadership.

Senator Arthur Vandenburg's call to unite our official voice at the water's edge joined Republicans to Truman's doctrine. His impact was all the more powerful for his own past as an isolationist. But as Vandenburg himself said, Pearl Harbor ended isolationism for any realist.

Today, it is Vandenburg's spirit that should drive our foreign policy and our politics. The practical determination of Senators Nunn and Lugar to help Russia reduce its nuclear arsenal safely and securely; the support from Speaker Gingrich and Leader Gephardt, from Chairman Livingston and Representative Obey for aid to Russia and the newly-independent states; the work of Senators Hatfield, Leahy and McConnell, and Chairman Gilman, and Representative Hamilton for peace in the Middle East; the efforts of Senator Warner to restructure our intelligence—all these provide strong evidence of the continuing benefits and vitality of leadership with bipartisanship.

If we continue to lead abroad and work together at home, we can take advantage of these turbulent times. But if we retreat, we risk squandering all these opportunity and abandoning our obligations which others have entrusted to us and paid a very dear price to bring to us in this moment in history.

I know that the choice to go forward in a lot of these areas is not easy in democracies at this time. Many of the decisions that America's leaders have to make are not popular when they're made. But imagine the alternative. Imagine, for example, the tariffs and barriers that would still cripple the world trading system for years into the future if internationalists coming together across party lines had not passed GATT and NAFTA. Imagine what the Persian Gulf region would look like today if the United States had not stepped up with its allies to stop Iraqi aggression. Imagine the ongoing reign of terror and the flood of refugees at our borders had we not helped to give democracy a second chance in Haiti. Imagine the chaos that might have ensued if we had not moved to help stabilize Mexico's economy. In each case, there was substantial and sometimes overwhelming majority opinion against what needed to be done at the moment. But because we did it, the world has a better chance at peace and freedom. (Applause.)

But above all now, I ask you to imagine the dangers that our children and grandchildren, even after the Cold War is over, still can face if we do not do everything we can to reduce the threat of nuclear arms, to curb the terrible chemical and biological weapons spreading around the world, to counter the terrorists and criminals who would put these weapons into the service of evil.

As Arthur Vandenburg asked at the dawn of the Nuclear Age, after a German V–1 attack had left London in flames and its people in fear, ''How can there be isolation when men can devise weapons like that?''

President Nixon understood the wisdom of those words. His life spanned an era of stunning increases in humankind's destructive capacity, from the biplane to ballistic missiles, from mustard gas to mushroom clouds. He knew that the Atomic Age could never be won, but could be lost. On any list of his foreign policy accomplishments, the giant steps he took toward reducing the nuclear threat must stand among his greatest achievement. As President, I have acted on that same imperative.

Over the past two years, the United States has made real progress in lifting the threat of nuclear weapons. Now, in 1995, we face a year of particular decision in this era—a year in which the United States will pursue the most ambitious agenda to dismantle and fight the spread of weapons of mass destruction since the atom was split.

We know that ours is an enormously complex and difficult challenge. There is no single policy, no silver bullet, that will prevent or reverse the spread of weapons of mass destruction. But we have no more important task. Arms control makes us not only safer, it makes us stronger. It is a source of strength. It is one of the most effective insurance policies we can write for the future of our children.

Our administration has focused on two distinct, but closely connected areas—decreasing and dismantling existing weapons, and preventing nations or groups from acquiring weapons of mass destruction, and the means to deliver them. We've made progress on both fronts.

As the result of an agreement President Yeltsin and I reached, for the first time in a generation Russian missiles are not pointed at our cities or our citizens. We've greatly reduced the lingering fear of an accidental nuclear launch. We put into force the START I Treaty with Russia that will eliminate from both our countries delivery systems that carry more than 9,000 nuclear warheads—each with the capacity to incinerate a city the size of Atlanta.

START I, negotiated by two Republican administrations and put into force by this Democratic administration, is the first treaty that requires the nuclear powers actually to reduce their strategic arsenal. Both our countries are dismantling the weapons as fast as we can. And thanks to a far-reaching verification system, including on-site inspections which began in Russia and the United States today, each of us knows exactly what the other is doing. (Applause.)

And, again, through the far-sighted program devised by Senators Nunn and Lugar, we are helping Russia and the other newly-independent states to eliminate nuclear forces in transport, safeguard and destroy nuclear weapons and materiel.

Ironically, some of the changes that have allowed us to reduce the world's stockpile of nuclear weapons have made our nonproliferation efforts harder. The breakup of the Soviet Union left nuclear materials dispersed throughout the newly-independent states. The potential for theft of nuclear materials, therefore, increased. We face the prospect of organized criminals entering the nuclear smuggling business. Add to this the volatile mix, the fact that a lump of plutonium the size of a soda can is enough to build a bomb, and the urgency of the effort to stop the spread of nuclear materials should be clear to all of us.

That's why from our first day in office we have launched an aggressive, coordinated campaign against international terrorism and nuclear smuggling. We are cooperating closely with our allies, working with Russia and the other newly-independent states, improving security at nuclear facilities, and strengthening multilateral export controls.

One striking example of our success is Operation Sapphire, the airlift of nearly 600 kilograms of highly-enriched uranium—enough to make dozens of bombs from Kazakhstan to the United States for disposal. We've also secured agreements with Russia to reduce the uranium and plutonium available for nuclear weapons, and we're seeking a global treaty banning the production of fissile material for nuclear weapons.

Our patient, determined diplomacy also succeeded in convincing Belarus, Kazakhstan and Ukraine to sign the Non-Proliferation Treaty and give up the nuclear weapons left on their territory when the Soviet Union dissolved. One of our administration's top priorities was to assure that these new countries would become non-nuclear nations, and now we are also achieving that goal. (Applause.)

Because of these efforts, four potential suppliers of ballistic missiles—Russia, Ukraine, China and South Africa—have been agreed to control the transfer of these missiles and related technology, pulling back from the nuclear precipice has allowed us to cut United States defense expenditures for strategic weapons by almost two-thirds, a savings of about $20 billion a year, savings which can be shifted to vital needs such as boosting the readiness of our Armed Forces, reducing the deficit, putting more police on our own streets. By spending millions to keep or take weapons out of the hands of our potential adversaries, we are saving billions in arms costs and putting it to better use.

Now, in this year of decision, our ambition for the future must be even more ambitious. If our people are to know real lasting security, we have to redouble our arms control, nonproliferation and antiterrorism efforts. We have to do everything we can to avoid living with the 21st century version of fallout shelters and duck-and-cover exercises to prevent another World Trade Center tragedy.

In just four days we mark the 25th anniversary of the Non-Proliferation Treaty. Nothing is more important to prevent the spread of nuclear weapons than extending the treaty indefinitely and unconditionally. And that's why I've asked the Vice President to lead our delegation to the NPT conference this April and to work as hard as we can to make sure we succeed in getting that indefinite extension.

The NPT is the principal reason why scores of nations do not now possess nuclear weapons; why the doomsayers were wrong. One hundred and seventy-two nations have made NPT the most widely subscribed arms limitation treaty in history for one overriding reason—it's in their self-interest to do so. Non-nuclear weapon states that sign on to the treaty pledge never to acquire them. Nuclear weapons states vow not to help others obtain nuclear weapons, to facilitate the peaceful uses of atomic energy and to pursue nuclear arms control and disarmament—commitments I strongly reaffirm, along with our determination to attain universal membership in the treaty.

Failure to extend NPT indefinitely could open the door to a world of nuclear trouble. Pariah nations with rigid ideologies and expansionist ambitions would have an easier time acquiring terrible weapons, and countries that have chosen to forego the nuclear option would then rethink their position; they would certainly be tempted to reconsider that decision.

To further demonstrate our commitment to the goals of the treaty, today I have ordered that 200 tons of fissile material, enough for thousands of nuclear weapons, be permanently withdrawn from the United States nuclear stockpile. (Applause.) Two hundred tons of fissile material that will never again be used to build a nuclear weapon.

A second key goal of ours is ratifying START II. Once in effect, that treaty will eliminate delivery systems from Russian and American arsenals that carry more than 5,000 weapons. The major reductions under START I, together with START II, will enable us to reduce by two-thirds the number of strategic warheads deployed at the height of the Cold War. At my urging, the Senate has already begun hearings on START II, and I am encouraged by the interest of the senators from both parties in seeking quick action. I commend the Senate for the action taken so far, and I urge again the approval of the treaty as soon as possible.

President Yeltsin and I have already instructed our experts to begin considering the possibility after START II is ratified of additional reductions and limitations on remaining nuclear forces. We have a chance to further lift the nuclear cloud, and we dare not miss it.

To stop the development of new generations of nuclear weapons, we must also quickly complete negotiations on a comprehensive test ban treaty. Last month I extended a nuclear testing moratorium that I put into effect when I took office. And we revised our negotiating position to speed the conclusion of the treaty while reaffirming our determination to maintain a safe and reliable nuclear stockpile.

We will also continue to work with our allies to fully implement the agreement we reached with North Korea, first to freeze, then do dismantle its nuclear program, all under international monitoring. The critics of this agreement, I believe, are wrong. The deal does stop North Korea's nuclear program, and it does commit Pyongyang to roll it back in the years to come.

I have not heard another alternative proposal that isn't either unworkable or foolhardy, or one that our allies in the Republic of Korea and Japan, the nation's most directly affected, would fail to support.

If North Korea fulfills its commitment, the Korean Peninsula and the entire world will clearly be less threatened and more secure. The NPT, START II, the Comprehensive Test Ban Treaty, the North Korean Agreement, they top our agenda for the year ahead. [There are other critical tasks we also face if we want to make every American more secure, including winning Senate ratification of the Chemical Weapons Convention, negotiating legally binding measures to strengthen the Biological and Toxin Weapons Convention, clarifying the ABM Treaty so as to secure its viability while permitting highly effective defenses against theater missile attacks, continuing to support regional arms control efforts in the Middle East and elsewhere, and pushing for the ratification of conventional weapons which, among other things, would help us to reduce the suffering caused by the tens of millions of anti-personnel mines which are plaguing millions of people all across this world.] (Applause.)

My friends, this is a full and challenging agenda. There are many obstacles ahead. We cannot achieve it if we give into a new isolationism. But I believe we can do no less than make every effort to complete it.

Tonight, let us remember what President Nixon told the joint session of Congress when he returned from his historic trip to Moscow in 1972. He said, ''We have begun to check the wasteful and dangerous spiral of nuclear arms. Let us seize the moment so that our children and the world's children can live free of the fears and free of the hatreds that have been the lot of mankind through the centuries.''

Now it is within our power to realize the dream that Richard Nixon described over 20 years ago. We cannot let history record that our generation of Americans refused to rise to this challenge, that we withdrew from the world and abandoned our responsibilities when we knew better than to do it, that we lacked the energy, the vision and the will to carry this struggle forward—the age-old struggle between hope and fear.

So let us find inspiration in the great tradition of Harry Truman and Arthur Vandenburg—a tradition that builds bridges of cooperation, not walls of isolation; that opens the arms of Americans to change instead of throwing up our hands in despair; that casts aside partisanship and brings together Republicans and Democrats for the good of the American people and the world. That is the tradition that made the most of this land, won the great battles of this century against tyranny and secured our freedom and our prosperity.

Above all, let's not forget that these efforts begin and end with the American people. Every time we reduce the threat that has hung over our heads since the dawn of the Nuclear Age, we help to ensure that from the far stretches of the Aleutians to the tip of the Florida Keys, the American people are more secure. That is our most serious task and our most solemn obligation.

The challenge of this moment is matched only by its possibility. So let us do our duty.

Thank you very much. (Applause.)

SECRETARY GENERAL'S MESSAGE ON 1994 UNITED NATIONS DAY

Mr. PELL. Mr. President, last year, during the ceremony for United Nations Day on October 24, 1994, United Secretary-General Joseph Verner Reed delivered a message at U.N. headquarters on behalf of Secretary-General Boutros Boutros Ghali. That occasion launched the Golden Anniversary celebration of the United Nations and was the first in a series of planned events that will continue well into this year.

As Ambassador Reed—whom, by the way, many of my colleagues will recall from his distinguished service in the U.S. Government—noted in his introductory remarks to the Secretary General's message.

Forty-nine years ago in San Francisco, the United Nations was launched as our world organization and began its long journey for a better world. The signators of the charter were fifty-one sovereign states, and today the United Nations comprises 184 member-states; the organization represents the world with all its problems and all its aspirations.

I had the honor of serving on the International Secretariat of the San Francisco Conference which drew up the U.N. Charter. I have since then held the hope that the United Nations would fulfill the noble thoughts expressed in the charter and have tried to promote ways to make the United Nations become a functional and effective alternative to international conflict and discord.

Because of my longstanding interest in and support for the United Nations, it is a particular pleasure for me to witness and participate in the events to celebrate its 50-year anniversary. I also sure the sentiment expressed by the Secretary General in his message that * * * with the active commitment of people, the United Nations can continue to play its indispensible role for peace and security, social and economic progress, and global human development.

Mr. President, I ask unanimous consent that Ambassador Reed's remarks and the Secretary-General's message be printed in the RECORD.

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

MESSAGE OF THE SECRETARY-GENERAL OF THE UNITED NATIONS DR. BOUTROS BOUTROS-GHALI ON THE OCCASION OF UNITED NATIONS DAY 1994

Excellencies, Friends of the United Nations, Ladies and Gentlemen, it is an honour to represent the Secretary-General of the United Nations, Dr. Boutros Boutros-Ghali, at United Nations Day 1994 as we launch the year of the golden anniversary of our world organization here at headquarters, in this great world city—New York. Forty-nine years ago in San Francisco, the United Nations was launched as our world organization and began its long journey for a better world. The signators of the charter were fifty-one sovereign States, and today the United Nations comprises 184 member-States; the organization represents the world with all its problems and all its aspirations.

In this spirit, ladies and gentlemen, may I bring you the message from the Secretary-General:

United Nations Day has become a universally recognized time for celebration and reflection on the state of the world.

Today we all live in a global context. Societies which once felt able to stand alone, now see themselves interlocked with others. The great goals of peace, development and democracy increasingly are understood to require greater multilateral effort.

Without peace, nothing is possible. Without development, societies cannot look forward to the future. Without democracy, progress will not rest securely on a foundation of popular participation and commitment.

In the coming year, the United Nations calls upon the peoples and governments of the world to take charge of the development effort. This year, we shall review progress on the agreements reached at the United Nations Conference on environment and development held at Rio de Janeiro in 1992. We shall also continue to implement the decisions reached at the World Conference on Human Rights, held at Vienna in 1993.

At the World Summit for Social Development, to be held in Copenhagen 1995, we meet to find solutions to the development crisis faced by all nations, rich and poor. At the Fourth International Conference on Women, to be held in Beijing in September 1995, we meet to discuss the special role of women in development.

This year, as we prepare for the fiftieth anniversary of the United Nations, let us recall the opening words of the charter: ''We the peoples of the United Nations * * *.'' We—all of us—are the United Nations. The United Nations is now, and increasingly will be, what we choose to make of it.

Knowledge about the United Nations is thus ever-more important for people everywhere. With the active commitment of people, the United Nations can continue to play its indispensable role for peace and security, social and economic progress, and global human development.

Let us take up the challenge of the next fifty years. It is in our power to use the United Nations as a force for fundamental transformation to a world of peace and enduring prosperity.

Let this day be the starting point for taking your United Nations on the road to the future.

This concludes the message from the Secretary-General.

I believe it is in the spirit of United Nations Day 1994 to say that fostering harmony through understanding among the peoples of the world continues to be the principal mission of the United Nations; that is so today even more than in the past. The year of the fiftieth anniversary of the United Nations offers a unique opportunity for governments, peoples and institutions around the world to set aside social, racial, political and religious differences and initiate a real and productive dialogue on the burning problems of the world as we move towards a new century. On this day, United Nations Day 1994, let us rededicate our energies and join our forces towards this goal.

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

DEFEAT OF THE BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. THURMOND. Mr. President, this has not been a good day for the United States. I cannot imagine any piece of legislation that could have been offered in the Senate which would do this country more good than this balanced budget amendment which was defeated today, defeated by one vote.

Mr. President, we cannot keep on as we are. We have not balanced this budget but one time in 32 years—eight times in 64 years. How are we going to change it? We are putting a burden on our children and our grandchildren that is unbearable. It is not fair to this generation or the next generation that we permit this to happen.

The best way we can stop this spending—and the Congress is intent on spending—is to adopt a balanced budget amendment. We passed a statute years ago, and before the end of that year—Harry Byrd was the author of it—the Congress had gone beyond and spent more than that statute permitted. The only way under the Sun you are going to stop this spending—the only way, I repeat—is to pass a constitutional amendment to mandate—to mandate, to make—the Congress balance the budget. That is the only way you are going to stop it.

We refused to pass that today. We turned it down. I hope the American people will study this question and see what happened and bring pressure on this Congress to do what it ought to do, and that is to pass this amendment when it comes up again. And it will come up again. It will come up again probably this session. It may not pass again this session. It will come up again next session. But I predict it will pass either this session or next session. It has to pass if we are going to stop this spending. It has to pass if we are going to save this country from financial ruin. I hope people rise up and demand that such action be taken.

Mr. President, let me pay tribute before I yield the floor to Senator DOLE, the majority leader, and Senator LOTT, the assistant majority leader, for their leadership throughout this fight.

I also wish to commend Senator HATCH, the chairman of the Judiciary Committee, for the fine job he did, and Senator SIMON, who joined him as one of the principal authors, and Senator CRAIG, from Idaho, who did such a herculean job in trying to get this amendment passed, and Senator HEFLIN from Alabama, who was prominent in pushing this amendment. They all deserve to be commended. I thank all Senators who voted for it, but I especially wish to thank the leaders whose names I just mentioned. I also want to commend the staff of Senator HATCH for their exemplary and dedicated work on this legislation, Sharon Prost, Shawn Bentley, and Larry Block. Additionally, Damon Tobias of Senator CRAIG's office was tireless in his efforts to assist during consideration of this measure and too I commend Thad Strom, my chief counsel on the Judiciary Committee for his able assistance.

The PRESIDING OFFICER. The Senator from Alabama.

TRIBUTE TO BILL GARDINER

Mr. HEFLIN. I rise today with much sorrow to lament the passing of my great friend Bill Gardiner, who passed away on February 21, 1995 at the age of 68. William F. Gardiner, Sr., was my chief of staff in charge of my Alabama offices.

The U.S. Marine Corps has as its motto the latin words ''Semper Fidelis,'' which mean ''Always Faithful.'' These words are descriptive and indicative of the spirit and life of Bill Gardiner. He was always faithful to his principles and to his friends. He also possessed the unfailing values of hard work, patriotism, and spirituality.

He loved politics. He relished being in the political arena as much as anyone I have ever known. He enjoyed the bonding that brings people with common likes, dislikes, feelings, philosophies, and goals together. He thrived on the excitement of politics. He especially delighted in political gatherings. On many occasions, he would stay up all night cooking meat for a barbecue or some other event where politicians would gather.

He believed politics and public service were ways to bring about improvements in the quality of life of all people; a way to increase the standards of living for our citizens; a means of rectifying wrongs and injustices; and a way of improving the future for generations that would follow. These principles were his guideposts in his own public service.

As mayor of the city of Tuscumbia, AL he took a leadership role in improving its educational system. He used Federal money and programs to benefit the citizens of his community in many different ways, such as substituting decent and good housing for shacks in blighted areas and providing homes for the elderly. He expanded and improve the infrastructure of the city. Every municipal service, including police protection and fire-fighting, improved under his leadership.

He loved to be kidded about ''Gardiner's Lake.'' A short time after he became mayor, a body of water was named for him. For generation after generation in Tuscumbia, every time a big rain came, a deep dip in Cave Street near the football stadium would become flooded with water that made traffic impassable for several days. Many of his friends kidded him about this body of water and jokingly named it ''Gardiner's Lake.'' He vowed to eliminate this, and he soon did with superb drainage engineering. He made many other vast improvements to his city during his years as mayor.

He made mistakes like all of us do. At one point, he was persuaded to carry out an urban renewal program in the center of the city. Parking was substantially reduced, water fountains and pools were established, and a beautification project was created with a fish pond and series of flag poles at the Palace drugstore corner. Some wag soon labeled this project ''Three Flags

Over Palace.'' There were so many complaints about the loss of parking, the program was soon abandoned. Bill wasn't alone, however, because many mayors had the same unpleasant experience with urban renewal projects.

His year and a half as president of the Alabama League of Municipalities was a period he really cherished. He had sincere affection for mayors and councilmen from all over the State and they loved him in return. When he become my chief of staff, he renewed his closeness with the Alabama League of Municipalities and would come to Washington with Municipal groups for conferences with the National League of Cities. He was always in attendance at the State conventions of the Alabama League of Municipalities.

Bill and I went through many campaigns together. He was my campaign manager in my election for chief justice and my three elections for U.S. Senate. No one could ever hope to have a greater friend. In the words of the 66th Psalm, ''We went through fire and through water.'' He was like a brother to me. His service as my chief of staff was superb. He was my eyes and ears in Alabama. I will indeed miss his outstanding judgment and motivation.

Bill spent approximately 35 years in public service, either as a public official or as my chief of staff.

He loved his friends and was always loyal to them. We know that loyal people themselves inspire loyalty among others, and Bill leaves behind many who were loyal to him. A great many of them were present at his funeral on February 23, 1995 at the First United Methodist Church in Tuscumbia. Those who attended, as well as many others who could not, were a testament to the kind of man that he was and to the kind of persons which he surrounded himself and depended on.

At the visitation the night before the funeral thousands of people came to the funeral home to express their affection to his family and pay their respects to him. People were lined up for blocks to get into the funeral home. Members of my staff who were there told me they waited in line for 2 hours in order to speak to his family. In the line were people from every walk of life, including farmers, garbage truck drivers, street cleaners, policemen, bankers, and government officials.

He was a fine family man. He loved to attend family reunions. He would tell me well in advance of a family reunion, ''Now mark that period down because I will be gone.'' He would gather at family reunions with members of his family who had grown up in Farley, AL and reflect upon their younger days, imparting to the younger members of the family a spirit of unity and a desire to be of help to everyone.

He was completely devoted to his wonderful wife Betsy and their children, and he always put them first and foremost in his thoughts. Betsy's understanding always helped Bill in so many ways. She seemed to always know the right thing to say and do at the right time. She knew how to bring out the best in him. I firmly believe that his wonderful trait of loyalty was reinforced by her own loyalty to him. As his grandchildren grow and learn more about their ''Big Daddy,'' they will be very proud of him.

At his funeral, as we said goodbye to Bill Gardiner, many of us were wondering silently how we would get along without him. We will really never find anyone to take his place. But we must persevere and be guided by his spirit of being always faithful. After all, that funeral was just as much a celebration of the life of a wonderful friend and family man who was an inspiration to all who knew him. We are all better because Bill Gardiner came our way.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the Senate made a mistake today in rejecting the balanced budget amendment. But make no mistake, that issue will be before the Senate before very long again. In failing by a single vote, the Senate rejected the overwhelming demand of the American people, as expressed in last November's election, that we need to exercise restraint in a constitutional context to live within our means. Today, on the motion for reconsideration entered by the majority leader, the procedural posture is now established so that the Senate can take up the issue again at any time.

It is my prediction that the American people will respond to today's vote by a forceful declaration to the 34 Senators who voted against the balanced budget amendment that the American people want the balanced budget amendment passed. The procedure of the Senate is such that, if any one of those 34 Senators changes his or her mind, the amendment may be brought again to the floor of the Senate on short notice, giving Senators an opportunity to be present so all may express themselves, and the amendment could be passed.

So my request, my plea to the American people, is to let your representatives, your U.S. Senators, the Senators who represent you in the U.S. Senate, know what your feelings are. A number of the Senators had been expected to vote in favor of the balanced budget amendment based upon prior votes or upon prior statements. I do not challenge in any way, shape, or form the good faith of any Senator who voted, in any respect, in any way. But there were six Senators who had previously voted in favor of the amendment and today voted against it. Those six Senators previously expressed themselves forcefully in favor of the principles of the balanced budget amendment, suggesting at least some indication of a favorable disposition. It is my thought that if their constituents express themselves, that there may well be a change of heart. Beyond that, there are 20 other U.S. Senators who might be persuaded to have a shift of position, based upon the will of the American people.

I do believe the principle behind the balanced budget amendment is sound. I do not say so lightly, because changing the Constitution of the United States is a very major act. But it has been demonstrated that not only the Congress of the United States, but the people of the United States, need a discipline to have a framework which requires us to live within our means. Every State has to live within its means—every county, every city, and every individual. If you and I do not live within our means, we wind up in a bankruptcy court. Within the context of the need for economy, constituents now come to us—and I am sure you, Mr. President, have had the same response in your State of Oklahoma as I have in my State of Pennsylvania—people are no longer asking for increases or even cost-of-living adjustments. But in many cases, they are saying, ''Do not make the cut too big.'' In other cases, they are saying, ''Do not zero out the program all the way in this year.''

I think that mental attitude is very important. I think this amendment would have been a good thing for America, to have that kind of discipline imposed.

Mr. President, in the absence of any other Senator in the Chamber, I ask unanimous consent I may proceed up to 10 minutes for the purpose of introducing legislation.

THE PRESIDING OFFICER. The Senator from Pennsylvania is so recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 488 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Oklahoma.

THE DEFICIT

Mr. INHOFE. Mr. President, during the time that I was privileged to sit in the chair, some comments were made that I think should be responded to.

A comment was made that we are doing something constructively about the deficit today. Reference was made that President Clinton's budget was dramatically cutting the deficit.

I was reminded of an article that anyone can find, if they wanted to get last December's Reader's Digest. It was called ''Budget Baloney.'' In this article, they talked about how politicians refer to cutting deficits as if somehow they are going to bring the deficit and the debt under control. They used this example. They said if a guy has $5,000 but he wants a $10,000 car, all he does is say, ''Well, I really want a $15,000 car, and I have effectively taken a $10,000 car and, therefore, cut the deficit by $5,000.''

If we take to the conclusion of 5 years the budget that the President has submitted to us for the fiscal year coming up, it would increase the debt by $200 billion a year for the next 5 years. That is an increase in the debt at the end of that time by $1 trillion. I think the American people are aware of this. I think a few years ago they got tired of the smoke and mirrors that we were doing here in Washington and they became aware of what is really happening.

The second thing that was mentioned was the cuts—all of these draconian cuts that would be necessary, if we had been successful in passing the balanced budget amendment. I would suggest to you that there are ways of balancing the budget without having any cuts; that is, just limit the growth. There was a study made using the figures that were supplied by the Federal Government that, if we could put merely a 2-percent growth cap on Government spending, we would be able to bring the deficit down to zero at end of 6 years. This can be done. But Congress in both Houses has had historically an insatiable appetite to spend money that they do not have, and without the discipline that would be imposed upon them by a constitutional amendment for a balanced budget, it has been demonstrated that for 40 years they are incapable of that discipline.

The third thing that was talked about was the awareness of what is going on around the country. I suggest that there is not one Senator who would go home and misrepresent his or her position to his or her constituents. However, it has been quite evident that there are many people in some of the States who really believed that their Senator was in favor of a balanced budget amendment. Now, I think the good news in today's vote is they all know, and they know which Senators voted yes and which Senators voted no.

Last, during the debate, I put together a profile of those individuals who were in support of the so-called ''right-to-know amendment'' to the balanced budget amendment. That was the amendment that says show us exactly where the cuts are going to be for the next 7 years. I found that all 41 of those cosponsors had either a D or an F rating by the National Taxpayers Union. All 41 had voted for the stimulus bill, which was the largest spending bill increase that we have had in contemporary history.

And so the bottom line is, is it just a coincidence that those 41 who supported that amendment also were the big tax and spenders here in the U.S. Senate? No, I do not think so. In fact, I am having my staff, right now, look at the 34 who voted against it this time. And I suspect that we are going to find the same thing; that is, those 34, each one of whom was responsible for killing the balanced budget amendment today, I suspect, was a big tax and spender. When we find out, we will give this report tomorrow.

I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

THE ANNIVERSARY OF THE BATTLE OF IWO JIMA

Mr. GLENN. Mr. President, I rise today to add my voice to that of my colleagues who have made remarks commemorating the 50th anniversary of the heroic Battle of Iwo Jima, which began on February 19, 1945.

I made some impromptu remarks on this subject last week when my colleague from Arkansas delivered his remarks. It was one of the most moving moments on the floor of the U.S. Senate that I have participated in. We had the Senators here who had been marines at one time in their lives, and it was a very moving moment. Each of the other former marines in the Senate have stood on the Senate floor over the last several days to pay tribute to the extraordinary bravery of the men who fought so ferociously in the Battle of Iwo Jima. It was this grueling 36-day battle that gave rise to Admiral Nimitz' famous description that ''Among the Americans who served on Iwo, uncommon valor was a common virtue.''

This battle also exacted one of the greatest casualty tolls in the history of the Marine Corps. For that uncommon valor, more medals of honor—27 in all—were awarded for that action than for any other action in World War II. Out of those 27, 14 were awarded posthumously.

I was in World War II. I went in a few days after Pearl Harbor and started training. Fifty years ago, I had just returned to the United States from combat in the Pacific in the Marshall Islands, just when the Marine assault on the island of Iwo Jima began. Having participated in combat at that time in the Marshall Islands, we took our losses there, too, but nothing like Iwo, of course. But I understood the strategic importance this battle was to play in our island-hopping campaign in the Pacific. We watched that very closely, because I was in training, along with other members of the squadron I was in, to go back out again for the assault on Japan. Lying between Japan and our bomber bases in the Marianas was Iwo Jima, which would provide a critical base from which fighter escorts could protect our B–29's en route to the Japanese home islands.

Our B–29's had the range to make their way from the Marianas, but without fighter escorts, they went unprotected and too often fell victim to attacks by Japanese fighters.

Iwo Jima also would provide a haven for battle damaged bombers returning from their assaults on Japan. And taking Iwo Jima's three airfields would deprive the Japanese of a base from which they could intercept our bombers.

This was part of the overall strategy, the strategy of saying we needed bases that bring the Japanese to their senses to bomb, to bomb, to bomb, and hope that we could end that war before we would need to make an invasion. Estimates of that invasion were that if the Japanese fought with the tenacity they had throughout that war, we could lose as many as a million people in that conquest of Japan. So it was in that strategy that Iwo was of critical importance.

The challenge that 75,000 marines of the 3d, 4th, and 5th Marine Divisions faced was an awesome one. Iwo Jima, despite the heavy bombing it had endured in the hours leading up to the Marine assault, remained heavily defended by Japanese in caves and pill boxes and bunkers.

Just picture yourself coming to shore in a bobbing landing craft, coming in with shells landing and people being hit in the landing craft before it got there, and seeing other craft ahead of you that had already been hit. It was a very tough moment. The island provided no natural cover for attackers, and Marines were slowed by Iwo Jima's black sand beaches. It was a sand of large grain, where you would step up on the beach and try and go uphill, and you made two steps forward and went one step backward.

As I mentioned the other night, Mr. President, I did not participate in the Battle of Iwo Jima. But after the war, following assignment to China, my squadron flew through Iwo. We were there for several days and we walked that territory. I stood on those beaches and on the cliffs and was up on Mount Suribachi. I tried to imagine what it must have been like in those days.

Having seen the terrain, it is hard to imagine how anybody could have ever made it up those beaches. They were the only landing areas on the island, but above the beaches, the cliffs were literally honeycombed with caves, back in the rocks, interconnected so the defenders could go from one cave opening to another. From the caves, machine guns would come out and fire, and unless naval supporting gunfire was able to make an unlikely very direct hit on a tiny cave opening, the guns kept coming out and kept mowing people down, and mowing them down, and mowing them down.

As far as that gunfire, I remember one large Japanese gun that had been shooting at ships, and it accidentally had been hit directly by a shell while coming in from the sea. The whole end of that gun barrel was splayed out just like a banana that you would peel down, or like a flower petal spread out in different directions. It was a savage, savage battle. We were there, and my squadron mates and I walked in the caves and walked on the beaches just as the Japanese gunners were able to during that combat. How anybody ever got ashore with that kind of withering fire coming right down their throats, on top of them, is something hard to fathom. It was an experience being

there even after the battle. The experience was vividly impressed on my memory to this very day. As they came ashore, the usual thing would be to hunker down in a fox hole or a crater. But here was Mount Suribachi looking down. There was no such thing as a fox hole. They were being fired upon out on the beach. It is no wonder there were so many casualties.

My visit to Iwo makes me appreciate just what is meant when it is said that the progress of the marines of the V Corps was measured in yards, as Japanese defenders resisted to the death.

The Japanese were of a mood and psyche at that time, as they were through all of World War II, that they would rather be killed than give up. It was a Kamikaze mentality. We expected the assault on Japan, which we were training for, would be the same, and that, once again, emphasizes the importance of Iwo.

Yet, by February 24, 1945, 4 days after the onslaught began, the American flag waived from the summit of Mount Suribachi, the proud image that to this day symbolizes the unwavering resolve of the Marine Corps, of our Nation, and of the staggering sacrifices that were made by the marines in their relentless advance on Iwo Jima.

Uncommon valor was indeed a common virtue.

Just imagine you are there, and just think of the determination. You have flamethrowers, tanks, bulldozers, landing craft hit and on the beach and shot up and out of commission, and still you have to advance and neutralize and silence the fire from those hundreds and hundreds of enemy caves.

Well, by early March, the three Marine divisions had compressed the remaining enemy into isolated pockets of resistance. An awesome foe, the Japanese defenders fought with courage and determination, with the vast majority in their fanaticism, preferring death to surrender. The final pockets of resistance were finally eliminated, and the capture of the island was announced on March 26.

The casualty statistics are harrowing. Almost 7,000 Americans were killed, and more than 17,000 were wounded. But the assault and capture of Iwo Jima was of critical importance to final victory in the Pacific, and the island proved to be an important base from which to deliver more and heavier blows against the enemy. It also became the emergency landing field it had been envisioned to be.

And by the end of the war a total of 2,251 B–29 bombers, carrying 24,761 crewmen landed on Iwo Jima. A large number of these brave pilots and crewmen undoubtedly would have been lost if the land had not been taken.

Once again, you can imagine those planes coming in, shot up, battle damaged, wounded being taken out, planes repaired, wounded being given help, back to Guam or Saipan, and out again to pound Japan after being repaired.

Mr. President, I conclude my remarks by repeating the words of then Secretary of the Navy James V. Forrestal, who was present on the island during the campaign, when he expressed his ''tremendous admiration and reverence for the guy who walks up beaches and takes enemy positions with a rifle and grenades or his bare hands.''

We have had a lot of battles, Mr. President, battles we read about. The battle of Iwo Jima, like Bunker Hill, Gettysburg, Belleau Wood, and Normandy, was won literally not just by machines but by young Americans who wanted to live but were not afraid to die for their country.

People go off to war with the flags flying and bands playing and we think about liberty and the pursuit of justice and world community and all of these things we like to talk about, loyalty to country. But to the people on a beach, it is a matter of them and their fellow marines that they are trying to survive alongside. And it is that Marine training, which makes them more afraid of letting their fellow marines down than they are of getting hurt, that wins those battles. Sometimes they are killed. Sometimes it is hard to explain that kind of psychology, that kind of mentality that wins battles, particularly a battle as vicious and as tough as was Iwo Jima. But that Marine gung ho spirit of being more afraid of letting each other down in a battle than they are of getting hurt or killed themselves, while hard to explain, is what is so important in winning battles. It means that a person will take grenades over to somebody and expose himself to fire because his fellow marines need that kind of help. It is what you have seen in the squadron where people dive back in on a target a second time to split up antiaircraft fire. You would think that would be the most stupid thing anybody can do, but it is done because they see somebody in trouble.

So, Mr. President, to those brave Americans who paid the ultimate sacrifice on the black sand beaches of Iwo Jima and the rocky slopes of Mount Suribachi, ''Semper Fi,'' and may God's blessings rest on our Corps, on our military, and on this United States of America.

Thank you, Mr. President I yield the floor.

Mr. NUNN. Mr. President, I enjoyed very much hearing the Senator from Ohio, Senator GLENN, who is a stalwart member of the Armed Services Committee and has been a stalwart defender of the United States his entire life, either as a member of the Marine Corps or in the space program or in his splendid service here in the U.S. Senate.

I heard him talk about Iwo Jima. All of us, I believe, are the beneficiaries of that reminder of the heroism that took place on Iwo Jima. And I might add that no one is better qualified to speak of heroism and patriotism and dedication than the Senator from Ohio, Senator GLENN, his plane having been shot five times when he was flying in the Marshall Islands, and I believe seven times his plane was shot when he was in Korea fighting for our country.

So I thank the Senator from Ohio for that beautiful tribute to those who were so brave and gave so much of themselves for their country on Iwo Jima and other places in the Pacific.

EXECUTIVE SESSION

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider Executive Calendar Order Nos. 12 through 17, and No. 34, en bloc, nominations to the Defense Base Closure and Realignment Commission.

The clerk will report the nominations.

The legislative clerk read the nominations of Alton W. Cornella, of South Dakota; Rebecca G. Cox, of California; General James B. Davis, U.S. Air Force, Retired, of Florida; S. Lee Kling, of Maryland; Benjamin F. Montoya, of New Mexico; Wendi Louise Steele, of Texas; and Josue Robles, Jr., of Texas, to be members of the Defense Base Closure and Realignment Commission.

The Senate proceeded to consider the nominations.

The PRESIDING OFFICER. Debate on the nominations is limited to 30 minutes, equally divided between the President pro tempore and the Senator from Georgia [Mr. NUNN].

The Chair recognizes the President pro tempore.

Mr. THURMOND. Mr. President, I previously expressed my support for the confirmation of Mrs. Cox, General Davis, Admiral Montoya, Mr. Kling, Mr. Cornella, and Mrs. Steele to be members of the Base Closure and Realignment Commission. I want to reiterate that support and add to it my support of General Robles.

Mr. President, I have no doubt that our former colleague, Senator Alan Dixon, can complete this process by himself, However, I believe both he and the Senate would rather see a group of individuals make decisions on the future of the Nation's military bases and our local economies. Therefore, I urge the Senate to confirm these nominations and let the 1995 Base Closure Commission proceed with its work.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I am pleased to join Senator THURMOND in urging my colleagues to support the seven nominees to be members on Defense Base Closure and Realignment Commission.

I agree with Senator THURMOND that each of these individuals are well-qualified to serve as members of the Commission.

Mr. President, I am certain that all of my colleagues are aware that the 1995 base closure process is well underway, as the Secretary of Defense presented his list of closure and realignment recommendations to the Defense Base Closure and Realignment Commission on February 28. In fact, the Commission has conducted two hearings on the 1995 process with the Commission's chairman, Alan Dixon, conducting the hearings alone. And, as Senator THURMOND just reminded the Senate, former Senator Dixon, now Chairman Dixon, could act alone, if necessary, but that is not the way this process was set up. That is not the way we intended it. It is not the way the overall Congress intended it because we wanted all the commissioners. And so we are here today to try to confirm the other commissioners.

During those hearings that former Senator Dixon, now Chairman Dixon, just held, he stated more than once that he urged the Senate to act on the outstanding nominations at the earliest moment possible.

The 1995 commission has much work to do in the next few months, and the Senate should not impede on the commission's progress by further delaying action on these seven nominations. I do not doubt that Chairman Dixon could handle it alone, but I do not think he wants that, and I do not think any of us want that. I believe it is in the interest of the Nation that the Senate favorably act on the nominations before us today.

I urge my colleagues to approve the nominations.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I do not think it is any secret that I had some grave reservations about going forth with the nominations of the BRAC commissioners. I have withdrawn any objection I had. I do not intend to ask for a recorded vote.

Let me tell you how it is and why it is that I was concerned.

Two years ago, my State, New York, was a victim of one of the most outrageous, self-serving, manipulative, politically mean-spirited and inspired acts under the former BRAC commission. Not the kind of thing that would engender confidence in a process that was to be fair, that was to be open, that was to take into consideration everyone's concern. A process that would not lend itself to the political process as we know it. A process of putting forth your best case, seeing to it that people have an opportunity to be heard, recognizing that this was not easy and that, regardless of the wisdom of the decision, there were going to be areas in this country that would suffer.

Let me tell Members that what the process did was close Plattsburgh Air Force Base and build up McGuire Air Force Base, and that one of the moving forces behind this travesty was none other than the Chairman of the BRAC Commission. That does not inspire confidence.

In the 1993 round of closures, the Air Force proposed establishing an air mobility wing at Plattsburgh. They were going to put in an air mobility wing there. Their recommendation. It was not this Senator's. It was not anybody's in the community. They reasoned that the long runways and the vast apron at Plattsburgh were ideal for the large airlift aircraft.

Facilities at the base were new—new. Tens and tens of millions of dollars had been spent and the base was well laid out. To all observers it was the perfect match. But somehow the BRAC Commission saw it differently. They bullied the FAA into not objecting at the introduction to McGuire AFB of 70 to 80 large aircraft in the busiest air corridor in the world.

Now, Mr. President, it does not take one long to figure out that when we have one of the busiest commercial air corridors in the world, that is not the place where we put 70 to 80 large transports and say that that is going to be the mobility airbase. Not to mention the antiquated facilities. Not to mention the cost would be hundreds of millions of dollars in new construction.

The FAA did not object. After having created a tissue of false rumors and lies regarding Plattsburgh's crash zone and fuel delivery costs, the BRAC decided that, lo and behold, McGuire, the oldest, the most antiquated of the facilities, located in the middle of one of the heaviest traffic air corridors in the world, that that would be where the Air Force would move these planes.

They decided that McGuire, which the Air Force had initially recommended be downgraded to a reserve facility, obviously because of the traffic congestion in the air, that it be chosen as the new mobility hub.

Want to talk about politics in its rawest, nastiest, rottenest sense, that is it. That is the kind of thing that all Members have an obligation to avoid. The infamous proposal—by the way, because it took somebody with some ingenuity to suggest this—came from none other than one of the commissioners. That was H.T. Johnson, a former Air Force general. He harbored a grudge—well-known, well-known—and my distinguished colleagues on the floor, if they care to check into this will find out because there are no secrets in this business. H.T. Johnson did not like the then Air Force Chief of Staff Tony McPeak.

Can you imagine, here we now have these personalities, one former general is on the commission, does not like the then Air Force chief, and he knew that the Air Force and General McPeak were solidly behind the Plattsburgh proposal. So when H.T. Johnson came up with this plan, he did not have any trouble getting the Chairman of the Commission to quickly second it, to follow through on this deed, the commissioner himself having been a former Congressman from New Jersey, representing that district in which this move was made.

Now, that is not what this process is to be about. We understand that there will be difficult decisions. We understand that. There has not been anyone here who has not seen them, and we understand, and we lick our wounds and we go on and do the best we can, and we try to get a community to pick up the pieces.

I have to say, this outrage was buried in a host of other recommendations to Congress. Senator MOYNIHAN and myself raised our voices. If there was any solace in what took place, it was that New York retained Rome Lab, which was located at Griffiss Air Force Base. It was the premier command and control research and development facility in the country.

The Air Force said, ''Well, we will keep this going for another 5 years.'' Now, even that, in this last round, is gone. So, having been victimized once, the Pentagon is now recommending the closure of that lab, when they said ''Do not worry.'' And now they come back and put it on the list. And to add insult to injury, where do you think they call for realigning some of its work? Fort Monmouth, NJ.

Now, look, there is a moral obligation and a commitment that this lab was going to be kept and the State went forward—the State of New York—putting forth millions of dollars. We built a comprehensive scientific foundation linked with all of the universities: Rensselaer, Syracuse, Poly Institute, Rochester Institute, University of Rochester, Cornell. And now, instead of being an integral part of the Air Force's 5-year plan, nothing. Based on those assurances, New York gave millions of dollars to ease the operating costs and further facilitate the transfer of lab products to the private sector—and we can do it, and we can eventually take over the entire Government cost. Give us those 5 years and it will not cost the Federal Government anything.

But, no, no, let me tell members how serious our State is. We are cutting spending. We have a deficit of $5 billion. For the first time in 40 years the State is actually reducing spending. We will spend less this year than we did the previous year. Three percent less. I do not think there is another State in the country that is doing that, yet the Governor increased the budget allotments and saw to it that the funds for Rome lab would be continued.

The fact is that the Air Force deceived the Rome community into making investments in that lab, and now under their plan the hope for economic recovery is removed. It is morally wrong to do that to any community. If I saw that taking place in another community and my colleague addressed that and said, ''Take a look and see what took place,'' where one general, former general, because of his dislike of another, moves to crush the plan which called for the location of

the air mobility center at a major installation, only to have that major installation—which was the best—decimated, closed down, with the remaining lab over at Griffiss. It was promised we will keep this and now we come back 2 years later and we will take that out as well.

That does not inspire confidence in the integrity of the process. Having said that, I say I am tremendously encouraged at the qualifications, the candor, the ability, and the credibility first of all of the Chairman of the Commission, our former colleague Senator Dixon, and after having seen the quality of the other commission Members.

Now, it is not easy for a commission to then restore a base once the Air Force or any of the services have put it on the list and said they are targeted. They do not generally do that. Not as a rule. But I certainly hope that we can make a case based upon the situation that exists today, and based upon what was morally indefensible, and what was done to the community by the BRAC Commission of 1993. It is a sorry saga, but one I believe that has to be told. I would not have come forth and made this public at this time were it not for what took place this year, following the commitments that were made, and the expectations that we had to save this facility. That is why I do so. It is a sordid, dirty, little story.

But if anything, hopefully we can learn by that. I think we have a moral obligation to see to it that this facility is continued. The Governor has assured me that he will do everything in his power to give whatever aid in reducing costs to this facility and helping to move it into the private sector and in helping to keep it the premier lab that it is.

So, Mr. President, it is on that basis that I have withdrawn my objection because, obviously, I understand there are decisions that have to be made. The taxpayers and the Members of this Congress have an obligation to see that our money is wisely spent and husbanded. This is not easy. But I thought that it was important to lay these facts out and, hopefully, we can avoid a repetition of that kind of thing. Nobody and no community should ever be subjected to it.

I yield the floor.

Mr. THURMOND. I wish to thank the able Senator from New York.

Mr. BUMPERS. Mr. President, I did not intend to speak on this particular matter, but I heard the Senator from New York making some points. I do not know the particular situation in New York, but I know that the Senator and I share one thing in common, and that is the Pentagon's base closing nominations should not be considered as sacred by the Commissioners that we are about to confirm.

I have no intention of speaking at length or trying to block any of their nominations. As far as I know, they are all very honorable people, and I come not to resist them, not even to admonish them, but to make a point which I hope they will seriously consider, and that is that the Pentagon's decisions are not perfect. They are not made in the cosmos. They are made by human beings who are subject to error.

Needless to say, that I am upset about what they are doing in my State would be a gross understatement.

In 1991, I daresay that my State was one of the two or three hardest hit States on the loss of jobs as a percentage of our people. We lost Eaker Air Force Base, a strategic bomber base, and we lost what we call the Joint Readiness Training Center in Fort Chaffee, AR, which was moved to Fort Polk, LA.

Eaker Air Force Base was in Mississippi County, which is in the First Congressional District of my State, which happens to be one of the 10 poorest districts in the United States. I do not have to tell you what closing a very significant air base in that county did to that county and the surrounding area. But if you look at it in pure terms of dollars and cents, you could not argue with it. When Senator PRYOR, and some of the rest of us, went before the Base Closure Commission and pleaded for them to take into consideration the economic consequences, they said, ''That is not a part of our mandate.''

That county had always had, even with the air base there, a very much higher unemployment rate than the rest of our State. We cannot consider the economic consequences, which is the same thing as saying we are not interested in human beings; we are not interested in the trauma and the tragedy that people experience when they lose their jobs and wonder how they are going to put bread on the table for their children.

But it was closed. We might as well have been shouting in the rain barrel for all the attention we got from the Base Closure Commission.

As far as Fort Chaffee was concerned, we showed conclusively, we crunched the numbers time and time and time again, and presented them to the Base Closure Commission and said, ''You are supposed to be saving money. You will save a lot of money by closing Eaker Air Force Base, even though you are creating unspeakable, horrible consequences for a lot of people who are going to be thrown into the streets, but in Chaffee's case you cannot even justify the savings.'' The figures we gave them which, in my opinion, were absolutely unassailable and are unassailable to this day, went unheard, unheeded. We might as well, again, have been shouting in a rain barrel.

Now we have this new list of bases for closing that have been nominated by some faceless group in the Pentagon. After we took that kind of a hit in our State in 1991, I daresay that with this base closure list we are again one of the two or three hardest hit of any State as a percentage of our population. Red River Army Depot and the Defense Logistics Agency Depot, sit side by side a few miles from Texarkana, which my colleagues know includes parts of Arkansas and Texas, as is near Louisiana; a city of 77,000 to 80,000 people, about 30,000 of whom are on the Arkansas side of the line.

Mr. President, since I have been in politics, I have stood with one leg in Texas and one leg in Arkansas 30 times. The line runs right through the Federal Building, half in Arkansas and half in Texas. Of the 4,100 people who work at the 3,600-acre Red River complex, 1,000 or so live in Arkansas. I know, as Deputy Secretary Deutch told me the other day, they do not consider economics, they do not consider red-blooded human beings who lose their jobs. Theirs is not to ameliorate that. Theirs is to look at hard, cold dollars-and-cents figures.

They did not cut these facilities in half, which would have been traumatic enough. They didn't try to figure out how can we eliminate this human drama, this tragic human drama unfolding by cutting their workload in half and leaving at least 2,000 people working there, or 3,000, or whatever.

I do not even know where they are going to transfer the work. I know there are two bases that do the same thing the Red River Depot does that are being left open that have never won the awards that Red River has won, such as the 1995 Presidential Quality Award. Red River is one of only six government facilities in the whole country to win that.

I listened to the Base Closure Commission hearings yesterday afternoon in my office, and the chairman, our former colleague, Senator Dixon from Illinois, asked did they take into consideration all of the achievement awards and the meritorious awards that Red River Depot had won? No, they did not. I regret the chairman said he had a tendency to agree with that.

Tell me, Mr. President, what is the purpose of people who have worked for the Federal Government trying to excel and be recognized for their excellent service if nobody is going to take it into consideration? What is that all about?

One other thing, Mr. President. What is it about these people who make these nominations that make them perfect and infallible, and their judgments and their decisions unquestioned? Do you think somebody on the Army or Navy or Air Force groups that made these recommendations does not have a brother-in-law working someplace? Do you think the fact that he has a brother-in-law working someplace does not play a role in his thinking about whether that base is going to be closed or this base is going to be closed?

That may be putting it a little strongly, but after all, we are all human beings, are we not? You may have a friend who gave your opponent money the last time, and it may have

shocked you and you are not ever going to feel as kindly toward that guy again. That happens in the Pentagon too. Decisions are not always based on what is best according to the facts.

Fort Chaffee, AK, is also on the list. It stands to lose 350 jobs. It is near Fort Smith, which is a city of about 80,000 people. They can withstand it. But I can tell you, the 350 people who are going to lose their jobs cannot stand it. Think of a city, all of you. I hope all of my colleagues will think of a city in their States with 77,000 people, like the entire city of Texarkana, in Texas and Arkansas. And take away 4,100 jobs. That is 5 percent of the total population. Each one of those jobs represents a family. Compute that. It is devastating, and it is unnecessary. And if it does cost a few more bucks to keep the place open, say, at half strength, or something of that kind, maybe the Pentagon should have decided to do that. But nobody in the Pentagon tried to work anything out. The Pentagon simply said, ''Close that sucker.''

Mr. President, I am emotional about it because I have been here 20 years and have not fired very many people. The people I really had to let go in my office had to be let go. But I know that when you take somebody's livelihood away from them, you are taking away everything. So I am really bothered when people lose their jobs.

The reason I am talking now, and I will close on this, is because I want this Commission—whom we are about to confirm—to bear in mind that everybody who made these closure recommendations has something in the back of their minds that caused them to make them, other than just those cold dollars-and-cents figures that were coming out of a computer.

Do you think there is no politics in any of this? Do you think these are sacrosanct things that people with noble purposes and no other goal conjured up?

So, members of the Commission, I just want to say, do not think for a minute that you do not have a responsibility to look at these things—not rubberstamp them, look at them—count the figures over and over again, take into consideration whose lives are being affected and whose children are not going to be educated as a result of the loss of their jobs.

I hope this Commission will look especially look at the Pentagon's recommendation to close Red River Army Depot and Fort Chaffee. I know there are other Senators—Senator D'AMATO has already spoken, and others will. A lot of people feel put upon. But let me reemphasize, Arkansas took the biggest hit in 1991 of all but two other States, and we are being asked to take one of the biggest hits in this one. What is going on?

I yield the floor, Mr. President.

NOMINATION OF ALTON W. CORNELLA

Mr. BAUCUS. Mr. President, I am pleased that the Senate is today taking up the confirmation of this important group of nominees to serve on the Defense Base Closure and Realignment Commission.

In my home State of Montana, there have been some concerns expressed about one of these nominees, Mr. Alton W. Cornella of Rapid City, SD. Mr. Cornella has spent a number of years advocating for Rapid City's Ellsworth Air Force Base. And there has been concern that this may create a conflict with the interests of Malmstrom Air Force Base in Great Falls.

Frankly, when I first learned about this potential conflict, I was deeply concerned. The base closing process must be above politics and parochialism. And I would strongly oppose any nominee that I believe would not give Malmstrom and Montana an absolutely fair hearing.

That is why, last week, I called Mr. Cornella and spoke with him directly. He assured me that he would be impartial. Moreover, he agreed to recuse himself any decisions involving Ellsworth or any base deemed to be in competition with Ellsworth. These assurances are reflected in a letter Mr. Cornella recently sent to me. I ask unanimous consent that Mr. Cornella's letter be printed in the RECORD immediately following these remarks.

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

(See exhibit 1.)

Mr. BAUCUS. In closing, let me say that I found Mr. Cornella to be a man of integrity. I believe he aspires to serve on the Commission because he wants to render a public service for the entire Nation. And I wish him well in that endeavor.

EXHIBIT 1

AL CORNELLA REFRIGERATION SERVICE,
Rapid City, SD, February 27, 1995.

Hon. MAX BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: Thank you for allowing me the opportunity to discuss with you your concerns about my potential role as a Commissioner on the Defense Base Closure and Realignment Commission.

It is my understanding that I must recuse myself from any matter that would have a direct and predictable effect on any of my financial interests. Alternatively, I could divest myself of any asset that gives rise to a financial conflict or seek a statutory waiver. I have had discussions with the Commission General Counsel about such potential financial conflicts of interests. Based on these discussions, I have announced my decision to recuse myself from any matters affecting Ellsworth Air Force Base, if I am confirmed. This would include recusal from any other base that is determined to be a competitor with Ellsworth. For example, if the recommendations of the Secretary of Defense place Malmstrom Air Force Base in competition with Ellsworth, either in closure or realignment of missions, then Malmstrom would come within the scope of such a recusal.

In accordance with the procedures established by the Senate Armed Services Committee, my financial interests will be reviewed at the time the Secretary's recommendations are published, and throughout the proceedings, to determine what conflicts exist and what action is appropriate to address any conflict. The Commission General Counsel, in conjunction with the Department of Defense General Counsel and the Office of Government Ethics, will conduct such reviews.

I have attached the statements that I provided to the Senate Armed Services Committee during the confirmation process.

Please let me know if I can provide any additional information.

Sincerely,

ALTON W. CORNELLA.

