the manifestation of chronic disabilities due to undiagnosed symptoms in veterans who served in the Persian Gulf war in order for those disabilities to be compensable by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

S. 212. A bill to increase the maximum Federal Pell grant award in order to allow more American students to afford higher education, and to express the sense of the Senate; to the Committee on Labor and Human Resources.

By Mr. LEAHY (for himself, Mr. FEINGOLD, and Mr. JEFFORDS):

S. 213. A bill to amend section 223 of the Communications Act of 1934 to repeal amendments on obscene and harassing use of telecommunications facilities made by the Communications Decency Act of 1996 and to restore the provisions of such section on such use in effect before the enactment of the Communications Decency Act of 1996; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself, Mr. INOUYE, and Mr. GLENN):

S. 214. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to combat fraud and price gouging committed in connection with the provision of consumer goods and services for the clean-up, repair, and recovery from the effects of a major disaster declared by the President, and for other purposes; to the Committee on Environment and Public Works.

By Mr. JEFFORDS:

S. 215. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JEFFORDS (for himself, Mr. FRIST, and Mrs. HUTCHISON):

S. 216. A bill to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1998 through 2002, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BIDEN:

S. 217. A bill to amend title 38, United States Code, to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States; to the Committee on Veterans' Affairs.

S. 218. A bill to invest in the future American workforce and to ensure that all Americans have access to higher education by providing tax relief for investment in a college education and by encouraging savings for college costs, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. GRASSLEY):

S. 219. A bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. DASCHLE):

S. 220. A bill to require the U.S. Trade Representative to determine whether the European Union has failed to implement satisfactorily its obligations under certain trade agreements relating to U.S. meat and pork exporting facilities, and for other purposes; to the Committee on Finance.

By Mr. GREGG:

S. 221. A bill to amend the Social Security Act to require the Commissioner of Social Security to submit specific legislative recommendations to ensure the solvency of the social security trust funds; to the Committee on Finance.

By Mr. DOMENICI:

S. 222. A bill to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies; to the Committee on Governmental Affairs.

By Mr. THURMOND (for himself, Mr. FAIRCLOTH, Mr. HELMS, Mr. HUTCHINSON, Mr. KEMPTHORNE, Mr. SHELBY, and Mr. SESSIONS):

S. 223. A bill to prohibit the expenditure of Federal funds on activities by Federal agencies to encourage labor union membership, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER:

S. 224. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes; to the Committee on Armed Services.

By Mr. KOHL:

S. 225. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

By Mr. KOHL (for himself and Mr. DEWINE):

S. 226. A bill to establish felony violations for the failure to pay legal child support obligations, and for other purposes; to the Committee on the Judiciary.

By Mr. GREGG:

S. 227. A bill to establish a locally oriented commission to assist the city of Berlin, NH, in identifying and studying its region's historical and cultural assets, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. REID, Mrs. FEINSTEIN, Mr. FORD, Mr. HOLLINGS, and Mr. WYDEN):

S.J. Res. 12. A joint resolution proposing a balanced budget constitutional amendment; to the Committee on the Judiciary.

By Mr. SHELBY:

S.J. Res. 13. A joint resolution proposing an amendment to the Constitution of the United States which requires (except during time of war and subject to suspension by the Congress) that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 percent of the gross national product of the United States during the previous calendar year; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHAFEE:

S. Res. 26. A resolution authorizing expenditures by the Committee on Environment and Public Works; from the Committee on Environment and Public Works; to the Committee on Rules and Administration.

By Mr. ROTH:

S. Res. 27. An original resolution authorizing expenditures by the Committee on Finance; from the Committee on Finance; to the Committee on Rules and Administration.

By Mr. D'AMATO:

S. Res. 28. An original resolution authorizing expenditures by the Committee on Banking, Housing and Urban Affairs; from the Committee on Banking, Housing, and Urban Affairs; to the Committee on Rules and Administration.

By Mr. MCCAIN:

S. Res. 29. An original resolution authorizing expenditures by the Committee on Commerce, Science, and Transportation; from the Committee on Commerce, Science, and Transportation; to the Committee on Rules and Administration.

By Mr. SHELBY:

S. Res. 30. A resolution authorizing expenditures by the Select Committee on Intelligence; from the Select Committee on Intelligence; to the Committee on Rules and Administration.

By Mr. WARNER:

S. Res. 31. A resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library; from the Committee on Rules and Administration; placed on the calendar.

By Mr. WARNER:

S. Res. 32. A resolution to authorize the printing of a collection of the rules of the committees of the Senate; from the Committee on Rules and Administration; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 204. A bill for the relief of Dogan Umut Evans; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

• Mr. INOUYE. 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. 204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR DOGAN UMUT EVANS.