RESPONSES OF ALTON W. CORNELLA TO QUESTIONS FOR DEFENSE BASE CLOSURE AND REALIGNMENT NOMINEES FROM THE SENATE ARMED SERVICES COMMITTEE

POSSIBLE CONFLICTS OF INTEREST

Are you aware of any circumstances that might require you to rescue yourself from participating in the consideration of the proposed closure or realignment of a particular base or type of base? If so, please describe.

Yes. I served as the Chairman of Military Affairs for the Rapid City Area Chamber of Commerce. This included chairing a subcommittee called the Ellsworth Task Force or Defense Initiative. The purpose of the subcommittee was to provide a proactive approach to the perservation of Ellsworth Air Force Base, SD. I also own real estate in the area, and my firm has done business at Ellsworth Air Force Base. I will recuse myself on this base and any others determined as competitors by the General Counsel of the Defense Base Closure and Realignment Commission.

Have you ever participated on a compensated or uncompensated basis in any activity directed at precluding, modifying, or obtaining the closure or realignment of any base during the BRAC process? If so, please describe.

Yes. I served as Chairman of the Ellsworth Task Force on a uncompensated basis. The activity was directed at precluding the closure of Ellsworth AFB, SD. The base was not considered for closure in past rounds.

Have you been stationed at or resident in the vicinity of any base while the base was under considration for closure or realignment during the BRAC process? If so, please describe.

Yes. I was a resident in the vicinity of Ellsworth AFB, SD when the base received additional missions and personnel from realignment under the 1993 BRAC process.

Do you or, to the best of your knowledge, does any member of your immediate family have any specific reason for wanting a particular base to be closed, realigned, or remain unchanged during the BRAC process?

My wife or I could suffer the same financial loss as any other member of the community if Ellsworth AFB, SD would be closed. For this reason. I will recuse myself on Ellsworth AFB and any other bases determined to be competitors by the General Counsel of the BRAC.

CONFLICT OF INTEREST FOR ALTON W. CORNELLA

This is in response to Senator McCain's request that each nominee review their own situation and provide a response for the record on his or her plans to deal with recusal or other conflict-related issues.

I will follow the procedure developed by the Committee and Executive Branch which was used by the 1991 and 1993 Commissions. At the time that the Secretary's March 1 proposed list is announced, the Commission's General Counsel, working with the DoD General Counsel and the Office of Government Ethics, will review my financial interests and advise me if any recusal or other remedial action, such as divestiture or waiver, is

necessary. The Commission's General Counsel will then advise the Committee of the results of this review and any subsequent actions that I would take to remove myself from any potential conflict. The Commission's General Counsel will also establish a procedure providing for similar review of my financial interests and transmittal of this information to the Committee when the Commission considers action on installations that are not on the Secretary's March 1 list.

If I am advised that a conflict of interest exists and that a statutory waiver is not available, I will either divest myself of the interest or recuse myself from that particular installation affected by the holding. If the number of recusals impairs my ability to effectively participate in a significant number of Commission proceedings, I agree to resign my position as Commissioner.

At the present time, the Commission's General Counsel and I have determined that I have a financial interest in Ellsworth Air Force Base, South Dakota. I served as the Chairman of Military Affairs for the Rapid City Area Chamber of Commerce. I also served as Chairman of one of its subcommittees, the Ellsworth Task Force or Defense Initiative, which worked to preserve Ellsworth AFB. My firm has done business with Ellsworth AFB and I also own real estate in the area. My wife or I could suffer the same financial loss as any other member of the community should Ellsworth AFB be closed. For these reasons, I will recuse myself on Ellsworth AFB and any other bases determined to be competitors by the Commission's General Counsel.

A CALL FOR FAIRNESS IN BASE CLOSING

Mr. MOYNIHAN. Mr. President, my friend and colleague from New York has elucidated the travesty that befell Plattsburgh and our State 2 years ago. It was the most parochial of decisions made by that Commission, and one for which they will long be remembered. I still recall the findings of the BRAC staff on a screen overhead, showing clearly that Plattsburgh had greater military value than McGuire. But that did not trouble much of anyone on the dais.

This year the Commissioners have the opportunity, and the obligation, to improve on the record of the 1993 group. The Air Force has proposed to move the finest laboratory in the Defense research establishment, Rome Laboratory, to Hanscom Air Force Base near Boston and to the Army's electronics laboratory in Fort Monmouth, NJ. Rome Laboratory has produced three generations of scientists in its 45-year connection with central New York. According to the Air Force, moving half of it one State east and half of it one State south is expected to save $12 million per year. I have asked for an explanation of that claim, but say it is correct. For $12 million annually we are to give up the established relationships between the lab and the ellipse of universities and industry in the region that have helped Rome to its numerous successes. For $12 million annually we are to lose probably half the civilian staff of scientists who, by measure of similar situations with other labs, will leave the laboratory rather than move with it. This is shortsightedness of the highest order.

The return for moving Rome Laboratory is small. Only one other installation on the 1995 list, of all bases that will lose over 500 civilians, will get less of an annual and total return on the money saved per civilian lost. That is an Army ocean terminal. Closing it does not bring the immense loss of intangibles and productivity that moving a preeminent scientific institution does. This is not like moving the base laundry.

Most egregious about the Air Force recommendation is that 2 years ago the assistant secretary for installations put in writing that ''the Air Force has no plans to close or relocate Rome Laboratory within the next five years.'' The people of Rome believed him. They trusted him. That was a mistake. They have spent 2 years planning the reuse of Griffiss Air Force Base, all of which was closed except for the laboratory, with the laboratory as the linchpin of their plans. They have lost 2 years in the redevelopment effort unless the commission sees the folly of the Air Force proposal.

Mr. President, my colleagues from New York and Arkansas have raised concerns I share about this process and the new Commission. I will be in touch with the new Commissioners shortly, and I hope they are aware of the standards they must restore.

Ms. MIKULSKI. Mr. President, the Department of Defense's recommendations on base closings would have a very serious impact on Maryland. Up to 1,700 jobs could be lost—and an additional 4,000 potential new jobs are at stake. The effect of these job losses on families and communities would be devastating. I won't forget these families as I fight for Maryland's bases.

But I will fight for Maryland's facilities based on their military value. There are three basic criteria that must be considered. These are the mission, merit, and value to the Nation of each base. In Maryland, my colleague PAUL SARBANES and I are working on a bipartisan basis with the rest of the congressional delegation. We are also working together with task forces in our local communities to make our best case based on those principles. When the BRAC examines the recommendations in Maryland, those are the principles on which we expect to compete. And we expect to prevail.

I am shocked that some of the recommendations that the Commission will be examining do not appear to be based on merit, mission, or value to the Nation. The Navy's new plan to move the Naval Sea Systems Command [NAVSEA] to Washington, DC—overturning the last Commission's instructions to move to White Oak, MD—is incomprehensible.

In 1993, the Department of Defense found that we would save tax dollars by relocating many of the White Oak personnel to make room for the Naval Sea Systems Command, which has been in leased space. Nothing has changed in the last 2 years to change that assessment. The strategic and budgetary reasons for the move have not changed. Already, many people have been transferred. Lives have been disrupted and new plans made. Now, the Navy's recommendation says that it was all just a big bait and switch game.

We are now beginning a new round of defense base closures by reexamining the decisions of the last round. The Navy is asking us to overturn decisions made by the 1993 BRAC, approved by the President and accepted by Congress. This is a perfect example of why people are frustrated with their government.

No one questions the merit of White Oak. Just yesterday, General Shalikashvili, Chairman of the Joint Chiefs of Staff, said that the loss of White Oak's hypervelocity wind tunnel ''could eliminate a unique national capability, a capability that serves military research and development needs and that is used by other agencies such as NASA.'' That wind tunnel, along with a 1.75 million gallon testing tank, are irreplaceable one-of-a-kind facilities.

This time, the burden of proof must be on the Navy. They must show that the merit of their new proposal significantly outweighs the findings of previous BRAC commissions. They must show that their mission can be performed butter, quicker, and cheaper in Washington instead of in White Oak. And they must show that the Nation will achieve real savings from this new proposal. Those are tough standards * * * but in 1993, those are the standards White Oak met. We will hold the Navy's new proposal to the same standards—and we don't think their numbers can add up or hold up.

The recommendation to close the Naval Surface Warfare Center in Annapolis is also a serious blow to Maryland and to the military. And it is another attempt to revisit decisions that were made during the 1993 BRAC.

Some of the Navy's most important research and development is done at the Annapolis site. We have one-of-a kind facilities, and a world class workforce in place and working at peak capacity. Their mission is more important now than ever before—it is focused on the kinds of ship systems our Navy will need in the 21st century. And once again, the reasons and numbers haven't changed. So PAUL SARBANES and I will once again be leading the charge to maintain this vital facility.

The Army's recommendations, too, must be examined by the same principles and standards. I am deeply concerned that the recommendation to close Fort Ritchie was made without fully examining all of the missions performed at this post, and has not taken a full accounting of the value to the Nation of those missions. This post is almost 100 years old—but has proven to be one of the Army's most versatile facilities. It has constantly adapted and upgraded its facilities to fit changing communications needs. Its facilities

and workforce are unique—and must be maintained.

And nowhere does the concept of a full accounting become more important than at the Army Publications Distribution Center in Middle River. This center is competitive with the most technologically advanced private sector operations, yet the recommendation to close was flatout wrong when it said that they are not automated. I will push to make sure that one of the BRAC Commissioners visits this site, so that they can see this state-of-the-art facility first hand. With the facts in hand, I am confident that the Commission will recommend to the DOD that they revisit their recommendation entirely.

There are some silver linings for Maryland. The far-reaching and forward-thinking consolidation at the Naval Air Warfare Center, Patuxent River will continue. Pax River is the only Navy base in the country that can do aircraft acquisition, research, development, and training. This ''one-stop-shop'' is a crown jewel in the Navy. I will stand sentry during this BRAC process to ensure that the next century mission of Pax is not overlooked or undermined. And across southern Maryland, I am pleased that the value to the Nation of NESEA and the Naval Surface Warfare Center at Indian Head was acknowledged and maintained.

Another piece of good news is that additional jobs will be coming to both Aberdeen Proving Ground and Fort Meade. Each of these posts has a proud history of service and stand ready to make significant contributions as the military continues to reexamine the roles and missions they must perform in the new millenium.

Mr. President, before a serious consideration of the fate of Maryland's bases can begin, we must first confirm the nominations to the Base Closure and Realignment Commission. I fully support these nominees. They will be seeing a lot of me, because I will be fighting tooth and nail for Maryland's unique facilities and capabilities.

Mr. THURMOND. Mr. President, I yield back time on our side.

Mr. NUNN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eleven minutes forty-four seconds.

Mr. NUNN. I yield back the time on this side.

The PRESIDING OFFICER. All time having been yielded back, the question is, Will the Senate advise and consent to the nominations on the Executive Calendar, Nos. 12 through 17 and No. 34, en bloc, Alton W. Cornella, of South Dakota; Rebecca G. Cox, of California; James B. Davis, U.S. Air Force, Retired, of Florida; S. Lee Kling, of Maryland; Benjamin F. Montoya, of New Mexico; Wendi Louise Steele, of Texas; Josue Robles, Jr., of Texas, to be members of the Defense Base Closure Realignment Commission?

So the nominations were confirmed.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I ask unanimous consent that the President be immediately notified of the Senate's action and that the Senate return to legislative session.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDER OF PROCEDURE

Mr. THURMOND. Mr. President, on behalf of the majority leader, I wish to announce that there will be no further rollcall votes today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. BUMPERS. Mr. President, I had thought that I might wait until tomorrow to speak on the vote that occurred this afternoon, but I think perhaps now is as good a time as any simply to reflect on what happened today, what has happened in the past and what is likely to happen in the future.

First of all, taking Social Security out of the amendment was a perfectly legitimate issue and I supported the Reid amendment and I supported the efforts of the Senator from North Dakota to take it out, but that is not the real reason I voted against this amendment. I voted against it because I have a reverence for the Constitution of the United States. I do not want it trivialized. I do not want to put economic theory in it. I do not want to put an unenforceable requirement in it. I do not want to put a requirement in there which can be taken away by 60 votes. And I do not want to have the people expecting to see the budget balanced in the year 2002 when that is highly unlikely in any case and utterly impossible under the other provisions of the Contract With America. That would raise the cynicism level about Congress still higher.

What I want to do is put this Nation on a glidepath toward a balanced budget and stick with it. We could reduce the deficit $20 billion a year and not disrupt the economy. The economy could handle it. And if the American people saw us doing that, year after year, they would be happy, they would see that we are solving the problem.

It is true the polls show that about 70 to 80 percent of the people of the country favor the so-called constitutional amendment to balance the budget, but I promise you they favor it because they are frustrated and they think it is the last best hope. And, second, they think there is some magic machine in the amendment that will balance the budget if they just put it in the Constitution as the 28th amendment.

Unhappily, nothing could be further from the truth. This afternoon the argument was made, why not submit it to the people? It is a powerful argument. The people like that argument. But for just a moment let me give a couple of extra thoughts on that. Since this great Republic of ours was founded in 1789, there have been over 11,400 proposals by Members of Congress to change that document—11,400. And we have adopted 18 of them, counting the Bill of Rights as one—that is the first 10 amendments to the Constitution all adopted at the same time.

Since then, 17 amendments have been ratified out of 11,400 proposed. What if we took the argument that every time a constitutional amendment came up on the floor we had a duty to submit it to the people? The people would not have time to work. They would be so busy voting on constitutional amendments they would not have time to hold a job.

Why do the Members of this body think that James Madison and Ben Franklin and all the rest of the Framers, in 1787, when they crafted this document—why do they think they gave Congress the first responsibility? And more important, why do they think they insisted that 67 percent of the Congress vote for it before it is submitted to the people? They did not say lay down in the aisle of the Senate and vote aye. They said we should deliberate. If they expected a two-thirds majority of both Houses to approve this thing before it went to the people of the country, surely to God they intended us to have a sensible debate on it. And we had one.

Mr. President, when you start tinkering with the Constitution of the United States, I belong to the ''wait just a minute'' club. I do not care how meritorious a proposal sounds. The Constitution has given this Nation 205 years of unfettered freedom the likes of which no other nation on Earth has enjoyed. And when you start trivializing the Constitution with amendments that are wholly unenforceable, people will lose their reverence for that sacred document. You see, I do not want just a balance-the-budget amendment that merely says we will balance the budget. I want actually to balance the budget. The people in my State and your

State, they think that opposing a balance-the-budget amendment is like saying ''I oppose a balanced budget.''

Who in this body does not favor a balanced budget? No one, but there are some who are not quite as committed to it as others. But in 1993, in August, the President and the Democrats in the Congress proposed a $500 billion deficit reduction. We stood up and we said exactly what the people in the pool hall say, ''I wouldn't mind paying taxes if they cut spending.'' So we raised taxes on the wealthiest 1.2 percent of the people in this country. You had to have an income of $180,000 to affected by it. I wish I were in that category, I would be tickled to death to pay those taxes. We raised taxes on 1.2 percent of the wealthiest people in the country to the tune of $250 billion over 5 years and we cut spending, dollar for dollar, $250 billion, for a total of $500 billion in deficit reduction. And, yes, we said in that same bill, in the future couples who make $44,000 a year and are on Social Security will pay taxes on 85 percent of that amount that exceeds $44,000.

Who thinks I enjoyed voting for that? I hated it. But you are not going to solve the deficit problem on people flipping hamburgers down at McDonald's. Justice Holmes said taxes are what you pay in order to live in a civilized society. So we passed that deficit reduction bill and we have now lowered the deficit for three straight years for the first time since Harry Truman was in the White House.

Mr. President, it has been said time and time again, and it is worth repeating: not one single Republican favored deficit reduction that day—not one. They said, ''We hate taxes.'' I do, too, but I hate deficits as well. And on October 1, 1994, the deficit was $100 billion less than it would have otherwise been if we had not passed the deficit reduction package. You think about it. We cut the deficit $100 billion last year. And it will be down $110 to $120 billion this year from what it would have otherwise been.

The distinguished majority leader, whom I respect and admire and consider to be my friend, this afternoon said that the Senate walked away from the American people today. In August 1993, the Republicans ran away from the people of this country. Not one vote.

Mr. President, we have never put anything into the Constitution in 205 years that you can suspend with 60 votes in the U.S. Senate. You think about it. Anytime this amendment is adopted and subsequent thereto, 60 people in this body can say we vote for an unbalanced budget and those words will mean nothing. What if I came on this floor and said: Here is an amendment that says, the fourth amendment, which protects us against unlawful searches and seizures—can be suspended by 60 percent of the Congress? You would be home calling the carpenter to put some more locks on your door, never knowing when Congress might cast 60 votes to suspend your right to be protected from police who might want to knock your door down on any flimsy excuse they can find, or ne excuse at all.

Women are now permitted to vote as a result of the 19th amendment adopted in 1921. Can you believe the women have only had the right to vote in this country since 1921? Suppose we passed an amendment saying, with 60 votes of both Houses, we could suspend the right of women to vote. With 60 votes, we can suspend the right of due process. With 60 votes, we can suspend religious freedom, freedom of the press, freedom of speech. With 60 votes, we will put the poll tax back in. With 60 votes, we will take any right in the Constitution out of it. The people would be marching in the streets.

So where does that leave us on this amendment? We say, ''Well, here is an amendment that requires us to balance the budget by the year 2002.'' How? I do not know. Well, can we go to court? No. We took care of that in order to accommodate the Senator from Georgia, Senator NUNN. The courts could not involve themselves in the budget unless Congress expressly gave them jurisdiction . Next question: Who can enforce this amendment? Search me. I do not know.

If you have an amendment that requires a balanced budget by the year 2002 and the courts are taken out in that same amendment, who does that leave you to enforce it? The same U.S. Congress that has refused to do it in the past. We are back to square one. You pass this amendment, and the American people will have been hoodwinked like they have never been hoodwinked before in the history of this Nation. That is right. We are right back where we started, with the U.S. Congress having to balance the budget, and with the right to ignore it with 60 votes. We have never put anything in the Constitution that was not absolute and inviolate. We act as if we are dealing with a State constitution around here. The balanced budget amendment is legislation all dressed up in the finery of the Constitution.

I remember that spectacle in 1993 where only the Democrats voted for a bill to actually reduce the deficit. It is the most significant thing that has happened since I have been in the U.S. Senate. Every fall, for 7 years, I have stood at this desk and offered amendment after amendment after amendment to cut spending. In 1993 I offered six amendments to kill or cut appropriations. Those amendments would have saved the taxpayers over $420 billion, including interest over the next 35 years, but 13 Republican votes was my highwater mark on those votes. It reminds me of the back bencher who hears the preacher say ''Who all here wants to go to Heaven?'' and replies, ''I do, but not tonight.''

I want a balanced budget, and I do not like to have to go home and tell the voters that we cut the spending that affects their job or affects something else important to them or raises their taxes. We just want to talk about it.

Here on this chart are the budget-cutting amendments I put in just the other day for this year. I want my colleagues to look at these right now because they are coming, I promise you. The space station, 5-year savings of $10 billion; long-term savings, $52 billion. The same people who will vote to cut food stamps, Medicare, put children in orphanages, will vote to spend every dime of that. The F–22 fighter, we do not need it. We can postpone it for at least 4 years; it will cost $6 billion next year; in 5 years, $24 billion. I will not go through all of them, but we could save $33 billion over the next 5 years, and $114 billion over the next 15 years just on the amendments that I have introduced.

Mr. President, if I get 13 votes on the Republican side this year for any of those, I will be absolutely amazed. Everybody wants to go to Heaven. But not just yet.

There is not one thing in this amendment that would require us to do anything between now and the year 2002. There is not one single enforceable thing about this that would require us to cut the deficit one dime between now and the year 2002.

I offered an amendment. I got 37 votes. The amendment I offered said that, starting this year, the budget resolution must contain a deficit smaller than last year. And, in addition to that, it must show us how we are going to reach a balanced budget by the year 2002; that would be difficult to achieve but at least my amendment would keep us honest.

I submit that the people of this country would be immensely gratified if they could go to bed tonight and realize that Congress is going to cut the deficit every year for the next 7 years, not wait until the year 2002. Do it now.

The Contract With America—and to the eternal credit of the Republicans in the U.S. Senate, they are not a party to that. They want us to spend $471 billion in tax cuts and defense increases between now and the year 2002, and then start dealing with the deficit.

Do you think I enjoy standing here and saying I am not going to support a so-called middle-class tax cut? Do you think the people of my State do not need tax relief? If you do what the Contract With America proposes, I will tell you where you wind up. You will wind up with a deficit that will choke a mule, that will cause interest rates to start soaring again, and the poor guy who would have otherwise gotten a tax cut that might buy him a pizza every Friday night will lose two pizzas every Friday on interest costs. And 74 percent of the people of this country agree that they would rather see the savings put into deficit reduction.

Over and over and over again, I heard people say the balanced budget amendment is very popular, that 75 percent of

the people in this country favor it. When you get down to a little tax cut, I will be saying that 75 percent of the people would rather see this go on the deficit than into a middle-class tax cut. You say we must do what 75 percent of the people want on one thing. But on the next thing that 75 percent of the people want, you say something else.

Mr. President, I will tell you what ought to happen. The Republican and Democratic leaders ought to get together and say, look, we share a common goal, and that common goal is to keep faith with the American people. In order to do that, we have to start getting the deficit under control. You go back to your people and submit a list of cuts, and we will come up with our own cuts; then we will get back together and try to figure out what we can agree on. Once we agree on what we can cut, once we are convinced in our own minds that we are going to actually cut the deficit this year and the next year and the next year, the leaders, Democrats and Republicans, can go before the television cameras and say solemnly to the American people: Here is our contract. We all agree on it.

If we keep going like we are going, Mr. President, the Constitution and the American people both are going to lose mightily. I did not sign that contract. As far as I know, not a single one of the 100 Members of the U.S. Senate signed that contract. Can you believe that that contract would be as dramaticaly unrealistic as it is—we are going to have a constitutional amendment to balance the budget, provide $471 billion in tax cuts, and defense increases. Most of the people who signed that are wannabes, people running for Congress who will say anything, sign their name to anything, and worry about the details later, after they have been elected.

And they will do it in 100 days. We are supposed to be a deliberative body. If it takes 100 days, fine; if it takes 300 days, fine. These things are supposed to be seriously considered. 100 days? It would not have been unthinkable in this Senator's mind to spend half of that—which we almost did—on this amendment until the American people focused on it and understood precisely what the consequences were going to be.

I must say I was terribly chagrined when I realized that no change to the constitutional amendment was going to be adopted. We were presented with a constitutional amendment that was crafted by the House of Representatives and sent to the Senate, and they said here it is, do not change one word. Do not uncross one ''t,'' do not undot one ''i,'' do not change anything. Think of that, saying to Senators here, who represent the people of their States, who want to improve it or kill it or otherwise change it. And they say, no, you do not count. We have 52 votes locked up over here and we will table anything you try to do. What kind of deliberative body is that? It is like saying we do not care that we are dealing with this precious document and we do not care what you think.

That is not a fan you hear, Mr. President, that is the sound of James Madison whirling in his grave.

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.

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

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

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. NICKLES. Mr. President, I rise to make a couple comments concerning the balanced budget amendment vote today, because I think in my 14½ years in the Senate, it is probably the most important vote that we have cast. In my Senate career, we voted on a balanced budget amendment four times—three times for real; and once on a cloture vote to end debate on a balanced budget amendment which I offered.

We passed it once, in 1982. We passed it with 69 votes. It was a bipartisan vote. At that time, the majority leader of the Senate was Howard Baker. I remember his support for the amendment. We had the support of Ronald Reagan, who was President at the time. But we lost by just a few votes in the House of Representatives.

The reason we lost the vote today is because six people who voted for the balanced budget amendment a year ago voted against it today. They have the right to change their minds. Many of the people that voted against it today who voted for it last year said they wanted to protect Social Security. But when they voted for it last year, there was no specific protection for Social Security. Those individuals thought the balanced budget amendment was worthy of voting for last year, but they voted against it this year. They have that right, and I respect Senators for their votes. I also think they should be held accountable.

When people are running for reelection, they many times claim, ''Oh, yes I have always voted for a balanced budget amendment.''

But today we had a chance to vote for one for real. The one we voted on last year, in all likelihood, was not going to pass. The House tried it last year and they lost by a few votes. We lost by a few votes.

This year, the House passed it. This year, if the Senate had passed it and we worked out whatever small differences we had between the House and the Senate, it would have gone to the States and we would have found out whether 38 States would have ratified it. My guess is, they would. My guess is, we would have followed the advice of Thomas Jefferson. We would have enacted an additional amendment which would prohibit Congress from spending more than they take in. Thomas Jefferson was right.

BOB DOLE was right when he made his comments. I want to compliment Senator DOLE for his leadership. He has shown great patience. We spent over a month on this amendment. The House of Representatives debated it for 2 days. The Senate spent a month. Senator DOLE indicated the willingness to spend another week if we could have picked up the necessary votes. But we might spend another 2 months and still not get 67 votes. Senator DOLE can count votes. All of us can. Many of us were working, trying to make a difference, but we were not successful, mainly because six people changed their minds. They have the right to change their minds, but people need to know why we did not pass it.

In the November elections, we elected a lot of new people.

As a matter of fact, all 11 new Senators elected in the 1994 elections voted for it. But six people who voted for it in the past decided to vote against it. That is the reason the amendment failed.

To pass a constitutional amendment is a high bar to jump over. It is not easy. You have to pass the constitutional amendment by two-thirds in both Houses, and then additionally it has to be ratified by three-fifths of the States. That is not easily done.

We have had 27 amendments to the Constitution, 10 of which were the Bill of Rights and were ratified very early in our history. We have only had 17 since then. Sixty-six Members of this body felt as though we should have the balanced budget amendment, as well. The American people have supported it. It was mentioned two or three times on the floor that 80 percent of the American people believe we should have it.

I have been here long enough to know we need a balanced budget amendment. I have served on the Budget Committee; I have served on the Appropriations Committee; and now I serve on the Finance Committee. I think we need the discipline. It would not be necessary if we had a strong majority of both bodies, being fiscally responsible Members. Maybe then we would not need a balanced budget amendment.

Mr. President, I am totally committed to trying to balance the budget, whether we pass the amendment or not. I think we ought to do it by the year 2002. So I hope that we will pass a budget resolution that will move Congress toward balancing the budget no later than the year 2002. I hope we can pass it in both the House and the Senate.

Maybe that will be the easy part. Then we will have to pass the implementing legislation to make it happen, pass what we call a reconciliation bill and all 13 appropriations bills. We will

make Congress, for the first time, really cut entitlements. If we do not reduce the rate of growth of entitlements, we will never balance the budget.

Mr. President, the figures are not that complicated. We are spending about $1.5 trillion right now. We are taking in a little over $1.3 trillion. So we have a deficit of $200 billion per year. Unfortunately, President Clinton's budget does nothing to reduce the deficit. The deficit stays at least about $200 billion for the foreseeable future, and then escalates much, much higher in future years.

He does not touch entitlements; I had charts up earlier this week showing what the President has accomplished budgetwise. The President has said in his first 2 years, he has reduced the deficit by $600 billion, but the facts do not agree with him. The facts are that spending has not been cut in the President's first 2 years. Actually, spending went up, if we use the CBO baseline. And President Clinton mentioned, in his State of the Union speech, that we should use the Congressional Budget Office.

Spending has not been cut. Actually, spending for the first 4 years of his administration goes up, compared to what would have otherwise happened. So spending has gone up, not down. That is evidenced by the fact that we used to spend $1.3 trillion a couple years ago, and now we spend $1.5 trillion. Under the President's budget year we spent $1.6 trillion, and by the year 2000, we spend $1.9 trillion. Spending goes up every year.

The facts are, also, we can balance the budget if we limit the growth of spending to about 3 percent per year. The total amount of money that we spend, if we can limit that growth to 3 percent, we can balance the budget.

I did not say cut spending; I say limit the growth of spending. We will have to somehow ingrain this in people's minds. I can tell Members right now when we come up with a budget people will say, ''Republicans, are slashing programs. You are insensitive. You are making tough decisions.'' We should be.

But I also say, Mr. President, even under the Republicans, and in spite of all the slashing that we will be accused of, Federal spending will continue to escalate. I would like for Congress to freeze Federal spending. We are spending $1.5 trillion. I would like for Congress to spend next year $1.5 trillion. If we have an increase in some programs, that means other programs will have to be reduced to pay for it. That is what I would like. If we kept spending $1.5 trillion, we could balance the budget before the year 2002.

Mr. President, we have to do it. I just hope that our colleagues, now that they have defeated this balanced budget amendment, will help us. Many people on the other side of the aisle said we do not need a balanced budget amendment. Many Members on this side of the aisle on the Budget Committee, on the Finance Committee, on the Appropriations Committee, I believe are committed to trying to balance the budget by the year 2002, because we think that is the right thing to do.

I can tell Members it probably will not be the right thing politically. We will expose ourselves politically. People will say, ''You are slashing popular programs and you are not going to be popular if you cut this program or that program,'' and we will have to cut most all programs. I say cut. We will have to reduce the rate of growth in almost all programs if we are going to get there. I hope that we have the courage to do it. I think we need to do what needs to be done to make Congress balance the budget, regardless of whether or not we pass the balanced budget amendment.

I am really disappointed that we did not pass it today. I think if we would have passed it today, it would have changed the way we do business. I think people in the Budget Committee, in the Finance Committee, in the Appropriations Committee would say, ''Wait a minute; this is a different era.''

We stand right here in this Senate and put our hand on the Bible and swear to uphold the Constitution. That is the reason it is more important than a statute. That is the reason I think we would be more committed to abiding by that balanced budget amendment, regardless of the enforcement mechanism, because we are sworn to uphold the Constitution. I think we are serious when we take that oath.

A lot of our colleagues said that the amendment is not necessary. Well, we will try to do it, anyway. We will find out how sincere they are when we have the tough votes. We will find out what happens when we try to curb the growth of entitlements.

I will give an example. We have 336 different welfare programs—336—most of them stacked on top of each other. Many of which are counterproductive to our goals, if we want to try to help people, because it is making people become addicted to Federal programs—addicted to Federal assistance—not helping them climb up the economic ladder, but basically addicted to this idea that, ''Hey, Government will take care of me, so why should I bother?'' We have 152 different job programs. I know the Senator from Kansas is looking at consolidating many of those programs and giving them to the States to determine how best to manage them.

We have to curb programs like Medicaid, which has grown annually by 28, 29, 13, and 8 percent. We cannot continue to have rates of growth like that. We will have to curtail programs like the earned income tax credit that President Clinton is so proud of. His tax bill increased it dramatically. Three years ago, it cost $5 billion a year. In 3 years, it will cost $25 billion per year. These are astronomical rates of growth.

The EITC is an entitlement program. I read by one estimation that 40-some percent of the people in the District of Columbia are eligible for the earned income tax credit. That is absurd. It is a negative income tax under which Uncle Sam writes checks. It is rife with fraud. The IRS is now slowing the processing of returns because of fraud. A lot of people found out, ''If I give you a few hundred dollars for your social security number, I can do your return and collect a $1,000 or $2,000 check from Uncle Sam.'' A lot of people are pulling that scam.

Food stamps—we have had unbelievable fraud and abuse in food stamps. The program's cost has compounded in growth well beyond inflation. We will have to take all programs, Mr. President, and look to scale many back substantially. If we want programs to grow more than 2 percent or 3 percent per year, we will have to cut other programs to make that happen.

I just hope we will have the courage to do it, in a bipartisan fashion. I hope that we will come up with a budget unlike President Clinton's, which projects $200 billion deficits forever. I hope that we will pass a program that will bring the deficits on a downward trend where we will be down to zero no later than the year 2002. That will not be easy. And maybe if we cannot do it—I hope we can, but maybe we cannot—people on the other side will realize they made a mistake in voting against the constitutional amendment to balance the budget. Maybe they will realize that we need that kind of discipline to be able to say no.

Congress will have to say no to Federal spending if we are ever going to get there. You are more popular as elected officials giving people money, cutting ribbons for more Federal spending, for XYZ school and XYZ projects, than taking away from them in taxation. You are more popular giving than taking away, and more popular spending than taxing.

I am really disappointed in the vote today. I think we need a constitutional amendment. I hope and expect that we will have the opportunity to vote again, and maybe they will hear from their constituents. I hope people across the country, when they find out that their elected Members voted against this amendment, will talk to their Members, and let them know how strongly they feel that this amendment should have passed.

If this is a democracy where people really have a chance to meet with their constituencies and listen to their constituencies, this amendment should pass, and I believe it will pass. I would like for it to pass this year. Maybe it will take another election. The American people spoke clearly in the elections in 1994. I believe they will be speaking very loudly in 1996, and maybe they will hold their elected Members accountable. Then maybe that will enable us to pick up the extra

vote or two necessary to pass this amendment.

So, Mr. President, I am very sincere in saying I think this is probably the most important vote we have had in decades. It is unfortunate it did not pass today. It did not fail for a lack of effort or leadership on behalf of Senator DOLE. He showed great patience and, I think, great leadership. I also wish to compliment Senator HATCH and Senator CRAIG for the hours and hours that they spent on the floor. It is just unfortunate we were not successful.

I hope that the American people help us succeed, not just for Republicans in the Senate, not just for the idea of a balanced budget but really succeed for American taxpayers, for our children. People should not be confused about claims that, ''I would vote for that except I want to protect the Social Security trust funds.''

That is one of the most absurd arguments made on the floor of the Senate. How can they protect Social Security trust funds which do not exist? The Social Security trust fund is a falacy. There are no trust funds. There is not a bank account where any person in America can go look at the billions of dollars accumulating there. The trust fund is full of IOU's. And very soon, perhaps by the year 2013, we are going to be paying out more than is coming in.

At that point it is assumed that we will start cashing in on the trust fund IOU's. But what is really there? There is nothing in the trust fund but an IOU. How do we pay off Government IOU's? We borrow more money. By the year 2013, we are going to be paying more in social security benefits more than we take in from social security payroll taxes, and for each IOU we cash in to pay benefits we are going to have to borrow to pay off the IOU. That will put an enormous burden on younger generations.

I think my colleagues who say they voted against this amendment to protect the trust funds do not understand that there are no real trust funds, there is no bank account, there is no fund where money is actually accumulating. There is just a Government IOU, and that Government IOU is going to be paid for like we pay other Government IOU's. It is going to be paid for with additional borrowing.

Maybe that was the political cover they needed to excuse them from voting against this amendment, but it is very deceptive and very misleading. I think we have to be truthful with the American people.

Again, those same people who voted ''no'' today voted ''yes'' last year, and we had no special protection for social security. We had no such exemption for Social Security. I hope that the people will speak out loud and clear to their elected officials, and maybe we can reverse the result that we had on the floor today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PRESIDENT CLINTON'S LEADERSHIP IN REDUCING THE NUCLEAR THREAT

Mr. DASCHLE. Mr. President, yesterday, in a speech before the Nixon Center For Peace and Freedom's policy conference held here in Washington, President Clinton spoke eloquently about America's leadership role in the post-cold war era and the importance of America remaining engaged in world affairs. The President placed particular and appropriate emphasis on the need to continue to make strong efforts to reduce the threat of nuclear weapons.

The President's remarks regarding his concerns over the new isolationism creeping into the debate over American foreign policy and the outline of his ambitious agenda to reduce the international nuclear threat are especially significant for members of the Senate. In the coming weeks we will be beginning debate on major foreign policy issues and may vote this year on ratification of the START II treaty as well as consider the Chemical Weapons Convention.

As President Clinton has rightly pointed out, American leadership is vital to continued international efforts to promote peace and reduce the threat of nuclear weapons. Since the days when President Truman began American efforts to curtail the threat of nuclear war, every American President has worked to reduce that threat to world peace. President Clinton has sought to advance that goal and exploit the additional possibilities for peace and prosperity provided by the end of the cold war.

There have been some notable successes. For the first time in a generation, no Russian missiles are targeted on American cities. Under the START I treaty negotiated by President Bush and placed into force by President Clinton, the United States and Russia are dismantling thousands of nuclear weapons. Former Soviet republics that were potential nuclear powers have now pledged to rid their countries of nuclear weapons.

This year President Clinton has started a vigorous program to reduce the threat posed by weapons of mass destruction. He has called for an indefinite world-wide extension of the Nuclear Non-Proliferation Treaty. And he has urged the Senate to quickly ratify the START II treaty, and the Chemical Weapons Convention to ban poison gas. He has promised to push for conclusion of a Comprehensive Test Ban Treaty and to fight for a global ban on the production of nuclear material for weapons.

The President's efforts to keep America engaged as the world's leader in the pursuit of peace and in reducing the threat of nuclear weapons are of vital importance to the national security of the United States and deserve the support of every American.

I commend his remarks to my colleagues' attention, and I ask unanimous consent that they be printed in the RECORD.

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

REMARKS BY THE PRESIDENT TO THE NIXON CENTER FOR PEACE AND FREEDOM POLICY CONFERENCE

The President. To Tricia and John Taylor, and all the people from the Nixon Center; our distinguished guests from Germany and from Russia; of course, to Henry Kissinger—I was thinking when he said we both spoke with accents, judging from the results of the last election, his native country is still claiming him more than mine is claiming me. (Laughter.) but I'm a big one for reconciliation. (Laughter.) And there's plenty of time to achieve it.

I am honored to be here tonight. Just a month before he passed away, President Nixon wrote me the last letter I received from him about his last trip to Russia. I told some people at the time that it was the best piece of foreign policy writing I had received, which angered my staff but happened to be the truth. (Laughter.) And as with all of our correspondence and conversations, I was struck by the rigor of his analysis, the energy of his convictions, and the wisdom of the practical suggestions that he made to me.

But more than the specifics of the letter, which basically argued for the imperative of the United States continuing to support political and economic reform in Russia, I was moved by the letter's larger message—a message that ran throughout Richard Nixon's entire public life and all of his prolific writings. President Nixon believed deeply that the United States simply could not be strong at home unless we were strong and prepared to lead abroad.

And that made a big impression on me. When I was running for President in 1992, even though there was this little sticker up on the wall of my campaign headquarters that said, ''It's the economy, stupid,'' I always said in every speech that we had to have two objectives. We had to restore the American Dream for all of our people, but we also had to make sure that we move into the next century still the strongest nation in the world, and the world's greatest force for peace and freedom and democracy.

Tonight I want to talk about the vital tradition of American leadership and our responsibilities, those which Henry Kissinger mentioned and those which President Nixon recognized so well. Our mission especially I want to discuss—to reduce the threat of nuclear weapons.

Today if we are going to be strong at home and lead abroad, we have to overcome what we all recognize I think is a dangerous and growing temptation here in our own land to focus solely on the problems we face here in America. I want to focus on the problems we face here in America. I've tried to do it for the last two years. I look forward to working with this new Republican-led Congress in the next two. But not solely.

There is a struggle now going on between those of us who want to carry on the tradition of American leadership and those who would advocate a new form of American isolationism. A struggle which cuts curiously across both party and ideological lines. If we're going to continue to improve the security and prosperity of all our people, then the tradition of American leadership must prevail.

We live in a moment of hope. We all know that. The implosion of communism and the explosion of the global economy have brought new freedoms to countries on every continent. Free markets are on the rise. Democracy is ascendant. The slogan says, ''after victory.'' Today, more than ever before, people across the globe do have the opportunity to reach their God-given potential. And because they do, Americans have new opportunities to reach theirs as well.

At the same time, the post-Cold War world has revealed a whole web of problems that defy quick or painless solutions—aggression of rogue states, transnational threats like overpopulation and environmental degradation, terrible ethnic conflicts and economic dislocation. But at the heart of all these complex challenges, I believe, lies an age-old battle—for power over human lives. The battle between the forces of freedom and tyranny, tolerance and repression, hope and fear. The same idea that was under attack by fascism and then by communism remains under attack today in different ways all across the world—the idea of the open society of free people.

American leadership is necessary for the tide of history to keep running our way, and for our children to have the future they deserve. Yet, there are some who would choose escapism over engagement. The new isolationists oppose our efforts to expand free trade through GATT or NAFTA through APEC and the Summit of the Americas. They reject our conviction that democracy must be nurtured with investment and support, a conviction that we are acting on from the former Soviet Union to South Africa. And some of them, being hypocritical, saying that we must trumpet the rhetoric of American strength; and then at the same time, they argue against the resources we need to bring stability to the Persian Gulf or to restore democracy to Haiti, or to control the spread of drugs and organized crime around the world, or even to meet our most elemental obligations to the United Nations and its peacekeeping work.

The new isolationists both on the left and the right would radically revise the fundamentals of our foreign policy that have earned bipartisan support since the end of World War II. They would eliminate any meaningful role for the United Nations which has achieved, for all of its problems, real progress around the world, from the Middle East to Africa. They would deny resources to our peacekeepers and even to our troops, and, instead, squander them on Star Wars. And they would refuse aid to the fledgling democracies and to all those fighting poverty and environmental problems that can literally destroy hopes for a more democratic, more prosperous, more safe world.

The new isolationists are wrong. They would have us face the future alone. Their approach would weaken this country, and we must not let the ripple of isolationism that has been generated build into a tidal wave.

If we withdraw from the world today, mark my words, we'll have to contend with the consequences of our neglect tomorrow and tomorrow and tomorrow. This is a moment of decision for all of us without regard to our party, our background or our accent. This is a moment of decision.

The extraordinary trend toward democracy and free markets is not inevitable. And as we have seen recently, it will not proceed easily in an even, uninterrupted course. This is hard work. And at the very time when more and more countries than ever before are working to establish or shore up their own freedom in their fragile democracies, they look to us for support. At this time, the new isolationists must not be allowed to pull America out of the game after just a few hours of debate because there is a modest price attached to our leadership. (Applause.)

We know now, as President Nixon recognized, that there must also be limits to America's involvement in the world's problems—limits imposed by clear-headed evaluation of our fundamental interests. We cannot be the world's policemen; we cannot become involved in every problem we really care about. But the choice we make must be rooted in the conviction that America cannot walk away its interests or its responsibilities.

That's why, from our first day in office, this administration has chosen to reach out, not retreat. From our efforts to open markets for America to support democracy around the world, to reduce the threat posed by devastating weapons and terrorists, to maintaining the most effective fighting force in the world, we have worked to seize the opportunities and meet the obligations of this moment.

None of this could have happened without a coalition of realists—people in both Houses of Congress and, importantly, people from both parties; people from coast to coast in our towns and cities and communities who know that the wealth and well-being of the United States depends upon our leadership abroad. Even the early leaders of our republic who went to great pains to avoid involvement in great power conflicts recognize not only the potential benefits, but the absolute necessity of engaging with the world.

Before Abraham Lincoln was elected President, our farmers were selling their crops overseas, we had dispatched the trade mission all the way to Japan trying to open new markets—some problems don't go away—(laughter)—and our Navy had already sailed every ocean. By the dawn of this century, our growing political and economic power already imposed a special duty on America to lead; a duty that was crystallized in our involvement in World War I. But after that war, we and the other great powers abandoned our responsibilities and the forces of tyranny and hatred filled the vacuum, as is well-known.

After the second world war, our wise leaders did not repeat that mistake. With the dawn of the Nuclear Age and the Cold War, and with the economies of Europe and Japan in shambles, President Truman persuaded an uncertain and weary nation, yearning to shift its energies from the front lines to the home front, to lead the world again.

A remarkable generation of Americans created and sustained alliances and institutions—the Marshall Plan, NATO, the United Nations, the World Bank, the IMF—the things that brought half a century of security and prosperity to America, to Europe, to Japan and to other countries all around the world. Those efforts and the special resolve and military strength of our own nation held tyranny in check until the power of democracy, the failures of communism, and the heroic determination of people to be free, consigned the Cold War to history.

Those successes would not have been possible without a strong, bipartisan commitment to American's leadership.

Senator Arthur Vandenburg's call to unite our official voice at the water's edge joined Republicans to Truman's doctrine. His impact was all the more powerful for his own past as an isolationist. But as Vandenburg himself said, Pearl Harbor ended isolationism for any realist.

Today, it is Vandenburg's spirit that should drive our foreign policy and our politics. The practical determination of Senators Nunn and Lugar to help Russia reduce its nuclear arsenal safely and securely; the support from Speaker Gingrich and Leader Gephardt, from Chairman Livingston and Representative Obey for aid to Russia and the newly-independent states; the work of Senators Hatfield, Leahy and McConnell, and Chairman Gilman, and Representative Hamilton for peace in the Middle East; the efforts of Senator Warner to restructure our intelligence—all these provide strong evidence of the continuing benefits and vitality of leadership with bipartisanship.

If we continue to lead abroad and work together at home, we can take advantage of these turbulent times. But if we retreat, we risk squandering all these opportunity and abandoning our obligations which others have entrusted to us and paid a very dear price to bring to us in this moment in history.

I know that the choice to go forward in a lot of these areas is not easy in democracies at this time. Many of the decisions that America's leaders have to make are not popular when they're made. But imagine the alternative. Imagine, for example, the tariffs and barriers that would still cripple the world trading system for years into the future if internationalists coming together across party lines had not passed GATT and NAFTA. Imagine what the Persian Gulf region would look like today if the United States had not stepped up with its allies to stop Iraqi aggression. Imagine the ongoing reign of terror and the flood of refugees at our borders had we not helped to give democracy a second chance in Haiti. Imagine the chaos that might have ensued if we had not moved to help stabilize Mexico's economy. In each case, there was substantial and sometimes overwhelming majority opinion against what needed to be done at the moment. But because we did it, the world has a better chance at peace and freedom.

But above all now, I ask you to imagine the dangers that our children and grandchildren, even after the Cold War is over, still can face if we do not do everything we can to reduce the threat of nuclear arms, to curb the terrible chemical and biological weapons spreading around the world, to counter the terrorists and criminals who would put these weapons into the service of evil.

As Arthur Vandenburg asked at the dawn of the Nuclear Age, after a German V–1 attack had left London in flames and its people in fear, ''How can there be isolation when men can devise weapons like that?''

President Nixon understood the wisdom of those words. His life spanned an era of stunning increases in humankind's destructive capacity, from the biplane to ballistic missiles, from mustard gas to mushroom clouds. He knew that the Atomic Age could never be won, but could be lost. On any list of his foreign policy accomplishments, the giant steps he took toward reducing the nuclear threat must stand among his greatest achievement. As President, I have acted on that same imperative.

Over the past two years, the United States has made real progress in lifting the threat of nuclear weapons. Now, in 1995, we face a year of particular decision in this era—a year in which the United States will pursue the most ambitious agenda to dismantle and fight the spread of weapons of mass destruction since the atom was split.

We know that ours is an enormously complex and difficult challenge. There is no single policy, no silver bullet, that will prevent or reverse the spread of weapons of mass destruction. But we have no more important task. Arms control makes us not only safer, but it makes us stronger. It is a source of strength. It is one of the most effective insurance policies we can write for the future of our children.

Our administration has focused on two distinct, but closely connected areas—decreasing and dismantling existing weapons, and preventing nations or groups from acquiring weapons of mass destruction, and the means to deliver them. We've made progress on both fronts.

As the result of an agreement President Yeltsin and I reached, for the first time in a generation Russian missiles are not pointed at our cities or our citizens. We've greatly reduced the lingering fear of an accidental nuclear launch. We put into force the START I Treaty with Russia that will eliminate from both our countries delivery systems that carry more than 9,000 nuclear warheads—each with the capacity to incinerate a city the size of Atlanta.

START I, negotiated by two Republican administrations and put into force by this Democratic administration, is the first treaty that requires the nuclear powers actually to reduce their strategic arsenal. Both our countries are dismantling the weapons as fast as we can. And thanks to a far-reaching verification system, including on-side inspections which began in Russia and the United States today, each of us knows exactly what the other is doing.

And, again, through the far-sighted program devised by Senators Nunn and Lugar, we are helping Russia and the other newly-independent states to eliminate nuclear forces in transport, safeguard and destroy nuclear weapons and material.

Ironically, some of the changes that have allowed us to reduce the world's stockpile of nuclear weapons have made our nonproliferation efforts harder. The breakup of the Soviet Union left nuclear materials dispersed throughout the newly-independent states. The potential for theft of nuclear materials, therefore, increased. We face the prospect of organized criminals entering the nuclear smuggling business. Add to this the volatile mix, the fact that a lump of plutonium the size of a soda can is enough to build a bomb, and the urgency of the effort to stop the spread of nuclear materials should be clear to all of us.

That's why from our first day in office we have launched an aggressive, coordinated campaign against international terrorism and nuclear smuggling. We are cooperating closely with our allies, working with Russia and the other new-independent states, improving security at nuclear facilities, and strengthening multilateral export controls.

One striking example of our success is Operation Sapphire, the airlift of nearly 600 kilograms of highly-enriched uranium—enough to make dozens of bombs from Kazakhstan to the United States for disposal. We've also secured agreements with Russia to reduce the uranium and plutonium available for nuclear weapons, and we're seeking a global treaty banning the production of fissile material for nuclear weapons.

Our patient, determined diplomacy also succeeded in convincing Belarus, Kazakhstan and Ukraine to sign the Non-Proliferation Treaty and give up the nuclear weapons left on their territory when the Soviet Union dissolved. One of our administration's top priorities was to assure that these new countries would become non-nuclear nations, and now we are also achieving that goal.

Because of these efforts, four potential suppliers of ballistic missiles—Russia, Ukraine, China and South Africa— have all agreed to control the transfer of these missiles and related technology, pulling back from the nuclear precipice has allowed us to cut United States defense expenditures for strategic weapons by almost two-thirds, a savings of about $20 billion a year, savings which can be shifted to vital needs such as boosting the readiness of our Armed Forces, reducing the deficit, putting more police on our own streets. By spending millions to keep or take weapons out of the hands of our potential adversaries, we are saving billions in arms costs and putting it to better use.

Now, in this year of decision, our ambition for the future must be even more ambitious. If our people are to know real lasting security, we have to redouble our arms control, nonproliferation and antiterrorism efforts. We have to do everything we can to avoid living with the 21st century version of fallout shelters and duck-and-cover exercises to prevent another World Trade Center tragedy.

In just four days we mark the 25th anniversary of the Non-Proliferation Treaty. Nothing is more important to prevent the spread of nuclear weapons than extending the treaty indefinitely and unconditionally. And that's why I've asked the Vice President to lead our delegation to the NPT conference this April and to work as hard as we can to make sure we succeed in getting that indefinite extension.

The NPT is the principal reason why scores of nations do not now possess nuclear weapons; why the doomsayers were wrong. One hundred and seventy-two nations have made NPT the most widely subscribed arms limitation treaty in history for one overriding reason—it's in their self-interest to do so. Non-nuclear weapon states that sign on to the treaty pledge never to acquire them. Nuclear weapons states vow not to help others obtain nuclear weapons, to facilitate the peaceful uses of atomic energy and to pursue nuclear arms control and disarmament—commitments I strongly reaffirm, along with our determination to attain universal membership in the treaty.

Failure to extend NPT indefinitely could open the door to a world of nuclear trouble. Pariah nations with rigid ideologies and expansionist ambitions would have an easier time acquiring terrible weapons, and countries that have chosen to forego the nuclear option would then rethink their position; they would certainly be tempted to reconsider that decision.

To further demonstrate our commitment to the goals of the treaty, today I have ordered that 200 tons of fissile material, enough for thousands of nuclear weapons, be permanently withdrawn from the United States nuclear stockpile. Two hundred tons of fissile material that will never again be used to build a nuclear weapon.

A second key goal of ours is ratifying START II. Once in effect, that treaty will eliminate delivery systems from Russian and American arsenals that carry more than 5,000 weapons. The major reductions under START I, together with START II, will enable us to reduce two-thirds the number of strategic warheads deployed at the height of the Cold War. At my urging, the Senate has already begun hearings on START II, and I am encouraged by the interest of the senators from both parties in seeking quick action. I commend the Senate for the action taken so far, and I urge again the approval of the treaty as soon as possible.

President Yeltsin and I have already instructed our experts to begin considering the possibility after START II is ratified of additional reductions and limitations on remaining nuclear forces. We have a chance to further lift the nuclear cloud, and we dare not miss it.

To stop the development of new generations of nuclear weapons, we must also quickly complete negotiations on a comprehensive test ban treaty. Last month I extended a nuclear testing moratorium that I put into effect when I took office. And we revised our negotiating position to speed the conclusion of the treaty while reaffirming our determination to maintain a safe and reliable nuclear stockpile.

We will also continue to work with our allies to fully implement the agreement we reached with North Korea, first to freeze, then do dismantle its nuclear program, all under international monitoring. The critics of this agreement, I believe, are wrong. The deal does stop North Korea's nuclear program, and it does commit Pyongyang to roll it back in the years to come.

I have not heard another alternative proposal that isn't either unworkable or foolhardy, or one that our allies in the Republican of Korea and Japan, the nation's most directly affected, would fail to support.

If North Korea fulfills its commitment, the Korean Peninsula and the entire world will clearly be less threatened and more secure. The NPT, START II, the Comprehensive Test Ban Treaty, the North Korean Agreement, they top our agenda for the year ahead. There are other critical tasks we also face if we want to make every American more secure, including winning Senate ratification of the Chemical Weapons Convention, negotiating legally binding measures to strengthen the Biological and Toxin Weapons Convention, clarifying the ABM Treaty so as to secure its viability while permitting highly effective defenses against theater missile attacks, continuing to support regional arms control efforts in the Middle East and elsewhere, and pushing for the ratification of conventional weapons which, among other things, would help us to reduce the suffering caused by the tens of millions of anti-personnel mines which are plaguing millions of people all across the world.

My friends, this is a full and challenging agenda. There are many obstacles ahead. We cannot achieve it if we give in to a new isolationism. But I believe we can do no less than make every effort to complete it.

Tonight, let us remember what President Nixon told the joint session of Congress when he returned from his historic trip to Moscow in 1972. He said, ''We have begun to check the wasteful and dangerous spiral of nuclear arms. Let us seize the moment so that our children and the world's children can live free of the fears and free of the hatreds that have been the lot of mankind through the centuries.''

Now it is within our power to realize the dream that Richard Nixon described over 20 years ago. We cannot let history record that our generation of Americans refused to rise to this challenge, that we withdrew from the world and abandoned our responsibilities when we knew better than to do it, that we lacked the energy, the vision and the will to carry this struggle forward—the age-old struggle between hope and fear.

So let us find inspiration in the great tradition of Harry Truman and Arthur Vandenburg—a tradition that builds bridges of cooperation, not walls of isolation; that opens the arms of Americans to change instead of throwing up our hands in despair; that casts aside partisanship and brings together Republicans and Democrats for the good of the American people and the world. That is the tradition that made the most of this land, won the great battles of this century against tyranny and secured our freedom and our prosperity.

Above all, let's not forget that these efforts begin and end with the American people. Every time we reduce the threat that has hung over our heads since the dawn of the Nuclear Age, we help to ensure that from the far stretches of the Aleutians to the tip of the Florida Keys, the American people are more secure. That is our most serious task and our most solemn obligation.

The challenge of this moment is matched only by its possibility. So let us do our duty.

Thank you very much.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 4 1995, the Secretary of the Senate, on March 1, 1995, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

S. 257. An act to amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea.

Under the authority of the order of the Senate of January 4, 1994, the enrolled bill was signed on March 1, 1995, during the recess of the Senate by the President pro tempore (Mr. BYRD).

MESSAGE FROM THE HOUSE

At 2:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House of Representatives has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1022. An act to provide regulatory reform and to focus national economic resources on the greatest risks to human health, safety, and the environment through scientifically objective and unbiased risk assessments and through the consideration of costs and benefits in major rules, and for other purposes.