(a) IN GENERAL.—Dogan Umut Evans shall be classified as a child under section 101(b)(1)(F) of the Immigration and Nationality Act for purposes of approval of a relative visa petition filed under section 204 of such Act by his adoptive parent and the filing of an application for an immigrant visa or adjustment of status.

(b) ADJUSTMENT OF STATUS.—If Dogan Umut Evans enters the United States before the filing deadline specified in subsection (c), he shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the petition and the application for issuance of an immigrant visa or the application for adjustment of status are filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Dogan Umut Evans, the Secretary of State shall instruct the proper officer to reduce by 1, for the current or next following fiscal year, the worldwide level of family-sponsored immigrants under section 201(c)(1)(A) of the Immigration and Nationality Act.

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Dogan Umut Evans, if any, shall not, by virtue of such relationship, be accorded any

right, privilege, or status under the Immigration and Nationality Act.●

By Mr. FRIST (for himself and Mr. ALLARD):

S. 205. A bill to eliminate certain benefits for Members of Congress, and for other purposes; to the Committee on Governmental Affairs.

THE CITIZEN CONGRESS ACT

● Mr. FRIST. Mr. President, I introduce the Citizen Congress Act, a bill that ends many of the perks and privileges that separate Members of Congress from the American people.

Our Founding Fathers envisioned a Congress of citizen legislators who would leave their families and communities for a short time to write legislation and then return home to live under the laws they helped to pass. Unfortunately, we have strayed far from that vision. A strong perception exists among the American people that elected officials in Washington have placed themselves above the laws and separated themselves from the public with perks and privileges. Enacting term limits would be the best way to re-create a citizen legislature, and I remain committed to passing a term limits amendment to the Constitution. In the meantime, reforming congressional pensions, pay, and perks offers an immediately achievable step toward making Congress more directly responsible and accountable to the American people.

When I was elected to the U.S. Senate a little more than 2 years ago, voters placed their trust in me to help change the way the U.S. Congress does business. With passage of the Congressional Accountability Act and tough lobbying reform in the last Congress, we have begun serious, bipartisan reform efforts. But we cannot afford to stop there.

Congressional perks and privileges are not limited to gifts from lobbyists and exemptions from certain laws. In fact, most people would be surprised—even shocked—to know that Members of Congress can receive free health care from military hospitals or that they receive automatic cost-of-living adjustments [COLA's] for their salaries and pensions. We must address these issues as well. To continue building confidence in our Government, we must continue building confidence in the people who serve there.

Today, I join my colleague from Colorado, Senator WAYNE ALLARD, in reintroducing a comprehensive congressional reform bill. The legislation, entitled the Citizen Congress Act, will help restore faith and trust in our Government by attacking the ''10 Pillars of Perkdom.'' The 10 Pillars include:

Eliminating the taxpayer subsidy of congressional pensions.

Eliminating automatic cost-of-living adjustments for congressional pensions.

Eliminating automatic pay raises for Members of Congress.

Requiring a rollcall vote for any pay raise.

Requiring public disclosure of all Members' Federal retirement benefits.

Banning personal use of officially accrued frequent flier miles.

Banning taxpayer-financed mass mailings.

Restricting use of military aircraft by Members of Congress.

Prohibiting free treatment at military medical facilities.

Banning special parking privileges at Washington-area airports.

A companion bill, H.R. 436, was introduced in the House of Representatives by Congressman MARK SANFORD.

At a time when everyone is tightening their belts to balance the Federal budget and restore confidence in our Government, it is only right that Members of Congress eliminate the perks and privileges that are not necessary to conduct congressional business. The Citizen Congress Act launches the next stage of Government reform by focusing on the Members of Congress themselves. I encourage my colleagues to join me in passing this important legislation and bringing Congress another step closer to the American people.

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. 205

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 ''Citizen Congress Act''.

SEC. 2. LIMITATION ON RETIREMENT COVERAGE FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective at the beginning of the Congress next beginning after the date of the enactment of this Act, a Member of Congress shall be ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System, except as otherwise provided under this section.

(b) PARTICIPATION IN THE THRIFT SAVINGS PLAN.—Notwithstanding subsection (a), a Member may participate in the Thrift Savings Plan subject to section 8351 of title 5, United States Code, at anytime during the 12-year period beginning on the date the Member begins his or her first term.

(c) REFUNDS OF CONTRIBUTIONS.—

(1) IN GENERAL.—Nothing in subsection (a) shall prevent refunds from being made, in accordance with otherwise applicable provisions of law (including those relating to the Thrift Savings Plan), on account of an individual's becoming ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System (as the case may be) as a result of the enactment of this section.

(2) TREATMENT OF REFUND.—For purposes of any refund referred to in paragraph (1), a Member who so becomes ineligible to participate in either of the retirement systems referred to in paragraph (1) shall be treated in the same way as if separated from service.

(d) ANNUITIES NOT AFFECTED TO THE EXTENT BASED ON PRIOR SERVICE.—Subsection (a) shall not be considered to affect—

(1) any annuity (or other benefit) entitlement to which is based on a separation from service occurring before the date of the enactment of this Act (including any survivor annuity based on the death of the individual who so separated); or

(2) any other annuity (or benefit), to the extent provided under subsection (e).

(e) PRESERVATIONS OF RIGHTS BASED ON PRIOR SERVICE.—

(1) IN GENERAL.—For purposes of determining eligibility for, or the amount of, any annuity (or other benefit) referred to in subsection (d)(2) based on service as a Member of Congress—

(A) all service as a Member of Congress shall be disregarded except for any such service performed before the date of the enactment of this Act; and

(B) all pay for service performed as a Member of Congress shall be disregarded other than pay for service which may be taken into account under subparagraph (A).

(2) PRESERVATION OF RIGHTS.—To the extent practicable, eligibility for, and the amount of, any annuity (or other benefit) to which an individual is entitled based on a separation of a Member of Congress occurring after such Member becomes ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System (as the case may be) by reason of subsection (a) shall be determined in a manner that preserves any rights to which the Member would have been entitled, as of the date of the enactment of this Act, had separation occurred on such date.

(f) REGULATIONS.—Any regulations necessary to carry out this section may be prescribed by the Office of Personnel Management and the Executive Director (referred to in section 8401(13) of title 5, United States Code) with respect to matters within their respective areas of responsibility.

(g) DEFINITION.—As used in this section, the terms ''Member of Congress'' and ''Member'' mean any individual under section 8331(2) or 8401(20) of title 5, United States Code.

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to apply with respect to any savings plan or other matter outside of subchapter III of chapter 83 or chapter 84 of title 5, United States Code.

SEC. 3. DISCLOSURE OF ESTIMATES OF FEDERAL RETIREMENT BENEFITS OF MEMBERS OF CONGRESS.

(a) IN GENERAL.—Section 105(a) of the Legislative Branch Appropriations Act, 1965 (2 U.S.C. 104a; Public Law 88–454; 78 Stat. 550) is amended by adding at the end the following new paragraph:

''(4) The Secretary of the Senate and the Clerk of the House of Representatives shall include in each report submitted under paragraph (1), with respect to Members of Congress, as applicable—

''(A) the total amount of individual contributions made by each Member to the Civil Service Retirement and Disability Fund and the Thrift Savings Fund under chapters 83 and 84 of title 5, United States Code, for all Federal service performed by the Member as a Member of Congress and as a Federal employee;

''(B) an estimate of the annuity each Member would be entitled to receive under chapters 83 and 84 of such title based on the earliest possible date to receive annuity payments by reason of retirement (other than disability retirement) which begins after the date of expiration of the term of office such Member is serving; and

''(C) any other information necessary to enable the public to accurately compute the Federal retirement benefits of each Member based on various assumptions of years of service and age of separation from service by reason of retirement.''.

(b) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

SEC. 4. ELIMINATION OF AUTOMATIC ANNUITY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

The portion of the annuity of a Member of Congress which is based solely on service as a Member of Congress shall not be subject to a COLA adjustment under section 8340 or 8462 of title 5, United States Code.

SEC. 5. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) PAY ADJUSTMENTS.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) CONFORMING AMENDMENT.—Section 601(a)(1) of such Act is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)'';

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking '', as adjusted by paragraph (2) of this subsection''.

SEC. 6. ROLLCALL VOTE FOR ANY CONGRESSIONAL PAY RAISE.

It shall not be in order in the Senate or the House of Representatives to dispose of any amendment, bill, resolution, motion, or other matter relating to the pay of Members of Congress unless the matter is decided by a rollcall vote.

SEC. 7. TRAVEL AWARDS FROM OFFICIAL TRAVEL OF A MEMBER, OFFICER, OR EMPLOYEE OF THE HOUSE OF REPRESENTATIVES TO BE USED ONLY WITH RESPECT TO OFFICIAL TRAVEL.

(a) IN GENERAL.—Notwithstanding any other provision of law, or any rule, regulation, or other authority, any travel award that accrues by reason of official travel of a Member, officer, or employee of the House of Representatives may be used only with respect to official travel.