The message also announced, that pursuant to the provisions of Public Law 84–372, the Speaker appoints as a member of the Franklin Delano Roosevelt Memorial Commission the following Member on the part of the House: Mr. LEWS of California.

The message further announced that, pursuant to the provisions of 22 United States Code 276h, the Speaker appoints the following Member as a member on the part of the House of the United States Delegation of the Mexico-United States Interparliamentary Group for the First Session of the 104th Congress: Mr. KOLBE, Chairman.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1022. An act to provide regulatory reform and to focus national economic resources on the greatest risks to human health, safety, and the environment through scientifically objective and unbiased risk assessments and through the consideration of costs and benefits in major rules, and for other purposes; to the Committee on Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on March 1, 1995 she had presented to the President of the United States, the following enrolled bill:

S. 257. An act to amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SIMPSON, from the Committee on Veterans' Affairs:

Special Report entitled ''Legislative and Oversight Activities During the 103d Congress by the Senate Committee on Veterans' Affairs'' (Rept. No. 104–11).

By Mr. HATFIELD, from the Committee on Appropriations, with amendments and an amendment to the title:

H.R. 889. A bill making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes (Rept. No. 104–12).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

Herschelle Challenor, of Georgia, to be a Member of the National Security Education Board for a term of 4 years.

Sheila Cheston,* of the District of Columbia, to be General Counsel of the Department of the Air Force.

Josue Robles, Jr.*, of Texas, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 104th Congress.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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–446. A communication from the President of the United States, transmitting, pursuant to law, a report on the Selective Service System; to the Committee on Armed Services.

EC–447. A communication from Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to the Defense Business Operations Fund; to the Committee on Armed Services.

EC–448. A communication from the Under Secretary of Defense, transmitting, pursuant to law, notice relative to the report on the manpower request for fiscal year 1996; to the Committee on Armed Services.

EC–449. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on proposed obligations for facilitating weapons destruction and nonproliferation in the Former Soviet Union; to the Committee on Armed Services.

EC–450. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report on monetary policy; to the Committee on Banking, Housing, and Urban Affairs.

EC–451. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report on the Stewart B. McKinney Homeless Programs; to the Committee on Banking, Housing, and Urban Affairs.

EC–452. A communication from Assistant Administrator for Weather Services, Department of Commerce, transmitting, pursuant to law, a report relative to the National Weather Service; to the Committee on Commerce, Science, and Transportation.

EC–453. A communication from the President of the National Railroad Passenger Corporation, transmitting, pursuant to law, the legislative report and the Federal Grant request for fiscal year 1996; to the Committee on Commerce, Science, and Transportation.

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 Mrs. HUTCHISON:

S. 480. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Gleam*; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS:

S. 481. A bill to limit the amount of expenditures required under the Endangered Species Act of 1973 and other laws for the protection of fish and wildlife made by the Bonneville Power Administration that may be recovered from ratepayers, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 482. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Emerald Ayes*; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, and Mr. THOMPSON):

S. 483. A bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for the other purposes; to the Committee on the Judiciary.

By Mr. GRAHAM:

S. 484. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish a national clearinghouse to assist in background checks of applicants for law enforcement positions, and for other purposes; to the Committee on the Judiciary.

By Mrs. HUTCHISON:

S. 485. A bill to amend the Solid Waste Disposal Act to provide and clarify the authority for certain municipal solid waste flow control arrangements; to the Committee on Environment and Public Works.

By Mr. HEFLIN (for himself, Mr. SPECTER, Mr. FORD, Mr. THURMOND, Mr. BUMPERS, Mr. BROWN, Mr. SIMON, Mr. SHELBY, Ms. MOSELEY-BRAUN, and Mr. COHEN):

S. 486. A bill to reorganize the Federal administrative law judiciary, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 487. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

By Mr. SPECTER:

S. 488. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on the earned income of individuals and the business taxable income of corporations, and for other purposes; to the Committee on Finance.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 489. A bill to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the Town of Grand Lake, Colorado, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 490. A bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BREAUX (for himself, Mr. HOLLINGS, Mr. INOUYE, Mr. COCHRAN, and Mr. CHAFEE):

S. 491. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient self-management training services under part B of the medicare program for individuals with diabetes; to the Committee on Finance.

By Mr. CHAFEE:

S. 492. A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Intrepid*; to the Committee on Commerce, Science, and Transportation.

S. 493. A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Consortium*; to the Committee on Commerce, Science, and Transportation.

By Mr. JEFFORDS (for himself, Mr. LEAHY, Ms. SNOWE, Mr. KENNEDY, Mr. COHEN, Mr. GREGG, Mr. DODD, Mr. SMITH, Mr. CHAFEE, Mr. KERRY, Mr. LIEBERMAN, and Mr. PELL):

S.J. Res. 28. A joint resolution to grant consent of Congress to the Northeast Interstate Dairy Compact; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWN (for himself and Mr. HELMS):

S. Res. 82. A resolution to petition the States to convene a Conference of the States to consider a Balanced Budget Amendment to the Constitution; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Mr. BUMPERS):

S. Res. 83. A resolution expressing the sense of the Senate regarding tax cuts during the 104th Congress; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. MACK:

S. Res. 84. A resolution saluting Florida on the 150th anniversary of Florida statehood, and for other purposes; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 482. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Emerald Ayes;* to the Committee on Commerce, Science, and Transportation.

"EMERALD AYES" CERTIFICATE OF DOCUMENTATION LEGISLATION

Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the vessel *Emerald Ayes*, official number 986099, be accorded coastwise trading privileges and be issued a certificate of documentation under section 12103 of title 46, United States Code.

The *Emerald Ayes* was constructed in Canada in 1992, and is a sailing catamaran for use as a recreational vessel. It is 36.4 feet in length, 18.2 feet in breadth, has a depth of 9.4 feet, and is self-propelled.

The vessel was purchased by Dr. Stephen D. Michel of Mount Pleasant, SC, who purchased it with the intention of chartering the vessel for short sailing tours. However, because the vessel was built in Canada, it did not meet the requirements for coastwise license endorsement in the United States. Such documentation is mandatory to enable the owner to use the vessel for its intended purpose. He first sought to purchase a U.S.-built vessel, but this type of sailboat is not built by any U.S. shipbuilders. He has invested a considerable amount of money in this vessel, and without a Jones Act waiver for the boat, he will be forced to sell it.

The owner of the *Emerald Ayes* is seeking a waiver of the existing law because he wishes to use the vessel for charters. His desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If he is granted this waiver, it is his intention to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Emerald Ayes* to engage in the coastwise trade and the fisheries of the United States.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, and Mr. THOMPSON):

S. 483. A bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes; to the Committee on the Judiciary.

THE COPYRIGHT TERM EXTENSION ACT OF 1995

Mr. HATCH. Mr. President, Congress has in recent years passed many significant copyright measures, but it is a rare occasion when we address the fundamental aspects of copyright protection, such as the nature of the works protected, the scope of rights recognized, or the duration of copyright.

Still, from time to time, it becomes clear that fundamental change is needed. I believe we are now at such a point with respect to the question of whether the current term of copyright adequately protects the interests of authors and the related question of whether the term of protection continues to provide a sufficient incentive for the creation of new works of authorship.

The current term of copyright is, in my view, inadequate to perform its historic functions of spurring creativity and protecting authors. Thus, I am filing today the Copyright Term Extension Act of 1995, which has the general purpose of increasing existing copyright terms by the addition of a further 20 years of protection. I am pleased to be joined in this effort by my colleagues on the Senate Judiciary Committee, Senator FEINSTEIN of California and Senator THOMPSON of Tennessee.

Mr. President, Congress has protected copyrights since the very first Congress, and the entire history of our copyright laws has been a history of everincreasing protection, both with respect to the nature of works protected, as well as with respect to the duration of protection. Still, in over 200 years, the copyright term has only been extended on three prior occasions.

In 1790, the first Congress set the maximum term of copyright protection at 28 years—a 14-year initial period that could be renewed for an additional 14 years. In 1831, we extended that period by 14 years—a 28-year initial period that could be renewed for an additional 14 years. In 1909, the major copyright reform act of that era extended the maximum term of copyright to 56 years—a 28-year initial term that could be renewed for an additional 28 years.

Most recently, the Copyright Act of 1976 fundamentally altered the way in which we measure copyright by protecting works throughout the life of their creator plus an additional 50 years. In so doing, we adopted the prevailing international standard of protection—a standard that was first recommended by the members of the Berne Convention for the Protection of Literary and Artistic Works in the Act of Berlin of November 13, 1908, and that was made mandatory for members of the Berne Union by the Act of Brussels of June 26, 1948.

For existing works, the Copyright Act of 1976 created a maximum term of 75 years of protection—a 34-percent increase in term of protection over the preceding maximum of 56 years. The 20-year increase in protection that the Copyright Extension Act of 1995 provides for existing works is a far more modest extension of copyright than that which we adopted in 1976, or, in fact, that which was implemented by the two previous congressional extensions of copyright term.

Every work created after the effective date of the Copyright Term Extension Act will be prospectively protected for the remainder of the author's life and for 70 years thereafter. Works in existence on that date will receive the identical protection, if their author is still living. As for the works of authors already decreased, my bill provides an additional 20 years of protection; provided, that the works have not, on the effective date of the bill, already gone into the public domain.

Those works whose term of protection under the current Copyright Act is not tied to the life of an author but is a fixed term of years, such as works made for hire, will also receive an additional 20 years of protection. Where they are protected for 75 years under present law, they will be protected for 95 years under the provisions of the Copyright Term Extension Act.

By providing this across-the-board extension of copyright for an additional 20 years, I believe that authors will reap the full benefits to which they are entitled from the exploitation of their creative works. In addition, there are significant trade benefits to be obtained by extending copyright in the United States to bring our law into conformity with the longer copyright term enjoyed by authors in other nations.

As I noted above, our current basic copyright term of life plus 50 years is prevailing international standard, one now also applicable to the members of the World Trade Organization through the implementation of the Agreement on the Trade Related Aspects of Intellectual Property Protection [TRIPS]. Despite the nearly universal adoption of the life-plus-50-year term of copyright, many have observed that the term itself, particularly the decision to give significance to 50 years, has achieved dominance perhaps more through imitation and acceptance than through an analytical belief that the life-plus-50-year term represents the ideal period of protection needed to appropriately reward and inspire creative activity. See, that is, Ricketson, ''The Berne Convention for the protection of literary and artistic works: 1886–1986'' p. 321.

> While the [Berne Convention's] prescriptions as to duration are quite precise, there has never been any real effort made to justify why, or to explain how, these terms have come to be adopted * * *

Even though the United States adopted the life-plus-50-year term of copyright only 19 years ago, and even though that term of protection has a nearly century-old history in the international arena, I do not believe that it should be accepted uncritically as an ideal or even sufficient measurement of the most appropriate duration for copyright term. Instead, we should be aware of the many nations that have historically provided longer terms of copyright as well as the recent developments to extend copyright in Europe. Also, we need to examine the real-life experience of creators, their reasonable expectations for exploiting their works, and the concerns and views of the descendants, heirs, and others whom the postmortem protection of copyright was designed to benefit.

Among the European nations, Germany and Spain have for some time recognized respectively terms of life plus 70 pears and life plus 80 years, and Portugal has for much of this century provided a perpetual term of protection. In addition, it is common for bilateral agreements relating to copyright protection among particular nations to provide for terms of protection in excess of the life-plus-50-year standard.

As far as a general reconsideration of the life-plus-50-year term, it should be noted that as long ago as 1961 the permanent committee of the Berne Union began the process of reexamining the sufficiency of that term of protection. At the Stockholm Conference of 1967, a proposal to increase the copyright term to life plus 80 years was debated though not adopted. It is, however, easy to speculate that the failure to increase copyright term at that time may have been disproportionately influenced by the contemporaneous efforts in the United States to adopt a copyright act compatible with the existing minimum requirements of the Berne Convention. An extension of the minimum term at that time would, however meritorious, surely have made more difficult the eventual adoption of the Copyright Act of 1976 in the United States.

In the intervening years, the inadequacy of the life-plus-50-year term has become more apparent, and nations have acted to increase the duration of copyright. Most significantly, the nations of the European Union, pursuant to an October 1993, directive of the Council of the European Communities, are committed to reaching a life-plus-70-minimum term of protection by July of this year. It is thus fair to say that for a significant portion of the developed world—for the nations, moreover, that have traditionally been in the forefront of protecting authors' rights—the term of life-plus-70 has gained a broad acceptance.

I am pleased to be the author of the bill that I hope will bring American copyright law into accord with this developing international understanding as to the appropriate duration of copyright.

The benefits of extending copyright by 20 years will be felt in many areas. The vast majority of our European and other trading partners have obligated themselves to extend to our authors the full protection of their copyright laws—at least to the extent that America recognizes complementary rights. Of course, I should add that with respect to the minimum requirements for copyright protection, national treatment for U.S. authors is mandated by the Berne Convention as well as by the TRIPS agreement. But copyright protections in excess of the Berne minima will not be freely granted to U.S. authors on the basis of national treatment. Instead, the option allowed by the Berne Convention's ''role of the shorter term'' will no doubt be often employed by foreign states with the result that American works will be protected in those nations only to the extent that the works of their authors are protected in America—article 7(1) of the EC directive explicitly mandates rule of the shorter term treatment for the works of foreign authors.

After the European law goes into effect, American authors will be theoretically protected for an additional 20 years, but will in reality be unprotected for that entire period of time—unless American law is strengthened in the manner proposed by the bill I am filing today.

America exports more copyrighted intellectual property than any country in the world, a huge percentage of it to the nations of the European Union. Intellectual property is, in fact, our second largest export; it is an area in which we possess a large trade surplus. At a time when we face trade deficits in many other areas, we cannot afford to abandon 20 years' worth of valuable overseas protection now available to our creators and copyright owners. We must adopt a life-plus-70-year term of copyright if we wish to improve our international balance. It just makes plain common sense to ensure fair compensation for the American creators whose efforts fuel this important intellectual property sector of our economy by extending our copyright term to allow American copyright owners to benefit from foreign uses. By so doing, we guarantee that our trading partners do not get a free ride for their use of our intellectual property.

While we may be accustomed to a substantial American balance-of-trade surplus with respect to trade in works of intellectual property, we cannot afford to take this condition for granted. In a world economy where copyrighted works flow through a fiber optic global information infrastructure, American competitiveness demands that we adapt our laws—and adapt them quickly—to provide the maximum advantage for our creators.

Anonymous and pseudonymous works: I noted about that the copyright term extension provided by the bill I file today is not mandated by our treaty obligations. But it may be well to note parenthetically that at least in one respect the 20-year term extension does advance our ongoing efforts to fulfill our obligations under the Berne Convention. I am speaking of the term of protection applicable to anonymous and pseudonymous works. Article 7(3) of the Berne Convention mandates that such works be protected for at least 50 years after they are first made lawfully available to the public. Our current law protects those works for 75 years, yet §302(c) of the Copyright Act also establishes a maximum term of protection—

100 years from the date of their creation—beyond which no anonymous or pseudonymous work will be protected, regardless of the date on which it may ultimately be made available to the public. My bill increases each of these terms by 20 years.

Since the Stockholm Act of July 14, 1967, the Berne Convention has recognized the need for an outer limit on the protection of anonymous and pseudonymous works by providing that, ''The countries of the Union shall not be required to protect anonymous or pseudonymous works in respect of which it is reasonable to presume that their author has been dead for fifty years.'' Art. 7(3). It has been argued that the American provision setting an outer limit of 100 years of protection for anonymous and pseudonymous works is in violation of the Berne Convention, see Nimmer, ''Copyright'' §9.01[D], at least with respect to works whose country of origin is not the United States. By increasing the maximum protection from its current 100 years to a period of 120 years, the Copyright Term Extension Act will at least serve to reduce greatly the number of potential situations in which our law may operate in violation of the Berne Convention. This for the reason that it is far more reasonable to presume that an author who created a work 120 years ago may have been deceased for 50 years, than it is to presume that the author of a work created only 100 years ago may have been deceased for at least 50 years.

Mr. President, that is the theoretical, one might say jurisprudential, background of the copyright issue before us today. But it may be well to consider this legal question in its practical aspect as well. What works are we talking about? Who is affected by this legislation?

Mr. President, this legislation matters and it matters to some of the most distinguished members of America's cultural and artistic community. If we examine the significance of this legislation just in the area of popular music alone, I believe we will see its importance.

Consider the following songs that fell into the public domain just 2 months ago at the end of 1994—works still widely performed in theaters and through media around the world:

''Swanee'' by George Gershwin and Irving Caesar; ''A Pretty Girl Is Like a Melody'' by Irving Berlin; ''Alice Blue Gown'' by Joseph McCarthy and Harry Tierney.

In the preceding 2 years, the following standards also lost copyright protection, despite their continued popularity: ''After You've Gone'' by Henry Creamer and turner Layton; ''Till the Clouds Roll By'' by Jerome Kern and P.G. Wodehouse; ''Over There'' by George M. Cohan; ''Till We Meet Again'' by Richard Whiting and Raymond Egan.

If the Copyright Term Extension Act of 1995 is not adopted this year in this session of Congress, the following songs will no longer be protected by copyright: ''Look for the Silver Lining'' by Jerome Kern and bud DeSylva; ''Avalon'' by Al Jolson, Bud DeSylva, and Vincent Rose.

Within the next few years, if Congress does not act to adopt legislation such as that which I introduce today, the following musical works will also fall into the public domain: ''Rahpsody in Blue'' by George Gershwin; ''My Buddy'' by Walter Donaldson and Gus Kahn; ''What'll I Do'' by Irving Berlin; ''Georgia'' by Walter Donaldson and Howard Johnson; ''It Had To Be You'' by Isham Jones and Gus Kahn; ''Showboat'' by Jerome Kern and Oscar Hammerstein II.

All of these songwriters and composers are household names still, after 75 years. Indeed ''Showboat'' is back on Broadway, eight performances a week, nearly 70 years after its premiere.

But I would like to draw particular attention to the career of Walter Donaldson. He composed the songs cited above when he was in his twenties, and he died in 1947 when he was in his midfifties. He composed innumerable standards and will forever be linked to the extraordinary success of the 1927 film ''The Jazz Singer'' in which his songs were sung by Al Jolsen. The historical significance of that motion picture, the first sound film to be commercially released, can hardly be overstated.

If the present copyright law had been in effect in the 1920's, all of Walter Donaldson's compositions would fall into the public domain within the next 2 years. Yet these historical facts should not mislead us into thinking that the copyright status of his works is an academic issue. For it was Ellen Donaldson, the composer's daughter, who first alerted me to the importance of this issue only 2 years ago. I do not think she will mind my pointing out that she is now only in her early fifties. She remains extremely active in publishing and exploiting her father's music and in protecting his copyrights. Like the children of composers such as Richard Rogers, Irving Berlin, Richard Whiting, Hoagy Carmichael, and many, many others, her legitimate interest in her father's copyrights can be expected to continue for decades, certainly for another 20 years.

Mr. President, from interviews I have had with writers, authors, and artists of all kinds, and from the hearings we have held on issues of concern to authors in the Judiciary Committee over the past 18 years, I have come to the conclusion that the vast majority of authors expect their copyrights to be a potentially valuable resource to be passed on to their children and through them into the succeeding generation. I believe that they are reasonable in this expectation and that such a general expectation is what the Framers of the Constitution had in mind when they constrained the power of Congress to grant patents and copyrights only with the very broad and flexible requirement that such rights be granted ''for limited times.'' Article I, section 8. When, however, we so often see copyrights expiring before even the first generation of an author's heirs have fully benefited from them, then I believe that is accurate to say that our term of copyright is too short and for a too limited time.

One could also cite demographic factors that point to the need for a longer term if copyright is truly to reflect the natural desire of authors to provide for their heirs. Principal among these would be the increasing lifespan of the average American, as well as the increasing fact of children being born far later, in a marriage than in past decades. Whatever the reason, the inescapable conclusion must be drawn that copyrights in valuable works are too often expiring before they have served their purpose of allowing an author to pass their benefits on to his or her heirs. I urge my colleagues to pass the Copyright Term Extension Act of 1995 to remedy this situation.

Mr. President, we in Congress are currently dealing with a number of fundamental issues that bring into question how we have done things in the Federal government over many years. These debates raise the question of the proper role of the Federal Government in sponsoring, stimulating, and, where appropriate, funding artistic activity across a wide range of fields. We are asking virtually every Federal program now in existence to justify its function. And, as a result, we hear much about the programs that do not work.

We hear all too little about the good that Government can do when it functions in a limited and effective way. I would submit that the copyright system—in the way that it rewards private initiative through governmental protection, all without the need for a regulatory bureaucracy—is a model for the best that government can do to improve the life of its citizens.

And when one considers that all works of creativity fixed by any method now known or later developed are invested from the moment of their creation with substantial rights that can be protected in any Federal court, then I think it becomes clear that the copyright system is something we should encourage and, where appropriate, extend.

Because the bill I introduce today does extend the benefits of copyright in an appropriate and obviously needed way, I am proud to be its sponsor. I urge my colleagues to give it their most serious consideration.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 483

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 ''Copyright Term Extension Act of 1995''.

SEC. 2. DURATION OF COPYRIGHT PROVISIONS.

(a) PREEMPTION WITH RESPECT TO OTHER LAWS.—Section 301(c) of title 17, United States Code, is amended by striking out ''February 15, 2047'' in each place it appears and inserting ''February 15, 2067'' in each such place.

(b) DURATION OF COPYRIGHT: WORKS CREATED ON OR AFTER JANUARY 1, 1978.—Section 302 of title 17, United States Code, is amended—

(1) in subsection (a) by striking out ''fifty'' and inserting in lieu thereof ''seventy'';

(2) in subsection (b) by striking out ''fifty'' and inserting in lieu thereof ''seventy'';

(3) in subsection (c) in the first sentence—

(A) by striking out ''seventy-five'' and inserting in lieu thereof ''ninety-five''; and

(B) by striking out ''one hundred'' and inserting in lieu thereof ''one hundred and twenty''; and

(4) in subsection (e) in the first sentence—

(A) by striking out ''seventy-five'' and inserting in lieu thereof ''ninety-five'';

(B) by striking out ''one hundred'' and inserting in lieu thereof ''one hundred and twenty''; and

(C) by striking out ''fifty'' in each place it appears and inserting ''seventy'' in each such place.

(c) DURATION OF COPYRIGHT: WORKS CREATED BUT NOT PUBLISHED OR COPYRIGHTED BEFORE JANUARY 1, 1978.—Section 303 of title 17, United States Code, is amended in the second sentence—

(1) by striking out ''December 31, 2002'' in each place it appears and inserting ''December 31, 2012'' in each such place; and

(2) by striking out ''December 31, 2027'' and inserting in lieu thereof ''December 31, 2047''.

(d) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—

(1) Section 304 of title 17, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (B) by striking out ''47'' and inserting in lieu thereof ''67''; and

(II) in subparagraph (C) by striking out ''47'' and inserting in lieu thereof ''67'';

(ii) in paragraph (2)—

(I) in subparagraph (A) by striking out ''47'' and inserting in lieu thereof ''67''; and

(II) in subparagraph (B) by striking out ''47 and inserting in lieu thereof ''67''; and

(iii) in paragraph (3)—

(I) in subparagraph (A)(i) by striking out ''47'' and inserting in lieu thereof ''67''; and

(II) in subparagraph (B) by striking out ''47'' and inserting in lieu thereof ''67''; and

(B) in subsection (b) by striking out ''seventy-five'' and inserting in lieu thereof ''ninety-five''.

(2) Section 102 of the Copyright Renewal Act of 1992 (Public Law 102–307; 106 Stat. 266; 17 U.S.C. 304 note) is amended—

(A) in subsection (c)—

(i) by striking out ''47'' and inserting in lieu thereof ''67'';

(ii) by striking out ''(as amended by subsection (a) of this section)''; and

(iii) by striking out ''effective date of this section'' each place it appears and inserting in each such place ''effective date of the Copyright Term Extension Act of 1995''; and

(B) in subsection (g)(2) in the second sentence by inserting before the period the following: '', except each reference to forty-seven years in such provisions shall be deemed to be sixty-seven years''.

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

Mrs. FEINSTEIN. Mr. President, as always when it comes to matters of copyright law, the distinguished chairman of the Judiciary Committee has spoken well and to the point as to why extending the basic term of copyright protection by 20 years is both the right and the economically desirable thing to do, and to do without delay. As the bill's coauthor, I'd like to add just a few thoughts about our proposal to extend the length of copyright protection for only the fourth time since the Founding Fathers established such rights more than 200 years ago.

First principles come first. The fundamental animating principle of copyright protection was—and remains—assuring that the Nation's most creative individuals have and retain a sufficient economic incentive to continue to craft, work by copyrightable work, the incomparable mosaic of our Nation's cultural life. For many years now, such incentive has been considered to be the right to profit from licensing one's work during one's lifetime and to take pride and comfort in knowing that one's children—and perhaps their children—might also benefit from one's posthumous popularity. Indeed, it was to preserve that incentive that Congress adopted the current life plus 50 years term that is now the law.

Human longevity, however, is increasingly undermining this fundamental precept of copyright law, Mr. President, and with it the economic incentive deemed essential by the authors of the Constitution. We all had the great good fortune, for example, to have the incomparable Irving Berlin among us until 1989, when he died at the age of 101. By that time, however, Mr. Berlin had outlived the period in which he was entitled to royalties from the immortal ''Alexander's Ragtime Band.'' Although not every American copyright owner will reach the century mark, Mr. President, it's clear that we as a Nation are living longer and more active lives.

Copyright law has in the past—and should now again—reflect that central fact of life. Accordingly, the Copyright Term Extension Act of 1995 uniformly extends the life of copyright protection in this country by 20 years, a modest extension relative to past adjustments, as Chairman HATCH points out. Writers, artists, filmmakers, composers, photographers, sculptors, and cartographers alike—and their children, all will benefit from this overdue adjustment. Perhaps more importantly, as the ultimate beneficiaries of the creativity that copyright protection is intended to assure, so will we all.

Second, Mr. President, as important as America's cultural enrichment is, the United States also stands to benefit dramatically on the world economic stage from extension of the current copyright term. As the tense and protracted negotiations with China just concluded underscored, intellectual property—the collective copyrightable output of America's creators of movies, music, art and other works—is an enormous asset to the Nation's balance of trade.

Indeed, in a recent Billboard magazine commentary, Prof. Arthur Miller of the Harvard Law School noted that, ''In 1990, America's 'copyright industries' recorded $34 billion in foreign sales * * *.'' It's no wonder, Mr. President, that the Chinese preferred to appropriate American film and music for resale—two great exports from my State of California—rather than license American works.

By extending to life plus 70 years the basic copyright protection afforded in the United States for new works, Congress will assure comparable protection for American authors in the countries of the European Union, which will formally adopt the life-plus-70 standard this summer. If we do not act, Mr. President, those nations quite simply will not be required to provide American authors, artists and other copyright holders with more than the protection we afford their intellectual property holders here at home. Simply put, Mr. President, conforming our intellectual property laws with those of our trading partners in the service of American competitiveness is critical.

As Professor Miller aptly put it: ''Unless Congress matches the copyright extension adopted by the European Union, we will lost 20 years of valuable protection against rip-off artists around the world.'' I'm certain that the tired, but successful team from the United States Trade Representative's office just returned from China will testify if asked, Mr. President, that the stronger our copyright laws here at home, the better the deal they can negotiate for American copyright holders abroad. Since America is—and is likely to remain—the world's principal exporter of popular culture, extension of the basic copyright term makes international dollars and sense.

Third, and finally, Mr. President, I want to note for the record the extraordinary support for this legislation within the intellectual property community. Not only do movie and music companies strongly back this bill as written, as one would expect, but book and music publishers, performing rights societies representing America's premier songwriters and composers, and major software producing firms all concur that Congress can and must pass this important legislation.

I want to thank Chairman HATCH and his staff once again, Mr. President, for another—to my mind—successful collaboration to protect and encourage the production of American intellectual property. Just as was the case with the digital performance rights legislation which we first introduced in the last Congress and jointly offered again recently, it is equity and economics which make the Copyright

Term Extension Act of 1995 an important and worthwhile bill.

I commend it to my colleagues, and look forward to working with them and the copyright community at large to put it—as well as digital performance rights legislation—before the President by the end of this session of Congress.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

[From Billboard magazine, January 14, 1995]

EXTENDING COPYRIGHTS PRESERVES U.S. CULTURE

(By Arthur R. Miller)

Beginning this summer, all member nations of the European Union will extend the length of copyright protection to the life of the author plus 70 years. Should we in America provide the same protection for our own writers, musicians, artists, computer programmers, and other creators of copyrighted items?

Some feel that we should not tamper with existing U.S. law, which provides copyright protection for life plus 50 years. But this status-quoism ignores some fundamental changes that have occurred in the 20th century.

One of the major reasons Congress originally adopted life-plus-50-years was to offer protection not only to the creator of the copyrighted works, but to his or her children and grandchildren—that is, to three generations in all. With people living longer today, an extension of the copyright term by 20 years would roughly correspond to the increase in longevity that has occurred during the 20th century.

In addition, Congress has already recognized the wisdom of extending copyright protection to match the terms guaranteed by other nations. That is exactly what Congress did in 1976 when it extended the copyright term to life-plus-50-years, in order to bring American law into line with the term then commonly recognized by other nations.

But beyond this, the main arguments for term extension are equity and economics.

If Congress does not extend to Americans the same copyright protection afforded Europeans, American creators will have 20 years less protection than their European counterparts—20 years during which Europeans will not be paying Americans for our copyrighted products. This situation would not only be unfair to creators of copyrighted works, but would be harmful economically to the country as a whole.

The export of intellectual property is growing at a tremendous rate because America dominates popular culture the world over. In 1990, America's ''copyright industries'' recorded $34 billion in foreign sales of records, CDs, computer software, motion pictures, music, books, scientific journals, periodicals, photographs, designs, and pictorial and sculptural works. Because the world is so eager for the products of America's copyright industries, they are one of the few bright spots in our balance-of-trade picture.

The question of copyright extension should be viewed in the larger context of bilateral and multilateral trade talks—including the Trade Related Intellectual Property Rights (TRIPS) negotiations under GATT. U.S. trade representatives have found that shortcomings in our own copyright law are used against us when we call for stronger protection for American works overseas. One can just hear the Europeans objecting in future negotiations: ''How can you ask for better protection in Europe when you do not even grant the same term of protection we do?''

The need for strong copyright protection becomes more important every year as a weapon with which to fight the piracy of intellectual property. Overseas piracy of American copyrighted material has grown dramatically in recent years due to the availability of equipment that can make cheap copies of movies, videotapes, sound recordings, and computer programs. As more and more digital technology arrives on the scene, the problem will only become worse.

Indeed, China alone produced an estimated $2 billion worth of counterfeit recordings and computer discs last year. According to the International Federation of the Phonographic Industry, China now has as many as 26 factories capable of producing 62 million compact discs. China's domestic market accounts for only about 3 million discs, so the dimension of the loss to copyright owners is obvious. Unless Congress matches the copyright extension adopted by the European Union, we will lose 20 years of valuable protection against rip-off artists around the world.

It would not take long to see what harm can come from not changing our laws to match those of Europeans. America may be a young nation, but we have the world's oldest popular culture. Many wonderful motion pictures and songs—including Irving Berlin's ''Alexander's Rag Time Band''—already have lost their copyright protection. Dozens, if not hundreds, of other valuable songs and motion pictures—the legacy of American culture—also will lose their protection in the next few years. For example, if Congress does not act soon, such classics as ''After You've Gone,'' ''I'm Always Chasing Rainbows,'' ''A Pretty Girl Is Like A Melody,'' ''Swanee,'' and ''The World Is Waiting For The Sunrise'' will fall into the public domain, and that is only the beginning.

Commentary writer Professor Lewis Kurlantzick (Billboard, Oct. 29, 1994) asserted that when copyrighted works lose their protection, they become more widely available. At first blush, this appears logical. But, paradoxically, works of art become less available to the public when they enter the public domain—at least in a form that does credit to the original. This is because few businesses will invest the money necessary to reproduce and distribute products that have lost their copyright protection and can therefore be reproduced by anyone. The only products that do tend to be made available after a copyright expires are ''down and dirty'' reproductions of such poor quality that they degrade the original copyrighted work. And there is very little evidence that the consumer really benefits economically from works falling into the public domain.

Kurlantzick also denigrates the importance of long-term copyright protection by stating that ''a dollar to be received 75 years from now is worth a small fraction of one cent.'' But, he fails to see that the dollar value placed on future copyright advantages will increase more or less in proportion with the inflation rate. That is to say, if the dollar loses 90% of its value over the next 75 years, then the cost of goods and services will be roughly 90% higher in 75 years than it is today.

For all these reasons, it's clear why Congress should act. America can reap valuable benefits, at no cost to itself, if Congress enacts legislation to extend our copyright protection by 20 years. By harmonizing our laws with the EU, we can reduce our balance-of-trade deficit, encourage economic investment, strengthen our hand in dealing with intellectual piracy, and see to it that America's authors, composers, artists, and computer programmers receive the same level of protection afforded the creative people of other nations. Thus, copyright term extension makes economic sense, and it's equitable.

By Mr. GRAHAM:

S. 484. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish a national clearinghouse to assist in background checks of applicants for law enforcement positions, and for other purposes; to the Committee on the Judiciary.

THE LAW ENFORCEMENT AND CORRECTIONAL OFFICERS EMPLOYMENT REGISTRATION ACT OF 1995

● Mr. GRAHAM. Mr. President, I introduce the Law Enforcement and Correctional Officers Employment Registration Act of 1995, which will establish a national clearinghouse to assist in background checks on law enforcement applicants.

This legislation would establish a national data bank to provide quick, accurate and prior officer employment history on all applicants for law enforcement agencies. This clearinghouse has been called a Pointer File and simply maintains basic information of all certified officers, including names, dates of birth, social security numbers, dates of employment, and any decertifications. The Department of Justice would maintain and offer computer access to all criminal agencies.

The intent of my legislation is to help prevent what ''Dateline NBC'' has referred to as gypsy cops. These are police officers who have been dismissed or have been forced to resign from previous positions but conceal prior employment history in future job applications.

In the case of the beating death of Bobby Jewett on November 24, 1990, in West Palm Beach, FL, ''Dateline NBC'' was able to subsequently trace the prior employment histories of the two officers involved in the case through four States and eight different law enforcement agencies. Much of this had been concealed in their job applications.

As noted in a Tampa Tribune editorial in support of a clearinghouse,

> Few agencies, particularly those in rural areas and smaller towns, have the personnel and resources to conduct thorough background checks on police applicants. Not even the largest agencies always succeed in finding an officer's past if he or she is determined to hide it.

Florida Department of Law Enforcement Commissioner James T. Moore adds, ''Experience has shown that, after being found guilty of misconduct, many problem officers resign or are fired, only to seek police jobs elsewhere. The clearinghouse system would allow a law enforcement agency to review each officer applicant's prior history as an officer.'' In order to protect the rights of officers, however, the clearinghouse would not contain information relating to causes of dismissal.

Thomas J. O'Loughlin, chief of police of Wellesley, MA, notes,

The safety of the citizens of this Commonwealth and this Nation is either weakened or solidified by the character of the individuals that we entrust with the responsibility to protect. This legislation provides society with the necessary tools to ensure that individuals who have violated this trust do not simply relocate and once again commit grievous offenses against the public good, and it ensures that a complete and thorough background investigation will be completed prior to an individual assuming the public's trust to be a protector of society.

This legislation is essential to maintaining public confidence in the police. Further, the financial impact of office misconduct, as measured by the costs of civil liability litigation, is alarming. A 1992 survey of members of the National Institute of Municipal Law Officers found police liability to be the leading cause of soaring litigation costs since 1989. For the majority of law enforcement officers, this is also an issue of job integrity and job safety. The misdeeds of a few place others in an unfavorable light and also at risk.

It is safe to say that a history of past dishonorable service in other criminal justice agencies is the most compelling reason to reject an offer. However, this critical information is often unavailable. That is why the International Association of Chiefs of Police has endorsed this legislation.

In addition, the Florida Criminal Justice Standards and Training Commission adopted a unanimous resolution in support of such a program. I would like to thank these organizations, as well as Commissioner Moore, for their efforts to protect effectiveness and professionalism in law enforcement as well as the public's safety.

I urge my colleagues to join me in support of this important legislation.●

By Mrs. HUTCHISON:

S. 485. A bill to amend the Solid Waste Disposal Act to provide and clarify the authority for certain municipal solid waste flow control arrangements; to the Committee on Environment and Public Works.

THE MUNICIPAL WASTE FLOW CONTROL TRANSITION ACT OF 1995

● Mrs. HUTCHISON. Mr. President, on May 16, 1994 the U.S. Supreme Court handed down a decision in C&A Carbone versus Clarkstown, NY that has important implications for local municipal waste management planning.

At issue in the Carbone case was the constitutionality of local ordinances that enforce flow control. A flow control ordinance enables a local government to direct locally generated waste to a specific waste disposal facility. The waste disposal facility is typically a solid waste combustor that is owned by the local government.

In its Carbone decision the Court found that flow control was an unconstitutional interference in interstate commerce. In general, this ruling was a victory for taxpaying consumers who will benefit from the improved service and prices that result from competition for waste disposal services.

However, the Court's decision leaves local governments with flow control regimes in a vulnerable position. In most cases, flow control assures the financial feasibility of a locally owned or financed waste disposal facility. That is, municipal bonds were sold and facilities built in reliance on flow control guaranteed waste disposal income. Lacking this the financial feasibility of such disposal facilities and local governments is jeopardized.

At the end of the 103d Congress a number of my colleagues and I worked on a bill that would have grandfathered existing flow control arrangements. Unfortunately, the Senate did not complete action before adjournment.

If anything, the urgency of cushioning the effects of the Carbone decision on affected local governments has increased. Although there have not yet been any defaults, the risk of local and municipal bond market disruptions continues.

Today I offer legislation, the Municipal Waste Flow Control Transition Act of 1995, that is very similar to that supported by most of the affected parties at the end of the last Congress.

My bill preserves flow control for local governments that made substantial investments predicated on flow control authority before Carbone. It ensures flow control authority for the life of the affected facilities. However, my legislation would not permit new flow control arrangements, thereby assuring free competition and unfettered interstate commerce in the future.

Mr. President, we should protect the local governments and local taxpayers who are threatened financially by invalidation of their flow control ordinances. We can do so, as my bill does, in a straight forward fashion and, at the same time, assure that businesses and homeowners will have the benefits of a free market in the future.●

By Mr. HEFLIN (for himself, Mr. SPECTER, Mr. FORD, Mr. THURMOND, Mr. BUMPERS, Mr. BROWN, Mr. SIMON, Mr. SHELBY, Ms. MOSELEY-BRAUN, and Mr. COHEN):

S. 486. A bill to reorganize the Federal administrative law judiciary, and for other purposes; to the Committee on the Judiciary.

THE REORGANIZATION OF THE FEDERAL ADMINISTRATIVE JUDICIARY ACT

Mr. HEFLIN. Mr. President, I am pleased to rise in support of legislation entitled ''the Reorganization of the Federal Administrative Judiciary Act.'' I am pleased to advise that I have been joined today by nine colleagues from both sides of the aisle and who are original cosponsors of this reform legislation. They are Senators SPECTER, FORD, THURMOND, BUMPERS, BROWN, SIMON, SHELBY, MOSELEY-BRAUN, and COHEN.

The purpose of this legislation is to reorganize and establish an independent corps of administrative law judges within the executive branch of Government. The bill is designed to address two critical issues which face our Nation. First, an independent corps is vital to the continued impartial resolution of issues and decision of cases arising under the administrative procedure act. Second, this bill streamlines the Federal bureaucracy in order to better meet the needs of the people of the United States. For these reasons, legislation needs to be adopted to improve this Nation's administrative system of justice.

In the 103d Congress, I introduced similar legislation, and on September 15, 1993, the Judiciary Committee considered this legislation, and ordered it favorably reported in the nature of a substitute to the Senate. On November 19, 1993, this bill was considered on the floor of the Senate and adopted a technical amendment which I offered and two valuable amendments offered by my colleagues Senator HANK BROWN of Colorado and Senator WILLIAM COHEN of Maine. The legislation I am introducing today is identical to the legislation which unanimously passed the Senate on November 19, 1993.

While the House of Representatives regretfully failed to consider S. 486 during the second session of the 103d Congress, I am hopeful, in light of the recent election results by which the American people expressed their support for leaner, more efficient, and less costly Federal Government, that the new Congress will favorably consider and adopt this legislation and send it to President Clinton for signature.

the primary objective of this legislation is to reorganize the Federal administrative judiciary to promote efficiency, productivity, and the reduction of overhead functions. It will provide for economies of scale to better serve the public in the resolution of administrative disputes. This goal will be accomplished by placing all ALJ's in a unified corps with a chief judge as the primary administrative officer. The chief judge will be responsible for developing programs and practices, which attain this objective. Those programs and practices will include the training of judges in more than one subject area. This training will permit the utilization of the skills and expertise of each judge across agency lines to meet the demands of the existing workload.

Generally, this bill would establish an independent corps for administrative law judges which would operate under the executive branch of the Government. The corps would be governed by a chief administrative law judge. Further, the corps would be divided into eight divisions, with each division governed by a division chief administrative law judge. The chief and division chief ALJ's would be Presidential appointments, by and with the advice and consent of the U.S. Senate.

The chief and division chief ALJ's would form a council. The council would be the policy making body for

the corps. The council would have the authority to assign judges to divisions, appoint persons as administrative law judges, prescribe rules of practice and procedure for the corps, issue appropriate rules and regulations for the efficient conduct of the corps, and generally manage the day-to-day operations of the corps.

This bill provides explicit protection for ALJ's. The corps would continue to make appointments of administrative law judges from a register of qualified candidates maintained by the Office of Personnel Management. In order for an ALJ to be involuntarily reassigned to a new permanent duty station, an ALJ must receive a written explanation from the council stating that such a move is required in order to meet substantial changes in workloads. ALJ's would continue to hear and adjudicate the same types of cases which they presently decide. Further, ALJ's would continue to be assigned cases within their division on a rotating basis, taking into account issues of expertise and education. In addition, ALJ's would be given explicit authority to continue to act as special masters pursuant to Federal Rule of Civil Procedure 53(a). This bill also contains provisions for the removal and discipline of administrative law judges.

In the committee report (103–154) to this legislation, my colleague, Senator COHEN. expressed support for the concept of establishing an independent corps of administrative law judges within the executive branch of Government and for the concept which would reform and streamline the Federal bureaucracy in order to serve the American public. Senator COHEN did have legitimate concerns and offered excellent suggestions to improve and strengthen section 599(e) of the bill relating to removal and discipline of judges.

I have worked with Senator COHEN to strengthen and improve the removal and discipline provisions of the bill, and I believe these provisions are a balanced effort to make the provisions fairer to all interest parties concerned by insuring public members serve on the complaint resolution board—and its panels—to ensure objectivity and impartiality. This legislation is better because of Senator COHEN's participation and I greatly appreciate his cooperation.

This legislation will promote good government in an efficient and effective manner. The Congressional Budget Office [CBO] has prepared a report which estimates the legislation can save as much as $22 million a year in as few as 5 years. These are the types of savings the American people expect and deserve.

Since the reorganization of the Federal administrative law judges into a unified corps is expected to save the U.S. taxpayer substantial dollars, and in consultation with Senator HANK BROWN of Colorado, a provision offered by Senator BROWN is included in this legislation ensuring that agencies will reduce their budgets to reflect the projected savings from the removal of ALJ's from their agencies and report to Congress on their efforts.

The establishment of a unified corps of administrative law judges is not a unique concept. In fact, this type of legislation was first implemented in a number of States, and has been very successful. The individual States have been leaders in adapting and streamlining the administrative process to meet the changing needs of the American public. The adoption of similar Federal legislation merely builds upon the successful experiences of the States.

A final consideration which argues in favor of independence for ALJ's is the issue of public perception. For individuals who face the daunting prospect of being accused by a Federal agency of illegal activities, the fact that an administrative law judge who is an employee of that agency is hearing their case is hardly reassuring. The realities of the everyday world indicate that the key to public satisfaction and confidence in judicial decisionmaking is the issue of decisional independence. The creation of a unified corps of administrative law judges is likely to have the beneficial effect of greater public satisfaction with the administrative law system.

This legislation which I introduce today responds to concerns expressed by executive branch agencies, particularly the Department of Justice. This legislation is truly a reorganization of Federal administrative adjudication functions and not a radical departure from the principles of administrative law, which has concerned some members in the past. To the contrary, the substitute insures that the rule of law will prevail in administrative adjudications without impermissible influence.

The legislation specifically states that an agency's policymaking authority will not be changed nor will the administrative law judge's adjudicatory authority. The reorganization preserves the existing powers of both agency managers and the administrative law judges, while removing the tension that naturally arises between those two functions. The bill provides that enactment of the bill will effect no change in an agency's rulemaking, interpretative or policymaking authority in carrying out statutory responsibilities vested in the agency or agency head.

The bill clarifies that the reorganization of administrative law judges in a corps will give the new corps no policymaking authority for the agency, a past concern expressed by some members. In preserving the status quo of the present administrative system, the agency and its head retain the authority to review decisions of administrative law judges under any applicable provision of law. The policymaking role of ALJ's is not enlarged by enactment of the bill nor is their adjudicatory authority changed from current status. An agency head or secretary retains final authority to reverse ALJ decisions as provided by statute and makes the final decisions for the agency.

I look forward to working for passage of this reform legislation here in the Senate, and I hope my colleagues in the House of Representatives will likewise favorably consider and act on it, so that President Clinton can sign it into law before the end of the year.

Mr. President, I ask unanimous consent that the bill in its entirety be printed in the RECORD.

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

S. 486

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 ''Reorganization of the Federal Administrative Judiciary Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) in order to promote efficiency, productivity, the reduction of administrative functions, and to provide economies of scale and better public service and public trust in the administrative resolution of disputes, Federal administrative law judges should be organized in a unified corps;

(2) the dispersal of administrative law judges appointed under section 3105 of title 5, United States Code, in every Federal agency that requires hearings to be conducted by administrative law judges, underutilizes the potential of administrative law judges to serve the public and assist the Federal courts as special masters and finders of fact in specific instances to help reduce the backlog of cases in Federal courts;

(3) the organization of administrative law judges in a corps will best promote their assignment to Federal agency needs as demand requires;

(4) a unified administrative law judge corps will better promote the use of information technology in serving the public; and

(5) an administrative law judge corps will, through consolidation, eliminate unnecessary offices and reduce travel and other related costs.

SEC. 3. ESTABLISHMENT OF ADMINISTRATIVE LAW JUDGE CORPS.

(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

''SUBCHAPTER VI—ADMINISTRATIVE LAW JUDGE CORPS

''§ 597. Definitions

''For the purposes of this subchapter—

''(1) 'agency' means an authority referred to in section 551(1);

''(2) 'Corps' means the Administrative Law Judge Corps of the United States established under section 598;

''(3) 'administrative law judge' means an administrative law judge appointed under section 3105 on or before the effective date of the Reorganization of the Federal Administrative Judiciary Act or under section 599c after such effective date;

''(4) 'chief judge' means the chief administrative law judge appointed and serving under section 599;

''(5) 'Council' means the Council of the Administrative Law Judge Corps established under section 599b;

''(6) 'Board', unless otherwise indicated, means the Complaints Resolution Board established under section 599e; and

''(7) 'division chief judge' means the chief administrative law judge of a division appointed and serving under section 599a.

''§ 598. Establishment; membership

''(a) ESTABLISHMENT.—There is established an Administrative Law Judge Corps consisting of all administrative law judges, in accordance with the provisions of subsection (b). Such Corps shall be administered in Washington, D.C.

''(b) MEMBERSHIP.—An administrative law judge serving as such on the date of the commencement of the operation of the Corps shall be transferred to the Corps as of that date. An administrative law judge who is appointed on or after the date of the commencement of the operation of the Corps shall be a member of the Corps as of the date of such appointment.

''§ 599. Chief administrative law judge

''(a) APPOINTMENT; TERM.—The chief administrative law judge shall be the chief administrative officer of the Corps and shall be the presiding judge of the Corps. The chief judge shall be appointed by the President, by and with the advice and consent of the Senate. The chief judge shall be learned in the law. The chief judge shall serve for a term of five years or until a successor is appointed and qualifies to serve. A chief judge may be reappointed upon the expiration of the term of such judge, by and with the advice and consent of the Senate.

''(b) VACANCIES.—(1) If the office of chief judge is vacant, the division chief judge who is senior in length of service as a member of the Council shall serve as acting chief judge until such vacancy is filled.

''(2) If 2 or more division chief judges have the same length of service as members of the Council, the division chief judge who is senior in length of service as an administrative law judge shall serve as such acting chief judge.

''(c) SPECIAL FUNCTIONS OF CHIEF JUDGE.—(1) In addition to other duties conferred on the chief judge, the chief judge shall be responsible for developing programs and practices, in coordination with agencies using administrative law judges, which foster economy and efficiency in the processing of cases heard by administrative law judges. These programs and practices shall include—

''(A) training of judges in more than one subject area;

''(B) employment of computers and software and other information technology for automated decision preparation, case docketing, and research;

''(C) consolidating hearing facilities and law libraries; and

''(D) programs and practices to foster overall efficient use of staff, personnel, equipment, and facilities.

''(2) In order to minimize costs—

''(A) all administrative law judges and support personnel shall, for at least 1 year after the date of the commencement of the operation of the Corps, continue to use the office space and facilities, at the agencies using such judges and personnel, available before such date, and

''(B) the chief judge shall phase in transfers of administrative law judges and support personnel to other facilities so that the cost of providing facilities for the Corps shall not exceed the cost of maintaining such judges and personnel in equivalent space available at agencies using the Corps.

''(d) REPORTS.—The chief judge shall, within 90 days after the end of each fiscal year, make a written report to the President and the Congress concerning the business of the Corps during the preceding fiscal year. The report shall include information and recommendations of the Council concerning the future personnel requirements of the Corps.

''(e) SERVICE AFTER TERM EXPIRES.—After serving as chief judge, an individual may continue to serve as an administrative law judge unless such individual has been removed from office in accordance with section 599e.

''§ 599a. Divisions of the Corps; division chief judges

''(a) ASSIGNMENT TO DIVISIONS.—Each judge of the Corps shall be assigned to a division by the Council, pursuant to section 599b. The assignment of a judge who was an administrative law judge on the date of commencement of the operation of the Corps shall be made after consideration of the areas of specialization in which the judge has served. Each division shall be headed by a division chief judge who shall exercise administrative supervision over such division.

''(b) DIVISIONS.—The divisions of the Corps shall be as follows:

''(1) Division of Communications, Public Utility, and Transportation Regulation.

''(2) Division of Safety and Environmental Regulation.

''(3) Division of Labor.

''(4) Division of Labor Relations.

''(5) Division of Health and Human Services Programs.

''(6) Division of Securities, Commodities, and Trade Regulation.

''(7) Division of General Programs.

''(8) Division of Financial Services Institutions.

''(c) APPOINTMENT OF DIVISION CHIEF JUDGES.—(1) The division chief judge of each division set forth in subsection (b) shall be appointed by the President, by and with the advice and consent of the Senate, and shall be learned in the law.

''(2) Division chief judges shall be appointed for 5-year terms, except that of those division chief judges first appointed, the President shall designate 2 such individuals to be appointed for 5-year terms, 3 for 4-year terms, and 2 for 3-year terms.

''(3) Any division chief judge appointed to fill an unexpired term shall be appointed only for the remainder of such predecessor's term, but may be reappointed as provided in paragraph (4).

''(4) Any division chief judge may be reappointed upon the expiration of his or her term.

''(5) Any judge, after serving as division chief judge, may continue to serve as an administrative law judge unless such individual has been removed from office in accordance with section 599e.

''§ 599b. Council of the Corps

''(a) IN GENERAL.—The policymaking body of the Corps shall be the Council of the Corps. The chief judge and the division chief judges shall constitute the Council. The chief judge shall preside over the Council. If the chief judge is unable to be present at a meeting of the Council, the division chief judge who is senior in length of service as a member of such Council shall preside at the meeting.

''(b) QUORUM; VOTING.—One half of all of the members of the Council shall constitute a quorum for the purpose of transacting business. The affirmative vote by a majority of all the members of the Council shall be required to approve a matter on behalf of the Council. Each member of the Council shall have one vote.

''(c) MEETINGS.—Meetings of the Council shall be held at least once a month at the call of the chief judge or by the call of one-third or more of the members of the Council.

''(d) POWERS.—The Council is authorized—

''(1) to assign judges to divisions and transfer or reassign judges from one division to another, subject to the provisions of section 599c;

''(2) to appoint persons as administrative law judges under section 599c;

''(3) to file charges seeking adverse action against an administrative law judge under section 599e;

''(4) to prescribe, after providing an opportunity for notice and comment, the rules of practice and procedure for the conduct of proceedings before the Corps, except that, with respect to a category of proceedings adjudicated by an agency before the effective date of the Reorganization of the Federal Administrative Judiciary Act, the Council may not amend or revise the rules of practice and procedure prescribed by that agency during the 2 years following such effective date without the approval of that agency, and any amendments or revisions made to such rules shall not affect or be applied to any pending action;

''(5) to issue such rules and regulations as may be appropriate for the efficient conduct of the business of the Corps and the implementation of this subchapter, including the assignment of cases to administrative law judges;

''(6) subject to the civil service and classification laws and regulations—

''(A) to select, appoint, employ, and fix the compensation of the employees (other than administrative law judges) that the Council deems necessary to carry out the functions, powers, and duties of the Corps; and

''(B) to prescribe the authority and duties of such employees;

''(7) to establish, abolish, alter, consolidate, and maintain such regional, district, and other field offices as are necessary to carry out the functions, powers, and duties of the Corps and to assign and reassign employees to such field offices;

''(8) to procure temporary and intermittent services under section 3109;

''(9) to enter into, to the extent or in such amounts as are authorized in appropriation Acts, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), contracts, leases, cooperative agreements, or other transactions that may be necessary to conduct the business of the Corps;

''(10) to delegate any of the chief judge's functions or powers with the consent of the chief judge, or whenever the office of such chief judge is vacant, to one or more division chief judges or other employees of the Corps, and to authorize the redelegation of any of those functions or powers;

''(11) to establish, after consulting with an agency, initial and continuing educational programs to assure that each administrative law judge assigned to hear cases of that agency has the necessary training in the specialized field of law of that agency;

''(12) to make suitable arrangements for continuing education and training of other employees of the Corps, so that the level of expertise in the divisions of the Corps will be maintained and enhanced; and

''(13) to determine all other matters of general policy of the Corps.

''(e) OFFICIAL SEAL.—The Council shall select an official seal for the Corps which shall be judicially noticed.

''§ 599c. Appointment and transfer of administrative law judges

''(a) APPOINTMENT.—After the initial establishment of the Corps, the Council shall appoint new or additional judges as may be necessary for the efficient and expeditious conduct of the business of the Corps. Appointments shall be made from a register maintained by the Office of Personnel Management under subchapter I of chapter 33 of this title. Upon request by the chief judge, the Office of Personnel Management shall certify enough names from the top of such

register to enable the Council to consider five names for each vacancy. Notwithstanding section 3318, a vacancy in the Corps may be filled from the highest five eligible individuals available for appointment on the certificate furnished by the Office of Personnel Management.