(b) REGULATIONS.—The Committee on House Oversight of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(c) DEFINITIONS.—As used in this section—

(1) the term ''travel award'' means any frequent flier mileage, free travel, discounted travel, or other travel benefit, whether awarded by coupon, membership, or otherwise; and

(2) the term ''official travel'' means, with respect to the House of Representatives, travel performed for the conduct of official business of the House of Representatives.

SEC. 8. BAN ON MASS MAILINGS.

(a) IN GENERAL.—Paragraph (6)(A) of section 3210(a) of title 39, United States Code, is amended to read as follows:

''(6)(A) It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The second sentence of section 3210(c) of title 39, United States Code, is amended by striking ''subsection (a) (4) and (5)'' and inserting ''subsection (a) (4), (5), and (6)''.

(2) Section 3210 of title 39, United States Code, is amended—

(A) in subsection (a)(3)—

(i) in subparagraph (G) by striking '', including general mass mailings,''; and

(ii) in subparagraphs (I) and (J) by striking ''or other general mass mailing'';

(B) in subsection (a)(6) by repealing subparagraphs (B), (C), and (F), and the second sentence of subparagraph (D);

(C) by repealing paragraph (7) of subsection (a); and

(D) by repealing subsection (f).

(3) Section 316(a) of the Legislative Branch Appropriations Act, 1990 (39 U.S.C. 3210 note) is repealed.

(4) Subsection (f) of section 311 of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59e(f)) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the Congress next beginning after the date of the enactment of this Act.

SEC. 9. RESTRICTIONS ON USE OF MILITARY AIR COMMAND BY MEMBERS OF CONGRESS.

(a) RESTRICTIONS.—

(1) IN GENERAL.—Chapter 157 of title 10, United States Code, is amended by adding at the end the following:

''§ 2646. Restrictions on provision of air transportation to Members of Congress

''(a) RESTRICTIONS.—A Member of Congress may not receive transportation in an aircraft of the Military Air Command unless—

''(1) the transportation is provided on a space-available basis as part of the scheduled operations of the military aircraft unrelated to the provision of transportation to Members of Congress;

''(2) the use of the military aircraft is necessary because the destination of the Member of Congress, or an airfield located within reasonable distance of the destination, is not accessible by regularly scheduled flights of commercial aircraft; or

''(3) the use of the military aircraft is the least expensive method for the Member of Congress to reach the destination by aircraft, as demonstrated by information released before the trip by the member or committee of Congress sponsoring the trip.

''(b) DESTINATION.—In connection with transportation provided under subsection (a)(1), the destination of the military aircraft may not be selected to accommodate the travel plans of the Member of Congress requesting such transportation.

''(c) AIRCRAFT DEFINED.—For purposes of this section, the term 'aircraft' includes both fixed-wing airplanes and helicopters.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

''2646. Restrictions on provision of air transportation to Members of Congress.''.

(b) EFFECT ON MEMBERS CURRENTLY RECEIVING TRANSPORTATION.—Section 2643 of title 10, United States Code, as added by subsection (a), shall not apply with respect to a Member of Congress who, as of the date of the enactment of this Act, is receiving air transportation or is scheduled to receive transportation in an aircraft of the Military Air Command until the Member completes the travel plans for which the transportation is being provided or scheduled.

SEC. 10. PROHIBITION ON USE OF MILITARY MEDICAL TREATMENT FACILITIES BY MEMBERS OF CONGRESS.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following:

''§ 1107. Prohibition on provision of medical and dental care to Members of Congress

''A Member of Congress may not receive medical or dental care in any facility of any uniformed service unless—

''(1) the Member of Congress is eligible or entitled to such care as a member or former member of a uniformed service or as a covered beneficiary; or

''(2) such care is provided on an emergency basis unrelated to the person's status as a Member of Congress.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

''1107. Prohibition on provision of medical and dental care to Members of Congress.''.

(b) EFFECT ON MEMBERS CURRENTLY RECEIVING CARE.—Section 1107 of title 10, United States Code, as added by subsection (a), shall not apply with respect to a Member of Congress who is receiving medical or dental care in a facility of the uniformed services on the date of the enactment of this Act until the Member is discharged from that facility.

SEC. 11. ELIMINATION OF CERTAIN RESERVED PARKING AREAS AT WASHINGTON NATIONAL AIRPORT AND WASHINGTON DULLES INTERNATIONAL AIRPORT.

(a) IN GENERAL.—Effective 30 days after the date of the enactment of this section, the Airports Authority—

(1) shall not provide any reserved parking areas free of charge to Members of Congress, other Government officials, or diplomats at Washington National Airport or Washington Dulles International Airport; and

(2) shall establish a parking policy for such airports that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, or diplomats.

(b) DEFINITIONS.—As used in this section, the terms ''Airports Authority'', ''Washington National Airport'', and ''Washington Dulles International Airport'' have the same meanings as in section 6004 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2453).●

● Mr. ALLARD. Mr. President, I am proud to be an original sponsor of the citizen Congress Act with my distinguished colleague from Tennessee, Senator BILL FRIST. As a Member of the other body, I was an original sponsor of this bill with Representative MARK SANFORD, who reintroduced the CCA earlier this month.

This legislation is an important element of true political reform. A first step was the passage of the Congressional Accountability Act which applied labor laws to Congress. The next important step is the Citizen Congress Act. This act is to be a reminder to members of both legislative bodies that we are citizen legislators in the true sense of service as envisioned by our Founding Fathers.

The CCA is a comprehensive bill which eliminates many of the perks and privileges which Congress are afforded. It uses the congressional pension system to encourage limited service and calls for full disclosure of estimates of our retirement benefits. It also eliminates the automatic COLA for Member's salaries. If we want a salary increase, we will have to vote for an increase. The CCA disallows any personal use of frequent flier mileage accrued on official business. This bill would limit the use of frequent flier miles for only trips to and from the Senator's State. The CCA also bans all postal patron franked mailings. This means no more unsolicited mailings to constituents.

Also, Senators will no longer be able to travel on military aircraft, except where there is space available on already scheduled military flights or where there are no commercial flights to a specific destination. Members will

no longer receive free medical attention at military hospitals unless they are veterans and can receive this medical benefit like any other veteran. Finally, the CAA eliminates special parking privileges for Members of Congress, Supreme Court Justices, and foreign diplomats at Washington National and Dulles airports.

I believe this will make us more responsive to our constituents because no longer will we have the special privileges which citizens are not given. Legislators should have to walk in the same shoes as everyone else, thus making them more sensitive to the concerns and trials of the constituents which we are serving.

Again, I thank Senator FRIST for all his hard work and effort in this endeavor.●

By Mr. REID:

S. 206. A bill to prohibit the application of the Religious Freedom Restoration Act of 1993, or any amendment made by such act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility, and for other purposes; to the Committee on the Judiciary.

THE RELIGIOUS FREEDOM RESTORATION ACT OF 1993 PRISONER PROHIBITION ACT OF 1997

Mr. REID. Mr. President, the reason I came to the floor today was not to talk about the balanced budget amendment, which I have been happy to do, but I came here because I am going to introduce legislation today that will exclude prison inmates from the protections of the Religious Freedom Restoration Act.

Why would I want to do something like that? Well, when this bill came to the Senate floor approximately 2 years ago, I offered an amendment at that time that said I want people's religious freedoms restored but I think we have to be careful about prisoners and they should not be part of this because they are going to take advantage of it. Well, they are taking advantage of it. One prisoner in New York has filed 3,000 lawsuits.

What are these lawsuits about?

In Nebraska there was a lawsuit filed because an inmate thinks he is a woman trapped in a man's body and strip searches by male prison officials are not allowed by his religion. Should we take up the courts' time with this type of litigation?

We have another case where a satanic group—they are in prison, of course—filed suit because they were not given unbaptized baby fat for their candles.

About 40 percent of the courts' time, the Federal court's time in Nevada is taken up with this kind of stuff.

In Nevada we have an inmate suing a chaplain for refusing to conduct a marriage ceremony for this man and his male friend. The plaintiff and his friend are both members of the Universal Life Church which he claims allows two people of the same sex to marry.

In Nevada inmates allege their inability to practice a religion is being denied in violation of the first amendment because they want special services, including incense and special jewelry.

Mr. President, this is serious business that the prisoners have made a mockery of. My amendment should have passed when I offered it. We should make sure that this nonsense is stopped. There are protections in my legislation. If someone is being denied their religious practices, certainly there are protections there. But protections of the Religious Freedom Restoration Act would be denied these prisoners, and I believe rightfully so.

As I indicated, I addressed this problem several years go. The problem is inmates abuse the special protections provided under the Religious Freedom Restoration Act. During consideration of this bill in 1993 or 1994, I offered an amendment to exempt prisoners from the coverage of this act as I have indicated. I did so then because I feared these special protections would be abused by inmates. They have been abused by inmates. Whatever I said on the Senate floor was not enough, because they have even outdone my expectations.

I say, regrettably, I wish I would have been wrong. I wish that I had been wrong and that these inmates would not have abused the legislation that did pass. But it is apparent now that inmates are in fact abusing the special rights under this act.

I have worked with the chairman of the Judiciary Committee, my friend from the State of Utah, to address the larger problem of frivolous prisoner lawsuits, and we were able to accomplish something last year, maybe not enough. We may even need to revisit that to find out if we were able to plug all the holes with the Prisoner Litigation Reform Act.