''(b) LIMITATION ON JUDGE'S DUTIES.—A judge of the Corps may not perform or be assigned to perform duties inconsistent with the duties and responsibilities of an administrative law judge.

''(c) REASSIGNMENTS; DETAILS.—A judge or staff member of the Corps on the date of commencement of the operation of the Corps, and all new judges and staff members appointed by the Council, may not thereafter be involuntarily reassigned to a new permanent duty station if such station is beyond the commuting area of the duty station which is the judge's or staff member's permanent duty station on that date. A judge or staff member of the Corps may be temporarily detailed, once in a 24-month period, to a new duty station at any location, for a period of not more than 120 days.

''§ 599d. Jurisdiction

''(a) IN GENERAL.—Any case, claim, action, or proceeding authorized to be heard before an administrative law judge on the day before the effective date of the Reorganization of the Federal Administrative Judiciary Act shall, on or after such date, be referred to the Corps for adjudication on the record after an opportunity for a hearing.

''(b) TYPES OF CASES.—An administrative law judge who is a member of the Corps shall hear and render a decision upon—

''(1) every case of adjudication subject to the provisions of section 553, 554, or 556;

''(2) every case in which hearings are required by law to be held in accordance with sections 553, 554, or section 556;

''(3) every other case referred to the Corps by an agency in which a determination is to be made on the record after an opportunity for a hearing; and

''(4) every case referred to the Corps by a court for an administrative law judge to act as a special master or to otherwise making findings of fact on behalf of the referring court, which shall continue to have exclusive and undiminished jurisdiction over the case.

''(c) REFERRAL OF CASES.—When a case under subsection (b) arises, it shall be referred to the Corps. Under regulations issued by the Council, the case shall be assigned to a division. The appropriate division chief shall assign cases to judges, taking into consideration specialization, training, workload, and conflicts of interest.

''(d) REFERRALS BY AGENCIES AND COURTS.—Courts are authorized to refer, subject to the approval of the majority of the Council and the parties in the court proceeding, those cases, or portions thereof, in which they seek an administrative law judge to act as a special master pursuant to the provisions of Rule 53(a) of the Federal Rules of Civil Procedure which shall continue to have exclusive and undiminished jurisdiction over the case. When a court has referred a case to an administrative law judge, the recommendations, rulings, and findings of fact of the administrative law judge are subject to de novo review by the referring court.

''(e) SATISFACTION OF OTHER PROCEDURAL REQUIREMENTS.—Compliance with this subchapter shall satisfy all requirements imposed under section 916 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

''(f) APPLICATION OF AGENCY POLICY.—The provisions of this subchapter shall effect no change in—

''(1) an agency's rulemaking, interpretative, or policymaking authority in carrying out the statutory responsibilities vested in the agency or agency head;

''(2) the adjudicatory authority of administrative law judges; or

''(3) the authority of an agency to review decisions of administrative law judges under any applicable provision of law.

''§ 599e. Removal and discipline

''(a) IN GENERAL.—(1) Except as provided under paragraph (2), an administrative law judge may not be removed, suspended, reprimanded, or disciplined except for misconduct or neglect of duty, but may be removed for physical or mental disability (consistent with prohibitions on discrimination otherwise imposed by law).

''(2) Paragraph (1) shall not apply to an action initiated under section 1215.

''(b) RULES OF JUDICIAL CONDUCT.—No later than 180 days after the appointment and confirmation of the Council, the Council shall adopt and issue rules of judicial conduct for administrative law judges. Such code shall be enforced by the Council and shall include standards governing—

''(1) judicial conduct and extra-judicial activities to avoid actual, or the appearance of, improprieties or conflicts of interest;

''(2) the performance of judicial duties impartially and diligently;

''(3) avoidance of bias or prejudice with respect to all parties; and

''(4) efficiency and management of cases so as to reduce dilatory practices and unnecessary costs.

''(c) DISCIPLINARY ACTION BY THE COUNCIL.—An administrative law judge may be subject to disciplinary action by the Council under subsection (j). An administrative law judge may be removed only after the Council has filed with the Merit Systems Protection Board a notice of removal and the Merit Systems Protection Board has determined on the record, after an opportunity for a hearing before the Merit Systems Protection Board, that there is good cause to take the action of removal.

''(d) COMPLAINTS RESOLUTION BOARD.—Under regulations issued by the Council, a Complaints Resolution Board shall be established within the Corps to consider and to recommend appropriate action to be taken when a complaint is made concerning conduct of a judge of the Corps. Such complaint may be made by any interested person, including parties, practitioners, the chief judge, administrative law judges, and agencies.

''(e) COMPOSITION OF THE BOARD.—(1) The Board shall consist of—

''(A) 2 judges from each division of the Corps, who shall be appointed by the Council; and

''(B) 16 attorneys who shall be appointed in accordance with the provisions of paragraph (2).

''(2) The Council shall request a list of candidates to be members of the Board from the American Bar Association. Such list may not include any individual who is an administrative law judge or former administrative law judge.

''(3) The chief judge and the division chief judges may not serve on the Board.

''(4) No individual may serve 2 successive terms on the Board.

''(5)(A) Except as provided under subparagraph (B), all terms on the Board shall be 2 years.

''(B) In making the original appointments to the Board, the Council shall designate one-half of the appointments made under paragraph (1)(A) and one-half of the appointments made under paragraph (1)(B), as a term of 1 year.

''(6)(A) Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for a position at the level of AL–3, rate C under section 5372 of this title for each day (including traveltime) during which such member is engaged in the performance of the duties of the Board. All members of the Board who are administrative law judges shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(B) The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

''(f) FILING AND REFERRAL OF COMPLAINT.—(1) A complaint concerning the official conduct of an administrative law judge shall be made in writing. The complaint shall be filed with the chief judge, or it may be originated by the chief judge on his own motion. The chief judge shall refer the complaint to a 5-member panel designated by the Council—

''(A) consisting of 3 administrative law judges appointed under subsection (e)(1)(A), none of whom may be serving in the same division as the administrative law judge who is the subject of the complaint; and

''(B) two members appointed under subsection (e)(1)(B), none of whom regularly practice before the division to which the administrative law judge, who is the subject of the complaint is assigned.

''(2) Any individual chosen to serve on the panel who has a personal or financial conflict of interest involving the administrative law judge who is the subject of the complaint shall be disqualified by the Council from serving on the panel. The Council shall replace any disqualified individual or vacancy with another member of the Board who is eligible to serve on the panel.

''(g) CHIEF JUDGE ACTION.—(1) After expeditiously reviewing a complaint, the chief judge, by written order stating his reason, may—

''(A) dismiss the complaint, if the chief judge finds the complaint to be—

''(i) directly related to the merits of a decision or procedural ruling; or

''(ii) frivolous;

''(B) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events; or

''(C) refer the complaint to the Complaint Resolution Board in accordance with subsection (f).

''(2) The chief judge shall transmit copies of the written order to the complainant and to the administrative law judge who is the subject of the complaint.

''(h) NOTICE OF THE COMPLAINT.—The administrative law judge and the complainant shall be given notice of receipt of the complaint and notice of referral of the complaint to the panel.

''(i) INQUIRY AND REPORT BY PANEL.—(1) The panel shall inquire into the complaint and have authority to conduct a full investigation of the complaint, including authority to hold hearings and issue subpoenas, examine witnesses, and receive evidence. All proceedings of the Complaint Resolution Board shall be confidential. The administrative law judge who is the subject of the complaint shall have the right to be represented by counsel and shall have an opportunity to appear before the panel. The complainant shall be afforded an opportunity to appear at the proceedings conducted by the investigating panel, if the panel concludes that the

complainant could offer substantial information.

''(2) In determining whether misconduct has occurred, the panel shall apply a preponderance of evidence standard of proof to its proceedings.

''(3)(A) Within 90 days after the referral of the complaint, the panel shall report to the Council on its findings of fact and recommendations for appropriate disciplinary action, if any, that should be taken against the administrative law judge.

''(B) If the panel has not completed its inquiry within 90 days after receiving the complaint, the panel shall request an extension of time from the Council to complete its inquiry.

''(C) A copy of the report shall be provided concurrently to the Council, the administrative law judge who is the subject of the complaint, and the complainant. The Council shall retain all reports filed under this section and such reports shall be confidential, except that a recommendation for disciplinary action shall be made available to the public.

''(4) The recommendations of the panel shall include one of the following:

''(A) Dismissal of all or part of the complaint.

''(B) Direct informal reprimand.

''(C) Direct formal reprimand.

''(D) Suspension.

''(E) Automatic referral to the Merit Systems Protection Board on recommendations of removal.

''(5) The recommendations of the panel are binding on the Council, unless the administrative law judge appeals to the Merit Systems Protection Board.

''(j) DISCIPLINARY ACTION.—Except as provided in subsection (a)(2), the Council shall take appropriate disciplinary action against the administrative law judge based upon the report of the panel within 30 days after receiving the report of the panel. Such disciplinary action shall be enforced by the Council and shall be final unless the administrative law judge files an appeal with the Merit Systems Protection Board within 30 days after receiving notice of such disciplinary action.

''(k) RECOMMENDATION FOR RELIEF TO AGENCY, DEPARTMENT, OR COMMISSION.—Based upon a finding of judicial misconduct by an administrative law judge, the Council shall have authority to recommend to the head of an agency, department or commission that action may be taken to provide relief to aggrieved individuals due to the judicial misconduct by an administrative law judge.''.

(b) APPOINTMENTS OF DIVISION CHIEF JUDGES.—It is the sense of the Congress that the President should appoint as division chief judges under section 599a(c) of title 5, United States Code (as added by subsection (a) of this section), individuals who have served as an administrative law judge for at least 5 years.

(c) ADMINISTRATIVE PROVISION.—Except as provided under subchapter VI of chapter 5 of title 5, United States Code, the chief administrative law judge and the division chief judges appointed under such subchapter shall be deemed administrative law judges appointed under section 3105.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

''SUBCHAPTER VI—ADMINISTRATIVE LAW JUDGE CORPS

''Sec.
''597. Definitions.
''598. Establishment; membership.
''599. Chief administrative law judge.
''599a. Divisions of the Corps; division chief judges.
''599b. Council of the Corps.
''599c. Appointment and transfer of administrative law judges.
''599d. Jurisdiction.
''599e. Removal and discipline.''.

SEC. 4. AGENCY REVIEW STUDY AND REPORT.

(a) STUDY.—The chief administrative law judge of the Administrative Law Judge Corps of the United States shall conduct a study of the various types and levels of agency review to which decisions of administrative law judges are subject. A separate study shall be conducted for each division of the Corps. The studies shall include monitoring and evaluating data and shall be conducted in consultation with the division chief judges, the Chairman of the Administrative Conference of the United States, and the agencies that review the decisions of administrative law judges.

(b) REPORT.—(1) Not later than 2 years after the effective date of this Act, the Council shall report to the President and the Congress on the findings and recommendations resulting from the studies conducted under subsection (a).

(2) The report under paragraph (1) shall include recommendations, including recommendations for new legislation, for any reforms that may be appropriate to make review of administrative law judges' decisions more efficient and meaningful and to accord greater finality to such decisions, except that all decisions subject, before the effective date of this Act, to review pursuant to section 205(g) of the Social Security Act (42 U.S.C. 405(g)) shall continue to be subject to such review pursuant to such section.

(3) The report under paragraph (1) shall also include recommendations for using staff more efficiently to decrease backlogs, especially in the area of social security disability cases.

SEC. 5. TRANSITION AND SAVINGS PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the administrative law judges of the Administrative Law Judge Corps established by section 598 of title 5, United States Code (as added by section 3 of this Act), all functions authorized to be performed on the day before the effective date of this Act by the administrative law judges appointed under section 3105 of such title before the effective date of this Act.

(b) USE OF AGENCY FACILITIES AND PERSONNEL.—With the consent of the agencies concerned, the Administrative Law Judge Corps of the United States may use the facilities and the services of officers, employees, and other personnel of agencies from which functions and duties are transferred to the Corps for so long as may be needed to facilitate the orderly transfer of those functions and duties under this Act.

(c) INCIDENTAL TRANSFERS.—The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, in connection with the functions transferred by this Act, are, subject to section 1531 of title 31, United States Code, transferred to the Corps for appropriate allocation.

(d) PAY OF TRANSFERRED PERSONNEL.—The transfer of personnel pursuant to subsection (b) or (c) shall be without reduction in pay or classification for 5 years after such transfer.

(e) AUTHORITIES OF DIRECTOR OF OMB.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this Act.

(f) CONTINUED EFFECTIVENESS OF PRIOR ACTIONS.—All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements, recognition of labor organizations, certificates, licenses, and privileges which have been issued, made, granted, or allowed to become effective in the exercise of any duties, powers, or functions which are transferred under this Act and are in effect at the time this Act becomes effective shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrative Law Judge Corps of the United States or a judge thereof in the exercise of authority vested in the Corps or its members by this Act, by a court of competent jurisdiction, or by operation of law.

(g) PENDING PROCEEDINGS.—(1) Except as provided in subsections (d)(5) and (e) of section 599b of title 5, United States Code, this Act shall not affect any proceeding before any department or agency or component thereof which is pending at the time this Act takes effect. Such a proceeding shall be continued before the Administrative Law Judge Corps of the United States or a judge thereof, or, to the extent the proceeding does not relate to functions so transferred, shall be continued before the agency in which it was pending on the effective date of this Act.

(2) No suit, action, or other proceeding commenced before the effective date of this Act shall abate by reason of the enactment of this Act.

(h) REPORTS BY OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall monitor and report to the Congress—

(1) 60 days after the effective date of this Act, on the amount of all funds expended in fiscal year 1995 by each agency on the functions transferred under this Act and the amendments made by this Act;

(2) no later than October 1, 1995, on the amount of unexpended balances of appropriations, authorizations, allocations, and other funds transferred by all agencies to the Administrative Law Judge Corps under this Act and the amendments made by this Act; and

(3) 1 year after the effective date of this Act, and each of the next 2 years thereafter on—

(A) whether the expenditure of each agency that transfers functions and duties under this Act and the amendments made by this Act are reduced by the amount of savings resulting from the transfer of such functions and duties; and

(B) the Government savings resulting from transfer of such functions to the Administrative Law Judge Corps and recommendations to the Congress on how to achieve additional savings.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 1996, 1997, 1998, 1999, and 2000 to carry out the provisions of this Act and subchapter VI of title 5, United States Code (as added by section 3 of this Act) such amounts as may be necessary, not to exceed in any such fiscal year the total amount expended by all agencies in fiscal year 1995 in performing all functions transferred under this Act and the amendments made by this Act.

SEC. 7. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) Section 593(b) is amended—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and

(B) by inserting the following after paragraph (3):

''(4) the chief administrative law judge of the Administrative Law Judge Corps of the United States;''.

(2) Section 3105 is amended to read as follows:

''§ 3105. Appointment of administrative law judges

''Administrative law judges shall be appointed by the Council of the Administrative Law Judge Corps pursuant to sections 596 and 599c of this title.''.

(3) Section 3344, and the item relating to section 3344 in the table of sections for chapter 33, are repealed.

(4) Subchapter III of chapter 75, and the items relating to subchapter III and section 7521 in the table of sections at the beginning of chapter 75, are repealed.

(5) Section 559 is amended—

(A) in the first sentence by striking ''chapter 7'' and all that follows through ''7521'' and inserting ''subchapter VI of this chapter, chapter 7, and sections 1305, 3105, 4301(2)(E), and 5372''; and

(B) in the last sentence by striking ''chapter 7'' and all that follows through ''7521'' and inserting ''subchapter VI of this chapter, chapter 7, section 1305, 3105, 4301(2)(E), or 5372''.

(6) Section 1305 is amended—

(A) by striking ''section 3105, 3344,'' and inserting ''sections 3105,''; and

(B) by striking '', and for the purpose of section 7521 of this title, the Merit Systems Protection Board may''.

(7) Section 5514(a)(2) is amended in the fourth sentence by striking '', except that'' and all that follows through ''administrative law judge''.

(8) Section 7105 is amended—

(A) in subsection (d) by striking '', administrative law judges under section 3105 of this title,''; and

(B) in subsection (e)(2) by striking ''under subsection (d) of this section'' and inserting ''under section 3105 of this title''.

(9) Section 7132(a) is amended by striking ''appointed by the Authority under section 3105 of this title'' and inserting ''appointed under section 3105 of this title who is conducting hearings under this chapter''.

(10) Section 7502 is amended by striking ''7521 or''.

(11) Section 7512(E) is amended by striking ''or 7521''.

(b) OTHER PROVISIONS OF LAW.—

(1) Section 6(c) of the Commodity Exchange Act is amended—

(A) in the second sentence (7 U.S.C. 9)—

(i) by striking ''Administrative Law Judge designated by the Commission'' and inserting ''administrative law judge of the Administrative Law Judge Corps''; and

(ii) by striking ''Administrative Law Judge'' and inserting ''administrative law judge''; and

(B) by striking ''Administrative Law Judge'' each subsequent place it appears (7 U.S.C. 15) and inserting ''administrative law judge of the Administrative Law Judge Corps''.

(2) Section 12(b) of the Commodity Exchange Act (7 U.S.C. 16(b)) is amended by striking ''Administrative Law Judges,''.

(3) Section 274B(e)(2) of the Immigration and Nationality Act (8 U.S.C. 1324b(e)(2)) is amended by striking ''are specially designated by the Attorney General as having'' and inserting ''have''.

(4) Section 1416(a) of the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1715(a)) is amended—

(A) in the first sentence by inserting '', subject to section 599d of title 5, United States Code,'' after ''who may'';

(B) by striking the second sentence; and

(C) in the third sentence by striking ''his administrative law judges to other administrative law judges or'' and inserting ''administrative law judges carrying out functions under this title''.

(5) Section 488A(b) of the Higher Education Act of 1965 (20 U.S.C. 1095a(b)) is amended in the third sentence by striking '', except that'' and all that follows through ''administrative law judge''.

(6) Section 509(1) of title 28, United States Code, is amended—

(A) by striking ''subchapter II'' and inserting ''subchapters II and VI''; and

(B) by striking ''employed by the Department of Justice''.

(7) Section 12 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 661) is amended—

(A) in subsection (e)—

(i) by striking ''administrative law judges and other''; and

(ii) by striking '': *Provided*'' and all that follows through the end of the subsection and inserting a period;

(B) in subsection (j) in the first sentence by striking ''A'' and all that follows through ''Commission,'' and inserting ''An administrative law judge to whom is assigned any proceeding instituted before the Commission shall hear and make a determination upon the proceeding and any motion in connection with such proceeding,''; and

(C) by striking subsection (k).

(8) Section 502(e)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 792(e)(1)) is amended by striking the second and third sentences and inserting the following: ''Proceedings required to be conducted under this section shall be presided over by administrative law judges appointed under subchapter VI of chapter 5 of title 5, United States Code.''.

(9) Section 166 of the Job Training Partnership Act (29 U.S.C. 1576(a)) is amended in the first sentence by striking ''of the Department of Labor''.

(10) Section 5(e) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 804(e)) is amended to read as follows:

''(e) Proceedings required to be conducted in accordance with the provisions of this Act shall be presided over by administrative law judges appointed under subchapter VI of chapter 5 of title 5, United States Code.''.

(11) Section 113 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 823) is amended—

(A) in subsection (b)(2) by striking all that follows the second sentence;

(B) in subsection (d)(1) in the first sentence by striking ''appointed by the Commission'' and all that follows through ''by the Commission,'' and inserting ''to whom is assigned any proceeding instituted before the Commission shall hear and make a determination upon the proceeding and any motion in connection with the proceeding,''; and

(C) in subsection (e) in the first sentence by striking ''its'' each place it appears.

(12) Section 428(b) of the Black Lung Benefits Act (30 U.S.C. 938(b)) is amended by striking the seventh sentence.

(13) Section 321(c)(1) of title 31, United States Code, is amended—

(A) by striking ''subchapter II'' and inserting ''subchapters II and VI''; and

(B) by striking ''employed by the Secretary''.

(14) Section 3801(a)(7)(A) of title 31, United States Code, is amended by striking ''appointed in the authority'' and all that follows through ''such title;'' and inserting ''of the Administrative Law Judge Corps;''.

(15) Section 19(d) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 919(d)) is amended by amending the second sentence to read as follows: ''Any such hearing shall be conducted by an administrative law judge qualified under subchapter VI of chapter 5 of that title.''.

(16) Section 21(b)(5) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921(b)(5)) is amended by striking the first sentence.

(17) Section 7101(b)(2)(B) of title 38, United States Code, is amended by striking ''7521'' and inserting ''599e''.

(18) Section 8(b)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(b)(1)) is amended in the first sentence by striking ''hearing examiners appointed pursuant to section 3105 of title 5, United States Code'' and inserting ''administrative law judges appointed under section 3105 of title 5, United States Code (as in effect on the day before the effective date of the Reorganization of the Federal Administrative Judiciary Act)''.

(19) Section 705(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4(a)) is amended—

(A) by striking ''administrative law judges,''; and

(B) by striking '': *Provided*'' and all that follows through the end of the subsection and inserting a period.

(20) Section 808(c) of the Act of April 11, 1968 (42 U.S.C. 3608(c)), is amended—

(A) in the first sentence by inserting '', subject to section 599d of title 5, United States Code,'' after ''The Secretary may'';

(B) by striking the second sentence; and

(C) in the last sentence by striking ''his hearing examiners to other hearing examiners or'' and inserting ''administrative law judges carrying out functions under this title''.

(21) Section 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3787) is amended—

(A) in the first sentence by striking ''appoint such hearing examiners'' and all that follows through ''United States Code,'' and inserting '', subject to section 599d of title 5, United States Code, request the use of such administrative law judges''; and

(B) in the second sentence by striking ''hearing examiner or administrative law judge assigned to or employed thereby'' and inserting ''such administrative law judge''.

(22) Section 401(c) of the Department of Energy Organization Act (42 U.S.C. 7171(c)) is amended by striking ''appointment and employment of hearing examiners in accordance with the provisions of title 5,'' and inserting ''referral of cases to the Administrative Law Judge Corps in accordance with subchapter VI of chapter 5 of title 5,''.

(23) Section 303(c)(3) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1902(c)(3)) is amended by striking '', attorneys, and administrative law judges'' and inserting ''and attorneys''.

(24) Section 304(b)(1) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(b)(1)) is amended in the first sentence by striking ''employed by or''.

(c) REFERENCES IN OTHER LAWS.—Reference in any other Federal law to an administrative law judge or hearing examiner or to an administrative law judge, hearing examiner, or employee appointed under section 3105 of title 5, United States Code, shall be deemed to refer to an administrative law judge of the Administrative Law Judge Corps established by section 598 of title 5, United States Code.

SEC. 8. OPERATION OF THE CORPS.

Operation of the Corps shall commence on the date the first chief administrative law judge of the Corps takes office.

SEC. 9. CONTRACT DISPUTES ACT.

Nothing in this Act or the amendments made by this Act shall be deemed to affect

any agency board established pursuant to the Contract Disputes Act (41 U.S.C. 601 and following), or any other person designated to resolve claims or disputes pursuant to such Act.

SEC. 10. PAYMENT BY CERTAIN AGENCIES FOR ADMINISTRATIVE LAW JUDGE SALARIES AND EXPENSES.

Any agency which before the effective date of this Act paid the salaries and expenses of administrative law judges from fees charged by such agency shall on and after the effective date of this Act pay from such fees to the chief judge of the Administrative Law Judge Corps, or the designee of the chief judge, an amount necessary to reimburse the salaries and expenses of the Corps for services provided by the Corps to such agency.

SEC. 11. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect 120 days after the date of the enactment of this Act.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 487. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1995

● Mr. MCCAIN. Mr. President, I am pleased to join today with the vice chairman of the Committee on Indian Affairs, Senator INOUYE, as the sponsor of the Indian Gaming Regulatory Act Amendments Act of 1995. I want to associate myself with Senator INOUYE's remarks regarding this legislation and the issue of Indian gaming. I commend Senator INOUYE for his outstanding leadership over the years on this complex issue.

The bill we are introducing today would provide for a major overhaul of the Indian Gaming Regulatory Act of 1988. It will provide for minimum Federal standards in the regulation and licensing of class II and class III gaming as well as all of the contractors, suppliers, and industries associated with such gaming. This will be accomplished through the Federal Indian Gaming Regulatory Commission which will be funded through assessments on Indian gaming revenues and fees imposed on license applicants. The bill also provides a new process for the negotiation of class III compacts which authorizes the Secretary of the Department of the Interior to negotiate compacts with Indian tribes in those instances where a State chooses not to participate in compact negotiations or where an Indian tribe and a State cannot reach an agreement on a compact. This process is consistent with recent Federal court decisions.

In addition, the bill is consistent with the 1987 decision of the U.S. Supreme Court in the case of California versus Cabazon Band of Mission Indians in that it neither expands for further restricts the scope of Indian Gaming. The laws of each State would continue to be the basis for determining what gaming activities may be available to an Indian tribe located in that State.

Since the enactment of the Indian Gaming Regulatory Act in 1988, there has been a dramatic increase in the amount of gaming activity among the Indian tribes. In 1993, Indian gaming was estimated to yield gross revenues of about $4 billion per year and net revenues were estimated at $750 million. Today, there are about 160 class II bingo and card games in operation and there are now over 110 tribal/State compacts governing class III gaming in 21 States. Indian gaming comprises about 3 percent of all gaming in the United States. Gaming activities operated by State governments comprise about 36 percent of all gaming and the private sector accounts for the balance of the gaming activity in the Nation.

Indian gaming has become the single largest source of economic activity for Indian tribes. Annual revenues derived from Indian agricultural resources have been estimated at $550 million and have historically been the leading source of income for Indian tribes and individuals. Annual revenues from oil, gas, and minerals are about $230 million and Indian forestry resources revenues are estimated at $61 million. The estimated annual earnings on gaming now equal or exceed all of the revenues derived from Indian natural resources. In addition, Indian gaming has generated tens of thousands of new jobs for Indians and non-Indians. On many reservations gaming has meant the end of unemployment rates of 90 or 100 percent and the beginning of an era of full employment.

Under the Indian Gaming Regulatory Act of 1988, Indian tribes are required to expend the profits from gaming activities to fund tribal government operations or programs and to promote tribal economic development. Profits may only be distributed directly to the members of an Indian tribe under a plan which has been approved by the Secretary of the Interior. Only a few such plans have been approved. Virtually all of the proceeds from Indian gaming activities are used to fund the social welfare, education, and health needs of the Indian tribes. Schools, health facilities, roads, and other vital infrastructure is being built by the Indian tribes with the proceeds from Indian gaming.

In the years before the enactment of the Indian Gaming Regulatory Act and in the years since its enactment we have heard concerns about the possibility for organized criminal elements to penetrate Indian gaming. Both the Department of Justice and the FBI have repeatedly testified before the Committee on Indian Affairs and have indicated that there is not any substantial criminal activity of any kind associated with Indian gaming. Some of our colleagues have suggested that no one would know if there is criminal activity because not enough people are looking for it. I believe that this point of view overlooks the fact that the act provides for a very substantial regulatory and law enforcement role by the States and Indian tribes in class III gaming and by the Federal Government in class II gaming. The record clearly shows that in the few instances of known criminal activity in class III gaming, the Indian tribes have discovered the activity and have sought Federal assistance in law enforcement.

Nevertheless, the record before the Committee on Indian Affairs also shows that the absence of minimum Federal standards for the regulation and licensing of Indian gaming has allowed a void to develop which will become more and more attractive to criminal elements as Indian gaming continues to generate increased revenues. The legislation we are introducing today provides for the development of strict minimum Federal standards based on the recommendations of Federal, State and tribal officials. While Indian tribes or States, or both, will continue to exercise primary regulatory authority, their regulatory standards must meet or exceed the minimum Federal standards. In the event that the Federal Indian Gaming Regulatory Commission determines that the minimum Federal standards are not being met, then the Commission may directly regulate the gaming activity until such time as the Federal standards are met. In addition, the Commission is vested with authority to issue and revoke licenses as well as to impose civil fines, close Indian gaming facilities or seek enforcement of the act through the Federal courts.

As many of our colleagues know, one of the areas which has caused the greatest controversy under the current law relates to what has come to be known as the scope of gaming. A related issue is the refusal of some States to enter into negotiations for a class III compact and their assertion of sovereign immunity under the 11th amendment to the Constitution when an Indian tribe seeks judicial relief as provided by the act. The bill we are introducing incorporates the explicit standards of the Cabazon decision to guide all parties in determining the permissible gaming activities under the laws of any State. State laws will continue to govern this issue. We have not proposed the preemption of the gaming laws of any State. In most States, the issue of scope of gaming has now been settled through negotiation or litigation. In a few States this issue remains unresolved, but appears headed toward resolution by the courts.

In the course of our work on the gaming issue in the 103d Congress, Senator INOUYE and I advanced various formal and informal proposals for Federal legislation to resolve the scope of gaming issue. In addition proposals were developed by State and tribal officials. However, we were never able to develop a consensus on any one proposal. While the Committee on Indian Affairs remains open to suggestions on this issue, it is apparent that obtaining a consensus may not be possible. This

may be an area of the law best left to resolution through the courts.

With regard to the issue of the refusal of some States to negotiate and their assertion that the 1988 act violates the 11th amendment, the U.S. Supreme Court recently agreed to hear a case which raises that issue. As I noted earlier, the bill we are introducing today seeks to resolve this issue on terms that are consistent with recent decisions of the Federal courts.

Mr. President, I am sure that we will find many things to change in this legislation as it moves through the Senate. However, I believe that it provides a good foundation for our further consideration of this important issue. I want to emphasize that this bill is intended to stimulate discussion. I am looking forward to hearing from all interested parties with regard to their constructive suggestions for ways to improve the bill and move it forward.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 487

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 ''Indian Gaming Regulatory Act Amendments Act of 1995''.

SEC. 2. AMENDMENTS TO THE INDIAN GAMING REGULATORY ACT.

The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) is amended—

(1) by striking the first section and inserting the following new section:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Indian Gaming Regulatory Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

''Sec. 1. Short title; table of contents.
''Sec. 2. Congressional findings.
''Sec. 3. Purposes.
''Sec. 4. Definitions.
''Sec. 5. Establishment of the Federal Indian Gaming Regulatory Commission.
''Sec. 6. Powers of the Chairperson.
''Sec. 7. Powers and authority of the Commission.
''Sec. 8. Regulatory framework.
''Sec. 9. Advisory Committee on Minimum Regulatory Requirements and Licensing Standards.
''Sec. 10. Licensing.
''Sec. 11. Requirements for the conduct of class I and class II gaming on Indian lands.
''Sec. 12. Class III gaming on Indian lands.
''Sec. 13. Review of contracts.
''Sec. 14. Review of existing contracts; interim authority.
''Sec. 15. Civil penalties.
''Sec. 16. Judicial review.
''Sec. 17. Commission funding.
''Sec. 18. Authorization of appropriations.
''Sec. 19. Miscellaneous.
''Sec. 20. Dissemination of information.
''Sec. 21. Severability.
''Sec. 22. Criminal penalties.
''Sec. 23. Conforming amendment.
''Sec. 24. Definition of financial institutions.'';

(2) by striking sections 2 through 19 and inserting the following new sections:

''SEC. 2. CONGRESSIONAL FINDINGS.

''The Congress finds that—

''(1) Indian tribes are—

''(A) engaged in the operation of gaming activities on Indian lands as a means of generating tribal governmental revenue; and

''(B) licensing such activities;

''(2) clear Federal standards and regulations for the conduct of gaming on Indian lands will assist tribal governments in assuring the integrity of gaming activities conducted on Indian lands;

''(3) a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government;

''(4) while Indian tribes have the right to regulate the operation of gaming activities on Indian lands if such gaming activities are—

''(A) not specifically prohibited by Federal law; and

''(B) conducted within a State that as a matter of public policy permits such gaming activities,

Congress has the authority to regulate the privilege of doing business with Indian tribes in Indian country (as defined in section 1151 of title 18, United States Code);

''(5) systems for the regulation of gaming activities on Indian lands should meet or exceed federally established minimum regulatory requirements;

''(6) the operation of gaming activities on Indian lands has had a significant impact on commerce with foreign nations, among the several States and with the Indian tribes; and

''(7) the Constitution vests the Congress with the powers to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes, and this Act is enacted in the exercise of those powers.

''SEC. 3. PURPOSES.

''The purposes of this Act are—

''(1) to ensure the right of Indian tribes to conduct gaming activities on Indian lands in a manner consistent with the decision of the Supreme Court in California et al. v. Cabazon Band of Mission Indians et al. (480 U.S. 202, 107 S. Ct. 1083, 94 L. Ed. 2d 244 (1987)), involving the Cabazon and Morongo Bands of Mission Indians;

''(2) to provide a statutory basis for the conduct of gaming activities on Indian lands as a means of promoting tribal economic development, self-sufficiency, and strong Indian tribal governments;

''(3) to provide a statutory basis for the regulation of gaming activities on Indian lands by an Indian tribe adequate to shield such activities from organized crime and other corrupting influences, to ensure that an Indian tribal government is the primary beneficiary of the operation of gaming activities, and to ensure that gaming is conducted fairly and honestly by both the operator and players; and

''(4) to declare that the establishment of independent Federal regulatory authority for the conduct of gaming activities on Indian lands and the establishment of Federal minimum regulatory requirements for the conduct of gaming activities on Indian lands are necessary to protect such gaming.

''SEC. 4. DEFINITIONS.

''For purposes of this Act, the following definitions shall apply:

''(1) APPLICANT.—The term 'applicant' means any person who applies for a license pursuant to this Act, including persons applying for a renewal of a license.

''(2) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Advisory Committee on Minimum Regulatory Requirements and Licensing Standards established under section 9(a).

''(3) ATTORNEY GENERAL.—The term 'Attorney General' means the Attorney General of the United States.

''(4) CHAIRPERSON.—The term 'Chairperson' means the Chairperson of the Federal Indian Gaming Regulatory Commission established under section 5.

''(5) CLASS I GAMING.—The term 'class I gaming' means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

''(6) CLASS II GAMING.—

''(A) IN GENERAL.—The term 'class II gaming' means—

''(i) the game of chance commonly known as bingo or lotto including, if played in the same location, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith)—

''(I) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;

''(II) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and

''(III) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards; and

''(ii) card games that—

''(I) are explicitly authorized by the laws of a State; or

''(II) are not explicitly prohibited by the laws of a State and are played at any location in the State, but only if such card games are played in conformity with any such laws (including regulations) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

''(B) EXCLUSIONS.—The term 'class II gaming' does not include—

''(i) any banking card games, including baccarat, chemin de fer, or blackjack (21); or

''(ii) gambling devices, as defined in paragraph (11), except for any class II game that is played under subparagraph (A)(i) with technologic aid that has been approved by the Commission.

''(C) TREATMENT OF CERTAIN GAMES.—Notwithstanding any other provision of this paragraph, the term 'class II gaming' includes those card games played in the State of Michigan, the State of North Dakota, the State of South Dakota, or the State of Washington, that, on or before May 1, 1988, were actually operated in such State by an Indian tribe, but only to the extent of the nature and scope of the card games that were actually operated by an Indian tribe in such State on or before such date, as determined by the Commission (as defined in paragraph (8)).

''(7) CLASS III GAMING.—The term 'class III gaming' means all forms of gaming that are not class I gaming or class II gaming.

''(8) COMMISSION.—The term 'Commission' means the Federal Indian Gaming Regulatory Commission established under section 5.

''(9) COMPACT.—The term 'compact' means an agreement relating to the operation of class III gaming on Indian lands entered into by an Indian tribe and a State, that is approved by the Secretary, or an agreement relating to the operation of class III gaming that is negotiated by an Indian tribe and the Secretary, and approved by the Secretary.

''(10) ELECTRONIC, COMPUTER, OR OTHER TECHNOLOGIC AID.—The term 'electronic,

computer, or other technologic aid', in connection with class II gaming, means a device, such as a computer, telephone, cable, television, satellite, or bingo blower, that, when used—

''(A) is not a game of chance or a gambling device;

''(B) merely assists a player or the playing of a game; and

''(C) is operated according to applicable Federal communications law.

''(11) ELECTRONIC OR ELECTROMECHANICAL FACSIMILE.—The term 'electronic or electromechanical facsimile' means any gambling device, as defined in paragraph (12).

''(12) GAMBLING DEVICE.—The term 'gambling device' means—

''(A) any gambling device, as defined in section 1(a) of the Act of January 2, 1951 (commonly referred to as the 'Gambling Devices Transportation Act') (64 Stat. 1134, chapter 1194; 15 U.S.C. 1171(a)), including any electronic or electromechanical facsimile; and

''(B) does not include a technological aid to class II gaming that is approved by the Commission.

''(13) GAMING-RELATED CONTRACT.—The term 'gaming-related contract' means any agreement for an amount of more than $50,000 per year—

''(A) under which an Indian tribe or an agent of any Indian tribe procures gaming materials, supplies, equipment, or services that are used in the conduct of a class II or class III gaming activity, or

''(B) financing contracts or agreements for any facility in which a gaming activity is to be conducted.

''(14) GAMING-RELATED CONTRACTOR.—The term 'gaming-related contractor' means any person who enters into a gaming-related contract with an Indian tribe or an agent of an Indian tribe, including any person with a financial interest in such contract.

''(15) GAMING SERVICE INDUSTRY.—The term 'gaming service industry' means any form of enterprise that provides goods or services that are used in conjunction with any class II or class III gaming activity, in any case in which—

''(A) the proposed agreement between the enterprise and a class II or class III gaming operation, or the aggregate of such agreements is for an amount of not less than $100,000 per year; or

''(B) the amount of business conducted by such enterprise with any gaming operation in the 1-year period preceding the effective date of such agreement was not less than $250,000.

''(16) INDIAN LANDS.—The term 'Indian lands' means—

''(A) all lands within the limits of any Indian reservation; and

''(B) any lands—

''(i) the title to which is held in trust by the United States for the benefit of any Indian tribe; or

''(ii) the title to which is—

''(I) held by an Indian tribe subject to a restriction by the United States against alienation;

''(II) held by the United States for the benefit of an individual Indian; or

''(III) held by an individual subject to restriction by the United States against alienation; and

''(iii) over which an Indian tribe exercises governmental power.

''(17) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians that—

''(A) is recognized as eligible by the Secretary for the special programs and services provided by the United States to Indians because of their status as Indians; and

''(B) is recognized as possessing powers of self-government.

''(18) KEY EMPLOYEE.—The term 'key employee' means any individual employed in a gaming operation licensed pursuant to this Act in a supervisory capacity or empowered to make any discretionary decision with regard to the gaming operation, including any pit boss, shift boss, credit executive, cashier supervisor, gaming facility manager or assistant manager, or manager or supervisor of security employees.

''(19) MANAGEMENT CONTRACT.—The term 'management contract' means any contract or collateral agreement between an Indian tribe and a contractor, if such contract or agreement provides for the management of all or part of a gaming operation.

''(20) MANAGEMENT CONTRACTOR.—The term 'management contractor' means any person entering into a management contract with an Indian tribe or an agent of the Indian tribe for the management of a gaming operation, including any person with a financial interest in such contract.

''(21) MATERIAL CONTROL.—The term 'material control' means the exercise of authority or supervision or the power to make or cause to be made any discretionary decision with regard to matters which have a substantial effect on the financial or management aspects of a gaming operation.

''(22) NET REVENUES.—The term 'net revenues' means the gross revenues of an Indian gaming activity reduced by the sum of—

''(A) any amounts paid out or paid for as prizes; and

''(B) the total operating expenses associated with the gaming activity, excluding management fees.

''(23) PERSON.—The term 'person' means an individual, firm, corporation, association, partnership, trust, consortium, joint venture, entity, or gaming operation.

''(24) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''SEC. 5. ESTABLISHMENT OF THE FEDERAL INDIAN GAMING REGULATORY COMMISSION.

''(a) ESTABLISHMENT.—There is established as an independent agency of the United States, a Commission to be known as the Federal Indian Gaming Regulatory Commission. Such Commission shall be an independent establishment, as defined in section 104 of title 5, United States Code.

''(b) COMPOSITION OF THE COMMISSION.—

''(1) IN GENERAL.—The Commission shall be composed of 3 full-time members, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) CITIZENSHIP OF MEMBERS.—Each member of the Commission shall be a citizen of the United States.

''(3) REQUIREMENTS FOR MEMBERS.—No member of the Commission may—

''(A) pursue any other business or occupation or hold any other office;

''(B) be actively engaged in or, other than through distribution of gaming revenues as a member of an Indian tribe, have any direct pecuniary interest in gaming activities;

''(C) other than through distribution of gaming revenues as a member of an Indian tribe, have any pecuniary interest in any business or organization that holds a gaming license under this Act or that does business with any person or organization licensed under this Act;

''(D) have been convicted of a felony or gaming offense; or

''(E) have any financial interest in, or management responsibility for, any gaming-related contract or any other contract approved pursuant to this Act.

''(4) POLITICAL AFFILIATION.—

''(A) IN GENERAL.—Not more than 2 members of the Commission shall be members of the same political party. In making appointments to the Commission, the President shall appoint members of different political parties, to the extent practicable.

''(B) TRIBAL MEMBERSHIP.—At least 2 members of the Commission shall each be a member of a federally recognized Indian tribe. No 2 members appointed under this subparagraph shall be members of the same Indian tribe.

''(5) ADDITIONAL REQUIREMENTS.—The Commission shall be composed of the most qualified individuals available, subject to the following conditions:

''(A) CERTIFIED PUBLIC ACCOUNTANT REPRESENTATION.—One member of the Commission shall be a certified public accountant with not less than 5 years of progressively responsible experience in accounting and auditing, and a comprehensive knowledge of the principles and practices of corporate finance.

''(B) LAW ENFORCEMENT REPRESENTATION.—One member of the Commission shall be selected with special reference to training and experience in the fields of investigation or law enforcement.

''(6) BACKGROUND INVESTIGATIONS.—The Attorney General shall conduct a background investigation concerning any individual under consideration for appointment to the Commission, with particular regard to the financial stability, integrity, responsibility, and reputation for good character, honesty, and integrity of the nominee.

''(c) CHAIRPERSON.—The President shall select a Chairperson from among the members appointed to the Commission.

''(d) VICE CHAIRPERSON.—The Commission shall select, by majority vote, one of the members of the Commission to serve as Vice Chairperson. The Vice Chairperson shall—

''(1) serve as Chairperson of the Commission in the absence of the Chairperson; and

''(2) exercise such other powers as may be delegated by the Chairperson.

''(e) TERMS OF OFFICE.—

''(1) IN GENERAL.—Each member of the Commission shall hold office for a term of 5 years.

''(2) INITIAL APPOINTMENTS.—Initial appointments to the Commission shall be made for the following terms:

''(A) The Chairperson shall be appointed for a term of 5 years.

''(B) One member shall be appointed for a term of 4 years.

''(C) One member shall be appointed for a term of 3 years.

''(3) LIMITATION.—No member shall serve for more than 2 terms of 5 years each.

''(f) VACANCIES.—

''(1) IN GENERAL.—Each individual appointed by the President to serve as Chairperson and each member of the Commission shall, unless removed for cause under paragraph (2), serve in the capacity for which such individual is appointed until the expiration of the term of such individual or until a successor is duly appointed and qualified.

''(2) REMOVAL FROM OFFICE.—The Chairperson or any member of the Commission may only be removed from office before the expiration of the term of office by the President for neglect of duty, malfeasance in office, or for other good cause shown.

''(3) TERM TO FILL VACANCIES.—The term of any member appointed to fill a vacancy on the Commission shall be for the unexpired term of the member.

''(g) QUORUM.—Two members of the Commission shall constitute a quorum.

''(h) MEETINGS.—

''(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson or a majority of the members of the Commission.

''(2) MAJORITY OF MEMBERS DETERMINE ACTION.—A majority of the members of the Commission shall determine any action of the Commission.

''(i) COMPENSATION.—

''(1) CHAIRPERSON.—The Chairperson shall be paid at a rate equal to that of level IV of the Executive Schedule under section 5316 of title 5, United States Code.

''(2) OTHER MEMBERS.—Each other member of the Commission shall be paid at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(3) TRAVEL.—All members of the Commission shall be reimbursed in accordance with title 5, United States Code, for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

''(j) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''SEC. 6. POWERS OF THE CHAIRPERSON.

''(a) CHIEF EXECUTIVE OFFICER.—The Chairperson shall serve as the chief executive officer of the Commission.

''(b) ADMINISTRATION OF THE COMMISSION.—

''(1) IN GENERAL.—Subject to subsection (c), the Chairperson—

''(A) shall employ and supervise such personnel as the Chairperson considers necessary to carry out the functions of the Commission, and assign work among such personnel;

''(B) shall appoint a General Counsel to the Commission who shall be paid at the annual rate of basic pay payable for ES–6 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code;

''(C) shall appoint and supervise other staff of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service;

''(D) may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for ES–6 of the Senior Executive Service Schedule;

''(E) may request the head of any Federal agency to detail any personnel of such agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act, unless otherwise prohibited by law;

''(F) shall use and expend Federal funds and funds collected pursuant to section 17; and

''(G) may contract for the services of such other professional, technical, and operational personnel and consultants as may be necessary to the performance of the Commission's responsibilities under this Act.

''(2) COMPENSATION OF STAFF.—The staff referred to in paragraph (1)(C) shall be paid without regard to the provisions of chapter 51 and subchapters III and VIII of chapter 53 of title 5, United States Code, relating to classification and General Schedule and Senior Executive Service Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for ES–5 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

''(c) APPLICABLE POLICIES.—In carrying out any of the functions under this section, the Chairperson shall be governed by the general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

''SEC. 7. POWERS AND AUTHORITY OF THE COMMISSION.

''(a) GENERAL POWERS.—

''(1) IN GENERAL.—The Commission shall have the power to—

''(A) approve the annual budget of the Commission;

''(B) promulgate regulations to carry out this Act;

''(C) establish a rate of fees and assessments, as provided in section 17;

''(D) conduct investigations, including background investigations;

''(E) issue a temporary order closing the operation of gaming activities;

''(F) after a hearing, make permanent a temporary order closing the operation of gaming activities, as provided in section 15;

''(G) grant, deny, limit, condition, restrict, revoke, or suspend any license issued under any licensing authority conferred upon the Commission pursuant to this Act or fine any person licensed pursuant to this Act for violation of any of the conditions of licensure under this Act;

''(H) inspect and examine all premises in which class II or class III gaming is conducted on Indian lands;

''(I) demand access to and inspect, examine, photocopy, and audit all papers, books, and records of class II and class III gaming activities conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this Act;

''(J) use the United States mail in the same manner and under the same conditions as any department or agency of the United States;

''(K) procure supplies, services, and property by contract in accordance with applicable Federal laws;

''(L) enter into contracts with Federal, State, tribal, and private entities for activities necessary to the discharge of the duties of the Commission;

''(M) serve or cause to be served process or notices of the Commission in a manner provided for by the Commission or in a manner provided for the service of process and notice in civil actions in accordance with the applicable rules of a tribal, State, or Federal court;

''(N) propound written interrogatories and appoint hearing examiners, to whom may be delegated the power and authority to administer oaths, issue subpoenas, propound written interrogatories, and require testimony under oath;

''(O) conduct all administrative hearings pertaining to civil violations of this Act (including any civil violation of a regulation promulgated under this Act);

''(P) collect all fees and assessments authorized by this Act and the regulations promulgated pursuant to this Act;

''(Q) assess penalties for violations of the provisions of this Act and the regulations promulgated pursuant to this Act;

''(R) provide training and technical assistance to Indian tribes with respect to all aspects of the conduct and regulation of gaming activities;

''(S) monitor and, as specifically authorized by this Act, regulate class II and class III gaming;

''(T) approve all management-related and gaming-related contracts; and

''(U) in addition to the authorities otherwise specified in this Act, delegate, by published order or rule, any of the functions of the Commission (including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting on the part of the Commission concerning any work, business, or matter) to a division of the Commission, an individual member of the Commission, an administrative law judge, or an employee of the Commission.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to authorize the delegation of the function of rulemaking, as described in subchapter II of chapter 5 of title 5, United States Code, with respect to general rules (as distinguished from rules of particular applicability), or the promulgation of any other rule.

''(b) RIGHT TO REVIEW DELEGATED FUNCTIONS.—

''(1) IN GENERAL.—With respect to the delegation of any of the functions of the Commission, the Commission shall retain a discretionary right to review the action of any division of the Commission, individual member of the Commission, administrative law judge, or employee of the Commission, upon the initiative of the Commission.

''(2) VOTE NEEDED FOR REVIEW.—The vote of one member of the Commission shall be sufficient to bring an action referred to in paragraph (1) before the Commission for review, and the Commission shall ratify, revise, or reject the action under review not later than the last day of the applicable period specified in regulations promulgated by the Commission.

''(3) FAILURE TO CONDUCT REVIEW.—If the Commission declines to exercise the right to such review or fails to exercise such right within the applicable period specified in regulations promulgated by the Commission, the action of any such division of the Commission, individual member of the Commission, administrative law judge, or employee, shall, for all purposes, including any appeal or review of such action, be deemed an action of the Commission.

''(c) MINIMUM REQUIREMENTS.—Pursuant to the procedures described in section 9(d), after receiving recommendations from the Advisory Committee, the Commission shall establish minimum Federal standards—

''(1) for background investigations, licensing of persons, and licensing of gaming operations associated with the conduct or regulation of class II and class III gaming on Indian lands by tribal governments; and

''(2) for the operation of class II and class III gaming activities on Indian lands, including—

''(A) surveillance and security personnel and systems capable of monitoring all gaming activities, including the conduct of games, cashiers' cages, change booths, count rooms, movements of cash and chips, entrances and exits to gaming facilities, and other critical areas of any gaming facility;

''(B) procedures for the protection of the integrity of the rules for the play of games and controls related to such rules;

''(C) credit and debit collection controls;

''(D) controls over gambling devices and equipment; and

''(E) accounting and auditing.

''(d) COMMISSION ACCESS TO INFORMATION.—

''(1) IN GENERAL.—The Commission may secure from any department or agency of the United States information necessary to enable the Commission to carry out this Act. Unless otherwise prohibited by law, upon request of the Chairperson, the head of such department or agency shall furnish such information to the Commission.

''(2) INFORMATION TRANSFER.—The Commission may secure from any law enforcement or gaming regulatory agency of any State, Indian tribe, or foreign nation information necessary to enable the Commission to carry out this Act. Unless otherwise prohibited by law, upon request of the Chairperson, the head of any State or tribal law enforcement agency shall furnish such information to the Commission.

''(3) PRIVILEGED INFORMATION.—Notwithstanding sections 552 and 552a of title 5, United States Code, the Commission shall protect from disclosure information provided by

Federal, State, tribal, or international law enforcement or gaming regulatory agencies.

''(4) LAW ENFORCEMENT AGENCY.—For purposes of this subsection, the Commission shall be considered a law enforcement agency.

''(e) INVESTIGATIONS AND ACTIONS.—

''(1) IN GENERAL.—

''(A) POSSIBLE VIOLATIONS.—The Commission may, at the discretion of the Commission, and as specifically authorized by this Act, conduct such investigations as the Commission considers necessary to determine whether any person has violated, is violating, or is conspiring to violate any provision of this Act (including any rule or regulation promulgated under this Act). The Commission may require or permit any person to file with the Commission a statement in writing, under oath, or otherwise as the Commission may determine, concerning all of the relevant facts and circumstances regarding the matter under investigation by the Commission pursuant to this subsection.

''(B) ADMINISTRATIVE INVESTIGATIONS.—The Commission is authorized, at the discretion of the Commission, and as specifically authorized by this Act, to investigate such facts, conditions, practices, or matters as the Commission considers necessary or proper to aid in—

''(i) the enforcement of any provision of this Act;

''(ii) prescribing rules and regulations under this Act; or

''(iii) securing information to serve as a basis for recommending further legislation concerning the matters to which this Act relates.

''(2) ADMINISTRATIVE AUTHORITIES.—

''(A) IN GENERAL.—For the purpose of any investigation or any other proceeding conducted under this Act, any member of the Commission or any officer designated by the Commission is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission considers relevant or material to the inquiry. The attendance of such witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing.

''(B) REQUIRING APPEARANCES OR TESTIMONY.—In case of contumacy by, or refusal to obey any subpoena issued to, any person, the Commission may invoke the jurisdiction of any court of the United States within the jurisdiction of which an investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records.

''(C) COURT ORDERS.—Any such court may issue an order requiring such person to appear before the Commission or member of the Commission or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question, and any failure to obey such order of the court may be punished by such court as a contempt of such court.

''(3) ENFORCEMENT.—

''(A) IN GENERAL.—If the Commission determines that any person is engaged, has engaged, or is conspiring to engage, in any act or practice constituting a violation of any provision of this Act (including any rule or regulation promulgated under this Act), the Commission may—

''(i) bring an action in the appropriate district court of the United States or the United States District Court for the District of Columbia to enjoin such act or practice, and upon a proper showing, the court shall grant, without bond, a permanent or temporary injunction or restraining order; or

''(ii) transmit such evidence as may be available concerning such act or practice as may constitute a violation of any Federal criminal law to the Attorney General, who may institute the necessary criminal proceedings.

''(B) STATUTORY CONSTRUCTION.—The authority of the Commission to conduct investigations and take actions may not be construed to affect in any way the authority of any other agency or department of the United States to carry out statutory responsibilities of such agency or department.

''(4) WRITS, INJUNCTIONS, AND ORDERS.—Upon application of the Commission, each district court of the United States shall have jurisdiction to issue writs of mandamus, injunctions, and orders commanding any person to comply with the provisions of this Act (including any rules and regulations promulgated under this Act).

''SEC. 8. REGULATORY FRAMEWORK.

''(a) CLASS II GAMING.—For class II gaming, Indian tribes shall retain the right of such tribes to, in a manner that meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c)—

''(1) monitor and regulate such gaming; and

''(2) conduct background investigations and issue licenses to persons who are required to obtain a license under section 10(a).

''(b) CLASS III GAMING CONDUCTED UNDER A TRIBAL-STATE COMPACT.—For class III gaming conducted under the authority of a tribal-State compact entered into pursuant to section 12, an Indian tribe or a State, or both, as provided in a compact or by tribal ordinance or resolution, shall, in a manner that meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c)—

''(1) monitor and regulate gaming;

''(2) conduct background investigations and issue licenses to persons who are required to obtain a license pursuant to section 10(a); and

''(3) establish and regulate internal control systems.

''(c) CERTAIN OTHER COMPACTS.—For class III gaming conducted under the authority of a compact negotiated with the Secretary pursuant to section 12(a)(2), such compact shall provide that the Indian tribes or other appropriate entity shall, in a manner that meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c)—

''(1) monitor and regulate such gaming;

''(2) conduct background investigations and issue licenses to persons who are required to obtain a license pursuant to section 10(a); and

''(3) establish and regulate internal control systems.

''(d) VIOLATIONS OF MINIMUM FEDERAL STANDARDS.—

''(1) CLASS II GAMING.—In any case in which an Indian tribe that conducts class II gaming substantially fails to meet minimum Federal standards for class II gaming, after providing the Indian tribe notice and opportunity to cure violations and to be heard, and after the exhaustion of other authorized remedies and sanctions, the Commission shall have the authority to conduct background investigations, issue licenses, and establish and regulate internal control systems. Such authority of the Commission may be exclusive until such time as the regulatory and internal control systems of the Indian tribe meet or exceed the minimum Federal standards concerning regulatory, licensing, or internal control requirements established by the Commission.