I believe we need to do more to curb the ongoing abuses occurring under the Religious Freedom Restoration Act despite the Prisoner Litigation Reform Act.

Today I am introducing this bill which will prohibit the application of the Religious Freedom Restoration Act to inmates in a Federal, State, or local penal facility. I intend to meet with the Attorney General of the United States so that she appreciates the growing litigation that they face in the area. Criminals should not enjoy the same rights and privileges as law-abiding citizens. The sad commentary in our present system, Mr. President, is they enjoy more rights than many people who are outside prisons.

We need not go through the litany of cable television, gyms better than people can buy membership in on the outside, libraries that are unsurpassed, exercise areas, food, three square meals a day, nice clean clothes. They have a pretty good deal. One of the deals I do not think they should have is the ability to file these lawsuits with an unending array of ideas at the expense of the taxpayers.

The Religious Freedom Restoration Act sought to provide the legal protections supporting the right to freely exercise one's religious beliefs. Providing inmates with these same rights, I said, was a disaster and was a recipe for disaster; and it has been proven to be an understatement.

Our courts now have to spend their time wading through lawsuits filed by inmates that are ridiculous, for lack of a better description. I have described some of these lawsuits this morning. I have described them in the past. I ask my colleagues to join with me to take this pressure off our court system and off the taxpayers of this country. This is wrong, what they are doing, and we have the obligation to stop it.

By Mr. MCCAIN (for himself, Mr. THOMPSON, Mr. KERRY, Mr. FEINGOLD, Mr. KENNEDY, Mr. COATS, Mr. GLENN, Mr. LIEBERMAN, and Mr. BROWNBACK):

S. 207. A bill to review, reform, and terminate unnecessary and inequitable Federal subsidies; to the Committee on Governmental Affairs.

THE CORPORATE SUBSIDY REFORM COMMISSION ACT

● Mr. MCCAIN. Mr. President, today I am introducing legislation to establish an independent, nonpartisan Commission to eliminate corporate pork from the Federal budget.

The nine-member Commission, called the Corporate Subsidy Reform Commission, would be charged with reviewing all Federal subsidies to private industry, including special interest tax provisions. The Commission would identify those programs which are unnecessary, unfair, or not in the clear and compelling public interest, and recommend them to Congress for reform or termination. Congress would then be required to consider and vote on a comprehensive corporate subsidy reform package under expedited floor procedures.

Mr. President, our Nation cannot continue to bear the financial burden of servicing an ever-growing $5.3 trillion national debt—which equates to more than $19,000 in debt for every man, woman, and child in the country. We are asking millions of Americans—from families who receive food stamps to our men and women in uniform—to sacrifice in order to rein in our annual budget deficits and begin to pay down that debt.

As a matter of simple fairness, we have an obligation to ensure that corporate interests share the burden of deficit reduction. Last year, the CATO Institute and the Progressive Policy Institute identified 125 Federal programs that subsidize industry to the tune of $85 billion every year, and the Progressive Policy Institute found an additional $30 billion in tax loopholes for powerful industries.

The American public cannot understand why we continue to pay these huge subsidies to corporate interests,

at a time when we are asking average private citizens to tighten their belts. Corporate pork cannot be justified in an environment where our highest fiscal priority is balancing the Federal budget.

Let me say very frankly that I do not generally like the idea of commissions. It is a sad commentary on the state of politics today that the Congress cannot even cut those programs that are obviously wasteful, unnecessary, or unfair. Unfortunately, however, Members of Congress have demonstrated time and again their unwillingness to cut programs that serve their own interests.

For many years, I have tried to cut wasteful and unnecessary spending from the annual appropriations bills—with only limited success, I must admit. A little over a year ago, I offered an amendment to eliminate 12 particularly egregious corporate pork barrel programs, and I garnered only 25 votes in the Senate.

Clearly, Members will not gore their own ox, unless others are forced to do the same. The recently ordered military base closures were finally accomplished only through the workings of an independent commission established by Congress. It appears we have reached a point that, unless congress is forced to act to eliminate programs, it will not. Perhaps independent commissions are the only fair way to ensure that neither side is given an advantage to protect their special interest corporate pork.

The independent commission and expedited congressional review process established by this legislation would depoliticize the process and guarantee that the pain is shared. In reality, the corporate pork commission is probably the only means of achieving the meaningful reform that the public and our dire fiscal circumstances demand.

Mr. President, corporate pork wastes resources, increases the deficit, and distorts markets. Corporate pork has no place either in a free-market economy or in a budget where we are asking millions of Americans to sacrifice for the good of future generations.

Finally, Mr. President, I want to take a moment to thank my cosponsors on both sides of the aisle—Senators THOMPSON, KERRY, FEINGOLD, KENNEDY, COATS, GLENN, LIEBERMAN, and BROWNBACK—and Congressman KASICH, who will introduce similar legislation in the House. I also want to thank the several private organizations who have lent their good names in support of this legislation—the Progressive Policy Institute, Citizens Against Government Waste, and Friends of the Earth—and I ask unanimous consent that statements of support from these organizations be included in the RECORD. With their help, I intend to pursue this effort in the 105th Congress to enactment.●

By Mr. BOND:

S. 208. A bill to provide Federal contracting opportunities for small business concerns located in historically underutilized business zones, and for other purposes; to the Committee on Small Business.

THE HUBZONE ACT OF 1997

Mr. BOND. Mr. President, today I introduce the HUBZone Act of 1997. The purpose underlying this bill is to create new opportunities for growth in distressed urban and rural communities, which have suffered tremendous economic decline. This legislation would provide for an immediate infusion of cash through the creation of new jobs in our Nation's economically distressed areas. During the 8 years I served as Governor of Missouri, I met frequently with community leaders who were seeking help in attracting business and jobs to their cities, their central downtown areas, their towns, and the rural areas of the State. We tried various programs, including the enterprise-zone concept, and we met with limited success. I am proud of the successes that we achieved there. But now, as U.S. Senator and as chairman of the Committee on Small Business, I continue to receive similar pleas for help. I hear the concerns expressed to me by people from all over my State. Since we have had the opportunity to expand hearings in other States, we have heard from other States as well.

So far, nothing that we put in place is the best formula for bringing economic hope and independence to these communities. The message, however, has changed somewhat. Although help from the Federal Government has been forthcoming, there is still high unemployment and poverty. For example, when I was talking about a summer jobs program with one very, very good community leader, he told me that the summer jobs program was nice, but, he said, ''Stop sending me job training money. What we need right here in this part of the city is jobs, and more jobs. We have all the job training money we need. We need jobs to put these young people to work.'' And that is a problem that I hear time and time again.

Last March, I chaired a hearing before the Committee on Small Business on revitalizing inner cities and rural America and S. 1574, the HUBZone Act of 1996, which is nearly identical to the bill I am introducing today. Testifying before the committee were the cofounder and employees of e.villages, which has established a data management enterprise at Edgewood Terrace, an assisted multifamily housing project right here in Washington, DC. Residents of the housing project have been trained and they have established a new enterprise, Edgewood Technology Services, or ETS, which to me is a prototype HUBZone business.

The HUBZone Act of 1997 can have an important impact on our Nation's economically distressed inner cities as housing and income subsidies are reduced and put under constraints and as we work toward the national goal of moving people off the welfare rolls and into meaningful jobs.

Testifying in support of the HUBZone Act of 1996 was C. Austin Fitts, cofounder of e.villages, who testified about the ''significant relationship between'' S. 1574 and Federal housing policy. Ms. Fitts emphasized the importance of this legislation to create new inner city jobs for unemployed or underemployed residents.

The income generated by these new HUBZone jobs can offset the reduction of housing and income supplements. Furthermore, as an employee of ETS testified in support of the HUBZone bill, ''We at e.villages are encouraged that the Congress is trying to find some ways to get work for us to do, and to enhance our standard of living.''

I do not claim that the HUBZone Act of 1997 is going to solve all the problems, but I think it is a significant step in the right direction. These people who benefited from an enterprise started up in an assisted housing development without the benefit of the HUBZone provisions know that their example of success can be expanded. It can work and it can work on a broader basis. And it can bring more and more people into productive employment.

What distinguishes the HUBZone Act of 1997 from some other excellent proposals and well-intentioned efforts is that this bill would have an immediate impact on economically distressed communities. In recent years, numerous legislative proposals have stressed the importance of changing the U.S. Tax Code and providing other incentives to attract businesses to the needy communities. Many of these proposals have merit, and I have supported them. As I said, I have supported enterprise zones. I have recommended it to the Missouri General Assembly. As Governor, I signed it into law. I saw it work. I saw it could bring benefits to areas of high unemployment. I urge my colleagues on other committees to take a look at those measures which can have an impact. No one of them is going to be the total solution. Let us move forward on all of them.

But I ask my colleagues to focus on the critical differences between those proposals and the provisions of the HUBZone Act of 1997. Under the HUBZone bill, entire communities would benefit because we would create absolute incentives for small businesses to operate and provide employment directly within America's most disadvantaged inner city neighborhoods and in the areas of high unemployment and poverty in rural areas. It is a matter of timing. The HUBZone Act of 1997 helps communities and their residents now. This bill is a matter of direct focus. This is not just incentives; this is bringing business to the areas of high unemployment and high poverty.