''(2) CLASS III GAMING.—In any case in which an Indian tribe or a State (or both) that regulates class III gaming fails to meet or exceed minimum Federal standards for class III gaming, after providing notice and opportunity to cure violations and be heard, and after the exhaustion of other authorized remedies and sanctions, the Commission shall have the authority to conduct background investigations, issue licenses, and establish and regulate internal control systems. Such authority of the Commission may be exclusive until such time as the regulatory or internal control systems of the Indian tribe or a State, or both, meet or exceed the minimum regulatory, licensing, or internal control requirements established by the Commission.

''SEC. 9. ADVISORY COMMITTEE ON MINIMUM REGULATORY REQUIREMENTS AND LICENSING STANDARDS.

''(a) ESTABLISHMENT.—The President shall establish an advisory committee to be known as the 'Advisory Committee on Minimum Regulatory Requirements and Licensing Standards'.

''(b) MEMBERS.—The Advisory Committee shall be composed of 7 members who shall be appointed by the President, of which—

''(1) 3 members, selected from a list of recommendations submitted to the President by the Chairperson and Vice Chairperson of the Committee on Indian Affairs of the Senate and the Chairperson and ranking minority member of the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives, shall be members of federally recognized Indian tribes involved in gaming covered under this Act;

''(2) 2 members, selected from a list of recommendations submitted to the President by the Majority Leader and the Minority Leader of the Senate and the Speaker and the Minority Leader of the House of Representatives, shall represent State governments; and

''(3) 2 members shall each be an employee of the Department of Justice.

''(c) RECOMMENDATIONS FOR MINIMUM FEDERAL STANDARDS.—

''(1) IN GENERAL.—Not later than 180 days after the date on which the Advisory Committee is fully constituted, the Advisory Committee shall develop and submit to the entities referred to in paragraph (2) recommendations for minimum Federal standards for the conduct of background investigations and the establishment of internal control systems and licensing standards.

''(2) RECIPIENTS OF RECOMMENDATIONS.—The Advisory Committee shall submit the recommendations described in paragraph (1) to the Committee on Indian Affairs of the Senate, the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives, the Commission, and to each federally recognized Indian tribe.

''(3) FACTORS FOR CONSIDERATION.—While the minimum standards established pursuant to this section may be developed in light of existing industry standards, the Advisory Committee, and Commission in promulgating standards pursuant to subsection (d), shall give equal weight to—

''(A) the unique nature of tribal gaming as compared to non-Indian commercial, governmental, and charitable gaming;

''(B) the broad variations in the scope and size of tribal gaming activity;

''(C) the inherent sovereign right of Indian tribes to regulate their own affairs; and

''(D) the findings and purposes set forth in sections 2 and 3.

''(d) REGULATIONS.—Upon receipt of the recommendations of the Advisory Committee, the Commission shall hold public hearings on the recommendations. After the conclusion of the hearings, the Commission shall promulgate regulations establishing minimum regulatory requirements and licensing standards.

''(e) TRAVEL.—Members of the Advisory Committee appointed under paragraphs (1) and (2) of subsection (b) shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Advisory Committee while away from home or their regular place of business, in accordance with subchapter I of chapter 57 of title 5, United States Code.

''(f) TERMINATION.—The Advisory Committee shall cease to exist on the date that is 60 days after the date on which the Advisory Committee submits the recommendations under subsection (c).

''(g) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—All activities of the Advisory Committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

''SEC. 10. LICENSING.

''(a) IN GENERAL.—A license issued under this Act shall be required of—

''(1) gaming operations;

''(2) key employees of a gaming operation;

''(3) management- and gaming-related contractors;

''(4) any gaming service industry; and

''(5) any person who has material control, either directly or indirectly, over a licensed gaming operation.

''(b) CERTAIN LICENSES FOR MANAGEMENT CONTRACTORS AND GAMING OPERATIONS.—Notwithstanding any other provision of law relating to licenses issued by an Indian tribe or a State (or both) pursuant to this Act, the Commission may require licenses of—

''(1) management contractors; and

''(2) gaming operations.

''(c) STATEMENT OF COMPLIANCE.—

''(1) IN GENERAL.—The Commission may issue a statement of compliance to an applicant for any license or for qualification status under this Act at any time that the Commission is satisfied that one or more eligibility criteria for the license have been satisfied by an applicant.

''(2) CONTENTS OF STATEMENT.—A statement issued under subparagraph (A) shall specify the eligibility criterion satisfied, the date of such satisfaction, and a reservation by the Commission permitting the Commission to revoke the statement of compliance at any time on the basis of a change of circumstances affecting such compliance.

''(d) GAMING OPERATION LICENSE.—

''(1) IN GENERAL.—No gaming operation shall operate unless all required licenses and approvals for the gaming operation have been obtained in accordance with this Act.

''(2) WRITTEN AGREEMENTS.—

''(A) FILING.—Prior to the operation of any gaming facility or activity, each management contract for the gaming operation shall be in writing and filed with the Commission pursuant to section 13.

''(B) EXPRESS APPROVAL REQUIRED.—No such agreement shall be effective unless the Commission expressly approves the agreement.

''(C) REQUIREMENT OF ADDITIONAL PROVISIONS.—The Commission may require that an agreement referred to in subparagraph (A) includes any provisions that are reasonably necessary to meet the requirements of this Act.

''(D) INELIGIBILITY OR EXEMPTION.—Any applicant who does not have the ability to exercise any significant control over a licensed gaming operation may be determined by the Commission to be ineligible to hold a license or may exempt such applicant from being required to hold a license.

''(e) DENIAL OF LICENSE.—The Commission, in the exercise of the specific licensure power conferred upon the Commission by this Act, shall deny a license to any applicant who is disqualified on the basis of a failure to meet any of the minimum Federal standards promulgated by the Commission pursuant to section 7(c).

''(f) APPLICATION FOR LICENSE.—

''(1) IN GENERAL.—Upon the filing of the materials specified in paragraph (2), the Commission shall conduct an investigation into the qualifications of an applicant. The Commission may conduct a nonpublic hearing on such investigation concerning the qualifications of the applicant in accordance with regulations promulgated by the Commission.

''(2) FILING OF MATERIALS.—The Commission shall carry out paragraph (1) upon the filing of—

''(A) an application for a license that the Commission is specifically authorized to issue pursuant to this Act; and

''(B) such supplemental information as the Commission may require.

''(3) TIMING OF FINAL ACTION.—After an application is submitted to the Commission, the Commission shall take final action not later than 90 days after—

''(A) completing all hearings and investigations concerning the application; and

''(B) receiving all information required to be submitted to the Commission.

''(4) DEADLINE FOR HEARINGS AND INVESTIGATIONS.—Not later than 90 days after receiving the information described in paragraph (3)(B), the Commission shall complete the hearings and investigations described in paragraph (3)(A).

''(5) ACTION BY COMMISSION.—Following the completion of an investigation and hearing, the Commission shall either deny or grant a license to an applicant.

''(6) DENIALS.—

''(A) IN GENERAL.—The Commission may deny any application pursuant to this Act.

''(B) ORDER OF DENIAL.—If the Commission denies an application submitted under this section, the Commission shall prepare an order denying such application. In addition, if an applicant requests a statement of the reasons for the denial, the Commission shall prepare such statement and provide the statement to the applicant. The statement shall include specific findings of fact.

''(7) ISSUANCE OF LICENSES.—If the Commission is satisfied that an applicant is qualified to receive a license, the Commission shall issue a license to the applicant upon tender of—

''(A) all license fees and assessments as required by this Act (including regulations promulgated by the Commission under this Act); and

''(B) such bonds as the Commission may require for the faithful performance of all requirements imposed by this Act (including regulations promulgated under this Act).

''(8) BONDS.—

''(A) AMOUNTS.—The Commission shall, by rules of uniform application, fix the amount of each bond that the Commission requires under this section in such amount as the Commission considers appropriate.

''(B) USE OF BONDS.—The bonds furnished to the Commission under this paragraph may be applied by the Commission to the payment of any unpaid liability of the licensee under this Act.

''(C) TERMS.—Each bond required in accordance with this section shall be furnished—

''(i) in cash or negotiable securities;

''(ii) by a surety bond guaranteed by a satisfactory guarantor; or

''(iii) by an irrevocable letter of credit issued by a banking institution acceptable to the Commission.

''(D) TREATMENT OF PRINCIPAL AND INCOME.—If a bond is furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the Commission, but any income shall inure to the benefit of the licensee.

''(g) RENEWAL OF LICENSE.—

''(1) IN GENERAL.—

''(A) RENEWALS.—Subject to the power of the Commission to deny, revoke, or suspend licenses, any license issued under this section and in force shall be renewed by the Commission for the next succeeding license period upon proper application for renewal and payment of license fees and assessments, as required by applicable law (including regulations of the Commission).

''(B) RENEWAL TERM.—Subject to subparagraph (C), the term of a renewal period for a license issued under this section shall be for a period of not more than—

''(i) 2 years, for each of the first 2 renewal periods succeeding the initial issuance of a license pursuant to subsection (f); and

''(ii) 3 years, for each succeeding renewal period.

''(C) REOPENING HEARINGS.—The Commission may reopen licensing hearings at any time after the Commission has issued or renewed a license.

''(2) TRANSITION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the Commission shall, for the purpose of facilitating the administration of this Act, renew a license for an activity covered under subsection (a) that is held by a person on the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1995 for a renewal period of 18 months.

''(B) ACTION BEFORE EXPIRATION.—The Commission shall act upon any license renewal application that is filed in a timely manner prior to the date of expiration of the then current license.

''(3) FILING REQUIREMENT.—Each application for renewal shall be filed with the Commission not later than 90 days prior to the expiration of the then current license. All license fees and assessments that are required by law shall be paid to the Commission on or before the date of expiration of the then current license.

''(4) RENEWAL CERTIFICATE.—Upon renewal of a license, the Commission shall issue an appropriate renewal certificate, validating device, or sticker, which shall be attached to the license.

''(h) HEARINGS.—

''(1) IN GENERAL.—The Commission shall establish procedures for the conduct of hearings associated with licensing, including procedures for denying, limiting, conditioning, restricting, revoking, or suspending any such license.

''(2) ACTION BY COMMISSION.—Following a hearing conducted for any of the purposes authorized in this section, the Commission shall—

''(A) render a decision of the Commission;

''(B) issue an order; and

''(C) serve such decision and order upon the affected parties.

''(3) REHEARING.—

''(A) IN GENERAL.—The Commission may, upon a motion made not later than 10 days after the service of a decision and order, order a rehearing before the Commission on such terms and conditions as the Commission considers just and proper if the Commission finds cause to believe that the decision and order should be reconsidered in view of

the legal, policy, or factual matters that are—

''(i) advanced by the party that makes the motion; or

''(ii) raised by the Commission on a motion made by the Commission.

''(B) ACTION AFTER REHEARING.—Following a rehearing conducted by the Commission, the Commission shall—

''(i) render a decision of the Commission;

''(ii) issue an order; and

''(iii) serve such decision and order upon the affected parties.

''(C) FINAL AGENCY ACTION.—A decision and order made by the Commission under paragraph (2) (if no motion for a rehearing is made), or a decision and order made by the Commission upon rehearing shall constitute final agency action for purposes of judicial review.

''(4) JURISDICTION.—The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the licensing decisions and orders of the Commission.

''(i) LICENSE REGISTRY.—The Commission shall—

''(1) maintain a registry of all licenses that are granted or denied pursuant to this Act; and

''(2) make the information contained in the registry available to Indian tribes to assist the licensure and regulatory activities of Indian tribes.

''SEC. 11. REQUIREMENTS FOR THE CONDUCT OF CLASS I AND CLASS II GAMING ON INDIAN LANDS.

''(a) CLASS I GAMING.—Class I gaming on Indian lands shall be within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

''(b) CLASS II GAMING.—

''(1) IN GENERAL.—Any class II gaming on Indian lands shall be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act.

''(2) LEGAL ACTIVITIES.—An Indian tribe may engage in, and license and regulate, class II gaming on Indian lands within the jurisdiction of such tribe, if—

''(A) such Indian gaming is located within a State that permits such gaming for any purpose by any person; and

''(B) the class II gaming operation meets or exceeds the requirements of sections 7(c) and 10.

''(3) REQUIREMENTS FOR CLASS II GAMING OPERATIONS.—

''(A) IN GENERAL.—The Commission shall ensure that with regard to any class II gaming operation on Indian lands—

''(i) a separate license is issued by the Indian tribe for each place, facility, or location on Indian lands at which class II gaming is conducted;

''(ii) the Indian tribe has or will have the sole proprietary interest and responsibility for the conduct of any class II gaming activity, unless the conditions of clause (ix) apply;

''(iii) the net revenues from any class II gaming activity may only be used—

''(I) to fund tribal government operations or programs;

''(II) to provide for the general welfare of the Indian tribe and the members of the Indian tribe;

''(III) to promote tribal economic development;

''(IV) to donate to charitable organizations;

''(V) to help fund operations of local government agencies; or

''(VI) to comply with the provisions of section 17;

''(iv) the Indian tribe shall provide to the Commission annual outside audits of the class II gaming operation of the Indian tribe, which may be encompassed within existing independent tribal audit systems;

''(v) all contracts for supplies, services, or concessions for a contract amount equal to more than $50,000 per year, other than contracts for professional legal or accounting services, relating to such gaming shall be subject to such independent audits and any audit conducted by the Commission;

''(vi) the construction and maintenance of a class II gaming facility and the operation of class II gaming shall be conducted in a manner that adequately protects the environment and public health and safety;

''(vii) there shall be instituted an adequate system that—

''(I) ensures that—

''(aa) background investigations are conducted on primary management officials, key employees, and persons having material control, either directly or indirectly, in a licensed class II gaming operation, and gaming-related contractors associated with a licensed class II gaming operation; and

''(bb) oversight of such officials and the management by such officials is conducted on an ongoing basis; and

''(II) includes—

''(aa) tribal licenses for persons involved in class II gaming operations, issued in accordance with sections 7(c) and 10;

''(bb) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment or licensure; and

''(cc) notification by the Indian tribe to the Commission of the results of such background investigation before the issuance of any such license;

''(viii) net revenues from any class II gaming activities conducted or licensed by any Indian tribal government may be used to make per capita payments to members of the Indian tribe only if—

''(I) the Indian tribe has prepared a plan to allocate revenues to uses authorized by clause (iii);

''(II) the Secretary determines that the plan is adequate, particularly with respect to uses described in subclause (I) or (III) of clause (iii);

''(III) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved;

''(IV) the per capita payments to minors and other legally incompetent persons are disbursed to the parents or legal guardians of such minors or legally incompetent persons in such amounts as may be necessary for the health, education, or welfare of each such minor or legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and

''(V) the per capita payments are subject to Federal income taxation and Indian tribes withhold such taxes when such payments are made.

''(ix) a separate license shall be issued by the Indian tribe for any class II gaming operation owned by any person or entity other than the Indian tribe and conducted on Indian lands, that includes—

''(I) requirements set forth in subparagraph (C); and

''(II) requirements that are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State within which such Indian lands are located; and

''(x) no person or entity, other than the Indian tribe, shall be eligible to receive a tribal license to own a class II gaming operation conducted on Indian lands within the jurisdiction of the Indian tribe if such person or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State.

''(B) TRANSITION.—

''(i) IN GENERAL.—Clauses (ii), (iii), and (ix) shall not bar the continued operation of an individually owned class II gaming operation that was operating on September 1, 1986, if—

''(I) such gaming operation is licensed and regulated by an Indian tribe;

''(II) income to the Indian tribe from such gaming is used only for the purposes described in subparagraph (A)(iii);

''(III) not less than 60 percent of the net revenues from such gaming operation is income to the licensing Indian tribe; and

''(IV) the owner of such gaming operation pays an appropriate assessment to the Commission pursuant to section 17 for the regulation of such gaming.

''(ii) LIMITATIONS ON EXEMPTION.—The exemption from application provided under clause (i) may not be transferred to any person or entity and shall remain in effect only during such period as the gaming operation remains within the same nature and scope as such gaming operation was actually operated on October 17, 1988.

''(C) LIST.—The Commission shall—

''(i) maintain a list of each individually owned gaming operation that is subject to subparagraph (A)(x); and

''(ii) publish such list in the Federal Register.

''(c) PETITION FOR CERTIFICATE OF SELF-REGULATION.—

''(1) IN GENERAL.—Any Indian tribe that operates, directly or with a management contract, a class II gaming activity may petition the Commission for a certificate of self-regulation if that Indian tribe—

''(A) has continuously conducted such activity for a period of not less than 3 years, including a period of at least 1 year after the date of the enactment of the Indian Gaming Regulatory Act Amendments Act of 1995; and

''(B) has otherwise complied with the provisions of this Act.

''(2) ISSUANCE OF CERTIFICATE OF SELF-REGULATION.—The Commission shall issue a certificate of self-regulation if the Commission determines on the basis of available information, and after a hearing if requested by the tribe, that the Indian tribe has—

''(A) conducted its gaming activity in a manner which has—

''(i) resulted in an effective and honest accounting of all revenues;

''(ii) resulted in a reputation for safe, fair, and honest operation of the activity; and

''(iii) been generally free of evidence of criminal or dishonest activity;

''(B) adopted and implemented adequate systems for—

''(i) accounting for all revenues from the activity;

''(ii) investigation, licensing, and monitoring of all employees of the gaming activity; and

''(iii) investigation, enforcement, and prosecution of violations of its gaming ordinance and regulations;

''(C) conducted the operation on a fiscally and economically sound basis; and

''(D) paid all fees and assessments that the tribe is required to pay to the Commission under this Act.

''(3) EFFECT OF CERTIFICATE OF SELF-REGULATION.—During the period in which a certificate of self-regulation issued under this paragraph is in effect with respect to a gaming activity conducted by an Indian tribe—

''(A) the tribe shall—

''(i) continue to submit an annual independent audit as required by subsection (b)(3)(A)(iv); and

''(ii) submit to the Commission a complete résumé of each employee hired and licensed by the tribe subsequent to the issuance of a certificate of self-regulation; and

''(B) the Commission may not assess a fee on such activity pursuant to section 17 in excess of ¼ of 1 percent of the gross revenue from such activity.

''(4) RESCISSION.—The Commission may, for just cause and after an opportunity for a hearing, rescind a certificate of self-regulation by majority vote of the members of the Commission.

''(d) LICENSE REVOCATION.—If, after the issuance of any license by an Indian tribe under this section, the Indian tribe receives reliable information from the Commission indicating that a licensee does not meet any standard established under section 7(c) or 10, or any other applicable regulation promulgated by the Commission, the Indian tribe—

''(1) shall suspend such license; and

''(2) after notice and hearing under procedures established pursuant to applicable tribal law, may revoke such license.

''SEC. 12. CLASS III GAMING ON INDIAN LANDS.

''(a) REQUIREMENTS FOR THE CONDUCT OF CLASS III GAMING ON INDIAN LANDS.—

''(1) IN GENERAL.—Class III gaming activities shall be lawful on Indian lands only if such activities are—

''(A) authorized by a compact that—

''(i) is approved pursuant to tribal law by the governing body of the Indian tribe having jurisdiction over such lands;

''(ii) meets the requirements of section 11(b)(3) for the conduct of class II gaming; and

''(iii) is approved by the Secretary;

''(B) located in a State that permits such gaming for any purpose by any person; and

''(C) conducted in conformance with a tribal-State compact that—

''(i) is in effect; and

''(ii) is—

''(I) entered into by an Indian tribe and a State and approved by the Secretary under paragraph (2); or

''(II) issued by the Secretary under paragraph (2).

''(2) COMPACT NEGOTIATIONS.—

''(A) IN GENERAL.—

''(i) COMPACT NEGOTIATIONS.—Any Indian tribe having jurisdiction over the lands upon which a class III gaming activity is to be conducted may request the State in which such lands are located to enter into negotiations for the purpose of entering into a tribal-State compact governing the conduct of class III gaming activities.

''(ii) REQUIREMENTS FOR REQUEST FOR NEGOTIATIONS.—A request for negotiations under clause (i) shall be in writing and shall specify each gaming activity that the Indian tribe proposes for inclusion in the compact. Not later than 30 days after receipt of such written request, the State shall respond to the Indian tribe.

''(iii) COMMENCEMENT OF COMPACT NEGOTIATIONS.—Compact negotiations conducted under this paragraph shall commence not later than 30 days after the date on which a response by a State is due to the Indian tribe, and shall be completed not later than 120 days after the initiation of compact negotiations, unless the State and the Indian tribe agree to a different period of time for the completion of compact negotiations.

''(iv) INABILITY TO MEET DEADLINES FOR NEGOTIATIONS.—

''(I) NOTIFICATION.—If the State and the Indian tribe find that the State and Indian tribe are unable to commence or complete compact negotiations within the applicable time periods provided in this subsection, the Indian tribe shall notify the Secretary.

''(II) PRESENTATION OF POSITIONS.—Upon receipt of a notice under subclause (I), the Secretary shall request that the tribe and the State present their respective positions, not later than 60 days after such request, regarding—

''(aa) the gaming activities that the tribe seeks to conduct that are permissible under this Act;

''(bb) the framework for regulation of tribal gaming; and

''(cc) such other matters as the Secretary may consider appropriate.

''(B) APPROVAL OF COMPACT.—Not later than 90 days after the date of expiration of the 60-day period specified in subparagraph (A), the Secretary shall approve a compact that meets the requirements of this section, and shall publish the compact in the Federal Register. The compact shall—

''(i) include provisions—

''(I) that best meet the objectives of this Act; and

''(II) for background investigations, internal controls, and licensing that are consistent with this Act (including regulations promulgated by the Commission pursuant to section 7(c)); and

''(ii) not violate—

''(I) any provision of this Act (including regulations promulgated by the Commission pursuant to this Act);

''(II) any other provision of Federal law; or

''(III) the trust obligation of the United States to Indians.

''(C) MANDATORY DISAPPROVAL.—Notwithstanding any other provision of this Act, the Secretary shall not have the authority to approve a compact if the compact requires State regulation of Indian gaming absent the consent of the State or the Indian tribe.

''(D) EFFECT OF PUBLICATION OF COMPACT.—Except for an appeal conducted under subchapter II of chapter 5 of title 5, United States Code, by an Indian tribe or a State associated with the publication of the compact, the publication of a compact pursuant to subparagraph (B) that permits a form of class III gaming shall, for the purposes of this Act, be conclusive evidence that such class III gaming is an activity subject to negotiations under the laws of the State where the gaming is to be conducted, in any matter under consideration by the Commission or a Federal court.

''(E) EFFECTIVE DATE OF COMPACT.—Any compact negotiated under this subsection shall become effective upon the publication of the compact in the Federal Register by the Secretary.

''(F) DUTIES OF COMMISSION.—Consistent with the provisions of sections 7(c), 8, and 10, the Commission shall monitor and, if specifically authorized, regulate and license class III gaming with respect to any compact that is approved by the Secretary under this subsection and published in the Federal Register.

''(3) PROVISIONS OF COMPACTS.—

''(A) IN GENERAL.—A compact negotiated under this subsection may include provisions relating to—

''(i) the application of the criminal and civil laws (including regulations) of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity in a manner consistent with sections 7(c), 8, and 10;

''(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws (including regulations);

''(iii) the assessment by the State of the costs associated with such activities in such amounts as are necessary to defray the costs of regulating such activity;

''(iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;

''(v) remedies for breach of compact provisions;

''(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing, in a manner consistent with sections 7(c), 8, and 10; and

''(vii) any other subject that is directly related to the operation of gaming activities and the impact of gaming on tribal, State, and local governments.

''(B) STATUTORY CONSTRUCTION WITH RESPECT TO ASSESSMENTS.—Except for any assessments for services agreed to by an Indian tribe in compact negotiations, nothing in this section may be construed as conferring upon a State or any political subdivision thereof the authority to impose any tax, fee, charge, or other assessment upon an Indian tribe, an Indian gaming operation or the value generated by the gaming operation, or any person or entity authorized by an Indian tribe to engage in a class III gaming activity in conformance with this Act.

''(4) STATUTORY CONSTRUCTION WITH RESPECT TO CERTAIN RIGHTS OF INDIAN TRIBES.—Nothing in this subsection impairs the right of an Indian tribe to regulate class III gaming on the Indian lands of the Indian tribe concurrently with a State and the Commission, except to the extent that such regulation is inconsistent with, or less stringent than, this Act or any laws (including regulations) made applicable by any compact entered into by the Indian tribe under this subsection that is in effect.

''(5) EXEMPTION.—The provisions of section 2 of the Act of January 2, 1951 (commonly referred to as the 'Gambling Devices Transportation Act') (64 Stat. 1134, chapter 1194, 15 U.S.C. 1175) shall not apply to any class II gaming activity or any gaming activity conducted pursuant to a compact entered into after the date of enactment of this Act, but in no event shall this paragraph be construed as invalidating any exemption from the provisions of such section 2 for any compact entered into prior to the date of enactment of this Act.

''(b) JURISDICTION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.—The United States District Court for the District of Columbia shall have jurisdiction over any action initiated by the Secretary, the Commission, a State, or an Indian tribe to enforce any provision of a compact entered into under subsection (a) or to enjoin a class III gaming activity located on Indian lands and conducted in violation of any compact that is in effect and that was entered into under subsection (a).

''(c) APPROVAL OF COMPACTS.—

''(1) IN GENERAL.—The Secretary is authorized to approve any compact between an Indian tribe and a State governing the conduct of class III gaming on Indian lands of such Indian tribe entered into under subsection (a).

''(2) REASONS FOR DISAPPROVAL BY SECRETARY.—The Secretary may disapprove a compact entered into under subsection (a) only if such compact violates any—

''(A) provision of this Act or any regulation promulgated by the Commission pursuant to this Act;

''(B) other provision of Federal law; or

''(C) trust obligation of the United States to Indians.

''(3) EFFECT OF FAILURE TO ACT ON COMPACT.—If the Secretary fails to approve or disapprove a compact entered into under subsection (a) before the date that is 45 days after the date on which the compact is submitted to the Secretary for approval, the

compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this Act and the regulations promulgated by the Commission pursuant to this Act.

''(4) NOTIFICATION.—The Secretary shall publish in the Federal Register notice of any compact that is approved, or considered to have been approved, under this subsection.

''(d) REVOCATION OF ORDINANCE.—

''(1) IN GENERAL.—The governing body of an Indian tribe, in its sole discretion, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized class III gaming on the Indian lands of the Indian tribe. Such revocation shall render class III gaming illegal on the Indian lands of such Indian tribe.

''(2) PUBLICATION OF REVOCATION.—An Indian tribe shall submit any revocation ordinance or resolution described in paragraph (1) to the Commission. The Commission shall publish such ordinance or resolution in the Federal Register. The revocation provided by such ordinance or resolution shall take effect on the date of such publication.

''(3) CONDITIONAL OPERATION.—Notwithstanding any other provision of this subsection—

''(A) any person or entity operating a class III gaming activity pursuant to this paragraph on the date on which an ordinance or resolution described in paragraph (1) that revokes authorization for such class III gaming activity is published in the Federal Register may, during the 1-year period beginning on the date on which such revocation, ordinance, or resolution is published under paragraph (2), continue to operate such activity in conformance with an applicable compact entered into under subsection (a) that is in effect; and

''(B) any civil action that arises before, and any crime that is committed before, the termination of such 1-year period shall not be affected by such revocation ordinance, or resolution.

''(e) CERTAIN CLASS III GAMING ACTIVITIES.—

''(1) COMPACTS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1995.—Class III gaming activities that are authorized under a compact approved or issued by the Secretary under the authority of this Act prior to the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1995 shall, during such period as the compact is in effect, remain lawful for the purposes of this Act, notwithstanding the Indian Gaming Regulatory Act Amendments Act of 1995 and the amendments made by such Act or any change in State law enacted after the approval or issuance of the compact.

''(2) COMPACT ENTERED INTO AFTER THE DATE OF ENACTMENT OF THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1995.—Any compact entered into under subsection (a) after the date specified in paragraph (1) shall remain lawful for the purposes of this Act, notwithstanding any change in State law enacted after the approval or issuance of the compact.

''SEC. 13. REVIEW OF CONTRACTS.

''(a) CONTRACTS INCLUDED.—The Commission shall review and approve or disapprove—

''(1) any management contract for the operation and management of any gaming activity that an Indian tribe may engage in under this Act; and

''(2) unless licensed by an Indian tribe consistent with the minimum Federal standards adopted pursuant to section 7(c), any gaming-related contract.

''(b) MANAGEMENT CONTRACT REQUIREMENTS.—The Commission shall approve any management contract between an Indian tribe and a person licensed by an Indian tribe or the Commission that is entered into pursuant to this Act only if the Commission determines that the contract provides for—

''(1) adequate accounting procedures that are maintained, and verifiable financial reports that are prepared by or for, the governing body of the Indian tribe on a monthly basis;

''(2) access to the daily gaming operations by appropriate officials of the Indian tribe who shall have the right to verify the daily gross revenues and income derived from any gaming activity;

''(3) a minimum guaranteed payment to the Indian tribe that has preference over the retirement of any development and construction costs;

''(4) an agreed upon ceiling for the repayment of any development and construction costs;

''(5) a contract term of not to exceed 5 years, except that, upon the request of an Indian tribe, the Commission may authorize a contract term that exceeds 5 years but does not exceed 7 years, if the Commission is satisfied that the capital investment required, and the income projections for the particular gaming activity, require the additional time; and

''(6) grounds and mechanisms for the termination of the contract, but any such termination shall not require the approval of the Commission.

''(c) MANAGEMENT FEE BASED ON PERCENTAGE OF NET REVENUES.—

''(1) PERCENTAGE FEE.—The Commission may approve a management contract that provides for a fee that is based on a percentage of the net revenues of a tribal gaming activity if the Commission determines that such percentage fee is reasonable, taking into consideration surrounding circumstances.

''(2) FEE AMOUNT.—Except as provided in paragraph (3), a fee described in paragraph (1) shall not exceed an amount equal to 30 percent of the net revenues described in such paragraph.

''(3) EXCEPTION.—Upon the request of an Indian tribe, if the Commission is satisfied that the capital investment required, and income projections for, a tribal gaming activity, necessitate a fee in excess of the amount specified in paragraph (2), the Commission may approve a management contract that provides for a fee described in paragraph (1) in an amount in excess of the amount specified in paragraph (2), but not to exceed 40 percent of the net revenues described in paragraph (1).

''(d) GAMING-RELATED CONTRACT REQUIREMENTS.—The Commission shall approve a gaming-related contract covered under subsection (a)(2) that is entered into pursuant to this Act only if the Commission determines that the contract provides for—

''(1) grounds and mechanisms for termination of the contract, but such termination shall not require the approval of the Commission; and

''(2) such other provisions as the Commission may be empowered to impose by this Act.

''(e) TIME PERIOD FOR REVIEW.—

''(1) IN GENERAL.—Except as provided in paragraph (2), not later than 90 days after the date on which a management contract or other gaming-related contract is submitted to the Commission for approval, the Commission shall approve or disapprove such contract on the merits of the contract. The Commission may extend the 90-day period for an additional period of not more than 45 days if the Commission notifies the Indian tribe in writing of the reason for the extension of the period. The Indian tribe may bring an action in the United States District Court for the District of Columbia to compel action by the Commission if a contract has not been approved or disapproved by the termination date of an applicable period under this subsection.

''(2) EFFECT OF FAILURE OF COMMISSION TO ACT ON CERTAIN GAMING-RELATED CONTRACT.—Any gaming-related contract for an amount less than or equal to $100,000 that is submitted to the Commission pursuant to paragraph (1) by a person who holds a valid license that is in effect under this Act shall be deemed to be approved, if by the date that is 90 days after the contract is submitted to the Commission, the Commission fails to approve or disapprove the contract.

''(f) CONTRACT MODIFICATIONS AND VOID CONTRACTS.—The Commission, after providing notice and hearing—

''(1) shall have the authority to require appropriate contract modifications to ensure compliance with the provisions of this Act; or

''(2) may void any contract regulated by the Commission under this Act if the Commission determines that any of the provisions of this Act have been violated by the terms of the contract.

''(g) INTERESTS IN REAL PROPERTY.—No contract regulated by this Act may transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists, all necessary approvals for such transfer or conveyance have been obtained, and such transfer or conveyance is clearly specified in the contract.

''(h) AUTHORITY OF THE SECRETARY.—The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) shall not extend to any contract or agreement that is regulated pursuant to this Act.

''(i) DISAPPROVAL OF CONTRACTS.—The Commission may not approve a contract if the Commission determines that—

''(1) any person having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, any individual who serves on the board of directors of such corporation, and any of the stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock—

''(A) is an elected member of the governing body of the Indian tribe which is a party to the contract;

''(B) has been convicted of any felony or gaming offense;

''(C) has knowingly and willfully provided materially important false statements or information to the Commission or the Indian tribe pursuant to this Act or has refused to respond to questions propounded by the Commission; or

''(D) has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

''(2) the contractor—

''(A) has unduly interfered or influenced for its gain or advantage any decision or process of tribal government relating to the gaming activity; or

''(B) has attempted to interfere or influence a decision pursuant to subparagraph (A);

''(3) the contractor has deliberately or substantially failed to comply with the terms of the contract; or

''(4) a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

"SEC. 14. REVIEW OF EXISTING CONTRACTS; INTERIM AUTHORITY.

''(a) REVIEW OF EXISTING CONTRACTS.—

''(1) IN GENERAL.—At any time after the Commission is sworn in and has promulgated regulations for the implementation of this Act, the Commission shall notify each Indian tribe and management contractor who, prior to the enactment of the Indian Gaming Regulatory Act Amendments Act of 1995, entered into a management contract that was approved by the Secretary, that the Indian tribe is required to submit to the Commission such contract, including all collateral agreements relating to the gaming activity, for review by the Commission not later than 60 days after such notification. Any such contract shall be valid under this Act, unless the contract is disapproved by the Commission under this section.

''(2) REVIEW.—

''(A) IN GENERAL.—Not later than 180 days after the submission of a management contract, including all collateral agreements, to the Commission pursuant to this section, the Commission shall review the contract to determine whether the contract meets the requirements of section 13 and was entered into in accordance with the procedures under such section.

''(B) APPROVAL OF CONTRACT.—The Commission shall approve a management contract submitted for review under subsection (a) if the Commission determines that—

''(i) the management contract meets the requirements of section 13; and

''(ii) the management contractor has obtained all of the licenses that the contractor is required to obtain under this Act.

''(C) NOTIFICATION OF NECESSARY MODIFICATIONS.—If the Commission determines that a contract submitted under this section does not meet the requirements of section 13, the Commission shall provide written notification to the parties to such contract of the necessary modifications and the parties shall have 180 days to make the modifications.

''(b) INTERIM AUTHORITY OF THE NATIONAL INDIAN GAMING COMMISSION.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Chairperson and the associate members of the National Indian Gaming Commission who are holding office on the date of enactment of this Act shall exercise those authorities vested in the Federal Indian Gaming Regulatory Commission by this Act until such time as the members of the Federal Indian Gaming Regulatory Commission are sworn into office.

''(2) TRANSITION.—Notwithstanding any other provision of law, the Commission shall exercise the authority conferred on the Commission by this Act, and until such time as the Commission promulgates revised regulations after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1995, the regulations issued under this Act, as in effect on the day before such date of enactment, shall apply.

"SEC. 15. CIVIL PENALTIES.

''(a) AMOUNT.—Any person who commits any act or causes to be done any act that violates any provision of this Act or the rules or regulations promulgated under this Act, or who fails to carry out any act or causes the failure to carry out any act that is required by any such provision of law shall be subject to a civil penalty in an amount equal to not more than $50,000 per day for each such violation.

''(b) ASSESSMENT AND COLLECTION.—

''(1) IN GENERAL.—Each civil penalty assessed under this section shall be assessed by the Commission and collected in a civil action brought by the Attorney General on behalf of the United States. Before the Commission refers civil penalty claims to the Attorney General, the Commission may compromise the civil penalty after affording the person charged with a violation referred to in subsection (a), an opportunity to present views and evidence in support of such action by the Commission to establish that the alleged violation did not occur.

''(2) PENALTY AMOUNT.—In determining the amount of a civil penalty assessed under this section, the Commission shall take into account—

''(A) the nature, circumstances, extent, and gravity of the violation committed;

''(B) with respect to the person found to have committed such violation, the degree of culpability, any history of prior violations, ability to pay, the effect on ability to continue to do business; and

''(C) such other matters as justice may require.

''(c) TEMPORARY CLOSURES.—

''(1) IN GENERAL.—The Commission may order the temporary closure of all or part of an Indian gaming operation for a substantial violation of any provision of law referred to in subsection (a).

''(2) HEARING ON ORDER OF TEMPORARY CLOSURE.—

''(A) IN GENERAL.—Not later than 30 days after the issuance of an order of temporary closure, the Indian tribe or the individual owner of a gaming operation shall have the right to request a hearing before the Commission to determine whether such order should be made permanent or dissolved.

''(B) DEADLINES RELATING TO HEARING.—Not later than 30 days after a request for a hearing is made, the Commission shall conduct such hearing. Not later than 30 days after the termination of the hearing, the Commission shall render a final decision on the closure.

"SEC. 16. JUDICIAL REVIEW.

''A decision made by the Commission pursuant to sections 7, 8, 10, 13, 14, and 15 shall constitute final agency decisions for purposes of appeal to the United States District Court for the District of Columbia pursuant to chapter 7 of title 5, United States Code.

"SEC. 17. COMMISSION FUNDING.

''(a) ANNUAL FEES.—

''(1) IN GENERAL.—The Commission shall establish a schedule of fees to be paid to the Commission annually by gaming operations for each class II and class III gaming activity that is regulated by this Act.

''(2) LIMITATION ON FEE RATES.—

''(A) IN GENERAL.—For each gaming operation regulated under this Act, the rate of the fees imposed under the schedule established under paragraph (1) shall not exceed 2 percent of the net revenues of such gaming operation.

''(B) TOTAL AMOUNT OF FEES.—The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall equal not more than $25,000,000.

''(3) ANNUAL FEE RATE.—The Commission, by a vote of a majority of the members of the Commission, shall annually adopt the rate of the fees authorized by this section. Such fees shall be payable to the Commission on a monthly basis.

''(4) ADJUSTMENT OF FEES.—The fees paid by a gaming operation may be adjusted by the Commission to reduce the amount of the fees by an amount that takes into account that regulatory functions are performed by an Indian tribe, or the Indian tribe and a State, pursuant to regulations promulgated by the Commission.

''(5) CONSEQUENCES OF FAILURE TO PAY FEES.—Failure to pay the fees imposed under the schedule established under paragraph (1) shall, subject to regulations promulgated by the Commission, be grounds for revocation of the approval of the Commission of any license required under this Act for the operation of gaming activities.

''(6) SURPLUS FUNDS.—To the extent that revenue derived from fees imposed under the schedule established under paragraph (1) exceed the limitation in paragraph (2)(B) or are not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each gaming activity that is the subject of the fees on a pro rata basis against such fees imposed for the succeeding year.

''(b) REIMBURSEMENT OF COSTS.—The Commission is authorized to assess any applicant, except the governing body of an Indian tribe, for any license required pursuant to this Act. Such assessment shall be an amount equal to the actual costs of conducting all reviews and investigations necessary for the Commission to determine whether a license should be granted or denied to the applicant.

''(c) ANNUAL BUDGET.—

''(1) IN GENERAL.—For the first full fiscal year beginning after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1995, and each fiscal year thereafter, the Commission shall adopt an annual budget for the expenses and operation of the Commission.

''(2) REQUEST FOR APPROPRIATIONS.—The budget of the Commission may include a request for appropriations authorized under section 18.

''(3) SUBMISSION TO CONGRESS.—Notwithstanding any other provision of law, a request for appropriations made pursuant to paragraph (2) shall be submitted by the Commission directly to the Congress beginning with the request for the first full fiscal year beginning after the date of enactment of this Act, and shall include the proposed annual budget of the Commission and the estimated revenues to be derived from fees.

"SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

''Subject to section 17, there are authorized to be appropriated $5,000,000 to provide for the operation of the Commission for each of fiscal years 1997, 1998, and 1999, to remain available until expended.

"SEC. 19. MISCELLANEOUS.

''(a) GAMING PROSCRIBED ON LANDS ACQUIRED IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), gaming regulated by this Act shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date of enactment of this Act, unless—

''(A) such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on the date of enactment of this Act;

''(B) the Indian tribe has no reservation on the date of enactment of this Act and such lands are located in the State of Oklahoma and—

''(i) are within the boundaries of the former reservation of the Indian tribe, as defined by the Secretary; or

''(ii) are contiguous to other land held in trust or restricted status by the United States for the Indian tribe in the State of Oklahoma; or

''(C) such lands are located in a State other than the State of Oklahoma and are within the last recognized reservation of the Indian tribe within the State within which the Indian tribe is presently located.

''(2) EXEMPTION FOR CERTAIN TRUST LANDS.—Paragraph (1) does not apply in any case in which—

''(A) the Secretary, after consultation with the Indian tribe and a review of the recommendations, if any, of the Governor of the State in which such lands are located, and any other State and local officials, including

officials of other nearby Indian tribes, determines that a gaming establishment on newly acquired lands—

''(i) would be in the best interest of the Indian tribe and the members of the Indian tribe; and

''(ii) would not be detrimental to the surrounding community;

''(B) lands are taken into trust as part of a settlement of a land claim;

''(C) the initial reservation of an Indian tribe is acknowledged by the Secretary under the Federal acknowledgment process or by an Act of Congress; or

''(D) lands are restored for an Indian tribe that is restored to Federal recognition.

''(3) EXEMPTION.—Paragraph (1) shall not apply to—

''(A) any lands involved in the trust petition of the St. Croix Chippewa Indians of Wisconsin that is the subject of the action filed in the United States District Court for the District of Columbia entitled St. Croix Chippewa Indians of Wisconsin v. United States, Civ. No. 86–2278; or

''(B) the interests of the Miccosukee Tribe of Indians of Florida in approximately 25 contiguous acres of land, more or less, in Dade County, Florida, located within 1 mile of the intersection of State road numbered 27 (also known as Krome Avenue) and the Tamiami Trail.

''(4) AUTHORITY OF THE SECRETARY.—Nothing in this section may affect or diminish the authority and responsibility of the Secretary to take land into trust.

''(b) APPLICATION OF THE INTERNAL REVENUE CODE OF 1986.—

''(1) IN GENERAL.—The provisions of the Internal Revenue Code of 1986 (including sections 1441, 3402(q), 6041, and chapter 35 of such Code) concerning the reporting and withholding of taxes with respect to the winnings from gaming or wagering operations shall apply to Indian gaming operations conducted pursuant to this Act, or under a compact entered into under section 12 that is in effect, in the same manner as such provisions apply to State gaming and wagering operations. Any exemptions to States with respect to taxation of such gaming or wagering operations shall be allowed to Indian tribes.

''(2) EXEMPTION.—The provisions of section 6050I of the Internal Revenue Code of 1986 shall apply to an Indian gaming establishment that is not designated by the Secretary of the Treasury as a financial institution pursuant to chapter 53 of title 31, United States Code.

''(3) STATUTORY CONSTRUCTION.—This subsection shall apply notwithstanding any other provision of law enacted before the date of enactment of this Act unless such other provision of law specifically cites this subsection.

''(c) ACCESS TO INFORMATION BY STATE AND TRIBAL GOVERNMENTS.—Subject to section 7(d), upon the request of a State or the governing body of an Indian tribe, the Commission shall make available any law enforcement information which it has obtained pursuant to such section, unless otherwise prohibited by law, in order to enable the State or the Indian tribe to carry out its responsibilities under this Act or any compact approved by the Secretary.'';

(3) by striking section 20;

(4) by redesignating sections 21 through 24 as sections 20 through 23, respectively; and

(5) by adding at the end the following new section:

''SEC. 24. DEFINITION OF FINANCIAL INSTITUTIONS.

''Section 5312(a)(2) of title 31, United States Code, is amended—

''(1) by redesignating subparagraphs (X) and (Y) as subparagraphs (Y) and (Z), respectively; and

''(2) by inserting after subparagraph (W) the following new subparagraph:

''(X) an Indian gaming establishment;''.

SEC. 3. CONFORMING AMENDMENTS.

(a) TITLE 10.—Section 2323a(e)(1) of title 10, United States Code, is amended by striking ''section 4(4) of the Indian Gaming Regulatory Act (102 Stat. 2468; 25 U.S.C. 2703(4))'' and inserting ''section 4(16) of the Indian Gaming Regulatory Act''.

(b) TITLE 18.—Title 18, United States Code, is amended—

(1) in subsections (c) and (d) of section 1166, by striking ''section 11(d)(8) of the Indian Gaming Regulatory Act'' each place it appears and inserting ''section 12(a)(2)(B) of the Indian Gaming Regulatory Act'';

(2) in section 1167—

(A) in subsection (a), by striking ''National Indian Gaming Commission'' and inserting ''Federal Indian Gaming Regulatory Commission established under section 5 of the Indian Gaming Regulatory Act''; and

(B) in subsection (b), by striking ''National Indian Gaming Commission'' and inserting ''Federal Indian Gaming Regulatory Commission''; and

(3) in section 1168—

(A) in subsection (a), by striking ''National Indian Gaming Commission'' and inserting ''Federal Indian Gaming Regulatory Commission established under section 5 of the Indian Gaming Regulatory Act''; and

(B) in subsection (b), by striking ''National Indian Gaming Commission'' and inserting ''Federal Indian Gaming Regulatory Commission''.

(c) INTERNAL REVENUE CODE OF 1986.—Section 168(j)(4)(A)(iv) of the Internal Revenue Code of 1986 is amended by striking ''Indian Regulatory Act'' and inserting ''Indian Gaming Regulatory Act''.

(d) TITLE 28.—Title 28, United States Code, is amended—

(1) in section 3701(2)—

(A) by striking ''section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5))'' and inserting ''section 4(17) of the Indian Gaming Regulatory Act''; and

(B) by striking ''section 4(4) of such Act (25 U.S.C. 2703(4))'' and inserting ''section 4(16) of such Act''; and

(2) in section 3704(b), by striking ''section 4(4) of the Indian Gaming Regulatory Act'' and inserting ''section 4(16) of the Indian Gaming Regulatory Act''.

SECTION-BY-SECTION SUMMARY OF THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1995

Section 1. Short Title. This section provides that this Act may be cited as the ''Indian Gaming Regulatory Act Amendments Act of 1995''.

Section 2. Amendment to the Indian Gaming Regulatory Act. This section provides that the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) is amended by striking sections 2 through 19 and inserting the following new sections:

Section 1. Short Title; Table of Contents. Subsection (a) provides that this Act may be cited as the ''Indian Gaming Regulatory Act''.

Subsection (b) sets forth the table of contents for the Act.

Section 2. Congressional Findings. This section contains seven separate findings, including the following: Indian tribes are engaged in the licensing and operation of gaming activities as a means of generating tribal governmental revenue; clear Federal standards and regulations for the conduct of Indian gaming will assist tribal governments in assuring the integrity of gaming activities; a principal goal of Federal Indian policy is to promote tribal economic development, self-sufficiency and strong tribal government; Indian tribes have the right to regulate gaming activities on Indian lands if such activities are not prohibited by Federal law and are conducted within a state that permits such gaming activities and the Congress has the authority to regulate the privilege of doing business with Indian tribes in Indian country; the regulation of Indian gaming activities should meet or exceed federally established minimum regulatory requirements; gaming activities on Indian lands has had a substantial impact on commerce with foreign nations, among the several states and with the Indian tribes; and the Constitution vests the Congress with the power to regulate commerce with foreign nations, among the several states and with the Indian tribes and this Act is enacted in the exercise of those powers.

Section 3. Purposes. This section sets forth four purposes of the Act, including the following: to ensure the right of Indian tribes to conduct gaming operations on Indian lands consistent with the U.S. Supreme Court decision in the case of California v. Cabazon Band of Mission Indians; to provide a statutory basis for the conduct of gaming activities on Indian lands as a means of promoting tribal economic development and strong tribal governments; to provide an adequate statutory basis for the regulation of Indian gaming by tribal governments to shield the gaming from organized crime; ensure that the Indian tribe is the primary beneficiary of the gaming activities and to ensure that the gaming activities are conducted fairly by both the operator and the patrons; and to declare that the establishment of independent Federal regulatory authority and minimum regulatory standards for the conduct of gaming activities on Indian lands are necessary to protect such gaming.

Section 4. Definitions. This section contains definitions for the following terms: ''applicant'', ''Advisory Committee'', ''Attorney General'', ''Chairperson'', ''Class I Gaming'', ''Class II Gaming'', ''Class III Gaming'', ''Commission'', ''Compact'', ''Electronic, Computer, and Other Technologic Aid'', ''Electronic or Electromechanical Facsimile'', ''Gambling Device'', ''Gaming-Related Contract'', ''Gaming Related Contractor'', ''Gaming Service Industry'', ''Indian Lands'', ''Indian Tribe'', ''Key Employee'', ''Management Contract'', ''Management Contractor'', ''Material Control'', ''Net Revenues'', ''Person'', and ''Secretary''.

Section 5. Establishment of the Federal Indian Gaming Regulatory Commission. Subsection (a) of this section provides for the establishment of the Federal Indian Gaming Regulatory Commission as an independent agency of the United States.

Subsection b. provides that the Commission shall be composed of 3 full-time members who are appointed by the President and confirmed by the Senate. Commission members are prohibited from pursuing any other business or occupation or holding any other office. Other than through distribution of gaming revenues as a member of an Indian tribe, Commission members are prohibited from engaging in or having a pecuniary interest in a gaming activity or in any business or organization that has a license under this Act or that does business with any person or organization under this Act. Persons who have been convicted or a felony or a gaming offense cannot serve as Commissioners. In addition, persons who have any financial interest in or management responsibility for any gaming contract or other

contract approved pursuant to this Act are also ineligible to serve as Commissioners.

Subsection (b) also provides that not more than 2 members of the Commission shall be members of the same political party and at least two members of the Commission shall be members of federally recognized Indian tribes. One member of the Commission must be a certified public accountant with at least 5 years of experience in accounting and auditing as well as a comprehensive knowledge of the principles and practices of corporate finance. One member of the Commission must have training and experience in the fields of investigation or law enforcement. Any person under consideration for appointment to the Commission shall be the subject of a background investigation conducted by the Attorney General with particular emphasis on the person's financial stability, integrity, responsibility and reputation for good character and honesty.

Subparagraph (c) provides that the President shall select a Chairperson from among the members appointed to the Commission.

Subparagraph (d) provides that the Commission shall select a Vice Chairperson by majority vote. The Vice Chairperson shall serve as the Chairperson in the absence of the Chairperson and shall exercise such other powers as may be delegated by the Chairperson.

Subparagraph (e) provides that each member of the Commission shall hold office for a term of 5 years and no member can serve more than two terms of 5 years each. The initial appointments to the Commission will be made for staggered terms, with the Chairperson serving a full 5 year term.

Subparagraph (f) provides that Commissioners shall serve until the expiration of their term or until their successor is duly appointed and qualified, unless a Commissioner is removed for cause. A Commissioner can only be removed by the President for neglect of duty, malfeasance in office or for other good cause. Any member appointed to fill a vacancy shall serve for the unexpired term of the vacancy.

Subparagraph (g) provides that two members of the Commission shall constitute a quorum.

Subparagraph (h) provides that the Commission shall meet at the call of the Chairperson or a majority of the members of the Commission. A majority of the members of the Commission shall determine any action of the Commission.

Subparagraph (i) provides that the Chairperson shall be compensated at level IV of the Executive Schedule and other members shall be compensated at level V. All members of the Commission shall be reimbursed for travel, subsistence and other necessary expenses.

Subparagraph (j) requires the Administrator of General Services to provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

Section 6. Powers of the Chairperson. Subsection (a) provides that the Chairperson is the chief executive officer of the Commission.

Subsection (b) provides that the Chairperson can employ and supervise such personnel as may be necessary to carry out the functions of the Commission, without regard to the requirements of title 5 of the United States Code relating to appointments in the competitive service. The Chairperson is required to appoint a General Counsel and may procure temporary and intermittent services or request the head of any federal agency to detail any personnel of such agency to the Commission to assist in carrying out the duties of the Commission under this Act. The Chairperson is also authorized to use and expend federal funds and fees collected pursuant to this Act and to contract for such professional, technical and operational personnel as may be necessary to carry out this Act. Staff of the Commission are to be paid without regard to the requirements of title 5 of the United States Code related to classification and pay rates.

Subsection (c) provides that the Chairperson shall be governed by the general policies of the Commission and by such regulatory decisions and determinations as the Commission is authorized to make.

Section 7. Powers and Authority of the Commission. Subsection (a) provides that the Commission shall have the power to approve the annual budget of the Commission; promulgate regulations to carry out this Act; establish fees and assessments; conduct investigations; issue temporary and permanent orders closing gaming operations; grant, deny or condition or suspend any license issued under any authority conferred on the Commission by this Act; fine any person licensed pursuant to this Act for violation of any of the conditions of licensure under this Act; inspect the premises where Class II and III gaming operations are located; inspect and audit all books and records of Class II and III gaming operations; use the U.S. mail in the same manner as any agency of the U.S.; procure supplies and services by contract; contract with state, tribal and private entities to assist in the discharge of the Commission's duties; serve or cause to be served process or notices of the Commission; propound written interrogatories and appoint hearing examiners who are empowered to administer oaths; conduct hearings pertaining to violations of this Act; collect the fees and assessments authorized by this Act; assess penalties for violations of the Act; provide training and technical assistance to Indian tribes with respect to the conduct and regulation of gaming activities; monitor and regulate Class II and III gaming; approve all management-related and gaming-related contracts; delegate any of the functions of the Commission, except for rulemaking, to a division of the Commission or a Commissioner, employee or administrative law judge.

Subsection (b) provides that the Commission reserves the right to review any action taken pursuant to a delegation of its authority. The vote of one Commissioner is sufficient to bring a delegated action before the full Commission for review. If the Commission declines to exercise the right of review, then the delegated action shall be deemed an action of the Commission.

Subsection (c) provides that after receiving recommendations from the Advisory Committee pursuant to this Act, the Commission shall establish minimum Federal standards for: background investigations; licensing; the operation of Class II and III gaming activities, including surveillance, security and systems for monitoring all gaming activity, protection of the integrity of the rules for play of games, cash counting and control, controls over gambling devices and accounting and auditing.

Subsection (d) provides that the Commission may secure from any department or agency of the Untied States information necessary to enable the Commission to carry out the Act. The Commission may also secure from any law enforcement or gaming regulatory agency of any State, Indian tribe or foreign nation information necessary to enable the Commission to carry out this Act. All such information obtained by the Commission shall be protected from disclosure by the Commission. For purposes of this subsection, the Commission shall be considered to be a law enforcement agency.

Subsection (e) authorizes the Commission to conduct such investigations as the Commission considers necessary to determine whether any person has violated, is violating or is conspiring to violate any provision of this Act. In addition, the Commission is authorized to investigate such facts, conditions, practices, or matters as the Commission considers necessary or proper to aid in the enforcement, implementation or amendment of the Act. Any member of the Commission or any officer designated by the Commission is empowered to administer oaths and to subpoena witnesses and evidence from any place in the United States at any designated place of hearing. The Commission is authorized to invoke the jurisdiction of any Federal court to require the attendance and testimony of witnesses and the production of records. The failure of any person to obey an order of a Federal court to appear and testify or to produce records is punishable as a contempt of such court. If the Commission determines that any person is engaged, has engaged or is conspiring to engage in any act or practice which constitutes a violation of this Act, the Commission may bring an action in the Federal District Court for the District of Columbia to enjoin such act or practice or refer the matter to the Attorney General for the initiation of criminal proceedings. At the request of the Commission, each Federal district court shall have jurisdiction to issue writs of mandamus, injunctions and orders commanding any person to comply with this Act and any rules or regulations promulgated pursuant to the Act.

Section 8. Regulatory Framework. Subsection (a) provides that for Class II gaming Indian tribes shall retain the right to monitor and regulate such gaming, conduct background investigations, and issue licenses in a manner which meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c) of this Act.

Subparagraph (b) provides that for Class III gaming which is conducted pursuant to a tribal/state compact, an Indian tribe or a state or both shall monitor and regulate such gaming, conduct background investigations, issue licenses and establish and regulate internal control systems in a manner which meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c) of this Act.

Subparagraph (c) provides that for Class III gaming conducted under the authority of a compact negotiated with the Secretary, such compact shall provide that the Indian tribe or other appropriate entity shall monitor and regulate such gaming, conduct background investigations, issue licenses and establish and regulate internal control systems in a manner which meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c).

Subsection (d) provides that in any case in which an Indian tribe conducts Class II gaming in a manner which substantially fails to meet the minimum federal standards for Class II gaming, then the Commission shall have the authority to conduct background investigations, issue licenses and establish and regulate internal control systems after providing the Indian tribe an opportunity to cure violations and to be heard. The authority of the Commission may be exclusive and may continue until such time as the regulatory and internal control systems of the Indian tribe meet or exceed the minimum Federal standards established by the Commission.

Subsection (d) also provides that in the case of Class III gaming, if an Indian tribe or a state, or both, fail to meet or exceed minimum Federal standards for Class III gaming

then the Commission shall have the authority to conduct background investigations, issue licenses and establish and regulate internal control systems after providing notice and an opportunity to cure problems and be heard. The authority of the Commission may be exclusive and may continue until such time as the regulatory and internal control systems of an Indian tribe or a state, or both, meet or exceed the minimum Federal standards established by the Commission.

Section 9. Advisory Committee on Minimum Regulatory Requirements and Licensing Standards. Subsection (a) authorizes the President to establish an Advisory Committee on Minimum Regulatory Requirements and Licensing Standards.

Subsection (b) provides that the advisory committee shall be composed of 7 members who shall be appointed by the President. Three members shall be members of federally recognized Indian tribes which are engaged in gaming under this Act and shall be selected from a list of recommendations submitted to the President by the Chairman and Vice Chairman of the Senate Committee on Indian Affairs and the Chairman and ranking minority member of the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives. Two members shall represent state governments and shall be selected from a list of recommendations submitted to the President by the Majority Leader and the Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives. Two members shall be employees of the Department of Justice.

Subsection (c) provides that 180 days after the date on which the Advisory Committee is fully constituted it shall develop recommendations for minimum Federal standards for the conduct of background investigations, internal control systems and licensing standards. The committee's recommendations shall be submitted to the Committee on Indian Affairs of the Senate, the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives, the Commission and to each federally recognized Indian tribe. The Commission and the Advisory Committee are required to give equal weight to existing industry standards, the unique nature of tribal gaming, the broad variations in the scope and size of tribal gaming activity, the inherent sovereign right of Indian tribes to regulate their own affairs and the Findings and Purposes set forth in sections 2 and 3 of this Act.

Subsection (d) provides that the Commission shall hold public hearings on the Advisory Committee's recommendations after they are received. At the conclusion of the hearings, the Commission shall promulgate regulations establishing minimum regulatory requirements and licensing standards.

Subsection (e) provides that the members of the Advisory Committee who are representatives of Indian tribes and states shall be reimbursed for travel and per diem during the performance of the duties of the Advisory Committee and while away from home or their regular place of business.

Subsection (f) provides that the Advisory Committee shall cease to exist 60 days after it submits its recommendations to the Commission.

Subsection (g) provides that the activities of the Advisory Committee are exempt from the Federal Advisory Committee Act.

Section 10. Licensing. Subsection (a) provides that licenses shall be required of gaming operations, key employees of a gaming operation, management- and gaming-related contractors, any gaming service industry, and any person who has material control over a licensed gaming operation.

Subsection (b) provides that the Commission may require licenses of management contractors and gaming operations notwithstanding any other provision of law relating to the issuance of licenses by an Indian tribe or a state, or both.

Subsection (c) provides that the Commission may issue a statement of compliance to an applicant for a license under this Act at any time that the Commission is satisfied that one or more eligibility criteria for the license has been satisfied by the applicant.

Subsection (d) provides that no gaming operation shall operate unless all required licenses and approvals have been obtained in accordance with this Act. Each management contract for a gaming operation must be in writing and filed with and approved by the Commission. The Commission may require that a management contract include any provisions that are reasonably necessary to meet the requirements of this Act. Any applicant for a license who does not have the ability to exercise any significant control over a licensed gaming operation may be determined by the Commission to be ineligible to hold a license or to be exempt from being required to hold a license.

Subsection (e) provides that the Commission shall deny a license to any applicant who is disqualified for failure to meet any of the minimum Federal standards promulgated by the Commission pursuant to section 7(c).

Subsection (f) provides that the Commission shall conduct an investigation into the qualifications of the applicant and may conduct a non-public hearing concerning the applicant's qualifications. After an application is filed with the Commission final action will be taken by the Commission to grant or deny the application not later than 90 days after completing all hearings and investigations and receiving all information required to be submitted. If an application is denied by the Commission, the applicant can request a statement of the reasons, including specific findings of fact. If the Commission is satisfied that the applicant is qualified to receive a license, then the Commission shall issue a license upon the tender of all license fees and assessments required by this Act and such bonds as the Commission may require for the faithful performance of all requirements imposed by this Act. The Commission is authorized to fix the amount of any bond it requires. Bonds furnished to the Commission may be applied by the Commission to any unpaid liability of the licensee. Bonds shall be furnished in cash or negotiable securities, by a surety or through an irrevocable letter of credit.

Subsection (g) provides that the Commission shall renew any license issued under this Act, subject to its power to deny, revoke or suspend licenses, upon proper application for renewal and the receipt of license fees and assessments. Licenses can be renewed for up to two years for each of the first 2 renewal periods and three years for each succeeding renewal period. A licensing hearing can be reopened by the Commission at any time. Any licenses in existence on the date of enactment of this Act may be renewed for a period of 18 months. Any application for renewal must be filed with the Commission not later than 90 days prior to the expiration of the current license. Upon renewal of a license, the Commission shall issue an appropriate renewal certificate.

Subsection (h) provides that the Commission shall establish procedures for the conduct of hearings associated with licensing including procedures for denying, limiting, conditioning, revoking or suspending any such license. After the completion of a licensing hearing the Commission shall render a decision and issue and serve an order on the affected parties. The Commission may order a rehearing on a decision on a motion made by a party or the Commission not later than 10 days after the services of a decision and order. Following a rehearing, the Commission shall render a decision, issue an order and serve it on the affected parties. Any licensing decision or order made by the Commission shall be final agency action for the purposes of judicial review. The United States Court of Appeals for the District of Columbia has jurisdiction to review the licensing decisions and orders of the Commission.

Subsection (i) provides that the Commission shall maintain a registry of all licenses granted or denied and shall make the information contained in the registry available to Indian tribes to assist them in the licensing and regulation of gaming activities.

Section 11. Requirements for the Conduct of Class I and Class II Gaming on Indian Lands. Subsection (a) provides that Class I gaming shall be within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

Subsection (b) provides that Class II gaming shall be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act. An Indian tribe may engage in and license and regulate Class II gaming on the lands within the jurisdiction of the tribe if: the gaming is located within a State that permits such gaming for any purpose by any person; such gaming is not otherwise specifically prohibited on Indian lands by Federal law; and the Class II gaming operation meets or exceeds the requirements of section 7(c) and 10. With regard to any Class II gaming operation, the Commission shall ensure that: the Indian tribe has issued a separate license for each place, facility or location at which Class II gaming is conducted; the Indian tribe has or will have the sole proprietary interest and responsibility for the conduct of any Class II gaming activity, except as provided elsewhere in the Act with regard to gaming operations by Indian individuals; and the net revenues from Class II gaming may only be used to fund tribal government operations or programs, to provide for the general welfare of the Indian tribe and its members, to promote tribal economic development, to donate to charitable organizations, to help fund operations of local government agencies or to comply with section 17 of this Act. The Indian tribe is required to provide the Commission with annual outside audits of its Class II gaming operation. Such audits shall include a review of all contracts for supplies and services equal to or more than $50,000 annually, except for contracts for legal and accounting services.

Subsection (b) further provides that the Commission shall ensure that the construction and maintenance of a Class I gaming facility and the operation of the gaming shall be conducted in a manner that adequately protects the environment and public health and safety. The Commission must also ensure that there is an adequate system for background investigations on all persons who are required to be licensed in accordance with sections 7(c) and 10 and notice to the Commission by the Indian tribe of the results of the background investigation before the issuance of any license. No license may be granted to any person whose prior activities, criminal record or reputation habits and associations pose a threat to the public interest or the effective regulation of gaming.

With regard to per capita payments, subsection (b) provides that such payments may

only be made if: the Indian tribe has prepared a plan to allocate revenues to the public, governmental, economic development and social welfare purposes prescribed by this Act and the Secretary determines that the plan is adequate; the interests of minors and other legally incompetent persons are protected and preserved and the payments for such individuals are disbursed to their parents or legal guardians under a plan approved by the Secretary and the governing body of the Indian tribe; and the per capita payments are subject to Federal income taxation and Indian tribes withhold such tax.

With regard to Class II gaming operations on Indian lands which are owned by a person or entity other than the Indian tribe, subsection (b) requires the issuance of a separate license which includes the requirements of this section and requirements that are at least as restrictive as those established by state law governing similar gaming within the jurisdiction of the state within which the Indian lands are located. No person or entity, other than the Indian tribe shall be eligible to receive a tribal license to own a Class II gaming operation on Indian lands within the jurisdiction of the Indian tribe if such person or entity would not be eligible to receive a state license to conduct the same activity within the jurisdiction of the state. Any individually owned Class II gaming operation that was in operation on September 1, 1986 shall not be barred by this Act if: it is licensed by an Indian tribe; the income to the Indian tribe from such gaming is not used for per capita payments; not less than 60 percent of the net revenues from the gaming operation is income to the Indian tribe; and the owner of the gaming operation pays an assessment to the Commission pursuant to section 17 for the regulation of such gaming. This exemption for certain individually owned games cannot be transferred to any person or entity and only remains in effect so long as the gaming activity remains within the same nature and scope as the gaming operation which was operated on October 17, 1988. The Commission is required to maintain and publish in the Federal Register a list of individually owned gaming operations.

Subsection (c) provides that any Indian tribe that operates a Class II gaming activity may petition the Commission for a certificate of self-regulation if that Indian tribe has continuously conducted such gaming activity for a period of not less than 3 years, including at least one year after the date of enactment of this Act, and has otherwise complied with the provisions of this Act. The Commission shall issue a certificate of self-regulation if it determines that the Indian tribe has: conducted its gaming activity in a manner which has resulted in an effective and honest accounting of all revenues; resulted in a reputation for safe, fair, and honest operation of the activity; been generally free of evidence of criminal or dishonest activity; and the Indian tribe has adequate systems for accounting for revenues, investigation and licensing of employees and contractors, investigation and enforcement of its gaming laws and has conducted the gaming operation on a fiscally sound basis. During any period in which a certificate of self-regulation is in effect, the Indian tribe shall continue to submit an annual independent audit to the Commission and a complete resume of each employee and contractor hired and licensed by the Indian tribe. The Commission cannot assess a fee on a self-regulated activity pursuant to section 17 in excess of one quarter of 1 percent of the net revenue from such activity. The Commission may rescind a certificate of self-regulation for just cause and after an opportunity for a hearing.

Subsection (d) provides that if the Commission notifies the Indian tribe that any license which has been issued by the tribe under this section does not meet any standards established under sections 7(c) or 10, then the Indian tribe shall immediately suspend the license and after notice and hearing to the licensee in conformity with the laws of the Indian tribe may revoke such license.

Section 12. Class III Gaming on Indian Lands. Subsection (a) provides that Class III gaming activities shall be lawful on Indian lands only if such activities are authorized by a compact that: is adopted by the governing body of the Indian tribe having jurisdiction over such lands; meets the requirements of section 11(b)(3) for the conduct of Class II gaming; is approved by the Secretary; is located in a state that permits such gaming for any purpose by any person; and is conducted in conformity with the tribal/state compact that is in effect. Any Indian tribe which has jurisdiction over the lands upon which a Class III gaming activity is to be conducted may request the state in which such lands are located to enter into negotiations for the purpose of entering into a compact to govern the conduct of Class III gaming activities. A request for negotiations shall be in writing and shall specify each gaming activity that the Indian tribe proposes for inclusion in the compact. The state shall respond to the request within 30 days of receipt. Compact negotiations shall commence not later than 30 days after the date on which a response by a state is due to the Indian tribe and shall be completed not later than 120 days after the initiation of negotiations unless the state and the Indian tribe agree to a different time period. If the state and the Indian tribe cannot commence or complete compact negotiations within the time periods provided in this Act, the Indian tribe shall notify the Secretary. After the Secretary receives the notice from the Indian tribe, the Secretary shall provide the state and the Indian tribe 60 days to present their positions on the gaming activities that are permissible, the framework for the regulation of the gaming, and such other matters as the Secretary may consider appropriate. Not later than 90 days after the date of the expiration of the 60 day period for the submission of the positions of the state and the Indian tribe, the Secretary shall approve a compact that meets the requirements of this Act and publish it in the Federal Register. The Secretary shall not approve a compact if the compact requires state regulation of Indian gaming without the consent of the state or the Indian tribe. The publication of a compact that permits a form of Class III gaming shall be conclusive evidence that such Class III gaming is an activity subject to the laws of the state where the gaming is to be conducted. Any compact negotiated under this subsection shall become effective on its publication in the Federal Register. The Commission shall monitor and, if authorized, regulate and license Class III gaming with respect to any compact that is approved by the Secretary.

Subsection (a) also provides that a compact may include provisions relating to the criminal and civil laws of the Indian tribe or the state; the allocation of criminal and civil jurisdiction between the state and the Indian tribe; the assessment by the state of the costs associated with such activities in such amounts as are necessary to defray the costs of regulating such activity; taxation by the Indian tribe of such activity in amounts comparable to the amounts assessed by the state for similar activity; remedies for breach of contract; standards for the operation of such activity and maintenance of the gaming facility; and any other subject that is directly related to the operation of gaming activities and the impact of gaming on tribal, state and local governments. Nothing in this Act may be construed as conferring on a state or political subdivision of a state the authority to impose any tax, fee, charge, or other assessment on an Indian tribe, an Indian gaming operation or the value generated by the gaming operation or any person or entity authorized by an Indian tribe to engage in a Class III gaming activity in conformity with this Act.

Nothing in subsection (a) impairs the right of an Indian tribe to regulate Class III gaming on the lands of the Indian tribe concurrently with a state and the Commission, except to the extent that such regulation is inconsistent with or less stringent than this Act. The Gambling devices Transportation Act shall not apply to any gaming activity conducted pursuant to a compact entered into under this Act. The Federal District Court for the District of Columbia shall have jurisdiction over any action initiated by an Indian tribe, a state, the Secretary or the Commission to enforce a compact or to enjoin a Class III gaming activity located on Indian lands and conducted in violation of any compact.

Subsection (c) provides that the Secretary is authorized to approve any compact between an Indian tribe and a state governing the conduct of Class III gaming on the Indian lands of such Indian tribe. The Secretary may disapprove a compact entered into under this Act only if such compact violates any provision of this Act or any regulation promulgated by the Commission or any other Federal law or the trust obligation of the United States to Indians. If the Secretary fails to approve or disapprove a compact within 45 days after the compact is presented to the Secretary for approval, then the compact shall be considered to have been approved by the Secretary, but only to the extent that it is consistent with this Act and the regulations promulgated by the Commission. The Secretary shall publish notice in the Federal Register of any compact that is approved or considered to have been approved.

Subsection (d) provides that the governing body of an Indian tribe may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized Class III gaming on the Indian lands of the Indian tribe. Such a revocation shall render Class III gaming illegal on the Indian lands of such Indian tribe. The Commission is required to publish the revocation ordinance or resolution in the Federal Register and it shall take effect upon such publication. Any person or entity operating a Class III gaming activity on the date of such revocation may continue to operate such activity in conformity with a compact that is in effect for one year from the date of publication of the revocation.

Subsection (e) provides that with regard to compacts entered into and approved by the Secretary before the date of enactment of this Act shall remain lawful during the period such compact is in effect notwithstanding any amendments made by this Act or any changes made in state law enacted after the approval of the compact. Any compact entered into after the date of enactment of this Act shall remain lawful under this Act notwithstanding any change in state law enacted after the approval of the compact.

Section 13. Review of Contracts. Subsection (a) provides that the Commission shall review and approve or disapprove any management contracts for the management of any gaming activity and any gaming-related contract unless such gaming related contract is licensed by an Indian tribe consistent with the minimum Federal standards promulgated pursuant to section 7(c).

Subsection (b) provides that the Commission shall only approve a management contract if it determines that the contract provides for: adequate accounting procedures that are maintained and for verifiable monthly financial reports prepared by or for the governing body of the Indian tribe; access to the gaming operations by tribal officials who shall have the right to verify the daily gross revenues and income derived from the gaming activity; a minimum guaranteed payment to the Indian tribe that has preference over the retirement of any development and construction costs; an agreed upon ceiling for the repayment of any development and construction costs; a contract term of not more than 5 years unless the Commission determines that a term of 7 years is appropriate based on the capital investment required and the income projections for the gaming activity; and grounds and mechanisms for the termination of the contract.

Subsection (c) provides that the Commission may approve a management contract that provides for a fee of 30% of the net revenues of a tribal gaming activity, unless the Indian tribe requests a higher fee and the Commission determines that based on the capital investment required and the income projections a higher fee is justified. In no circumstance can a management fee exceed 40%.

Subsection (d) provides that the Commission shall approve a gaming-related contract only if the Commission determines that the contract provides for: grounds and mechanisms for the termination of the contract and such other conditions as the Commission may be empowered to impose under this Act.

Subsection (e) provides that not later than 90 days after the date on which a management contract or gaming-related contract is submitted to the Commission for approval the Commission shall either approve or disapprove the contract. The 90 day period may be extended for 45 days if the Commission notifies the tribe in writing of the reason for the extension. The Indian tribe may bring an action in the Federal District Court for the District of Columbia to compel action by the Commission if it does not act in a timely manner. Any gaming-related contract for an amount of $100,000 or less which is submitted to the Commission for approval by a person who holds a valid license that is in effect under this Act, shall be deemed to be approved if the Commission has not acted to approve or disapprove it within 90 days of its submission.

Subsection (f) provides that after providing notice and hearing, the Commission shall have the authority to require appropriate contract modifications to ensure compliance with this Act or may void any contract if the Commission determines that it violates any of the provisions of this Act.

Subsection (g) provides that no contract regulated by this Act may transfer or in any other manner convey any interest in real property unless specific statutory authority exists, all necessary approvals have been obtained and the conveyance is clearly specified in the contract.

Subsection (h) provides that the authority of the Secretary under 25 U.S.C. 81 shall not extend to any contracts or agreements which are regulated pursuant to this Act.

Subsection (i) provides that the Commission may not approve a contract if the Commission finds that: any person having a direct financial interest in, or management responsibility for such contract, and in the case of a corporation, any member of the board of directors or any stockholders who hold more than 10% of its issued stock is an elected member of the governing body of the Indian tribe which is a party to the contract; has been convicted of any felony or any gaming offense; has knowingly and willfully provided materially false statements to the Commission or the Indian tribe or has refused to respond to questions propounded by the Commission; or has been determined to be a person whose prior activities, criminal record, reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming. The Commission may also disapprove any contract if it finds that: the contractor has unduly interfered or influenced for its gain any decision or process of tribal government relating to the gaming activity; the contractor has deliberately or substantially failed to comply with the terms of the contract; or a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

Section 14. Review of Existing Contracts; Interim Authority. Subsection (a) provides that at any time after the Commission is sworn in and has promulgated regulations for the implementation of this Act the Commission shall notify each Indian tribe and management contractor who entered into a contract prior to the enactment of this Act that the Indian tribe is required to submit the contract to the Commission within 60 days of such notice. Any such contract shall be valid under this Act unless the Commission disapproves it under this section. Not later than 180 days after the submission of a contract for review, the Commission shall review it to determine if it meets the requirements of section 13. The Commission shall approve a contract if it determines that the contract meets the requirements of section 13 and the contractor has obtained all of the licenses required by this Act. If the Commission determines that a contract does not meet the requirements of section 13, the Commission shall provide written notice to the parties of the necessary modifications and the parties shall have 180 days to make the modifications.

Subsection (b) provides that the Commissioners who are holding office on the date of enactment of this Act shall exercise the authorities vested in the Federal Indian Gaming Regulatory Commission until such time as the members of that Commission are sworn into office. Until such time as the Federal Indian Gaming Regulatory Commission promulgates regulations under this Act, the regulations promulgated under the Indian Gaming Regulatory Act of 1988 shall apply.

Section 15. Civil Penalties. Subsection (a) provides that any person who violates this Act or the regulations promulgated pursuant to this Act, either by an act or an omission, shall be subject to a civil penalty of not more than $50,000 per day for each violation.

Subsection (b) provides that the Commission shall assess the civil penalties authorized by this Act and the Attorney General shall collect them in a civil action. The Commission may seek to compromise any assessed civil penalty. In determining the amount of a civil penalty, the Commission shall take into account: the nature, circumstances, extent and gravity of the violation; with regard to the person found to have committed the violation, the degree of culpability, any history of prior violations, ability to pay and the effect on ability to continue to do business; and such other matters as justice may require.

Subparagraph (c) provides that the Commission may order the temporary closure of all or part of an Indian gaming operation for substantial violation of this Act and the regulations promulgated by the Commission. Not later than 30 days after an order of temporary closure the Indian tribe or the individual owner of the gaming operation may request a hearing to determine whether the order should be made permanent or dissolved. Not later than 30 days after a request for a hearing, the Commission shall hold the hearing and render a final decision within 30 days after the completion of the hearing.

Section 16. Judicial Review. Any decision made by the Commission pursuant to sections 7, 8, 10, 14, and 15 shall constitute final agency decisions for purposes of appeal to the Federal District Court for the District of Columbia under the Administrative Procedures Act.

Section 17. Commission Funding. Subsection (a) provides that the Commission shall establish an annual schedule of fees to be paid to it by each Class II and III gaming operation that is regulated by this Act. No gaming operation may be assessed more than 2% of its net revenues and the Commission cannot collect more than $25 million in fees in any year. Fees are payable to the Commission on a monthly basis. The fees paid by a gaming operation may be reduced by the Commission to take into account that regulatory functions are performed by an Indian tribe, or an Indian tribe and a state. Failure to pay fees imposed by the Commission will be grounds for revocation of any license required under this Act for the operation of gaming activities. Any surplus assessments in any given year will be credited pro rata against such fees for the succeeding year.

Subparagraph (b) provides that the Commission is authorized to assess license applicants, except for Indian tribes, for the actual cost of all reviews and investigations necessary to determine whether a license should be granted or denied.

Subparagraph (c) provides that the Commission shall adopt an annual budget for each fiscal year. Any request for an appropriation pursuant to section 18 shall be submitted directly to the Congress.

Section 18. Authorization of Appropriations. This section authorizes an appropriation of $5 million for the operation of the Commission for each of the fiscal years, 1997, 1998 and 1999, to remain available until expended.

Section 19. Miscellaneous. Subsection (a) provides that in general, gaming regulated by this Act shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe unless: such lands are located within or are contiguous to the boundaries of the reservation of the Indian tribe; the Indian tribe has no reservation and such lands are located in the State of Oklahoma and are within the boundaries of the former reservation of the Indian tribe or are contiguous to other land held in trust by the United States for the Indian tribe; or such lands are located in a state other than Oklahoma and are within the last recognized reservation of the Indian tribe within the state in which the Indian tribe is presently located.

Subsection (a) further provides that the general prohibition on the use of lands taken into trust after the date of enactment of this Act for gaming does not apply if the Secretary, after consultation with the Indian tribe, other Indian tribes, state and local officials and a review of the recommendations of the Governor of the state in which such lands are located, determines that gaming on the newly acquired lands would be in the best interest of the Indian tribe and would not be detrimental to the surrounding community; or where lands are taken into trust as part of a settlement of a land claim; or the initial reservation of an Indian tribe is acknowledged by the Secretary under the Federal acknowledgement process; or where lands are restored for an Indian tribe that is restored to federal recognition.

Lastly, subsection (a) provides that nothing in this section may affect or diminish the authority and responsibility of the Secretary to take land into trust.

Subsection (b) provides that the provisions of the Internal Revenue Code with regard to reporting and withholding taxes on winnings and the provisions of the Bank Secrecy Act relating to the reporting requirements for cash transactions of $10,000 or greater will apply to Indian gaming operations which are regulated by this Act.

Subsection (c) provides that the Commission shall make available to a state or the governing body of an Indian tribe any law enforcement information it has obtained pursuant to section 7(d), unless otherwise prohibited by law, in order to assist the state or Indian tribe to carry out its responsibilities under this Act or any compact approved by the Secretary.

Section 24. Definition of Financial Institutions. This section amends section 5312(a)(2) of title 31, United States Code to include Indian gaming establishments.

Section 3. Conforming Amendments. This section provides for several amendments to titles 10, 18, 26 and 28 of the United States Code to conform them to the provisions of this Act.●

● Mr. INOUYE. Mr. President, I am pleased to join the esteemed chairman of the Committee on Indian Affairs today, in the introduction, for purposes of discussion, of a bill to amend the Indian Gaming Regulatory Act of 1988.

Mr. President, the impetus for the amendment of the Indian Gaming Regulatory Act arose a little under 3 years ago when a number of Governors of the several States called upon the President and the Congress to address the rulings of Federal district courts interpreting the act within the context of various State laws. In response, Chairman MCCAIN and I initiated a dialog involving Governors, attorneys general, and tribal leaders that we hoped would lead to a consensus with regard to the manner in which the act would be amended. Although the dialog did not yield that consensus, it did provide us with considerable guidance in formulating the amendments that we advance today for the consideration of all affected parties.

In the interim, there have been a number of rulings from the circuit courts of appeal that have clarified what has become known as the scope-of-gaming issue, and the Supreme Court has granted certiorari in litigation raising the issues associated with the 11th amendment and the doctrine of Ex parte Young. Nonetheless, the Indian Gaming Regulatory Act Amendments Act sets forth a process that does not entail litigation between State and tribal governments. In an effort to address the 10th amendment concerns of the States, the bill we introduce today removes any requirement for good-faith negotiations and provides for tribal-State compacting only if a State elects to engage in negotiations leading to a compact.

As Chairman MCCAIN has indicated, the 1995 Amendments Act provides authority for the establishment of minimum Federal standards for the regulation of Indian gaming, including background investigations, internal control and licensing standards. The States and the tribes would participate in the development of recommendations of these standards through an advisory committee, and the Federal Indian Gaming Regulatory Commission would hold hearings on those recommendations and promulgate regulations. It is in the capacity of assuring compliance with minimum Federal standards that the Commission will have a greater role to play in the area of class III gaming.

This is a matter that I believe bears some emphasis. Under existing law, the National Indian Gaming Commission's responsibilities lie primarily in the area of class II gaming. Class III gaming is regulated by the State and tribal governments. Thus, when comparisons are made by some between the regulatory capacity of Nevada or Atlantic City to the regulatory authority of the National Indian Gaming Commission, they are comparing two regulatory systems that oversee those activities that are typically associated with large casino operations with a regulatory system that is designed to monitor tribal regulation of bingo halls. I would hope that as the debate in the Congress on matters of Indian gaming proceeds, this stark disparity in the type of operation being regulated will not be lost.

Finally, in an effort to address the constitutional concerns associated with the Interior Secretary's authority to take land into trust for gaming purposes, the bill authorizes the Secretary to consult with the Governor of the State in which the land is located.

Chairman MCCAIN and I wrote to all parties in December of last year to advise them of our intent to introduce a bill to amend the Indian Gaming Regulatory Act early in the 104th session of the Congress, and to request their comments on the substitute amendment to S. 2230, a bill we introduced in the 103d session of the Congress. The National Governors Association [NGA] requested that we delay introduction of a new measure, and we indicated that we would delay introduction until March. Unfortunately, at the scheduled time of introduction, the committee has not had the benefit of the Governors' views on these matters—and so the bill we introduce today is substantially lacking in that respect. However, as Chairman MCCAIN has indicated, we look forward to working with all of the affected governments—Federal, State, and tribal—in the further refinement of this measure.

In conclusion, I want to thank the chairman of the Committee on Indian Affairs for his kind comments, and to commend him on his leadership of the committee in the 104th session of the Congress.●

By Mr. SPECTER:

S. 488. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on the earned income of individuals and the business taxable income of corporations, and for other purposes; to the Committee on Finance.

THE FLAT TAX ACT OF 1995

Mr. SPECTER. Mr. President, I now turn to the introduction of the modified flat tax bill entitled the Flat Tax Act of 1995. This is a proposal which would simplify the filing of Federal tax returns, would provide for fairness among all taxpayers, and would stimulate economic growth in the United States. As these proceedings of the U.S. Senate are being watched on C–SPAN2, I am confident that thousands of Americans are sitting at their desks with an ear to television but an eye to their tax returns and they are poring over the complexities of the Federal tax laws.

This bill would permit the American taxpayer to file his or her return on a small, 10-line postcard. It would do so because it retains the principles of a flat tax, which have long been discussed but not really considered in sufficient depth and not acted upon by the American Congress. This flat tax would be a 20-percent rate, with deductions limited to interest on home mortgages up to $100,000 in borrowing and charitable deductions up to $2,500.

The entire return could be filled out on a simple 10-line postcard. This postcard would identify the taxpayer, specify the total amount of wages, salaries, pensions, and retirement benefits, list the deductions and exemptions, and allow taxpayers to compute their taxes on this simple postcard form.

Beyond simplicity, and the simplicity is of great importance, we now have reliable estimates that Americans spend some $5.4 billion a year on their tax returns. The Internal Revenue Service regulations have grown from 744,000 words in 1955 to some 5,600,000 words at the present time. The Internal Revenue Service is a mammoth bureaucracy, with annual spending of $13 billion on the IRS bureaucracy alone, with 110,000 employees in over 650 offices nationwide. The compliance costs to the American people are almost $200 billion a year.

We all know that the greatest impediment in confidence between the American Government and the American citizen is concern with the Internal Revenue Service. How often have you and I received those automatic computer printouts from the IRS, written them a letter, written them a second letter or multiple letters, and finally had a conference to work out some bureaucratic computer error? And most of the time, no additional tax is needed.

This legislation would liberate the American people to devote their time and energy to productive pursuits.

A second major advantage to my flat tax bill is that there would be an enormous increase in growth. This growth would occur because this flat tax would not impose any tax burden on interest, on dividends, or capital gains because

all of those items of income would have been taxed at the source; that is, at the business level.

Another benefit of the flat tax is the projected growth in the economy. From the point of view of growth, reliable estimates are that we would have an increase in the gross national product of some $2 trillion during the course of a 7-year period—an increase of some 28 percent.

We would also benefit from increased savings, which would mean that the United States of America would be less dependent on borrowing from foreign sources. These increased savings would substantially change the great imbalance we have now, where we have massive interest payments on foreign debt flowing abroad.

Additionally, in terms of fairness, there would be a lesser tax on those in the lower brackets by having an increase in the personal allowance for $16,500 for married couples filing jointly, $9,500 for single taxpayers, $14,000 for single head of households, and an exemption of $4,500 for each dependent. That would be substantially more than under the present code and would enable a family of four earning $25,500 to pay no taxes at all. A family of four earning up to $30,000 a year would pay very minimal or no taxes at all. The effective tax rate would be as low as 12.7 percent for an average projection of a family earning $100,000 a year.

This proposal is revenue neutral based upon the computations made by Professor Hall and Professor Rabushka of Stanford's Hoover Institute. They have elaborately projected a national flat tax with no deductions and are calling for a rate of some 19 percent to have tax neutrality. This bill deviates from what Professors Hall and Rabushka have proposed by having the allowance of charitable contributions of up to $2,500 a year and the deduction for interest on home mortgages with a maximum borrowing of up to $100,000 a year.

The computations provided by the Joint Tax Committee show that the cost will be $35 billion a year to the Government for the interest deduction on borrowings up to $100,000 a year, and $13 billion for the charitable contributions up to $2,500 a year. The computation is that the additional 1 percent in my flat tax above Hall and Rabushka would cover those deductions.

I might say the computation is necessarily inexact because the model used by the Joint Tax Committee was on a national flat tax on individuals alone while this proposal is a national flat tax on both individuals and businesses. The Hall-Rabushka proposal is very similar to the proposal made by Congressman ARMEY last year with the differences being in the allowance here for interest and charitable contributions. Also, a difference between this plan and the flat tax plan of Congressman ARMEY is that Congressman ARMEY did not provide for automatic withholding.

Mr. President, my interest in tax policy is longstanding, originating during my law school days. Some of my early practice of law included some tax work. And years ago, I published an article on the subject in the Villanova Law Review raising an issue of fairness as to the pension and profit sharing deductions for professional associations contrasted with corporations.

This is a subject where I debated my former colleague, Senator John Heinz, almost 20 years ago in our contest for the Republican nomination to the U.S. Senate in 1976 based upon legislation which he had introduced in the House of Representatives where he had suggested very substantial cuts in a good many deductions.

Mr. President, in offering this legislation, it is not cast in stone, but I think it is high time that the U.S. Senate consider in some detail the benefits of this national flat tax proposal or the modified Flat Tax Act which I am suggesting today.

The benefits are very, very substantial in terms of simplicity, growth, and fairness.

Mr. President, I ask unanimous consent that the full text of my statement be printed in the RECORD, as well as the text of the legislative proposal itself.

Mr. President, as April 15 rapidly approaches—and as I present this floor statement—millions of Americans are spending their evenings poring over page after page of IRS instructions, going through their records looking for information and struggling to find and fill out all the appropriate forms on their Federal tax returns. At the same time, a patchwork quilt of deductions, credits, and special exceptions lets some Americans pay less than their fair share of taxes. Year after year, we continue to ask the same question—isn't there a better way?

Today I am introducing legislation that provides that better way. I am introducing legislation which will fundamentally revise the present Tax Code, with its myriad rates, deductions, and instructions. Instead, the legislation I offer today would institute a simple, flat 20 percent tax rate for all individuals and businesses. It will allow all taxpayers to file their April 15 tax returns on a simple postcard. This legislation is a vital first step in simplifying our Nation's Tax Code and redirecting our collective energies toward productivity and growth. This proposal is not in stone, but is intended to move the debate forward as the first such legislation to be introduced this term in the Senate, by focusing attention on three key principles which are critical to an effective and equitable taxation system: simplicity, fairness, and economic growth.

Over the years, I have devoted considerable time and attention to analyzing our Nation's Tax Code and the policies which underlie it. I began this study of the complexities of the Tax Code 40 years ago as a law student at Yale University. I included some tax law as part of my practice in my early years as an attorney in Philadelphia. In the spring of 1962, I published a law review article in the Villanova Law Review, ''Pension and Profit Sharing Plans: Coverage and Operation for Closely Held Corporations and Professional Associations,'' 7 Villanova L. Rev. 335, which in part focused on the inequity in making tax-exempt retirement benefits available to some kinds of businesses but not others. It was apparent then, as it is now, that the very complexities of the Internal Revenue Code could be used to give unfair advantage to some; and made the already unpleasant obligation of paying taxes a real nightmare for many Americans.

I became interested many years ago in the practicality and simplicity of a flat tax as a way to reduce the burden on working Americans. My former Senate colleague, John Heinz, while he was in the House of Representatives, introduced H.R. 636, which would have eliminated numerous deductions, including the deductibility of home mortgage interest, charitable contributions, the investment tax credit, the oil depletion allowance and other exemptions, exclusions and deductions. Last fall, I had discussions with Congressmen RICHARD ARMEY, now the House majority leader, about his flat tax proposal, which he introduced as H.R. 4585. Since then, my staff and I have studied the flat tax at some length and have engaged in a host of discussions with economists and tax experts, including the staff of the Joint Committee on Taxation, to evaluate the economic impact and viability of a flat tax.

Based on those discussions, and on the revenue estimates supplied to us, I have concluded that a simple flat tax at a rate of 20 percent on all business and personal income can be enacted without reducing Federal revenues, and I offer such a bill today.

The flat tax will help reduce the size of Government and allow ordinary citizens to have more influence over how their money is spent because they will spend it and not the Government. With a simple 20-percent flat tax rate in effect, the average person can easily see the impact of any additional Federal spending proposal on his or her own paycheck. By creating strong incentives for savings and investment, the flat tax will have the beneficial result of making available larger pools of capital for expansion of the private sector for the economy—rather than more tax money for big Government. This will mean more jobs and, just as important, more better paying jobs.

As a matter of Federal tax policy, there has been considerable controversy over whether tax breaks should be used to stimulate particular kinds of economic activity, or whether tax policy should be neutral, leaving people to do what they consider best from a purely economic point of view. Our current Tax Code attempts to use tax policy to direct economic activity,

but experience under that Code has demonstrated that so-called tax breaks are inevitably used as the basis for tax shelters which have no real relation to solid economic purposes, or to the activities which the tax laws were meant to promote. Even when the Government responds to particular tax shelters with new and often complex revisions of the regulations, clever tax experts are able to stay one or two steps ahead of the IRS bureaucrats by changing the structure of their business transactions and then claiming some legal distinctions between the taxpayer's new approach and the revised IRS regulations and precedents.

Under the massive complexity of the current IRS Code, the battle between $500-an-hour tax lawyers and IRS bureaucrats to open and close loopholes is a battle the Government can never win. Under the flat tax bill I offer today, there are no loopholes, and tax avoidance through manipulations will become a thing of the past.

The basic model for this legislation comes from a plan created by Professors Robert Hall and Alvin Rabushka of the Hoover Institute at Stanford University. Their plan envisioned a flat tax with no deductions whatever. After considerable reflection, I have decided to include limited deductions for home mortgage interest on up to $100,000 in borrowing and charitable contributions up to $2,500 in the legislation I offer today. While this modification undercuts the pure principle of the flat tax, and does continue the use of tax policy to promote homebuying and charitable contributions by retaining those deductions, I believe that those two deductions are so deeply ingrained in the financial planning of American families that they should be retained as a matter of fairness and public policy—and also political practicality. With those two deductions maintained, passage of a modified flat tax will be difficult; but without them, probably impossible.

In my judgment, an indispensable prerequisite to enactment of a modified flat tax is revenue neutrality. Professor Hall advised that the revenue neutrality of the Hall-Rabushka proposal, which uses a 19-percent rate, is based on a well documented model founded on reliable governmental statistics. The bill offered today raises that rate from 19 to 20 percent to accommodate retaining limited home mortgage interest and charitable deductions. A preliminary estimate by the Committee on Joint Taxation places the annual cost of the home interest deduction at $35 billion, and the cost of the charitable deduction at $13 billion. While the revenue calculation is complicated because the Hall-Rabushka proposal encompasses significant revisions to business taxes as well as personal income taxes, there is a sound basis for concluding that the 1-percent increase in rate would pay for the two deductions. Revenue estimates for Tax Code revisions are difficult to obtain and are, at best, judgment calls based on projections from fact situations with a myriad of assumed variables. It is possible that some modification may be needed at a later date to guarantee revenue neutrality.

This legislation offered today is quite similar to the bill introduced in the House by Congressman ARMEY, which was itself modeled after the Hall-Rabushka proposal and uses much of the same legislative language as the Armey bill. The flat tax offers great potential for enormous economic growth, in keeping with principles articulated so well by former Congressman Jack Kemp. This proposal taxes business revenues fully at their source, so that there is no personal taxation on interest, dividends and capital gains. Restructured in this way, the tax code can become a powerful incentive for savings and investment—which translates into economic growth and expansion, more and better jobs, and a rising standard of living for all Americans.

In this Congress, we have so far been concerned with the work of reducing the size and cost of Government, and this is work which is vitally important. But the work of downsizing Government is only one side of the coin; what we must do at the same time, and with as much energy and care, is to grow the private sector. As we reform the welfare programs and Government bureaucracies of past administrations, we must replace those programs with a prosperity that extends to all segments of American society through private investment and job creation—which can have the additional benefit of producing even lower taxes for Americans as economic expansion adds to Federal revenues. Just as Americans need a tax code that is fair and simple, they also are entitled to tax laws designed to foster rather than retard economic growth. The bill I offer today embodies those principles.

Professors Hall and Rabushka have summarized the advantages of their proposals as follows:

> The tax on families is fair and progressive—the poor pay no tax at all, and the fraction of income that a family pays rises with income. The system is simple and easy to understand. And the tax operates on the consumption-tax principle [encourages savings; discourages consumption]—families are taxed on what they take out of the economy, not what they put into it
>
> Our system rests on a basic administrative principle: income should be taxed exactly once, as close as possible to its source. Today's tax system violates this principle in all kinds of ways. Some kinds of income—like fringe benefits—are never taxed at all. Other kinds, like dividends and capital gains, are taxed twice. And interest income, which is supposed to be taxed once, escapes taxation completely in all too many cases, where clever taxpayers arrange to receive interest beyond the reach of the IRS.
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> Under our plan, all income is taxed at the same rate. Equality of tax rates is a basic concept of the flat tax. Its logic is much more profound than just the simplicity of calculation with a single tax rate. Whenever different forms of income are taxed at different rates or different taxpayers face different rates, the public figures out how to take advantage of the differential.
>
> Limiting the burden of taxes on the poor is a central principle of tax reform. Some ideas for tax simplification and reform flout this principle—neither a federal sales tax nor a value-added tax is progressive. Instead, all citizens, rich and poor alike, pay essentially the same fraction of their spending in taxes. We reject sales and value-added taxes for this reason. . . .
>
> Exempting the poor from taxes does not require graduated tax rates rising to high levels for upper-income taxpayers. A flat rate, applied to all income above a generous personal allowance, provides progressivity without creating important differences in tax rates. Graduated taxes automatically create differences in tax rates among taxpayers, with all the attendant opportunities for leakage. Because it is high-income taxpayers who have the biggest incentive and the best opportunity to use special tricks to exploit tax-rate differentials, applying the same tax rate to these taxpayers for all of their income in all years is the most important goal of flat-rate taxation. . . .
>
> We believe that the simplicity of our system is a central feature. Complex tax forms and tax laws do more harm than just deforesting America. Complicated taxes require expensive advisers for taxpayers and equally expensive reviews and audits by the Government. A complex tax invites the taxpayer to search for a special feature to exploit to the disadvantage of the rest of us. And complex taxes diminish confidence in government, inviting a breakdown in cooperation with the tax system and the spread of outright evasion.

My plan, which like Representative ARMEY's is based on the Hall-Rabushka analysis, differs from the legislation introduced by Representative ARMEY in four key respects: First, my bill contains a 20-percent flat tax rate. Second, this bill would retain modified deductions for mortgage interest and charitable contributions, which will require a 1 percent higher tax rate than otherwise. Third, my bill would maintain the automatic withholding of taxes from an individual's paycheck. Lastly, my bill is designed to be revenue neutral, and thus will not undermine our vital efforts to balance the Nation's budget. The estimate of revenue neutrality is based on the Hall-Rabushka analysis together with preliminary projections supplied by the Joint Committee on Taxation on the modifications proposed in this bill

The key advantages of this flat tax plan are threefold: First, it will dramatically simplify the payment of taxes. Second, it will remove much of the IRS regulatory morass now imposed on individual and corporate taxpayers, and allow those taxpayers to devote more of their energies to productive pursuits. Third, since it is a plan which rewards savings and investment, the flat tax will spur economic growth in all sectors of the economy as more money flows into investments and savings accounts, and as interest rates drop. By contrast, there will be a contraction of the IRS if this proposal is enacted.

Under this tax plan, individuals would be taxed at a flat rate of 20 percent on all income they earn from

wages, pensions, and salaries. Individuals would not be taxed on any capital gains, interest on savings, or dividends—since those items will have already been taxed as part of the flat tax on business revenue. The flat tax will also eliminate all but two of the deductions and exemptions currently contained within the Tax Code. Instead, taxpayers will be entitled to personal allowances for themselves and their children: $9,500 for a single taxpayer, $14,000 for a single head of household and $16,500 for a married couple filing jointly; and $4,500 per child or dependent. These personal allowances would be adjusted annually for inflation.

In order to ensure that this flat tax does not unfairly impact low income families, the personal allowances contained in my proposal are much higher than the standard deduction and personal exemptions allowed under the current Tax Code. For example, in 1994, the standard deduction is $3,800 for a single taxpayer, $5,600 for a head of household, and $6,350 for a married couple filing jointly, while the personal exemption for individuals and dependents is $2,450. Thus, under the current Tax Code, a family of four which does not itemize deductions would pay tax on all income over $16,500—personal exemptions of $9,800 and a standard deduction of $6,350. By contrast, under my flat tax bill, that same family would receive a personal exemption of $25,500, and would pay tax only on income over that amount.

My legislation retains the provisions for the deductibility of charitable contributions up to a limit of $2,500 and home mortgage interest on up to $100,000 of borrowing. Retention of these key deductions will, I believe, enhance the political salability of this legislation and allow the debate on the flat tax to move forward. If a decision is made to eliminate these deductions, the revenue saved could be used to reduce the overall flat tax rate from 20 to 19 percent.

With respect to businesses, the flat tax would also be a flat rate of 20 percent. My legislation would eliminate the intricate scheme of complicated depreciation schedules, deductions, credits, and other complexities that go into business taxation in favor of a much-simplified system that taxes all business revenue less only wages, direct expenses and purchases—a system with much less potential for fraud, ''creative accounting,'' and tax avoidance.

Businesses would be allowed to expense 100 percent of the cost of capital formation, including purchases of capital equipment, structures and land, and to do so in the year in which the investments are made. The business tax would apply to all money not reinvested in the company in the form of employment or capital formation—thus fully taxing revenue at the business level and making it inappropriate to retax the same money when passed on to investors as dividends or capital gains.

Professors Hall and Rabushka summarize the benefits from this kind of flat taxation of business revenue as follows:

> The business tax is a giant, comprehensive withholding tax on all types of income other than wages, salaries, and pensions. It is carefully designed to tax every bit of income outside of wages, but to tax it only once. The business tax does not have deductions for interest payments, dividends, or any other type of payment to the owners of the business. As a result, all income that people receive from business activity has already been taxed. Because the tax has already been paid, the tax system does not need to worry about what happens to interest, dividends, or capital gains after these types of income leave the firm. The resulting simplification and improvement in the tax system is enormous. Today, the IRS receives over a billion Form 1099s, which keep track of interest and dividends, and must make an overwhelming effort to match these forms to the 1040s filed by the recipients. The only reason for a Form 1099 is track income as it makes its way from the business where it originates to the ultimate recipient. Not a single Form 1099 would be needed under a flat tax with business income taxed at the source.

Let me now turn to a more specific discussion of the advantages of the flat tax legislation I offer today.

SIMPLICITY

The first major advantage to this flat tax is simplicity. According to reliable studies, Americans spend approximately 5.4 billion hours each year filling out tax forms. Much of this time is spent burrowing through IRS laws and regulations, which, according to the Tax Foundation, have grown from 744,000 words in 1955 to 5.6 million words in 1994. The Internal Revenue Code annotations alone have grown to 21 volumes of mind-numbing detail and minutiae. Even those IRS forms which are intended to be simple are not—the instructions for the 1040EZ form—the so-called easy form—alone comprise 17 small-print pages.

Whenever the Government gets involved in any aspect of our lives, it can covert the most simple goal or task into a tangled array of complexity, frustration and inefficiency. By way of example, most Americans have become familiar with the absurdities of the Government's military procurement programs. If these programs have taught us anything, it is how a simple purchase order for a hammer or a toilet seat can mushroom into thousands of words of regulations and restrictions when the government gets involved. The Internal Revenue Service is certainly no exception. Indeed, it has become a distressly common experience for taxpayers to receive computerized printouts claiming that additional taxes are due, which require repeated exchanges of correspondence or personal visits before it is determined, as it so often is, that the taxpayer was right in the first place.

The plan offered today would eliminate these kinds of frustrations for millions of taxpayers. This flat tax would enable us to scrap the great majority of the IRS rules, regulations and instructions and delete literally millions of words from the Internal Revenue Code. Instead of tens of millions of hours of nonproductive time spent in compliance with—or avoidance of—the Tax Code, taxpayers would spend only the small amount of time necessary to fill out a postcard-sized form. Both business and individual taxpayers would thus find valuable hours freed up to engage in productive business activity, or for more time with their families, instead of poring over tax tables, schedules and regulations.

The flat tax I have proposed can be calculated just by filling out a small postcard which would require a taxpayer only to answer a few easy questions. The postcard would ask for the following information:

FORM 1—INDIVIDUAL WAGE TAX, 1995

Your first name and initial (if joint return, also give spouse's name and initial):

Your social security number:

Home address (number and street including apartment number or rural route):

Spouse's social security number:

City, town, or post office, state, and ZIP code:

1. Wages, salary, pension and retirement benefits:
2. Personal allowance (enter only one):
   $16,500 for married filing jointly
   $9,500 for single
   $14,000 for single head of household
3. Number of dependents, not including spouse, multiplied by $4,500:
4. Mortgage interest on debt up to $100,000 for owner-occupied home:
5. Cash or equivalent charitable contributions (up to $2,500):
6. Total allowances and deductions (lines 2, 3, 4, 5):
7. Taxable compensation (line 1 less line 6, if positive; otherwise zero):
8. Tax (20% of line 7):
9. Tax withheld by employer:
10. Tax or refund due (difference between lines 8 and 9):

Filing a tax return would become a manageable chore, not a seemingly endless nightmare, for most taxpayers.

CUTTING BACK GOVERNMENT

Along with the advantage of simplicity, enactment of this flat tax bill will help to remove the burden of costly and unnecessary government regulation, bureaucracy and redtape from our everyday lives. The heavy hand of government bureaucracy is particularly onerous in the case of the Internal Revenue Service, which has been able to extend its influence into so many aspects of our lives.

In 1994, the IRS employed over 110,000 people, spread out over 650 offices across the United States. Its budget was in excess of $13 billion, with some $7.1 billion spent annually just to administer the tax laws, and another $4 billion for enforcement. By simplifying the Tax Code and eliminating most of the IRS' vast array of rules and regulations, the flat tax would enable us to cut a significant portion of the IRS budget, including the bulk of the funding now needed for enforcement and administration.

In addition, a flat tax would allow taxpayers to redirect their time, energies, and money away from the yearly morass of tax compliance. According to the Tax Foundation, in 1994, businesses spent approximately $127 billion in compliance with the Federal tax laws, and individuals spent an additional $65 billion, for a total of $192 billion. Moneys spent by businesses and investors in creating tax shelters and finding loopholes could be instead directed to productive and job-creating economic activity. With the adoption of a flat tax, the opportunities for fraud and cheating would also be vastly reduced, allowing the Government to collect, according to some estimates, over $120 billion annually.

ECONOMIC GROWTH

The third major advantage to a flat tax is that it will be a tremendous spur to economic growth. Harvard economist Dale Jorgenson estimates adoption of a flat tax like the one offered today would increase future national wealth by over $2 trillion, in present value terms, over a 7-year period. The economic principles are fairly straightforward. Our current tax system is inefficient; it is biased toward too little savings and too much consumption. The flat tax creates substantial incentives for savings and investment by eliminating taxation on interest, dividends, and capital gains—and tax policies which promote capital formation and investment are the best vehicle for creation of new and high paying jobs, and for a greater prosperity for all Americans.

It is well recognized that to promote future economic growth, we need not only to eliminate the Federal Government's reliance on deficits and borrowed money, but to restore and expand the base of private savings and investment that has been the real engine driving American prosperity throughout our history. These concepts are interrelated, for the Federal budget deficit soaks up much of what we have saved, leaving less for businesses to borrow for investments.

It is the sum total of savings by all aspects of the U.S. economy that represented the pool of all capital available for investment—in training, education, research, machinery, physical plant, et cetera—and that constitutes the real seed of future prosperity. The statistics here are daunting. In the 1960's the net U.S. national savings rate was 8.2 percent, but it has fallen to a dismal 1.5 percent. In recent international comparisons, the United States has the lowest savings rate of any of the G–7 countries. We save at only one-tenth the rate of the Japanese, and only one-fifth the rate of the Germans, which is clearly reflected in the comparative growth rates of our economies over the last three decades.

An analysis of the components of U.S. savings patterns shows that although the Federal budget deficit is the largest cause of dissavings, both personal and business savings rates have declined significantly over the past three decades. Thus, to recreate the pool of capital stock that is critical to future U.S. growth and prosperity, we have to do more than just get rid of the deficit. We have to very materially raise our levels of private savings and investment. And we have to do so in a way that will not cause additional deficits.

The less money people save, the less money is available for business investment and growth. The current tax system discourages savings and investment, because it taxes the interest we earn from our savings accounts, the dividends we make from investing in the stock market, and the capital gains we make from successful investments in our homes and the financial markets. Indeed, under the current law these rewards for saving and investment are not only taxed, they are overtaxed—since gains due solely to inflation, which represent no real increase in value, are taxed as if they were really profit.

With the limited exceptions of retirement plans and tax-free municipal bonds, our current Tax Code does virtually nothing to encourage personal savings and investment, or to reward it over consumption. As William Schreyer wrote recently in the Harvard Business Review, ''the budget deficit is only one part of a larger national problem: the U.S. saving deficit.''

This bill will change this system, and address this problem. The proposed legislation reverses the current skewed incentives by promoting savings and investment by individuals and by businesses. Individuals would be able to invest and save their money tax-free and reap the benefits of the accumulated value of those investments without paying a capital gains tax upon the sale of these investments. Businesses would also invest more as the flat tax allowed them to expense fully all sums invested in new equipment and technology in the year the expense was incurred, rather than dragging out the tax benefits for these investments through complicated depreciation schedules. With greater investment and a larger pool of savings available, interest rates and the costs of investment would also drop, spurring even further economic growth.

Critics of the flat tax have argued that we cannot afford the revenue losses associated with the tremendous savings and investment incentives the bill affords to businesses and individuals. Those critics are wrong. Not only is this bill carefully crafted to be revenue neutral, but historically we have seen that when taxes are cut, revenues actually increase, as more taxpayers work harder for a larger share of their take-home pay, and investors are more willing to take risks in pursuit of rewards that will not get eaten up in taxes. As one example, under President Kennedy individual tax rates were lowered, investment incentives including the investment tax credit were created and then expanded, depreciation rates were accelerated, and yet between 1962 and 1967 gross annual Federal tax receipts went from $99.7 to $148 billion—an increase of nearly 50 percent. More recently under President Reagan, after his tax cuts in the early 1980's, Government tax revenues rose from just under $600 billion in 1981 to nearly $1 trillion in 1989. In fact, the Reagan tax cut program helped to bring about the longest peacetime expansion of the U.S. economy in history. There is every reason to believe that the flat tax proposed here can do the same—and by maintaining revenue neutrality in this flat tax proposal, as we have, we can avoid any increases in annual deficits and the national debt.

In addition to increasing Federal revenues by fostering economic growth, the flat tax can also add to Federal revenues without increasing taxes by closing tax loopholes. The Congressional Research Service estimates that for fiscal year 1995, individuals will shelter more than $393 billion in tax revenue in legal loopholes, and corporations will shelter an additional $60 billion. There may well be additional moneys hidden in quasi-legal or even illegal tax shelters. Under a flat tax system, all tax shelters will disappear and all income will be subject to taxation.

The larger pool of savings created by a flat tax will also help to reduce our dependence on foreign investors to finance both our Federal budget deficits and our private sector economic activity. Currently, of the publicly held Federal debt, that is, the portion was not held by various Federal trust funds like Social Security, nearly 20 percent is held by foreigners—the highest level in our history. By contrast, in 1965 less than 5 percent of publicly held national debt was foreign-owned. We are paying over $40 billion in annual interest to foreign governments and individuals, and this by itself accounts for roughly one-third of our whole international balance of payments deficit. These massive interest payments are one of the principal sources of American capital flowing abroad, a factor which then enables foreign investors to buy up American business. During the period 1980–91, the gross value of U.S. assets owned by foreign businesses and individuals rose 427 percent from $543 billion to $2.3 trillion.

The substantial level of foreign ownership of our national debt creates both political and economic problems. On the political level, there is at least the potential that some foreign nation may assume a position where its level of investment in U.S. debt gives it disproportionate leverage over American policy. Economically, increasing foreign investment in Treasury debt furthers our national shift from a creditor to a debtor nation, weakening the dollar and undercutting our international trade position. A recent Congressional Research Service report put it succinctly: ''To pay for today's capital

inflows, tomorrow's economy will have to ship more abroad in exchange for fewer foreign products. These payments will be a consequence in part of heavy Federal borrowing since 1982.'' With a flat tax in place, America's own supply of capital can be replenished, and we can return to our historic position as an international creditor nation rather than a debtor.

Professors Hall and Rabushka describe the pro-growth aspects of the flat tax in this way:

> Today's absurd system taxes entrepreneurial success at 60 percent while it actually subsidizes leveraged investment. Our simple tax would put the same low rate on both activities. A huge redirection of national effort would follow. And the redirection could only be food for national income. There is nothing wrong with shopping centers, apartment buildings, airplanes, boxcars, medical equipment, and cattle, but tax advantages have made us invest far too much in them, and their contribution to income is correspondingly low. Real growth will come when effort and capital flow back into innovation and the development of new business, the areas where confiscatory taxation has discouraged investment. The contribution to income from new resources will be correspondingly high.
>
> We project a 3 percent increase in output from increased total work in the U.S. economy and an additional increment to total output of 3 percent from added capital formation and dramatically improved entrepreneurial incentives. The sum of 6 percent is our best estimate of the improvement in real incomes after the economy has had seven years to assimilate the changed economic conditions brought about by the simple flat tax. Both the amount and the timing are conservative.
>
> Even this limited claim for economic improvement represents enormous progress. By 2002, it would mean each American will have an income about $1,900 higher, in 1995 dollars, as a consequence of tax reform.

As Professors Hall and Rabushka state it, the growth case for a flat tax is compelling. It is even more compelling in the case of a tax revision that is simple and demonstrably fair.

FAIRNESS

By substantially increasing the personal allowances for taxpayers and their dependents, this flat tax proposal ensures that poorer taxpayers will pay no tax and that taxes will not be regressive for lower and middle income taxpayers. At the same time, by closing the hundreds of tax loopholes which are currently used by wealthier taxpayers to shelter their income and avoid taxes, this flat tax bill will also ensure that all Americans pay their fair share.

A variety of specific cases illustrate the fairness and simplicity of this flat tax:

Case No. 1.—Married couple with two children, rents home, yearly income $30,000

Under Current Law:	
Income	30,000
Four personal exemptions	9,800
Standard deduction	6,350
Taxable income	13,850
Tax due under current rates	2,081
Marginal rate (percent)	15.0
Effective tax rate (percent)	6.9
Under Flat Tax:	
Personal allowance	16,500
Two dependents	9,000
Taxable income	4,500
Tax due under flat tax	900
Effective tax rate (percent)	3.0

* * * Savings of $1,181 * * *

Case No. 2.—Single individual, rents home, yearly income $45,000

Under Current Law:	
Income	45,000
One personal exemption	2,450
Standard deduction	3,800
Taxable income	38,750
Tax due under current rates	7,900
Marginal rate (percent)	28.0
Effective rate (percent)	17.6
Under Flat Tax:	
Personal allowance	9,500
Taxable income	35,500
Tax due under flat tax	7,100
Effective rate (percent)	15.8

* * * Savings of $800 * * *

Case No. 3.—Married couple with no children, $140,000 mortgage at 9%, yearly income $70,000

Under Current Law:	
Income	$70,000
Two personal exemptions	4,900
Home mortgage deduction	12,600
State and local taxes	2,000
Charitable deduction	1,400
Taxable income	49,100
Tax due under current rates	8,815
Marginal rate (percent)	28
Effective tax rate (percent)	12.6
Under Flat Tax:	
Personal allowance	16,500
Home mortgage deduction	9,000
Charitable deduction	1,400
Taxable income	43,100
Tax due under flat tax	8,620
Effective tax rate (percent)	12.3

* * * Savings of $195 * * *

Case No. 4.—Married couple with two children, $240,000 mortgage at 9%, yearly income $120,000

Under Current Law:	
Income	$120,000
Four personal exemptions	9,800
Home mortgage deduction	21,600
State and local taxes	6,000
Retirement fund deductions	6,000
Charitable deductions	2,500
Taxable income	74,100
Tax due under current rates	15,815
Marginal rate (percent)	31
Effective tax rate (percent)	13.2
Under Flat Tax:	
Personal allowance	16,500
Two dependents	9,000
Home mortgage deduction	9,000
Charitable deduction	2,500
Taxable income	78,500
Tax due under flat tax	15,700
Effective tax rate (percent)	13.1

* * * Savings of $115 * * *

Case No. 5.—Married couple, no children, $1,000,000 mortgages at 9 percent on 2 homes, $500,000 income

Under Current Law:	
Income	$500,000
Personal exemptions at this level	0
Home mortgage deductions	90,000
State and local taxes	50,000
Retirement deductions	40,000
Charitable deductions	30,000
Taxable income	290,000
Tax due under current rates	91,144
Marginal rate (percent)	39.6
Effective tax rate (percent)	18.2
Under Flat Tax:	
Personal allowance	16,500
Mortgage deduction	9,000
Charitable deduction	2,500
Taxable income	472,000
Tax due under flat tax	94,400
Effective tax rate (percent)	18.9

* * * $3,256 higher taxes * * *

The flat tax legislation that I am offering will retain the element of progressivity that Americans view as essential to fairness in an income tax system. Because of the lower end income exclusions, and the capped deductions for home mortgage interest and charitable contributions, the effective tax rates under my bill will range from 0 percent for families with incomes under about $30,000 to roughly 20 percent for the highest income groups:

ANNUAL TAXES UNDER 20 PERCENT FLAT TAX FOR MARRIED COUPLE WITH TWO CHILDREN FILING JOINTLY

Income	Taxes owed	Effective rate (percent)
$25,500	None	0
$30,000	None	0
$40,000	$1,300	3.3
$50,000	2,900	5.8
$60,000	4,860	8.1
$70,000	6,820	9.7
$80,000	8,780	11
$90,000	10,740	11.9
$100,000	12,700	12.7
$125,000	17,600	14.1
$150,000	22,600	15.1
$200,000	32,600	16.3
$250,000	42,600	17.0
$500,000	92,600	18.5
$1,000,000	192,600	19.3

Note: Assumes home mortgage of twice annual income at a rate of 9 percent and charitable contributions up to 2 percent of annual income.

My proposed legislation demonstrably retains the fairness that must be an essential component of the American tax system.

CONCLUSION

The proposal that I make today is dramatic, but so are its advantages: a taxation system that is simple, fair and designed to maximize prosperity for all Americans. A summary of the key advantages are:

Simplicity: A 10-line postcard filing would replace the myriad forms and attachments currently required, thus saving Americans up to 5.4 billion hours they currently spend every year in tax compliance.

Cuts Government: The flat tax would eliminate the lion's share of IRS rules, regulations, and requirements, which have grown from 744,000 words in 1955 to 5.6 million words in 1994. It would also allow us to slash the mammoth IRS bureaucracy of 110,000 employees spread out over 650 offices nationwide.

Promotes economic growth: Economists estimate a growth of over $2 trillion in national wealth over 7 years, representing an increase of $1,900 in personal income for every man, woman, and child in America.

Increases efficiency: Investment decisions would be made on the basis of productivity rather than simply for tax avoidance, thus leading to even greater economic expansion.

Reduces interest rates: Economic forecasts indicate that interest rates would fall substantially, by as much as two points, as the flat tax removes many of the current disincentives to savings.

Lowers compliance costs: Americans would be able to save up to $192 billion they currently spend every year in tax compliance.

Decreases fraud: As tax loopholes are eliminated and the Tax Code is simplified, there will be far less opportunity for tax avoidance and fraud, which now amounts to over $120 billion in uncollected revenue annually.

Reduces IRS costs: Simplification of the Tax Code will allow us to save significantly on the $13 billion annual budget currently allocated to the Internal Revenue Service.

Professors Hall and Rabushka have projected that within 7 years of enactment, this type of a flat tax would produce a 6-percent increase in output from increased total work in the U.S. economy and increased capital formation. The economic growth would mean a $1,900 increase in the personal income of all Americans.

No one likes to pay taxes. But Americans will be much more willing to pay their taxes under a system that they believe is fair, a system that they can understand, and a system that they recognize promotes rather than prevents growth and prosperity. The legislation I introduce today will afford Americans such a tax system.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 489. A bill to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the town of Grand Lake, CO, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park; to the Committee on Energy and Natural Resources.

THE ROCKY MOUNTAIN NATIONAL PARK GRAND LAKE CEMETERY ACT OF 1995

Mr. CAMPBELL. Mr. President, on January 26, 1915, Congress passed legislation creating a 265,726-acre Rocky Mountain National Park. In 1892, long before the park was created, the town of Grand Lake established a small, less than 5-acre community cemetery that lies barely 1,000 feet inside the western edge of the park. Apparently, in the early 1950's, the National Park Service took notice of the cemetery and issued the town a formal special use permit, which has been renewed over the years. In 1991, Rocky Mountain National Park apparently informed the town of Grand Lake that it would issue one final 5-year special use permit.

This 103-year-old cemetery has become part of the community's heritage. Grand Lake residents have very strong emotional and personal attachments to it and need to be assured of its continued use and designation as a cemetery. The current permit is due to expire in 1996. All parties have agreed that a more permanent solution was needed to meet the needs of the community and the resource preservation and protection intended by the establishment of the park.

Existing measures available to the National Park Service, including special use permit authority, do not provide for a permanent solution that satisfies both the park and the community. In addition, special uses apparently can only be permitted for a maximum period of 5 years. Given that the town and park agree that the small cemetery is a permanent use, continued renewal of a 5-year permit is not a realistic solution.

In an effort to avoid future difficulties, park and town representatives have agreed that this legislation would offer the best solution to this problem. Authorizing the continued existence of the cemetery with specific size and boundaries within the park also protects park resources. The community has expressed a strong willingness and desire to assume responsibility for permanent management of the cemetery. This legislation would authorize the development of an agreement to turn maintenance responsibilities for the cemetery and road over to the town, resulting in a financial savings to the park. It also recognizes the cultural significance of the cemetery and its strong ties with the history of the Grand Lake area, which includes the story of Rocky Mountain National Park.

This legislation would negate the need for repeated negotiations between the community and the National Park Service, and the chance for misunderstandings. The National Park Service and Grand Lake representatives have worked long and hard on developing this proposal. Enactment of this legislation would go a long way in maintaining and enhancing the spirit of cooperation and goodwill between park and community that has been achieved during the development of this resolution.

By Mr. GRASSLEY:

S. 490. A bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes; to the Committee on Environment and Public Works.

THE CLEAN AIR ACT AMENDMENT ACT OF 1995

● Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 490

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

SECTION 1. DEFINITION OF POTENTIAL TO EMIT.

Section 302(j) of the Clean Air Act (42 U.S.C. 7602(j)) is amended—

(1) by striking ''(j) Except as otherwise'' and inserting the following:

''(j) MAJOR STATIONARY SOURCE AND MAJOR EMITTING FACILITY.—

''(1) IN GENERAL.—Except as otherwise''; and

(2) by adding at the end the following:

''(2) AGRICULTURE-RELATED FACILITY.—In this subsection, with respect to an agriculture-related facility, such as a grain elevator, a grain, feed, or rice mill, or a grain processing facility;

(A) AIR POLLUTANT.—With respect to particulate emissions, the term 'air pollutant' shall include only particulate matter less than or equal to 10 microns in size.

''(B) POTENTIAL TO EMIT.—

''(i) IN GENERAL.—The term 'potential to emit' means the potential of a facility to emit during a 1-year period under maximum realistic operation of the facility.

'(ii) MAXIMUM REALISTIC OPERATION.—In determining the maximum realistic operation of an agriculture-related facility, the Administrator shall consider—

''(I) the cyclical or seasonal nature of the facility; and

''(II) in the case of a facility in operation on the date of the determination, the maximum hours of operation of the facility that actually occurred during any of the preceding 5 years.

''(iii) EQUIPMENT, TECHNIQUES, AND PROCEDURES.—The Administrator shall consider the effect of control equipment, techniques, and procedures in lowering the potential to emit of an agriculture-related facility.''.

SEC. 2. EXEMPTION FROM PERMITTING REQUIREMENTS.

Section 502 of the Clean Air Act (42 U.S.C. 7661a) is amended—

(1) in the first sentence of subsection (a), by striking ''any other source (including an area source) subject to standards or regulations under section 111 or 112,''; and

(2) by adding at the end the following:

''(j) EXEMPTION.—A source shall not be subject to any regulation or requirement under this section if the source is—

''(1) not a major source; and

''(2) subject to section 111 or 112.''.●

By Mr. BREAUX (for himself, Mr. HOLLINGS, Mr. INOUYE, Mr. COCHRAN, and Mr. CHAFEE):

S. 491. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient self-management training services under part B of the Medicare Program for individuals with diabetes; to the Committee on Finance.

THE MEDICARE DIABETES OUTPATIENTS SELF-MANAGEMENT TRAINING ACT OF 1995

● Mr. BREAUX. Mr. President, diabetes is the third leading cause of death from disease in the United States. It is the leading cause of blindness in people aged 25 to 74 and the most frequent cause of nontraumatic lower limb amputations. Diabetes also greatly increases an individual's chances of succumbing to stroke or heart disease.

What is such a shame, Mr. President, is that diabetes is a condition that can generally be treated so that major complications do not occur. In some cases it can even be prevented. While there is no known cure for diabetes, individuals with the disease can lead completely normal lives—even extraordinarily productive lives—if they know how to balance their diet, get enough exercise, and manage their disease.

People with diabetes learn to take care of themselves through self-maintenance and education programs. Generally, classes are taken when an individual is diagnosed with the disease and periodically thereafter in order to keep up with the changes in their condition and to get the most up-to-date treatments available.

Appropriate preventive education services for those with diabetes have the potential to save a great deal of money that would otherwise go for hospitalizations and other acute care costs. Education also saves these individuals from a great deal of unnecessary pain and suffering. Studies by the American Diabetes Association and others have shown that the Medicare program could save $2 to $3 for every $1 spent on diabetes education.

Medicare currently covers these services in inpatient or hospitalbased settings and in limited outpatient settings—specifically hospital outpatient departments or rural health clinics. Unfortunately, Medicare does not currently cover education services if they are given in any other outpatient setting, such as a doctor's office. Even the limited coverage of outpatient settings that is currently permitted under Medicare is subject to State-by-State variation according to interpretation by the program's fiscal intermediaries.

The Medicare Diabetes Outpatient Self-Management Training Act of 1995, which I am reintroducing today along with Senators CHAFEE, COCHRAN, INOUYE, and HOLLINGS, would provide for Medicare coverage for outpatient diabetes education on a consistent basis throughout the country. The bill would extend Medicare coverage of outpatient programs beyond hospital-based programs and rural health clinics. It would direct the Secretary of Health and Human Services to guarantee that coverage be available only for those services delivered through programs that meet stringent quality standards. Uniform payment would be achieved through implementation of new working guidelines.

This legislation is all about preventive medicine and is a sensible approach that should show savings for the Medicare Program in the long run. I hope that my colleagues will join me as cosponsors.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 491

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 ''Medicare Diabetes Outpatient Self-Management Training Act of 1995''.

SEC. 2. MEDICARE COVERAGE OF DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (O) (as redesignated by section 147(f)(6)(B)(iii)(II) of the Social Security Act Amendments of 1994 (Pub. Law 103–432)); and

(2) by inserting after subparagraph (O) the following new subparagraph:

''(P) diabetes outpatient self-management training services (as defined in subsection (oo)); and.''.

(b) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Diabetes Outpatient Self-Management Training Services

''(oo)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by or under arrangements with a certified provider (as described in paragraph (2)(A)) if—

''(A) the services are furnished in an outpatient setting by an individual or entity meeting the quality standards described in paragraph (2)(B); and

''(B) the physician who is managing the individual's diabetic condition certifies that the services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

''(2) In paragraph (1)—

''(A) a 'certified provider' is an individual or entity that, in addition to furnishing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

''(B) an individual or entity meets the quality standards described in this paragraph if the individual or entity—

''(i) meets quality standards established by the Secretary;

''(ii) meets applicable standards developed by the National Diabetes Advisory Board, including any revision of such standards by the organizations that participated in the original development of the applicable standards; or

''(iii) is recognized by the American Diabetes Association as being qualified to furnish the services.''.

(c) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848(a) of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including the American Diabetes Association, in determining the relative value for such services under section 1848(c)(2) of such Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.●

By Mr. CHAFEE:

S. 492. A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Intrepid*, to the Committee on Commerce, Science, and Transportation.

JONES ACT WAIVER LEGISLATION

● Mr. CHAFEE. Mr. President, today I am introducing legislation to issue a certificate of documentation for the vessel *Intrepid* under title 46, United States Code.

The *Intrepid* has a long and proud history in sailing, including representing the United States in the America's Cup and winning in 1967 and 1971. It is currently U.S.-owned and is the Flagship of the America's Cup Hall of Fame.

The *Intrepid* is a 12 meter yacht, 65 feet in length that was built at the Minneford Boat Yard in City Island, NY in 1967. At the time of its construction, the vessel employed the breakthrough technology of noted boat designer Olin Stephen. In a departure from the past, its design separated the keel and rudder, and added a trim tab on the trailing edge of the keel. Variations of this technology are still being used today.

Because the *Intrepid* was at one point sold to non-U.S. owners and thus became ineligible to participate in U.S. coastwise trade, the owners seek a waiver of the Jones Act. They plan to use the vessel only in limited commercial ventures, and the vessel's use will not adversely affect the coastwise trade in U.S. waters. If granted this waiver, *Intrepid*'s owners intend to fully comply with U.S. documentation and safety requirements.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 492

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

SECTION 1. AUTHORIZATION OF CERTIFICATE OF DOCUMENTATION.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel INTREPID, United States official number 508185.●

By Mr. CHAFEE:

S. 493. A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Consortium;* to the Committee on Commerce, Science, and Transportation.

JONES ACT WAIVER LEGISLATION

● Mr. CHAFEE. Mr. President, today I am introducing legislation to issue a certificate of documentation for the vessel *Consortium* under title 46, United States Code.

A recently formed Rhode Island corporation, Marine Consortium, Inc., has purchased the 102-foot Camper and Nicholson motoryacht, *Consortium*. It is a U.S. documented vessel homeported in Newport, RI, and is ideally suited for charter operation.

Because *Consortium* has a foreign built—British—hull, it cannot undertake charters in U.S. waters. Its owners seek a waiver of this Jones Act prohibition so that they may engage in

charter operations this summer and in the future.

Operation of the *Consortium* would build upon the economic vitality of Newport County. Its owners have also offered to make the vessel available at no cost to the Newport Preservation Society, the Museum of Yachting, and the Save the Bay Foundation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 493

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

SECTION 1. AUTHORIZATION OF CERTIFICATE OF DOCUMENTATION.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel CONSORTIUM, United States official number 1029192.●

By Mr. JEFFORDS (for himself, Mr. LEAHY, Ms. SNOWE, Mr. KENNEDY, Mr. COHEN, Mr. GREGG, Mr. DODD, Mr. SMITH, Mr. CHAFEE, Mr. KERRY, Mr. LIEBERMAN, and Mr. PELL):

S.J. Res. 28. A joint resolution to grant consent of Congress to the Northeast Interstate Dairy Compact; read the first time.

NORTHEAST INTERSTATE DAIRY COMPACT

Mr. JEFFORDS. Mr. President, I rise today to strongly support the introduction of a joint resolution to grant the consent of Congress to the northeast interstate dairy compact. Congress is simply being asked to ratify a completed piece of legislation—legislation that passed overwhelmingly in each of the six New England States that the compact represents.

Mr. President, a great deal of time and effort has gone into creating the dairy compact, over 6 years in fact. The dairy compact represents a cooperative effort of six States working collectively to restore the traditional Federal-State balance to milk regulation. The compact has been carefully designed so that it will not adversely affect any other region of the country. Provisions have been set forth in the compact to protect the interests of farmers and processors outside the compact region. In addition, there is no cost to the Federal Government.

Mr. President, the dairy compact simply complements the Federal Milk Marketing Program. It would not supplant or replace Federal law. The compact regulates only fluid milk, which is milk for beverage use. Milk for manufacturing purposes such as cheese and ice cream would be absolutely exempt from the compact. We are talking about a very small amount of milk in a local market.

Just since 1984, almost a third of the 3,170 farms then operating in Vermont have shut down. In 1994 alone, Vermont lost 148 farms and if the downward trend of milk prices continues we will lose more this year. Vermont dairy farmers are receiving milk prices well below the cost of production. Current milk prices for farmers are as low as they were 10 years ago, yet the cost of production and price to the consumer has increased. Farmers and consumers would both benefit from the compact's ability to establish a more stable price structure for the milk they produce and purchase, removing the fluctuations in fluid milk prices, assuring the region a viable supply of locally produced milk.

The dairy compact is a unique partnership of the region's governments and the dairy industry supported by a broad coalition of organizations and people committed to maintaining the vitality of the region's dairy industry.

The joint resolution being introduced today, has strong support from both sides of the isle. All 12 Senators from the New England delegation, representing producing and consuming States have come together to cosponsor this joint resolution.

Mr. President, I can say with certainty, support for the dairy compact in New England is impressive. During the New England Governors' Conference winter meeting, all six New England Governors urged Congress to approve the dairy compact. A resolution of the New England Governors' Conference in support of congressional enactment of the northeast dairy compact was approved and signed by the chair of the New England Governors, Governor Steve Merrill of New Hampshire.

The Governors of the compact region speak for not only the farmers and consumers but for the States themselves and the rights of the States. Mr. President, the message to Congress from Governors nationwide has been clear. ''Increase the flexibility of states and support legislation that promotes state and regional policy initiatives.''

Well Mr. President, this thoroughly thought out compact provides the opportunity for a partnership between Congress and the States to strengthen this fundamental federalism movement. It maintains that the States' constitutional authority, resources, and competence of the people to govern, is recognized and protected.

Mr. President, I am certain that my colleagues will agree with me that dairy farmers deserve a fair price for their product. What does it say about our values when some of the hardest working people. our farmers, are underpaid and unappreciated? The people of New England have a right and deserve the chance to help themselves. The joint resolution that I am introducing today, along with Senator LEAHY and my colleagues from New England gives the region the tools to face the challenges of improving and stabilizing farm prices.

I urge my colleagues to respect this interstate cooperation and ratify the dairy compact.

Mr. President, I ask unanimous consent that this one page fact sheet that explains and addresses the compact appear in the RECORD.

Mr. President, I unanimous consent ask to have printed in the RECORD the resolution of the New England Governors' Conference.

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

NEW ENGLAND GOVERNORS' CONFERENCE, INC.,
Boston, MA, February 13, 1995.

Hon. JAMES M. JEFFORDS,
Washington, DC.

DEAR SENATOR JEFFORDS: I understand the Northeast Interstate Dairy Compact awaits action by the full Senate. On behalf of the New England Governors' Conference, Inc., I write to ask your help in moving the Compact bill forward as quickly as possible.

The attached Resolution of the New England Governors' Conference, Inc. was adopted unanimously at our recent meeting in Washington, D.C.

The Dairy Compact has been enacted into law by the six New England states. We hope you will support this unique experiment in cooperative federalism. This Compact is a bipartisan, state-sponsored, regional response to the chronic problem of low dairy farm prices. If successfully implemented, the Compact will stabilize our region's dairy industry and reinvigorate this crucial segment of our rural economy, without cost to the federal government or adverse impact on the national industry.

Thank you for your consideration of this matter.

Very truly yours,

WILLIAM A. GILDEA,
Executive Director.

RESOLUTION 127—NORTHEAST DAIRY COMPACT

A Resolution of the New England Governors' Conference, Inc. in support of congressional enactment of the Northeast Dairy Compact.

Whereas, the six New England states have enacted the Northeast Interstate Dairy Compact to address the alarming loss of dairy farms in the region; and

Whereas, the Compact is a unique partnership of the region's governments and the dairy industry supported by a broad and active coalition of organizations and people committed to maintaining the vitality of the region's dairy industry, including consumers, processors, bankers, equipment dealers, veterinarians, the tourist and travel industry, environmentalists, land conservationists and recreational users of open land; and

Whereas, the Compact would not harm but instead complement the existing federal structure for milk pricing, nor adversely affect the competitive position of any dairy farmer, processor or other market participant in the nation's dairy industry; and

Whereas, the limited and relatively isolated market position of the New England dairy industry makes it an appropriate locality in which to access the effectiveness of regional regulation of milk pricing, and

Whereas, the Constitution of the United States expressly authorizes states to enter into interstate compacts with the approval of Congress and government at all levels increasingly recognizes the need to promote cooperative, federalist solutions to local and regional problems; and

Whereas, the Northeast Interstate Dairy Compact has been submitted to Congress for approval as required by the Constitution;

Now therefore be it resolved That the New England Governors' Conference, Inc. requests that Congress approve the Northeast Interstate Dairy Compact; and

Be it further resolved that, a copy of this resolution be sent to the leadership of the Senate and the House of Representatives, the Chairs of the appropriate legislative committees, and the Secretary of the United States Department of Agriculture.

Adoption certified by the New England Governors' Conference, Inc. on January 31, 1995.

STEPHEN MERRILL,
Governor of New Hampshire Chairman.

THE NORTHEAST INTERSTATE DAIRY COMPACT

Was adopted with near-unanimous support by the six New England state legislatures. It is backed by the New England Governors Conference, the region's consumer groups, dairy farmers and processors.

Establishes an interstate commission authorized to regulate New England dairy farm prices. The commission would help stabilize fluid milk prices for both consumers and farmers by establishing a pricing structure which would remove the price fluctuations that currently exist.

Assures control by the region's consumer states. Four of the six compact states, Massachusetts, Connecticut, Rhode Island and New Hampshire, are milk importing states. They joined the Compact because it promotes as well as protects the consumer interest.

Complements the federal milk marketing program. It would not supplant or replace federal law.

Does not discriminate against out-of-region farmers or processors. Milk will flow into and from the Compact region in exactly the same manner as occurs under federal law. Any farmer or processor, regardless of their location, may market milk in the compact region without competitive disadvantage.

Benefits out-of-region farmers equally with New England farmers. Thirty percent of New England's milk supply is produced by New York farmers. These farmers will receive the same Compact benefits as New England farmers.

Is strictly local in effect. The Compact regulates only fluid milk. Processors purchasing milk for manufacturing purposes such as cheese and ice cream would be absolutely exempt from the Compact.

Protects against the production of surplus milk. Provisions in the Compact and the Congressional enabling legislation ensure this result.

Was given a zero score by the Congressional Budget Office. It will operate without cost to the federal government.

Mr. LEAHY. Mr. President, I rise along with my good friend from Vermont, Senator JEFFORDS, and in fact the entire New England delegation. We rise to introduce a resolution to approve the Northeast Interstate Dairy Compact.

The compact is an agreement among the six New England States that has been approved by each of our States' legislatures. It needs approval, under the Constitution, of the Congress to take effect. Its intent is simple. It would rationalize the pricing of fluid milk in the New England States so our farmers can receive a fair price and so the consumers themselves can play a role in stabilizing these milk prices.

In fact, the roots of this compact are in the country's strong tradition of federalism. On January 27, 1995, this body overwhelmingly approved the unfunded mandates bill, which is currently in the House-Senate conference committee.

Now, throughout that debate, I heard Senator after Senator talk about giving more power back to our States. They said the Federal Government should not dictate to the States what they are supposed to do without providing the money. They said the States should have constraints lifted so they could take care of their own concerns.

The New England States are concerned about the dairy farmers in our area. They want to take more control of pricing fluid milk as a minimum price that is now set by a very complicated system of Federal milk marketing orders.

So, here is a chance for the Senate to show its support of the federalist principles it espoused in the unfunded mandates bill. This measure was approved last year by the Senate Judiciary Committee with the strong support of Senator KENNEDY, and Senator COHEN, but it ended in a filibuster at the end of last year.

All we are saying from New England, is that we have gotten the Governors together, Republicans and Democrats; the Senators together, Republicans and Democrats; legislatures made up of Republicans and Democrats all came together to agree on a procedure that affects only the New England States in the pricing and sale of fluid milk. We have done all this. We now come, as the Constitution requires, to the Congress to ask for the imprimatur of the Congress, the blessing of the Congress. We can go forward and handle our own affairs without the Federal Government telling us what to do.

The New England States want to improve the way milk is priced and the compact is the way to do it. Farmers are struggling as they receive prices at or below their cost of production. While farmers struggle with low prices, the consumers have not seen any benefit. While farm prices have declined 5 to 10 percent for the last decade, retail milk prices have increased nearly 30 percent. A recent USDA study shows that stable prices will help consumers.

The compact would create a commission made up of both farmers and consumers that would have the authority to adjust and stabilize fluid milk prices. The commission could raise prices so farmers receive a fair return for their work, but there are also strong consumer safeguards. Consumers are represented from each State and it would take four of the six New England States to approve any price increase. Any State could drop out of the compact after 1 year.

The compact is designed to work in conjunction with the New England Federal milk marketing order. The compact would work just as the Federal order does with all farmers supplying the market benefitting from any price increase. Milk would move into and out of the region just as it does now.

This compact is a model of cooperation—it is a partnership between the States and the Federal Government, between dairy cooperatives and milk processors and most importantly, between farmers and consumers.

In addition to the New England Governors Association, the National Association of State Departments of Agriculture, the National Grange, the National Farmers Organization, and dairy cooperatives from many regions in the country support this compact.

The New England States are asking for nothing from this body nor the Federal treasury—just the opportunity to act in concert for their common good. In the spirit of federalism I urge my colleagues to give this opportunity to the New England States and approve this compact.

• Ms. SNOWE. Mr. President, I am pleased to join my colleagues from New England in introducing this resolution to grant the consent of Congress to the Northeast Interstate Dairy Compact. The survival of many family dairy farms in Maine and the other New England States depends on prompt passage of this legislation.

As in many other rural regions of the country, agriculture is a cornerstone of Maine's economy. Within the agricultural sector, dairy farming usually ranks second or third in cash receipts every year. The dairy industry provides not only jobs for the farmers themselves, but for the people who sell farm machinery, service the machinery, sell fuel and feed, and provide other goods and services. Dairy farms also account for large shares of the municipal tax base throughout rural Maine, making them critical contributors to local schools and essential town services.

Unfortunately, all is not well in the Maine dairy industry. In 1978, Maine had 1,133 dairy farms. By 1988, that number had declined to 800. In 1991, there were 680. And by 1994, the number dwindled further to 606.

This precipitous decline in the number of dairy farms can be attributed to several factors, most notably to the fact that dairy prices are very low while costs remain high, and these same circumstances are driving farmers in other New England States out of business as well. In Maine, the average cost of producing milk is $17 per 100 pounds. The June 1994 Federal order price in the Northeast was $16.23 per hundred. For August of 1994, the market order price declined to $14.49. In 1993, the average milk price in the Northeast declined by 54 cents per hundred.

Milk prices simply have not increased in concert with production. Whereas the retail price for a gallon of milk in 1991 was $2.20 a gallon, that same gallon still retailed for $2.20 a

gallon in 1994—without adjusting for inflation.

Another contributing factor in the loss of dairy farms is price volatility. Prices can decline by $2 per hundred in less than 3 months. These price swings add serious uncertainty to a farmer's daily existence, making it difficult for the farmer to plan strategically or to raise capital when needed.

The State of Maine attempted to address this serious problem by establishing a dairy vendor's fee that stabilized the price that farmers in Maine received for their milk. The vendor's fee enjoyed the strong support of both farmers and consumers in Maine, but a Federal court struck it down in 1994 as a violation of interstate commerce. According to the Maine Department of Agriculture, the inevitable result of the court's action will be an accelerating decline in family dairy farms.

Faced with similar problems throughout the region, the six New England States banded together to develop a joint regional solution. They negotiated an interstate dairy compact that will ensure a more reasonable and stable price for dairy farmers in the region. But it is a pricing program that also protects the interests of consumers in the region. As evidence of the balance and fairness achieved by the compact, both the net-producing and net-consuming States in the region all approved it with strong support.

The compact creates a regional commission which has the authority to set minimum prices paid to farmers for fluid, or class I milk. Delegations from each State comprise the voting membership of the commission, and these delegations in turn will include both farmer and consumer representatives. The minimum price established by the commission is the Federal market order price plus a small over-order differential that would be paid by milk processing plants. This over-order price is capped in the compact, and a two-thirds voting majority of the commission is required before any over-order price can be instituted.

Mr. President, until the court struck down the Maine dairy vendor's fee, milk in my State was priced by a mechanism that is similar to that which could be utilized by the compact commission. Maine's experience was uniformly positive. Farm prices were stable, and they were higher, but only modestly higher. No farmers got rich on the minimal adjustment provided by the over-order price under the vendor's fee program. It helped them keep their heads above water. Dairy processors and vendors maintained their business, and consumers did not see any significant increases in the price of milk. It was a win-win proposition for everyone in Maine, and I am confident that the compact will achieve the same success throughout New England without violating the Constitution's interstate commerce clause.

Although the compact affects only the participating States, the cosponsors decided to remove any doubt by including language in the resolution that provides explicit assurances to farmers and processors in States outside the region. These assurances further specify that the over-order price can only be established for class I fluid milk, that no new States can join the compact without the formal approval of both Houses of Congress, that out-of-region farmers who sell milk in the compact region will get the same price as farmers in the region, that the commission's pricing authority is strictly limited, and that the commission must develop a plan to ensure that over-order prices do not lead to increases in production.

In the debates held so far in this Congress, and surely in the debates to come, we have heard and will hear many Members argue that the States are often best-positioned to solve their own problems, and that they should be allowed to do so without interference from Washington. I couldn't agree more.

With the Northeast Interstate Dairy Compact bill being introduced today, Senators will have an opportunity to match words on this concept with deeds. The compact represents a regional response to a regional problem. It affects only those States that belong to the compact. Why should the Federal Government deny the States an opportunity to solve their own problems? The answer is that we shouldn't. We should praise the States for their self-reliance and ingenuity. I hope that Senators will recognize the value in this kind of State-based problem-solving, and support the compact when it comes to the floor for a vote.●

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 22, a bill to require Federal agencies to prepare private property taking impact analyses.

S. 96

At the request of Mr. HATCH, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 96, a bill to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes.

S. 198

At the request of Mr. CHAFEE, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 198, a bill to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes.

S. 241

At the request of Mr. D'AMATO, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 241, a bill to increase the penalties for sexual exploitation of children, and for other purposes.

S. 250

At the request of Mr. MCCONNELL, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 250, a bill to amend chapter 41 of title 28, United States Code, to provide for an analysis of certain bills and resolutions pending before the Congress by the Director of the Administrative Office of the United States Courts, and for other purposes.

S. 256

At the request of Mr. DOLE, the name of the Senator from Delaware [Mr. ROTH] 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. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 302

At the request of Mrs. HUTCHISON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 302, a bill to make a technical correction to section 11501(h)(2) of title 49, United States Code.

S. 332

At the request of Mr. CONRAD, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 332, a bill to provide means of limiting the exposure of children to violent programming on television, and for other purposes.

S. 388

At the request of Ms. SNOWE, the names of the Senator from Tennessee [Mr. THOMPSON] and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 388, a bill to amend title 23, United States Code, to eliminate the penalties for noncompliance by States with a program requiring the use of motorcycle helmets, and for other purposes.

S. 390

At the request of Mr. KYL, his name was added as a cosponsor of S. 390, a bill to improve the ability of the United States to respond to the international terrorist threat.

S. 391

At the request of Mr. CRAIG, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Utah [Mr. BENNETT], the Senator from Alaska [Mr. STEVENS], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 391, a bill to authorize and direct the

Secretaries of the Interior and Agriculture to undertake activities to halt and reverse the decline in forest health on Federal lands, and for other purposes.

S. 426

At the request of Mr. SARBANES, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 426, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

SENATE RESOLUTION 82—TO PETITION THE STATES TO CONVENE A CONFERENCE OF THE STATES

Mr. BROWN (for himself and Mr. HELMS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 82

Whereas Article I of the Constitution of the United States of America provides that the Congress is vested with the authority to lay and collect taxes, to pay the debts of the United States, to borrow money on the credit of the United States, and to appropriate money from the Treasury;

Whereas for the past quarter century Congress has been unable to balance the Nation's budget in any year;

Whereas the President of the United States has submitted a budget which increases the deficit in future years;

Whereas Members of Congress have been unable to agree on language for an Amendment to the Constitution which would require a balanced budget; and

Whereas Congress has therefore attempted to deny the several States of the United States the opportunity to vote on a Constitutional Amendment requiring a balanced budget: Now, therefore, be it

Resolved, That Congress hereby petitions the several States of the United States of America to convene a Conference of the States for the express and exclusive purpose of drafting an Amendment to the Constitution of the United States requiring a balanced budget and prohibiting the imposition of unfunded mandates on the States, and that such States then consider whether it is necessary for the States to convene a Constitutional Convention pursuant to Article V of the Constitution of the United States in order to adopt such Amendment.

SENATE RESOLUTION 83—RELATIVE TO THE FEDERAL BUDGET

Mr. FEINGOLD (for himself and Mr. BUMPERS) submitted the following resolution; which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged:

S. RES. 83

Whereas the Federal budget according to the most recent estimates of the Congressional Budget Office continues to be in deficit in excess of $190 billion;

Whereas continuing annual Federal budget deficits add to the Federal debt which soon is projected to exceed $5 trillion;

Whereas continuing Federal budget deficits and growing Federal debt reduce savings and capital formation;

Whereas continuing Federal budget deficits contribute to a higher level of interest rates than would otherwise occur, raising capital costs and curtailing total investment;

Whereas continuing Federal budget deficits also contribute to significant trade deficits and dependence on foreign capital;

Whereas the Federal debt that results from persistent Federal deficits transfers a potentially crushing burden to future generations, making their living standards lower than they otherwise would have been;

Whereas efforts to reduce the Federal deficit should be among the highest economic priorities of the 104th Congress; and,

Whereas enacting across-the-board or so-called middle class tax cut measures could impede efforts during the 104th Congress to significantly reduce the Federal deficit:

Now, therefore, be it

Resolved, That it is the Sense of the Senate that reducing the Federal deficit should be one of the nation's highest priorities, that enacting an across-the-board so so-called middle class tax cut during the 104th Congress would hinder efforts to significantly reduce the Federal deficit.

Mr. FEINGOLD. Mr. President, today I am pleased to join with the senior Senator from Arkansas [Mr. BUMPERS] to submit a resolution expressing the sense of the Senate that enacting an across-the-board or so-called middle-class tax cut during the 104th Congress would hinder efforts to reduce the Federal deficit.

Mr. President, though I would certainly like to support a tax cut measure, especially one that provides a Well Deserved tax break to middle-class Americans, supporting that kind of proposal is simply not responsible right now, especially given the recent developments with respect to the balanced budget amendment.

During a month of telling debate on the proposal, we have not done one thing that will actually help us achieve the widely shared goal of a balanced budget.

Mr. President, it is time we did.

We have been making some headway in reducing the deficit.

President Clinton's 1993 deficit reduction package was a critical turning point in our fight to reduce the deficit, and we are now in the third straight year of progressively lower deficits.

However, we need to do more, and I firmly believe we not only undermine those needed future efforts but could also jeopardize the progress we have already made if we rush along now and do tax cuts.

Mr. President, let me emphasize that my opposition to tax cuts is bipartisan—the tax cut proposals of both parties are wrong.

I publicly opposed the President's proposed tax cuts the same day he even announced them.

An I think opposition to the tax cuts proposals of both parties has bipartisan support.

In fact, I would like to take this opportunity to publicly thank the Senator from Oregon [Mr. PACKWOOD], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Maine [Mr. COHEN] for their support of a similar effort that I made as part of the debate on the balanced budget amendment.

Their support was particularly heartening, and I think it reveals a growing consensus that deficit reduction must be a higher priority than tax cuts right now.

As part of his fiscal year 1996 budget, the President, has proposed about $63 billion in tax cut over the next 5 years, and that is a figure that grows to $174 billion over 10 years.

Even more troubling the Republican contract with America has proposed tax cuts totaling $196 billion over 5 years and the whopping figure of $704 billion over 10 years.

To me, all of those figures represent the cost of a lost opportunity.

The President's tax cuts are part of his budget package, and he has indicated that they are more than offset by $184 billion in spending cuts.

And at least some of those supporting the Republican Contract With America tax cut package have indicated they too would be offsetting the cost of those tax cuts with spending cuts.

However, even if they are fully offset—I hope we would agree that to be an absolute minimum requirement—we would do much better to forego those tax cuts.

Eliminating the President's tax cut proposals, while doing nothing else to his budget, would result in $72 billion in additional deficit reduction over the next 5 years—the $63 billion in foregone tax cuts plus $9 billion in interest savings.

Just doing that, and nothing more, would produce a Federal budget deficit of $170 billion in fiscal year 2000, $24 billion lower than the $194 billion projected as part of the President's budget.

In fact, the figures for the Contract With America tax cuts are very dramatic.

Assuming spending cuts are produced to offset that tax cut package, and then assuming we decided not to adopt those tax cuts, doing nothing else to the President's budget would result in $217 billion in additional deficit reduction over the next 5 years—$196 billion in foregone tax cuts plus $21 billion in interest savings.

Just doing that, and nothing more, would produce a Federal budget deficit of $114 billion in the year 2000, $80 billion less than what the President projected.

Over 10 years, just under this scenario, we would save $178 billion in interest costs alone by not adopting the Contract With America tax cut package, and could produce $882 billion in deficit reduction.

Let me conclude by noting that tax cut proposals are grounded in the old politics of the free lunch—promise the people a tax cut and a balanced budget.

It is the kind of politics that created the fiscal mess which now confronts us and undermined the American people's faith in their Government.

By resisting calls for tax cuts, we not only help alleviate pressure on the deficit, we also can begin to restore the lost confidence of the American people in their elected officials.

I hope other members will join Senator BUMPERS and me in persuading a majority of the Senate that it is irresponsible to cut taxes as we are trying to reduce the deficit and balance the Federal budget.

SENATE RESOLUTION 84—RELATIVE TO THE 150TH ANNIVERSARY OF FLORIDA STATEHOOD

Mr. MACK (for himself and Mr. GRAHAM) submitted the following resolution; which was considered and agreed to:

S. RES. 84

Whereas Florida became the first State explored by Europeans when Ponce de Leon led a Spanish expedition that made landfall along the east coast in the year 1513;

Whereas Pedro Menendez de Aviles, captain-general of an invading fleet, ousted the French settlement, Fort Caroline, at the mouth of the St. Johns River, proclaimed Spanish sovereignty over Florida, and on September 8, 1565, established St. Augustine, the oldest city in the United States;

Whereas Spain, France, and England played a significant role in the development and exploration of early Florida;

Whereas President James Monroe proclaimed the Adams-Onis Treaty in which Spain ceded Florida to the United States on February 22, 1821, and appointed General Andrew Jackson as the first provisional governor of Florida;

Whereas on March 30, 1822, the United States Congress created a territorial government for Florida, following the pattern set in the Northwest Ordinance of 1787 by providing for public education and orderly political steps toward greater self-government and eventual statehood as population increased;

Whereas 56 delegates representing the 30 counties of Florida assembled in 1838 in the Panhandle town of St. Joseph to frame the first constitution of the territory in preparation for Florida statehood, who were mainly planters and lawyers, were from 13 of the 26 States then in the United States and 4 foreign countries, included only 3 natives from Florida, included 3 delegates who would later become United States Senators, included 2 governors, and included 5 members of the Florida Supreme Court;

Whereas a bill to admit Florida as a State passed the House of Representatives on February 13, 1845, and the Senate on March 1, 1845;

Whereas President John Tyler signed a bill making Florida a State on March 3, 1845, making Florida the 27th State to be admitted into the United States;

Whereas Friday, March 3, 1995, marks the 150th anniversary of Florida becoming a State;

Whereas the admission of Florida to the United States has proved to be of immense benefit both to the United States and to the State of Florida;

Whereas 96 citizens of Florida have served the United States and Florida in the House of Representatives;

Whereas 30 citizens of Florida have served the United States and Florida in the United States Senate;

Whereas numerous citizens of Florida have served in the executive, judicial, and legislative branches of the Federal Government;

Whereas citizens of Florida have fought and died in service to the United States, and 22 citizens of Florida have won the United States highest award for bravery, the Congressional Medal of Honor, protecting freedom in the United States;

Whereas Florida is the fourth largest State and is rich in natural resources and talented people;

Whereas Florida, home of the Everglades National Park, is blessed with great natural beauty, clean waters, pure air, and extraordinary scenery;

Whereas Florida is a world leader in agriculture, commercial fishing, education, financial services, horse breeding, high technology, manufacturing, phosphate production, and tourism;

Whereas Cape Canaveral, location of the first United States satellite launch and the first manned spaceship flight to the Moon, continues to play a vital and leading role in the exploration and discovery of outer space by the United States;

Whereas a special postage stamp saluting the Sesquicentennial of Florida will be circulated throughout the United States during 1995; and

Whereas Florida is proud of its heritage and looks forward to its future: Now, therefore, be it

Resolved,

SECTION 1. SALUTE BY THE SENATE.

The United States Senate salutes the State of Florida on the sesquicentennial anniversary of Florida becoming a State Friday, March 3, 1995.

SEC. 2. COMMEMORATION BY CONGRESS.

The Senate calls on the joint Congressional leadership of Congress to agree on an appropriate time and manner to honor the State of Florida, in recognition of the achievements of all the men and women who have worked hard to develop Florida into a great State, from pioneer days to modern times.

SEC. 3. COMMEMORATION BY THE PRESIDENT.

The Senate calls on the President to issue a Presidential message calling on the people of the United States and all Federal, State, and local governments to commemorate the sesquicentennial anniversary of Florida becoming a State with appropriate ceremonies and activities.

SEC. 4. COPIES OF RESOLUTION.

The Secretary of the Senate shall send this resolution to the Florida Congressional delegation, the Governor of Florida, the National Archives, and the Florida Archives.

Mr. MACK. Mr. President, this week marks the anniversary of a very special event in the history of my State.

One hundred and fifty years ago on the 1st of March 1845, the U.S. Senate passed a bill admitting Florida to the Union as the 27th State. President John Tyler signed the bill into law on March 3, 1845.

Tomorrow, March 3, 1995, the State of Florida will celebrate its sesquicentennial.

Florida has a rich history stretching nearly five centuries.

The search for gold and glory brought Spanish explorer Juan Ponce de Leon to Florida during the Easter season of 1513.

He and his crew disembarked between present-day St. Augustine and Cape Canaveral to claim the land in the name of the King of Spain. Ponce de Leon called this new land Florida—a Spanish word meaning ''full of flowers.''

From discovery in 1513 to early 1821, Spain, France, and England played significant roles in Florida's exploration and development.

During the territorial period—1821 through 1845—Florida became one of the major cotton producing areas of the region. The struggle for statehood was a major political issue in Washington and throughout the territory of Florida.

David Levy (Yulee), who later became Florida's first U.S. Senator, led the fight to bring Florida into the Union.

Florida's admission to the Union and the contributions of its citizens have proven to be of immense benefit both to the United States and to the State of Florida.

As the United States has grown and prospered Florida has become a world leader in agriculture, commercial fishing, education, financial services, horse breeding, high technology, manufacturing, phosphate production, and tourism.

More than 20 million tourists visit Florida each year to experience the Sunshine State's great natural beauty, her pristine beaches, clean waters, pure air, and extraordinary scenery.

Each region of Florida has its own unique identity. There are vivid contrasts between the excitement of Cape Canaveral and Disney World, the cosmopolitan feel of south Florida, the tropical world of the Florida Keys, the natural beauty of the west coast, the mystery that is the Everglades, the citrus and cattle country of central Florida, and the deep South culture of north Florida and the panhandle.

The marvelous diversity of those who have migrated to Florida seeking a better life for themselves and their families have made the State a microcosm of America itself.

The dedication and innovation of Floridians, both past and present, inspire all of us in Florida as we prepare our State for the challenges of the 21st century.

AMENDMENTS SUBMITTED

THE DEPARTMENT OF ENERGY RISK MANAGEMENT ACT

LOTT AMENDMENT NO. 316

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. LOTT submitted an amendment intended to be proposed by him 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. 8. JUDICIAL REVIEW.

Any decision, regulatory analysis, risk assessment, hazard identification, risk characterization, or certification provided for under this Act is subject to judicial review in the same manner and at the same time as the underlying final action to which it pertains, in accordance with chapter 7 of title 5, United States Code. All data, estimates, information, reports, studies, explanations, and similar materials upon which any decision, regulatory analysis, risk assessment, hazard identification, risk characterization, certification, or peer review is based shall be made part of the administrative record for purposes of judicial review.

Sec. 12. Peer Review.

(1) PEER REVIEW BY INDEPENDENT EXTERNAL PEER REVIEW PANELS.

a. INITIATION OF PEER REVIEW.—The head of the Office of information and regulatory Affairs of the Office of management and Budget may initiate a peer review under this section if he or she determines that such peer review is advisable because the assessments or analyses to be reviewed are matters of major importance due to their potential for direct or indirect health, safety, or environmental or economic impacts or because they would establish an important precedent.

b. ESTABLISHMENT AND MEMBERSHIP OF PANELS.—Peer reviews shall be conducted by panels consisting of members appointed by the head of the agency which conducted the risk assessment and cost-benefit analysis, in consultation with the head of the Office of Information and Regulatory Affairs of the Office of management and Budget, the head of the Office of Science and Technology Policy, and other concerned Federal agencies, and officials of any affected state and local governments. Separate panels shall be established to review the benefits portion of the cost-benefit analysis; the cost-benefit review panel shall review the benefits portion of the cost-benefit analysis in consultation with the risk assessment review panel. Peer review panels shall be established within 90 days after a determination under subsection (a). Members of the panels shall—

1. be recognized and credentialed experts in the appropriate disciplines;

2. have recent professional experience conducting a risk assessment, an assessment of the cost of a regulation, or an assessment of the benefits of a regulation, as applicable to the panel for which they are selected;

3. have filed and made publicly available financial disclosure forms; and

4. have not been involved in a recent comprehensive analysis of the substance, condition, or activity under review, and have not recently taken a public position on the risks or costs to be reviewed.

c. TERMINATION.—A peer review panel shall terminate upon submission of the report with respect to the risk assessment or cost-benefit analysis for which the panel was established.

d. STANDARDS APPLICABLE TO PEER REVIEW.—

1. all peer reviews of the risk assessments conducted pursuant to this section shall have the purpose of determining whether the agency's risk assessment complies with the principles set out in this Act;

2. all peer reviews of cost-benefit analyses conducted pursuant to this section shall have the purpose of determining whether the cost-benefit analysis meets the standards set out in this Act.

e. COMPLETION PRIOR TO JUDICIAL REVIEW.—If the head of the Office of information and Regulatory Affairs has initiated the peer review process pursuant to subsection a, or states in writing that initiation of the process is under consideration by that office, no suit for judicial review of a risk assessment or cost-benefits analysis or related agency action may be brought until after the peer review process has concluded or such official determines not to initiate the process; provided, however, that if such official does not indicate a determination within 30 days after stating that such matter is under consideration, a judicial review suit may be brought and the official will not thereafter have the authority to issue a determination to initiate the process.

(2) Procedures for Peer Review.

a. SUBMISSION TO PANEL.—Within 30 days after the establishment of a peer review panel, the head of the Federal agency shall submit to the panel all data and testing (including the details of the methodology) used by the agency for the assessment and analysis.

b. REPORT AND RECOMMENDATIONS.—

1. IN GENERAL.—Within 180 days after the date on which the head of the Federal agency submits data and testing under subsection a, each peer review panel shall transmit to the head of the agency a report and recommendations on whether the agency's risk assessment or cost-benefit analysis meets the applicable standards and principles specified in this Act.

2. CONTENTS.—A report and recommendations under this subsection shall either conclude that the agency's assessment or analysis meets the applicable standards, or shall set out its views on any significant deficiencies and its recommendations on how those deficiencies should be corrected.

3. COMMENTS AND APPENDIX.—Each peer review report and recommendations under this subsection shall include—

(A) all conclusions and recommendations supported by a majority of the members of the peer review panel submitting the report; and

(B) an appendix which sets forth the dissenting opinions that any peer review panel member wants to express.

c. OPENNESS OF PROCESS.—The proceedings of peer review panels under this section shall be subject to the relevant provisions of the Federal Advisory Committee Act 5 USC App. (1988), PL 92–463.

(3) Consideration and Incorporation of Peer Review Recommendations.

If a majority of a peer review panel established under this subtitle concludes that a risk assessment or cost-benefit analysis does not meet the applicable standards, the assessment, analysis or proposed major rule shall not be issued in final form unless the head of the agency either revises the risk assessment to include the findings and recommendations of the peer review panel and makes the recommended revisions or explains clearly the scientific basis for disagreeing with any of the panel's recommendations and not revising the assessment.

(4) Matters Requiring Peer Review.—At a minimum, there shall be submitted for peer review—

a. all major rules

b. all entries in the Integrated Risk Information System (IRIS), and the Toxic Release Inventory.

c. any risk assessment which has been used as a scientific rationale for regulatory actions by local or state governments.

SEC. 13. ADDITIONAL DEFINITION.

In this Act:

(11) SCIENTIFICALLY OBJECTIVE AND UNBIASED.—The term ''scientifically objective and unbiased'' means that the risk assessment, risk characterization or communication have not been significantly influenced by policy or value judgments or preferences, and that it clearly and accurately relates its descriptions and conclusions regarding risk (or absence of risk) to data or knowledge, including negative data, that are based on empirical observations, measurements, or testing that meet generally accepted scientific standards, and are substantially reproducible by similarly experienced scientists analyzing the same data independently.

SEC. 14. TOXIC RELEASE INVENTORY (TRI).

(1) Notwithstanding any other provision of Chapter 116, of Title 42, United States Code, the Administrator, Environmental Protection Agency may by rule add a chemical to the list described in Section 11023(c) only after the Administrator makes a risk assessment determination that the chemical causes significant adverse human health effects at concentration levels that are reasonably likely to exist beyond the facility site boundaries, the probability of exposure and potential harm to local residents.

(2) a. In making the risk assessment determination, the Administrator shall take into account the nature and frequency of the releases, the actual concentration, and the frequency of use of the chemical in general commerce.

b. The principles for risk assessment within this act should be applied to future listings on the Toxic Release Inventory.

(3) A chemical shall be deleted if the Administrator determines no later than 60 days after the enactment of this provision that based on the record there is insufficient evidence to establish the criteria described in this section.

(4) A chemical shall be deleted if the Administration, within 180 days of receipt of a petition described in Section 5, does not prepare a risk assessment as described in Section 5 which determines that the chemical causes significant adverse human health effects at concentration levels that are reasonably likely to exist beyond the facility site boundaries, the probability of exposure and potential harm to local residents.

SEC. 15. USE OF APPROVED RISK ASSESSMENTS.

The Administrator, Environmental Protection Agency shall not conduct or perform, or require any person to conduct or perform, as a condition for issuance of any permit, license, or any other form of approval (or condition to operate), any type of risk assessment that is not explicitly required as a condition for the issuance of such a permit, license, or approval by existing statutory or final regulatory provisions. The Administrator, Environmental Protection Agency shall not implement or enforce such a condition in any way nor deny or condition a permit, license, or approval based upon the results of such a risk assessment or the failure to conduct or perform such a risk assessment.

SEC. 16. "SEC 627. OF AMENDMENT 230—REGULATIONS; PLANS FOR ASSESSING NEW INFORMATION."

Change paragraph (b)(1) to read:

Review of the risk assessment, risk characterization, or risk communication for any major rule or issuance used by states or local governments as a scientific basis for regulatory action promulgated or prepared prior to enactment or prior to issuance of a final regulatory requirement by subsection (a) of this section 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);

(D) the risk assessment does not take into account material significant new scientific data or scientific understanding.

Mr. LOTT. Mr. President, I rise today to speak for the purpose of submitting an amendment to the Department of Energy Risk Management Act which was referred to the Senate Committee on the Energy and Natural Resources for consideration.

Mr. President, I send to the desk an amendment to the Department of Energy Risk Management Act (S. 333), and ask unanimous consent that it be printed in the RECORD.

First, let me say this is the year and this is the Congress that will establish a genuine link between real risks, as defined by sound science, and responsible public policy to address risk.

This will be done by including scientific data and an openness in the regulatory process. My solution is based on citizen involvement. So why do we hear all of these distortions and exaggerations reporting that America's health and safety will be placed in jeopardy and sacrificed. These emotional and often irrational overstatements are just not true.

What is so threatening about requiring knowledgeable scientists, who are independent of the Government, to participate in a peer review of the science? It makes sense to me to ensure that science-based rules are supported by scientist. But clearly, opponents of this provision believe that scientists are the problem. I find this curious. Peer review will certify the Government's practices. It replaces an unchecked monopoly over risk assessment methodologies with participation of scientists from academia.

What is so threatening about requiring the science to be unbiased and objective? I guess opponents of this legislation really want rules to have a bias which supports their political agenda. Accurate science must get in their way. How distressing. I said it last month on the Senate floor when S. 333 was introduced, but it is important to repeat the thought. Maybe those who like the flawed status quo really can be characterized as backing regulations which indeed are cavalier and arbitrary.

What is so threatening about requiring products listed on the Toxic Release Inventory [TRI] to actually be dangerous or, for that matter, even toxic? Presently, chemicals are listed simply because they appear frequently in the environment. In fact, many chemicals on the list are not toxic. EPA knows they are not. EPA has let the TRI misrepresent the toxicity of chemicals and permitted unnecessary anxiety within local communities. This is terrible public policy. Also, what is the problem in requiring a Federal agency to act promptly? To list or delist needs a fixed public schedule. Maybe it is too much to ask an agency to be responsive to American citizens.

What is so threatening about judicial review? Opponents complain that risk assessments would not be constructed by the courts. OK. That is better than what America has now. Currently, risks are set by arrogant bureaucrats who are invisible and not accountable to the public. At least in a court room risk decisions will be made in a public forum. The American people hold their courts in high esteem, and perhaps public participation is necessary to save risk assessment.

What is so threatening about emphasizing the need of State and municipal participation in setting priorities for addressing their health and safety risks? Providing a structured methodology for making difficult budgetary choices regarding health and safety matters would be helpful. Both the officials and the citizens can understand the risks they face together. And jointly they will be involved in selecting the risks to address. Cost benefit provisions will be a useful rational for public policy goal setting and in allocating funding.

What is so threatening about preventing abuse through indirect risk assessments? In the words of EPA's own Science Advisory Board, indirect risk assessment suffers from a general lack of measured input and very little validation of the models. By requiring that only approved risk assessments, we are saying that Federal agencies will only use assessments subjected to the rigors of this legislation. In fact, EPA has no legal basis to proceed with indirect risk assessments. Does it make scientific sense to let EPA hold permits and licenses hostage without the marketplace having its due process? Does it make sense for EPA to first demand and then use data which is short on scientific validation? Both are legally and scientifically reprehensible. We are a land governed by laws—not by bureaucrats who are not accountable to the public. Besides, Federal agencies must not regulate by press release.

The cost-benefit provisions of this legislation are important to evaluate regulatory effectiveness. This is especially useful since public funds are scare and finite. And, because governmental intrusion into our private lives must be minimized to only genuine risk. But the sad truth is the Government's decisions and actions are rarely cost effective. In fact, I recently read an article where an EPA official said that regulatory ''efficiency is not of great importance.'' For him, his colleagues and this administration it may not be; but to millions of American taxpayers who pay the bills it is a big deal.

The importance of risk assessment and risk communication with public participation can not be underscored. This is especially true when we consider that billions and billions of taxpayer dollars are spent annually by all levels of government to deal with risk.

I believe the public has lost confidence in the Government's science. I further believe this has hurt the credibility of existing environmental and health rules. Saving an owl which is endangered in two States by destroying 30,000 jobs; only to discover this bird is thriving in a number of other States is not good science—it is an agenda. Ruining an entire apple harvest with a rush to judge without science on alar is not good science—it is regulatory abuse. Both illustrate a Government unchecked. That is what this legislation is about—provide an opportunity to challenge the Government.

Nothing in this amendment or the basic bill is excessively prescriptive. On the contrary, my legislative purpose is to ensure consistency and technical value when risk assessments are prepared. I firmly believe my legislative efforts will improve both the quality and visibility of risk assessment.

It is time to deal with scientific controversies surrounding the extrapolations of maximum tolerated dose to minuscule doses, animal to human etc. Many of the Government's regulatory actions will not stand up to public scrutiny—this is not the fault of this legislation. No, this is an error caused by Government's arrogant false science. I am for environmental, health and safety rules which address real problems, not regulatory abuse supporting a nonscientific agenda.

Risk assessment is a powerful tool which has been abused for years by a political agenda. No—it has been exploited. Both public confidence and public funds have been squandered chasing nonscientific solutions and nonrisks. Now is the time to transform our environmental and health policies with accountable scientific judgment.

Risk assessment reforms will help settle environmental and health decisions with science and technology, not with a political agenda. It will not eliminate controversies but it will open up the process to public participation. It will not end environmental laws, as we now know them. What it will do is make sure that the right information is on the table in the right form and at the right times to best incorporate both economic and ecological consequences in the decision making process.

My approach, through the basic bill (S. 333) and with this amendment, is to demand rigorous, consistent and continuous inclusion of the public in the development of health and safety public policy. Using a deliberative and transparent process has merits which exceed all the complaints I have heard from opponents who say it would create burdens.

My approach will strengthen our public policies, not destroy them. All I am mandating is sound science. I am not mandating bureaucratic burdens. If sound science principles are followed there will be no hassles or problems.

However, I am not terribly sympathetic for a Federal agency which misbehaved and manipulated the public trust. They have placed burdens and expenses on Americans through false risks and unnecessary anxiety. This type of regulatory zeal must be stopped.

Plain and simple; this legislation will identify the underlying scientific assumptions used in the risk assessments so that all concerned parties can evaluate the judgments and conclusions. This process allows for full and open public debate which will neither threaten our democracy nor the health and safety of the American public who we all serve.

Opponents want to dismiss any risk assessment legislation as a form of technospeak to justify the destruction of the environment and health rules. But this ''sky-is-falling'' complaint strategy is spurious and disingenuous. This legislation will not remove one environmental or safety rule. It will, however, require the assumptions, methodologies and extrapolations to be part of the public record. Only if science supports different conclusions can the foundation for the rules be challenged.

I urge my colleagues to look at S. 333, the basic legislation which was introduced by Senators MURKOWSKI and JOHNSTON last month and this amendment. Both focus on removing risk misinformation and restoring public confidence in our rulemaking process. I believe it deserves your support.

It is time to get past partisan bickering and exaggerations.

It is time to end the false debate on the value of risk assessment and cost benefit analysis.

It is time to focus our health and safety policies with sound risk assessment methodologies.

It is time for Congress to act.

I thank my colleagues for their consideration.

NOTICE OF HEARING

COMMITTEE ON VETERANS' AFFAIRS

Mr. SIMPSON. Mr. President, I wish to announce publicly that the Committee on Veterans' Affairs will hold a hearing on Thursday, March 9, 1995, at 10 a.m. in SR–418, Russell Senate Office Building.

The committee has two purposes for holding this hearing. First, we will receive testimony on the nomination of Mr. Dennis M. Duffy to be the Department of Veterans Affairs' Assistant Secretary for Policy and Planning. Mr. Duffy currently serves as VA's Deputy Assistant Secretary for Congressional Liaison.

Second, the committee will hear testimony from officials of three Federal entities—the Department of Veterans Affairs; the Department of Labor, Veterans Employment and Training Service; and the Court of Veterans Appeals—on those entities' proposed budgets for fiscal year 1996. We also intend to receive testimony from representatives of veterans' service organizations concerning the fiscal year 1996 budget for veterans programs.

The committee would be pleased to receive written statements from members of the public concerning these matters. Such statements may be submitted to the Committee's offices. Members of the public may also contact Mr. William F. Tuerk, the committee's general counsel, if they have questions or need information concerning the subject matter of this hearing.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet immediately after the vote on the balanced budget amendment on Thursday, March 2, 1995, to consider the following nominations:

Sheila Cheston to be the general counsel of the Air Force;

Josue Robles, Jr. to be a Commissioner on the BRAC;

Herschelle Challenor to be a member of the National Security Education Board; and

Vincent Ryan to be a member of the board of directors on the Panama Canal Commission.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 2, 1995, at 3:30 p.m. to hold a hearing regarding United States Policy toward Iran and Iraq.

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

ADDITIONAL STATEMENTS

F–22 ELECTRONIC COMBAT EFFECTIVENESS TESTING

• Mr. D'AMATO. Mr. President, what is it about F–22 electronic combat effectiveness testing that terrifies Air Force?

The fiscal year 1995 Senate Defense Appropriations Report 103–321 included the following language:

> The Committee is concerned that the F–22 test and evaluation master plan [TEMP] may not include sufficient electronic combat effectiveness testing before the onset of production. The Committee believes that it is important for the F–22 to demonstrate its capabilities in an offensive air superiority mission against a full array of likely threats. Those threats should include a modern integration air defense system, at a minimum on a simulated basis to the extent practicable, affordable, and cost effective.
>
> Therefore, the Committee directs that no more than 65 percent of the funds provided for the F–22 program for fiscal year 1995 may be obligated until the Assistant Secretary of the Air Force (acquisition) submits to the congressional defense committees a report outlining the cost and schedule impacts on the F–22 program, and the technical and operational advantages and disadvantages, of revising the TEMP to include significantly more thorough electronic combat effectiveness testing before initiation of: (1) pre-production vehicle procurement; (2) commitment to low-rate initial operational test and evaluation.
>
> This report shall include, as a baseline, thorough electronic combat testing at the real-time electromagnetic digitally controlled analyzer and processor [REDCAP] and the Air Force electronic warfare evaluation simulator [AFEWES], and an installed system test facility with a capable wide-spectrum radio frequency generator that is interfaced for real-time control from remote facilities and a high capability dome, visual system cockpit simulator.
>
> The report also shall identify the funding required between fiscal years 1996–99 to allow the electronic combat test facilities cited in the preceding paragraph to thoroughly undertake effectiveness testing on integrated avionics suites.

This report requirement was retained in Conference, though, as a courtesy of the House colleagues, the fence was dropped.

Well, March 1, 1995 has come and gone, but no report; however, there has been an interesting development. On February 28, 1995, the Air Force base closure and realignment recommendations were made public. The Air Force operates 10 major test and evaluation [T&E] facilities with a combined budget in fiscal year 1995 of $1.722 billion. Not one was recommended for closure; but two very small T&E facilities with a combined fiscal year 1995 budget of less than $20 million were recommended for closure: the Real-time Electromagnetic Digitally-Controlled Analyzer and Processor [REDCAP] and the Air Force Electronic Warfare Evaluation Simulator [AFEWES], the very facilities where Congress directed the Air Force to consider conducting F–22 electronic combat effectiveness testing. What is the Air Force afraid of?

The one facility mentioned in the Senate report that was not closed, the installation system test facility, belongs to the Navy. Apparently, the Air Force could not get at it.

The most perplexing thing about the aversion of the Air Force to proper testing of the F–22 is that the B–2 program is about to undertake tests at the REDCAP very similar to those being avoided by the F–22. The B–2 test program has been thorough to the point of exhaustive. Is the B–2 successful because it was thoroughly tested, or was it successful so it is being thoroughly tested? Either way, what lesson can we draw about the F–22?

When our needs are so many, and money so short, Congress can ill-afford to buy a pig in a poke. Congress gave the Air Force the opportunity to prove its claims regarding the F–22. The Air Force responded by trying to eliminate the facilities that could have rendered a judgment on the effectiveness of the F–22, Obviously, the Air Force has something to hide. If they will not test it, we will not buy it. Come budget

time, I will lead the fight to strike F–22 funds.●

GREEK INDEPENDENCE DAY

● Mr. LAUTENBERG. Mr. President, I rise to support Senate Resolution 79, the resolution designating March 25, 1995, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy. The resolution also asks the President to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

March 25, 1995, marks the 174th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire. It is fitting that we celebrate this day together with Greece in order to reaffirm the common democratic heritage of Americans and Greeks.

The ancient Greeks forged the very notion of democracy, placing the ultimate power to govern in the people. As Aristotle said, ''If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will best be attained when all persons alike share in the government to the utmost.''

Because the concept of democracy was born in the age of the ancient Greeks, all Americans, whether or not of Greek ancestry, are kinsmen of a kind to the ancient Greeks. America's Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our Government. For that contribution alone, we owe a heavy debt to the Greeks.

The common heritage which we share has forged a close bond between Greece and the United States, and between our peoples. And it is reflected in the numerous contributions made by present-day Greek-Americans in New Jersey and across the country to our American culture.

I urge my colleagues to support this resolution as a tribute to these contributions, past and present, which have greatly enriched American life.●

TRIBUTE TO TOM AND GANIA TROTTER

● Mr. MURKOWSKI. Mr. President, I am pleased to pay tribute today to two eminent Alaskans, Tom and Gania Trotter, on the occasion of their retirement after many years of dedicated service to higher education in America, but most recently in their roles as president and associate to the president for development at Alaska Pacific University.

F. Thomas Trotter is a native of Los Angeles, CA. After serving in the U.S. Army Air Corps in World War II, he attended Occidental College and received his Ph.D. from Boston University. He served in numerous ministerial and faculty roles, and was elected to be the first dean of the School of Theology at Claremont College. In 1973, Dr. Trotter became general secretary of the Board of Higher Education and Ministry of the United Methodist Church. In this post, he gave oversight to 128 colleges and universities related to the denomination. During his administration, significant international programs were established including a United States-Japan consortium and the establishment of a new university in Zimbabwe. He has been the director of several businesses, including the Third National Bank of Nashville, is the recipient of 10 honorary degrees, and is a trustee of Dillard University. Dr. Trotter is the author of ''Jesus and The Historian'' and ''Loving God With One's Mind.''

Gania Demaree Trotter, a native of Anaheim, CA, is also a graduate of Occidental College and received an M.A. in Student Personnel Administration from Columbia University. A gifted musician, Mrs. Trotter was a choral director in California schools and churches and a member of the Robert Shaw Collegiate Chorale. She was director of development for the Blair School of Music of Vanderbilt University and is an experienced higher education administrator.

Dr. Trotter began his service to Alaska Pacific University as a trustee in 1974, and in 1987, he was selected as its eighth president. He worked diligently to improve curriculum design and financial growth. He introduced new undergraduate and graduate programs and thawed the ice curtain when he forged an agreement between APU and Far Eastern University in Vladivostok, Russia. The Carr Gottstein academic building, which has been a wonderful addition to the campus, was designed and constructed under President Trotter's careful oversight. During his tenure, Alaska Pacific University has been recognized in several national publications for its academic excellence.

Gania Trotter has supported the university and its mission with energy and grace both in development and community awareness. She has cultivated important relationships which will benefit the university and its students for many years to come. Mrs. Trotter has further distinguished herself in Alaska through her creative enthusiasm and civic involvement, most notably in the symphony, opera, and Catholic social services.

Tonight in Anchorage, several hundred friends and colleagues will gather to honor Tom and Gania for their years of selfless dedication to the education of Americans, a gift that will last for generations. I join many others in offering my sincere gratitude and best wishes to both of them.●

LINCOLN, LABOR AND THE BLACK MILITARY: THE LEGACY PROVIDED

● Ms. MOSELEY-BRAUN. Mr. President, William B. Gould IV—the Chairman of the National Labor Relations Board [NLRB]—celebrates the end of the first year of his first term today.

Mr. Gould recently delivered a speech entitled, ''Lincoln, Labor, and the Black Military: The Legacy Provided,'' that makes an important contribution to the celebration of Black History Month. This speech analyzes President Abraham Lincoln's legacy on the development of democratic institutions and the protection of human rights in the United States. More specifically, this speech highlights the Great Emancipator's views on labor and the right to strike which were founded on the belief that ''All people could improve themselves and thus arise out of their station if opportunity were afforded them.''

Our Nation held its first, officially recognized, Black History Month in 1976. In reality, of course, the event dates back to 1926, when Carter G. Woodson, the noted historian and author, selected February to honor the achievement of black Americans because it was the month in which both Abraham Lincoln and Frederick Douglass were born.

There are still some who would simply like to forget the ugly history that surrounds race relations in this country, and who question the need for a month set aside to reflect on the accomplishments of African-Americans. But for me, each year the month of February provides me with an occasion to look back and survey the triumphs of African-Americans, often against overwhelming odds. It gives me a chance to give thanks to those who have gone before me, and who paved the way for me. And, more importantly, it provides me with the opportunity to reflect not only on how far we have come, but also on how far, in many respects, we still have to go.

Having spoken in favor of his nomination on the Senate floor 1 year ago today, I am pleased to see that Mr. Gould—the first African-American chairman of the National Labor Relations Board—also recognizes the importance of celebrating President Lincoln's birthday and Black History Month.

I am also encouraged by the fact that Mr. Gould continues to reaffirm his commitment to promoting ''The right of employees to band together for the purpose of protecting or improving their own working conditions, to join unions, to engage in collective bargaining, and to be free from various forms of discrimination.''

Mr. President, I would like to conclude my remarks by urging my colleagues to read Mr. Gould's speech and by wishing Mr. Gould all the best as he continues to serve his country as chairman of the National Labor Relations Board.

I ask that the text of Mr. Gould's speech be printed in the RECORD.

The speech follows:

LINCOLN, LABOR AND THE BLACK MILITARY: THE LEGACY PROVIDED

I heard the glad tidings that the Stars and Stripes have been planted over the Capitol of the Confederacy by the invincible Grant. While we honor the living soldiers who have done so much we must not forget to whisper for fear of disturbing the glorious sleep of the men who have fallen. Martyrs to the cause of Right and Equality.—Diary of William B. Gould, April 15, 1865

These are the words of my great-grandfather written 130 years ago at the time of Appomattox. They reflect the thoughts and passion of one of our country's black naval veterans of the Civil War and his commitment to the military initiatives waged by President Lincoln.

It is meet and right that we come here this evening to honor the memory of Abraham Lincoln, the sixteenth President of the United States, properly known throughout the world as the Great Emancipator. The New World's central political and social achievements, the Emancipation Proclamation which President Lincoln authored, transcends the ages and future generations. And his ideas about democracy and the rights of all people constitute the central vision of the American democratic system today.

As the sons of Union officers who fought in the Civil War, you know better than most that this 186th anniversary of Lincoln's birthday marks anew the ongoing struggle to free our country from the legacy of the odious institution of slavery so that all people may live out their lives and fulfill their aspirations without the actuality or fear of arbitrary limitation.

One of my law professors used to say that the ''greatest constitutional decision ever rendered occurred when Pickett's charge failed at Gettysburg.'' The legacy of Appomattox and all that led to its resonates throughout our society to this evening here in Washington as part of the unceasing struggle against all arbitrary barriers which afflict mankind.

And both Gettysburg and Appomattox produced the great Civil War amendments to the Constitution, which reversed the infamous Dred Scott decision in which the Supreme Court declared blacks to be property constitutionally. The amendments, in turn, have provided our country with the historical framework for both the Supreme Court's great Brown v. Board of Education, 1954 ruling condemning separate but equal as a denial of equal protection and also the modern civil rights movement as well as the legislation that it produced. Similarly, Title VII of the Civil Rights Act of 1964, our most comprehensive anti-discrimination legislation relating to the workplace, is a lineal descendant of the previous century's developments.

I am not a Lincoln or Civil War scholar. Indeed, I find the amount of literature about both subjects to be daunting—and, accordingly, I know that you do not expect a scholarly examination of President Lincoln from me. But there are matters which have and do involve me both practically and professionally with Lincoln and his times.

The first is that I am the fourteenth Chairman of the National Labor Relations Board and, as such, administer an agency and interpret a statute which both seek to implement some of Lincoln's most basic views on labor.

The second is that I am the great-grandson of the first William Benjamin Gould who, along with seven other ''contraband'' (seized property—the appellation which General Benjamin Butler gave to escaped slaves) set sail in a small boat from Cape Fear, North Carolina and boarded the *USS Cambridge* on September 22, 1862, the day that President Lincoln announced his intent to issue the Emancipation Proclamation. You will know that the Proclamation states in relevant part:

''And I further declare and make known, that such persons of suitable condition [the freed slaves held by those in rebellion], will be received into the armed service of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in said service.''

And thus it was that William B. Gould joined the United States Navy and served as landsman and steward on the North Atlantic Blockade and subsequently served on vessels visiting Britain, France, Belgium, Portugal and Spain, chasing the Confederate ships which were built by their undercover allies.

In 1864 the American Minister Charles Francis Adams had notified the British government that if the *Alabama* and the *Georgia*—two iron clad ''rams'' built by the British for the Confederacy—were allowed to go to sea, this would be construed by the United States as a declaration of war. William B. Gould sailed with the steam frigate *Niagara* for the European station to join other vessels such as the *Kearsarge* to keep, in my great-grandfather's words, a ''sharp lookout'' for these vessels. The *Niagara's* destination was the Bay of Biscay where she eventually engaged in battle.

William B. Gould's service ended on September 29, 1865 when he made the following entry in his diary:

''*At the Navy Yard [Charlestown, Massachusetts] at five Oclock I received my Discharge being three years and nine days in the service of Uncle Samuel and glad am I to receive it . . . [pay] of four hundred and twenty four dollars. So end my service in the Navy of the United States of America.*''

I did not know the first William B. Gould for he died—in Dedham, Massachusetts where he resided from 1871 onward—thirteen years before my birth. I did not know my grandfather, William B. Gould, Jr., a Spanish-American War veteran, for he was to die nine years later in 1932. But the third William B. Gould was my greatest inspiration in my most formative years—and my belief is that the values and culture which he attempted to transmit to me where very much a part of the lives of the first two gentlemen to whom I have referred.

Truly then, President Lincoln's views and policies have had a major impact upon my own life.

As Chairman of the National Labor Relations Board, I have a responsibility to implement a statute which promotes the right of employees to band together for the purpose of protecting or improving their own working conditions, to join unions, to engage in collective bargaining and to be free from various forms of discrimination. This statute, enacted as part of President Franklin D. Roosevelt's New Deal in 1935, is one of the country's proudest achievements, expressing the policy that the protection of ''the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection'' should be encouraged.

In recent years, a number of scholars and critics, like myself, took note of the fact that the statute has not been working well in implementing these objectives because of poor administrative processes and ineffective remedies. Some of these matters can be and are being cured by us at the Board and some can be only addressed by Congress. I hope to do what I can to make continued progress in the former category before I depart from Washington and return to California a few years down the road when my term ends.

I enthusiastically support the views contained in the preamble and have made my position known in books, articles, and speeches. In many respects, the fundamentally similar views of President Lincoln were a precursor of our own 1935 legislation.

Recall what Lincoln said to the New York Workingmen's Democratic Republican Association on March 21, 1864:

''The strongest bond of human sympathy, outside of the family relation, should be one uniting all working people, of all nations, and tongues and kindreds.''[1]

As the Presidential campaign of 1860 unfolded, Lincoln stated his philosophy in these terms:

''When one starts poor, as most do in the race of life, free society is such that he knows he can better his condition; he knows that there is no fixed condition of labor for his while life . . . I want every man to have the chance—and I believe a black man is entitle to it—in which he *can* better his condition—when he may look forward and hope to be a hired laborer this year and the next, work for himself afterward, and finally to hire men to work for him! That is the true system.''[2]

In the same speech, Lincoln makes clear that the right to strike is integral to a democratic society, a policy reflected in the language of Sections 7 and 13 of the National Labor Relations Act and in the Norris-LaGuardia Act of 1932 which preceded it. Just a few weeks ago, President Clinton took note of one of our law's limitations in his statement criticizing the Bridgestone/Firestone Company's use of permanent striker replacements, noting that such tactics show the need to enact legislation prohibiting such a denial of the fundamental right to strike.

It bears note that Lincoln's view of labor and the right to strike ran against the tide of laissez-faire thinking which predominated in the previous century—thinking which has reared its head again toward the close of this century, one of its forms being the repressive striker replacement weapon of which President Clinton spoke. President Lincoln supported the right to strike and spoke out in the spring of 1860 in support of a well-organized strike conducted by the boot and shoe workers in New England. Lincoln regarded the right to strike by free labor as a ''virtue, not a failing, of free society,'' as G.S. Boritt has written in *Lincoln and the Economics of the American Dream*.[3]

Boritt also notes that during the Civil War several delegations of strikers from the Machinists and Blacksmiths Union of New York visited the White House and spoke to the President about their position. States Boritt:

''The labor representatives took great comfort from their interview, reasoning that although their employers refused to deal with them, Lincoln received them. 'If any man should again say that combinations of working men are not good,' they concluded, 'let them point to the Chief Magistrate.' They even quoted the President as saying 'I know that in almost every case of strikes, the men have just cause for complaint.' It is rather likely that the union men quoted Lincoln correctly.''[4]

Of course, Lincoln's view of labor was closely related to his view of slavery. Again, in 1860 he said: '''Owned labor' would compete with free labor so as to 'degrade' the latter.'' And, in an earlier and lengthy speech to the Wisconsin State Agricultural Society in Milwaukee on September 30, 1859,

Footnotes at the end of article.

he noted that the so-called ''mud-sill'' theory was that a hired laborer is ''fatally fixed in that condition for life'' and thus his condition is the same as that of a slave.[5]

But as Lincoln noted, this theory proceeded upon the assumption that labor and education were incompatible and that one could not improve oneself and one's family through free labor. Lincoln's view was antithetical to all of this. He held the view that workers should be able to rise to new horizons.

And this view is closely related to another held by the President which has similar contemporary implications. Because Lincoln believed that all people could improve themselves and thus rise out of their station if opportunity were afforded them, unlike other proponents of the rights of labor, he did see the working class as a well-defined unit, notwithstanding his endorsement of its use of the strike to defend its interests and act jointly in its dealings with employers. To some extent, said Professor Boritt, Lincoln shared the view that there was a harmony between the capital and labor and that it ought to be promoted so as to enhance the ability of workers to rise out of their class.

Again, these views resonate with us today as Congress considers proposals to enhance employee participation and proposed amendments to the National Labor Relations Act which will achieve this goal. I believe that President Lincoln would be sympathetic with contemporary efforts to promote employee involvement in the workplace and thus enhance our industry's global competitiveness—so long as such reforms do not interfere with the ability of the workers and unions to defend their own positions, a proposition that I have long advanced.[6]

The view that an individual was not ''fatally fixed'' in a particular condition forever constitutes the philosophy which prevailed in the Civil War and through the Emancipation Proclamation and the enactment of the Thirteenth Amendment which Lincoln sponsored before his assassination. Again, this is reflected anew in last month's State of the Union address by President Clinton when, in advocating new minimum wage legislation, he said that the worker who works must have his ''reward'' and that the job of government is to ''expand opportunity . . . to empower people to make the most of their own lives. . . .''

This is what is at the heart of modern democracy and the Bill of Rights for workers in the private sector which are contained in the National Labor Relations Act and similar statutes. And this has been the assumption behind the struggle for equality which has attempted to make good on the promise of emancipation in the previous century.

My great-grandfather, a mason who worked with his mind and hands and established a business as a contractor, employing other workers in Dedham, Massachusetts, benefited from the above-noted philosophy and the quoted portions of the Emancipation Proclamation. Said William B. Gould on March 8, 1863, two months after its issuance:

''Read . . . the Proclamation of Emancipation . . . verry [sic] good.''

The policy, of course, had evolved in fits and starts. As Benjamin Quarles has noted in ''The Negro in the Civil War,'' General Butler was the first to devise a policy of acceptance of blacks who wanted to fight with the North.[7] This was, as Quarles noted, the most ''insistent'' problem faced by the Lincoln Administration in 1861 and 1862. It emerged, as he has noted, after the Union defeat at Bull Run which was attributable ''in part to the Confederate military defenses constructed by slaves. . . .''

Congress enacted legislation which provided for the forfeiture of all slaves whose masters had permitted them to be used in the military or naval service of the Confederacy. Quarles notes that the 1861 legislation ''strengthened the hand of the small band of Union officers from the beginning had been in favor of freeing the slaves.'' Two military initiatives—one designed by John C. Fremont in July 1861, ''The Pathfinder,'' and the other undertaken by Major General Dave Hunter in the summer of 1862—were both rescinded by Lincoln out of his concern with preserving the allegiance of the border states.

The confiscation Act enacted on July 17, 1862, declaring free all slaves who were owned by those in rebellion was the next step in the process. This had the effect of increasing the number of fugitives in whom the United States Navy expressed a particular interest so as to make use of the information that they could provide about enemy locations and movements. As summer became fall the problem became more ''insistent.''

Three days after my great-grandfather boarded the U.S.S. *Cambridge* came this report of Commander G.H. Scott regarding the blockade of Wilmington:

''Fourteen contrabands have reached the '*Monticello*' and '*Penobscot*' and several the '*Cambridge*' within a few days, and as the vessels have not room for them, will you please direct what disposition shall be made of them?''

We know what disposition was made of William B. Gould. On October 3, 1862, he said:

''All of us shipped today for three years, first taking the Oath of Allegiance to the Government of Uncle Samuel.''

Thus, he, and eventually I, benefited from both the Confiscation Act and the new policy expressed in the Emancipation Proclamation which was not to be effective for another three months. His service was made possible because of it. This was then his opportunity—and his observations, hopes and views are chronicled in the diary which he kept between 1862 and 1865.

On the perils of the seas and their storminess, he says:

''[T]he gale still blows fresh and the seas running very [sic] high. We shipped several through the night and one—fill'd the Ward Room with Water. I have got ducked awfully last night. It was worth something to be upon the Deck. Although there is much danger in a storm there is something very sublime to hear the roar of the storm. The hissing of the Waves, the whistling of the Rigging and the Cannon like report of the torn sail and above all the stern word of the commander and the—sound of the boatswain's pipe all adds to the grandeur of the scene. For there is something grand in a storm. Allnight with eager eyes both Officers and Men paced the deck watching our Foretopsail, feeling in a measure secure as long as we could sail at all. It has it stood through the night. There was no sign of the storm abateing [sic]. All the galley fire is out and nothing to eat is the cry and almost nothing to wear on account of the Water. Shine out fair sun and smote the Waves that we may proceed on our course and all be saved.''

And on December 25 and December 27 of 1862, he had this to say about the loneliness of his work off New Inlet:

''This being Christmas I think of the table at home . . . cruised around as usual. Fine weather but very lonesome in the absence of news and we all had the Blues.''

While on the North Atlantic Blockade with the U.S.S. *Cambridge* he says on November 17, 1862:

''A sail was reported close under the land right ahead. We gave chase. When within range of our boat we told them good morning in the shape of a shot for her to heave to.''

But then he describes the difficulties that arose:

''To this [the shot] they took no notice. We sent another which fell under her stern . . . the ship stood for the Beach. Shot after shot was set after her but they heeded not . . . we immediately manned the first cutter and sent her . . . to board and destroy her. We also sent two boats to lend assistance . . . [after sending a line to these boats so that they could return to the main ship] . . . they got the Boat all ready to come out when a body of Rebel Soldiers dashed over the hill at the double quick and all were prisoners. We could see them from the ship marching off our men and dragging the boats after them. We lost eleven men and three officers. Rather a bad day's work.''

But the fortunes of war were not all negative as testified to by him in this entry in the summer of 1864 off Portugal:

''[W]e made a steamer and stood for her. She kept on her course without any until we got within 5 miles of her when she suddenly changed her course. We beat to Quarters and Fired a shot. She showed the English collors [sic]. We Fired another. When she came to be boarded her and found her to be the Rebel Privateer 'Georgia' from Liverpool on her way to refit a cruiser. But the next cruise that she makes will be for Uncle Samuel . . . this capture makes a crew feel verry [sic] proud.''

While in the English Channel:

''[W]e took on board an English Pilot who brought the thrice glorious news of the sinking of the 'Alabama' by 'Kearsarge' off Cherbough. . . . [A]lthough we have been disappointment to us in not getting a shot at the 'Alabama' we are satisfied that she is out of the way.''

And in 1864 while serving on the *Niagara* he said about the people that he saw in Spain:

''[I]t looks very strange in this country which nature have lavished with riches that there should be so many Poor People.''

And again on the shameful treatment of black soldiers on his ship:

''Yesterday about 900 men of the Maryland (colored) regiment came on board (they being transferred to the Navy) and took dinner then departed for Portsmouth, New Hampshire. They were treated very rough by the crew. They refused to let them eat out of the mess pans and call them all kinds of names. One man [had] his watch stolen from him by these scoundrels. In all they were treated shamefully.''

On the proposed colonization of blacks to Africa or the Caribbean:

''We see by the papers that President [Johnson] intimates colonization for the colored people of the United States. This move of his must and shall be resisted. We were born under the Flag of the union and never will we know no other. My sentiment is the sentiment of the people of the States.''[8]

All of this ended in 1865 and provided William B. Gould with his chance at life. Sometimes I think about his thoughts as he walked the streets of Wilmington a young man and what would have been had he stayed in North Carolina and the events of those four critical years had not taken place. Most certainly his great-grandson would not be here today addressing you as Chairman of the National Labor Relations Board.

I am privileged to have this opportunity in 1995 to contribute to the public good in the most inspirational and progressive Administration in Washington since the 1960's—one which is unabashedly committed to the principles of those who fell 130 years ago.

My hope is that I can reflect well upon the first William B. Gould and the chance that he made for me by rising out of his ''fixed station,'' to use Lincoln's words, and I am all

too aware of the limitations of time as we move rapidly toward a new millennium.

As William B. Gould said on December 31, 1863, in New York harbor:

''We are obliged knock off on the account of the storm. It blew very hard from South East. The old year of '1863' went out furiously as if it was angry with all the world because it had finished the time allotted to it. Sooner or later we must follow.''

My first major impression during my first trip outside of the United States in 1962, as a student at the London School of Economics, is of the grand and majestic statute of President Lincoln which sits in Parliament Square today. Now I live in Washington within a mile of the great Lincoln Memorial in which his brooding historical omnipresence is made so manifest.

You and I, the entire nation and the world honor President Lincoln and his policies tonight. Both personally and professionally they are with me always as is the legacy provided by him and so many others in what my great-grandfather called:

''[T]he holiest of all causes, Liberty and Union.[9]

FOOTNOTES

[1] Basler, Roy P., Editor, *The Collected Works of Abraham Lincoln*, Volume VII, page 259, (1953)

[2] Ibid. Volume IV, pp. 24–5.

[3] Boritt, Gabor S., *Lincoln and the Economics of the American Dream*, page 184, (1978).

[4] Ibid., page 185.

[5] Basler, Roy P., Editor, *The Collected Works of Abraham Lincoln*, Volume 111, pp. 477–8 (1953).

[6] Of course, I advanced such ideas in the context of proposals for comprehensive labor law reform. See W. Gould, Agenda for Reform: The Future of Employment Relationships and the Law, pp. 109–150 (1993).

[7] B. Quarles, *The Negro in the Civil War*, pp. 59–61, 64 (1953). On blacks in the U.S. Navy see generally, D. Valuska, *The African American in the Union Navy: 1861–1865*, (1993).

[8] Of course, President Lincoln had earlier proposed colonization within the context of compensated emancipation.

[9] Dairy May 6, 1864. The full text actually states, ''[H]eard of the departure of one battalion of the 5th Regiment Massachusetts Cavalry from Camp Meigs for Washington, D.C. May God protect them while defending the holiest of all causes, Liberty and Union.'' As William B. Gould III wrote in an entry adjacent to the diary: ''Camp Meigs was in Readville, Massachusetts, about two miles east of where William B. Gould made his home at 303 Milton Street, East Dedham, Massachusetts.''●

TRIBUTE TO JANIE G. CATRON

● Mr. MCCONNELL. Mr. President, it should surprise none of her acquaintances that when Janie Catron retired from my office, her farewell statement was motivational as well as emotional. For those of us who have known and worked with Janie for years, her parting words were an affirmation of her remarkable drive and sense of purpose. For those whose association with her is relatively recent, it was a memorable primer on how to succeed through hard work.

Janie Catron was, officially, my eastern Kentucky field representative from the beginning of my first term in the Senate until her retirement this winter. But her official title did not do justice to the work she did. Janie was not just my representative in eastern Kentucky, she was the region's representative in my office. And she remains the staunchest advocate of that very special place. Anyone without a personal grounding in eastern Kentucky need only spend time with Janie to know that the people and the area are extraordinary.

I will not soon forget our travels over Appalachian mountain roads, the stunning vistas—notably unmarred by guardrails—framed by Janie's keen insight and observations as we drove to meet with constituents. Staffers, present and former, will long treasure the tours she arranged and the hospitality she and her husband, Frank, provided at their home in Corbin.

Janie fostered much of the cohesiveness which has made our office more than simply a collection of individuals. She has worked to instill a sense of shared purpose, responsibility, and loyalty. In fact, loyalty was the thrust of her farewell statement. It is a quality she has personified through deeds as well as words. It was never more evident than the day last November when she summoned the strength to speak through grief and deliver a stirring eulogy in the Mansfield Room during a memorial service for a member of our staff. In reflecting on this aspect of Janie, one could substitute the term ''love'' for loyalty because it is so clearly evident in her actions and achievements. Loyalty to and love of nation, state, party, family, friends and colleagues—a hallmark of Janie Catron and, if she has anything to say about it, qualities she will impart on others.

Born and reared in Pulaski County, KY Janie has stated that she was born a Democrat but changed her registration upon marrying a Republican. She has often said that she became a Republican by convenience and remained one out of conviction. As anyone who knew her would expect, however, Janie was not just a registered Republican—she was an outspoken, unabashed, active big-''R'' Republican. This was rather bold in a State where, until recently, Republican were an endangered species.

Mr. President, on March 11, Janie Catron will be duly recognized when she is inducted into the Fifth Congressional District Republican Hall of Fame. When she receives this honor at the Fifth District Lincoln Day Dinner she will joining other notables such as the legendary Kentucky Senator John Sherman Cooper and Congressman Tim Lee Carter. It is a distinction well-deserved.

I am honored to have been associated with Janie these many years. Her departure leaves a void in my office that probably never will be filled because, by force of her personality and energy, Janie created a niche. I am confident that I speak for my entire office when I say we miss her and wish her well in future endeavors.●

TRIBUTE TO CHIEF RICHARD E. RILEY

● Mr. LAUTENBERG. Mr. President, I rise today to pay my respects to Chief Richard E. Riley who recently retired from the Morris County Prosecutor's Office.

Chief Riley retired after a long career in public service. He began his service in 1963 as a patrolman in the Dover Police Department. In 1968, he was appointed as an investigator with the Morris County Prosecutor's Office. In 1980, he was promoted to sergeant, and finally in 1990, he was appointed chief of investigations.

Throughout his long and distinguished career, Chief Riley was always known as a scrupulous investigator and a man of great integrity. He was best known for his work in the area of investigations, and received statewide respect for his diligent work in investigating the 1992 murder of Exxon executive Sidney Reso.

Chief Riley approached that very public investigation in the same way he approached all his work—with care, with compassion, and with meticulous concern for details.

Over the years, Chief Riley has been recognized repeatedly for his hard work and his tireless commitment to the safety of Morris County residents.

In 1974, he received a Prosecutor's Citation for Armed Robbery Investigation. In 1981, he received a Unit Command Citation for Gambling Investigation. In 1982, he received a Prosecutor's Command Citation for Narcotics Investigation.

He has also been honored with a Good Conduct Award, a Chief's Achievement Award and a Distinguished Service Award. And in 1985, Chief Riley was named Officer of the Year.

Mr. President, the retirement of Chief Riley will leave a great void in the Morris County Prosecutor's Office. But I know that his legacy of investigative excellence will live on in the office and throughout Morris County for many years to come.

We in New Jersey are very proud to count among our midst men and women like Chief Riley, who are committed to public service, to public safety and to the quality of life in our State.

I wish Chief Riley a very restful and exciting retirement, and I personally thank him for all he has done for the people of New Jersey.●

MEMORIALIZING WILLIAM LEONARD BLOCKSTEIN

● Mr. FEINGOLD. Mr. President, I rise to pay tribute to William Leonard Blockstein who died last week at age 69.

Bill was professor emeritus at the University of Wisconsin-Madison following a notable career there. Prior to his retirement in 1991, he was the Edward Kremers professor of pharmacy in the School of Pharmacy, clinical professor of Preventive Medicine in the Medical School, and professor and director of the health sciences unit of university extension.

Bill published over 400 papers on pharmacy education, continuing professional education, health planning, and consumer health education, and edited or coedited 15 books. In 1985, he received the American Pharmaceutical Association's Joseph P. Remington Medal, pharmaceutical science's most prestigious award.

But as distinguished a scientist as he was, Bill was an even better human being.

As one of his colleagues from the University of Wisconsin noted, Bill was a good friend to everyone. Marge Sutinen, the women he planned to marry this July, said that Bill was one of the most charitable men in the community, and indeed, his charity and friendship had no limits.

I had known Bill for years when I asked him to be the first senior intern in my Senate office, and he kindly consented. Though he did spend time advising me on health care issues—a subject on which he had considerable expertise—as many Members understand, working in a Senate office, especially as an intern, does not always involve the most glamorous of work. Bill, a nationally recognized scientist and emeritus professor at the University of Wisconsin pitched in on every task, cheerily helping out younger staffers and interns with any and all office chores.

Bill loved art, and was an avid supporter of the arts. He loved to travel, and I understand he was planning to travel to Sweden and Great Britain later this year. He was active in Friendship Force, a group that combined his altruism and desire for fellowship with that enthusiasm for travel.

He enjoyed being out with people, and especially loved to go dancing. He found pleasure in the cloths he wore—often proudly sporting a new tie or shirt around the office to the delight of the rest of us.

Bill's obvious pleasure in these and other things was contagious. It was simply not possible to be in the same room and not be infected by his enthusiasm.

Bill suffered more than his share of personal tragedy, including the death of his wife Liesl, killed by a drunk driver in 1986. But throughout that and other tragedies, Bill said that it was important to celebrate life every day.

He did just that.

No one did a better job of living than Bill Blockstein. I shall miss him a great deal.●

RETIREMENT OF DR. MORGAN R. REES

● Mr. CHAFEE. Mr. President, I wish to pay tribute to an outstanding civil servant. On February 28, 1995, Dr. Morgan R. Rees, Deputy Assistant Secretary for Planning, Policy and Legislation at the U.S. Army Corps of Engineers Civil Works, retired after a long and distinguished career of Federal service.

Dr. Rees joined the Army Corps of Engineers in 1969 as a Civil Engineering Project Manager in the New England Division. From 1973 to 1981, he served as the Chief of the Regulatory Branch in the New England Division. In 1981, Dr. Rees became the Chief of the Regulatory and Policy Section, Civil Works Directorate, Office of the Chief of Engineers. The following year, he was named Assistant for Regulatory Programs in the Office of the Assistant Secretary for Civil Works. Dr. Rees was promoted again in 1986 to the position of Deputy Assistant Secretary for Planning, Policy and Legislation.

Mr. President, as many in the Senate are aware, Dr. Rees played a major role for the Army in the passage of the landmark Water Resources Development Act of 1986. I have worked with him on the passage of each Water Resources Development Act since then. Dr. Rees' career record reflects the professionalism and dedication found at the U.S. Army Corps of Engineers.

I want to commend him for his many valued contributions to the Army, the Congress of the United States, and the Nation. On behalf of the Committee on Environment and Public Works, I want to wish him the very best in his future endeavors.●

PREVENTIVE ACTION IN BURUNDI

● Mr. FEINGOLD. Mr. President, in the past few months, political violence between Hutu rebels and the Tutsi-dominated military has intensified in the small Central African nation of Burundi.

Extremist Tutsi gangs, seeking to destabilize the Hutu government, have been carrying out dead city operations, where residents are ordered to remain at home or shut down business, or risk violent attacks. Grenades are exploding in crowded city centers, including one which recently blew up a bus, and another which killed many civilians in a schoolyard. Scores of civilians have been murdered, and a Hutu provincial Governor, Fidele Muhezi, was assassinated on January 26. The U.N. High Commissioner for Refugees says that over 60,000 people have fled to Tanzania, including 30,000 last week alone.

These are tragedies in any context. In Burundi, they bear eerie resemblances to what happened in neighboring Rwanda in April of last year, which of course exploded in the bloodiest genocide ever recorded, in real time, on television. Given the close ties between the tribes in both countries, events in Rwanda influence happenings in Burundi.

Like Rwanda, Burundi's population is roughly 85-percent Hutu and 15-percent Tutsi. Like Rwanda, there is a long history of Hutu-Tutsi violence. Like Rwanda, the parties in Burundi have been pursuing peace through a power-sharing arrangement and democratic means. In Burundi, the agreement brought elections in which a Hutu was chosen President, but the Tutsis continued to dominate the military.

Already violence has erupted once since the peace process began when, in October 1993, President Melchoir Ndadaye was assassinated by Tutsis, and in retribution by both sides, up to 50,000 people were slaughtered. Almost 10,000 more people have died in ethnic violence since then. The current cycle of violence further threatens the peace plan. For example, the Tutsi opposition party has called for the coup d'etat of the Government. This recent spate of violence is a result of extremist Tutsis, with little or no popular support, trying to seize power from Hutus, which they cannot get through democratic means.

For months, observers have been warning that Burundi will go the route of Rwanda if order and justice are not restored. Pierre Buyoya, the former Tutsi military ruler who initiated the democratization programs in Burundi, in fact, states in the Washington Post on February 6 that ''Things are worse in Burundi than they were in Rwanda in April.'' Scholars have documented that historically, violence in Rwanda has foreshadowed violence in Burundi, and vice-versa.

A major reason this violence is so frightening is that many of the individuals responsible for the assassination of President Ndadaye and the subsequent killings have never been prosecuted. This impunity only reinforces the use of violence as a legitimate political tool, and could effectively help extremists achieve their goals.

In an effort to help contain this mounting chaos and to build democracy in Burundi, the United States should request the U.N. Security Council to establish a judicial commission of experts. This commission would assist the Burundi Government to investigate President Ndadaye's assassination and the mass murders in 1993. Legal officers, investigators, and judges from countries with legal systems similar to Burundi's, such as Mali, could work in this commission. A strengthened Burundi judicial system would demonstrate that there is no impunity for such heinous political crimes. International assistance is needed to do it.

I want to applaud the administration for its high-level attention to this problem. I commend President Clinton's personal plea on the Voice of America to the people of Burundi, urging them to ''say no to violence and extremism'' and work toward peace. I am also pleased that National Security Adviser Tony Lake and Secretary of State Warren Christopher have publicly expressed their concerns about Burundi and called for diplomatic intervention. These are calls which carry significant weight in Burundi, and if successful, will have contributed to prevention of a potentially horrible conflict. I want to make sure that they will get public credit for their efforts.

Given the histories and the lessons of the very recent past, the United States and the international community should be responsive to calls for help when another Central African nation is on the brink of disaster. We have offered rhetoric that early preventive action can save millions of lives and billions of dollars later. Conflict resolution and preventive diplomacy is a new mantra in international relations. And it should be. Here is an opportunity to listen to the warning signs and respond in some way.

If we do, Burundi may be able to stem the recent spate of violence and continue its move toward democracy. If we do not, then Burundi risks becoming another Rwanda.●

SALUTING 150TH ANNIVERSARY OF FLORIDA STATEHOOD

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 84, submitted earlier by Senators MACK and GRAHAM, which would salute the 150th anniversary of Florida's statehood, and that the resolution be considered and agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table; that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

So the resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 84) and its preamble are as follows:

S. RES. 84

Whereas Florida became the first State explored by Europeans when Ponce De Leon led a Spanish expedition that made landfall along the east coast in the year 1513;

Whereas Pedro Menendez de Aviles, captain-general of an invading fleet, ousted the French settlement, Fort Caroline, at the mouth of the St. Johns River, proclaimed Spanish sovereignty over Florida, and on September 8, 1565, established St. Augustine, the oldest city in the United States;

Whereas Spain, France, and England played a significant role in the development and exploration of early Florida;

Whereas President James Monroe proclaimed the Adams-Onis Treaty in which Spain ceded Florida to the United States on February 22, 1821, and appointed General Andrew Jackson as the first provisional governor of Florida;

Whereas on March 30, 1822, the United States Congress created a territorial government for Florida, following the pattern set in the Northwest Ordinance of 1787 by providing for public education and orderly political steps toward greater self-government and eventual statehood as population increased;

Whereas 56 delegates representing the 20 counties of Florida assembled in 1838 in the Panhandle town of St. Joseph to frame the first constitution of the territory in preparation for Florida statehood, who were mainly planters and lawyers, were from 13 of the 26 States then in the United States and 4 foreign countries, included only 3 natives from Florida, included 3 delegates who would later become United States Senators, included 2 governors, and included 5 members of the Florida Supreme Court;

Whereas a bill to admit Florida as a State passed the House of Representatives on February 13, 1845, and the Senate on March 1, 1845;

Whereas President John Tyler signed a bill making Florida a State on March 3, 1845, making Florida the 27th State to be admitted into the United States;

Whereas Friday, March 3, 1995, marks the 150th anniversary of Florida becoming a State;

Whereas the admission of Florida to the United States has proved to be of immense benefit both the United States and to the State of Florida;

Whereas 96 citizens of Florida have served the United States and Florida in the House of Representatives;

Whereas 30 citizens of Florida have served the United States and Florida in the United States Senate;

Whereas numerous citizens of Florida have served in the executive, judicial, and legislative branches of the Federal Government;

Whereas citizens of Florida have fought and died in service to the United States, and 22 citizens of Florida have won the United States highest award for bravery, the Congressional Medal of Honor, protecting freedom in the United States;

Whereas Florida is the fourth largest State and is rich in natural resources and talented people;

Whereas Florida, home of the Everglades National Park, is blessed with great natural beauty, clean water, pure air, and extraordinary scenery;

Whereas Florida is a world leader in agriculture, commercial fishing, education, financial services, horse breeding, high technology, manufacturing, phosphate production, and tourism;

Whereas Cape Canaveral, location of the first United States satellite launch and the first manned spaceship flight to the Moon, continues to play a vital and leading role in the exploration and discovery of outer space by the United States;

Whereas a special postage stamp saluting the Sesquicentennial of Florida will be circulated throughout the United States during 1995; and

Whereas Florida is proud of its heritage and looks forward to its future: Now, therefore, be it

Resolved,

SECTION 1. SALUTE BY THE SENATE

The United States Senate salutes the State of Florida on the sesquicentennial anniversary of Florida becoming a State Friday, March 3, 1995.

SEC. 2. COMMEMORATION BY CONGRESS.

The Senate calls on the joint Congressional leadership of Congress to agree on an appropriate time and manner to honor the State of Florida, in recognition of the achievements of all the men and women who have worked hard to develop Florida into a great State, from pioneer days to modern times.

SEC. 3. COMMEMORATION BY THE PRESIDENT.

The Senate calls on the President to issue a Presidential message calling on the people of the United States and all Federal, State, and local governments to commemorate the sesquicentennial anniversary of Florida becoming a State with appropriate ceremonies and activities.

SEC. 4. COPIES OF RESOLUTION.

The Secretary of the Senate shall send this resolution to the Florida Congressional delegation, the Governor of Florida, the National Archives, and the Florida Archives.

MEASURE READ THE FIRST TIME

Mr. DOLE. Mr. President, I understand that Senate Joint Resolution 28, introduced earlier today by Senator JEFFORDS, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the resolution for the first time.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 28) to grant consent of Congress to the Northeast Interstate Area Compact.

Mr. DOLE. And I now ask for its second reading.

Mr. FORD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The second reading will occur on the next legislative day.

ORDERS FOR FRIDAY, MARCH 3, 1995

Mr. DOLE. 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. March 3, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein not to exceed 5 minutes each, with the following exceptions: Senator CRAIG, 1 hour; Senator DASCHLE, 30 minutes; Senator LIEBERMAN, 20 minutes; Senator GRAHAM of Florida, 15 minutes; Senator GRAMS, of Minnesota, 5 minutes.

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

PROGRAM

Mr. DOLE. Mr. President, for the information of all my colleagues, the next item the Senate is expected to consider is S. 244, the Paperwork Reduction Act. One amendment is expected to be offered. However, that amendment will not be available until Monday. Therefore, the Senate will conduct morning business only during tomorrow's session of the Senate. No rollcall votes will occur during Friday's session of the Senate.

Mr. FORD. Will the leader yield?

Could he give any indication of what Monday might be?

Mr. DOLE. I may be able to do that in the morning.

Mr. FORD. All right, fine. There is some interest in that.

Mr. DOLE. I think it depends on what happens on the Paperwork Reduction Act, and I will be able to make that announcement hopefully early tomorrow so people, if we do not have votes Monday, can make plans.

Mr. FORD. I thank the leader.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, if there is no other business to come before the Senate, and no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:07 p.m., recessed until Friday, March 3, 1995, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 2, 1995:

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

ALTON W. CORNELLA, OF SOUTH DAKOTA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS.

REBECCA G. COX, OF CALIFORNIA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS.

GEN. JAMES B. DAVIS, U.S. AIR FORCE, RETIRED, OF FLORIDA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS.

S. LEE KLING, OF MARYLAND, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS.

BENJAMIN F. MONTOYA, OF NEW MEXICO, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS.

WENDI LOUISE STEELE, OF TEXAS, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS.

JOSUE ROBLES, JR., OF TEXAS, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.