Specifically, the HUBZone Act of 1997 creates a new class of small businesses eligible for Federal Government contract set-asides and preferences.

To be eligible, a small business must be located in what we call a Historically Underutilized Business Zone—

that is where HUBZone comes from, Historically Underutilized Business Zone—and not less than 35 percent of the work force must reside in a HUBZone. That is a key difference between some of the programs that are initially targeting to bring jobs to areas of need, bring jobs where social problems had flared up, such as the Watts riots many years ago.

It is important to contrast the HUBZone proposal with the Executive order promulgated by President Clinton to establish an empowerment contracting commission. I commend the President for focusing on the value of targeting Federal Government assistance to low-income communities, but I think the program falls short of meeting the goal of helping low-income communities and their residents. For example, under the President's plan, any business, large or small, located in a low-income community, would qualify for a valuable contracting preference, even if it does not employ one resident of the community. This is clearly a major deficiency or loophole when trying to assist the unemployed or underemployed.

A further weakness in the President's proposal is the failure to define more clearly criteria which makes a community eligible for this program. Unfortunately, we see the possibility, and it has been set forth in specific detail by the inspector general of HUD, that a lack of objective criteria may invite other influences in the political selection of an area to receive these preferences.

We must avoid creating another Federal Government program that ends up helping well-off individuals and companies while failing to have a significant impact on the poor, the unemployed and the underemployed.

I think the HUBZone Act of 1997 can and will make a difference. It makes a contracting preference available only if the small business is located in an economically distressed area and employs 35 percent of its work force from a HUBZone. This is a significant difference and one that is clearly designed to help attack deeply seated poverty in too many areas of the United States.

To qualify for the program, the small business must certify to the Administrator of the U.S. Small Business Administration that it is located in a HUBZone and will comply with certain rules governing subcontracting. In addition, a qualified small business must agree to perform at least 50 percent of the contract in a HUBZone, unless the terms of the contract require they be located outside the HUBZone. That would happen, for example, with a service contract requiring the small business' employees and workers be present in a Government-owned or leased building. In the latter case, no less than 50 percent of the work must be performed by employees who reside in a HUBZone.

Mr. President, the HUBZone Act of 1997 is designed to cut through Government redtape, while stressing a streamlined effort to place Government contracts and new jobs in economically distressed communities. Americans don't want another new law that creates a cottage industry of consultants necessary to fill out Government paperwork for a new Federal program.

Many of my colleagues are familiar with SBA's 8(a) Minority Small Business Program and the sometimes cumbersome rules for small businesses seeking to qualify for the program. Typically, an applicant to the 8(a) program has to hire a lawyer to help prepare the application and shepherd it through SBA. The procedure can take months. In fact, Congress was forced to legislate the maximum time the agency could review an application in our last-ditch effort to speed up the process.

The HUBZone Act of 1997 is specifically designed to avoid bureaucratic roadblocks that have delayed and discouraged small businesses from taking advantage of Government programs. Simply put, if you are a small business located in a HUBZone and you employ people from a HUBZone, at least 35 percent, then you are eligible. Once eligible, the small business notifies the SBA of its participation in the HUBZone program and is qualified to receive Federal Government contract benefits.

My goal is to have new Government contracts being awarded to small businesses in economically distressed communities. Therefore, I have included some fairly ambitious goals for each Government agency to meet.

In 1998, 1 percent of the total value of all prime Government contracts would be awarded to small businesses in HUBZones. The goal would increase to 2 percent in 1999, 3 percent in 2000 and 4 percent in the year 2001 and each succeeding year.

HUBZone contracting is a bold undertaking. Passage of the HUBZone Act of 1997 will create more hope for inner cities with high unemployment, distressed rural communities where poverty and joblessness reign and have too long been ignored. Most importantly, passage of the HUBZone Act will create hope for hundreds of thousands of underemployed or unemployed who long ago thought our country had given up on them. The hope is tangible; the hope is for jobs and income.

I think this bill can deliver. I soon hope to chair additional hearings before the Committee on Small Business on the HUBZone Act of 1997 and the role our Nation's small business community can play in revitalizing our distressed cities and counties. I firmly believe the HUBZone proposal has great merit. I urge my colleagues to study this proposal and give me their comments. I ask for cosponsors and I ask for good ideas. There are many, many ideas which have been incorporated in this bill that were presented to me by colleagues, both on the Small Business Committee and elsewhere.

I ask all of my colleagues, particularly if they are concerned about unemployment and underemployment in areas of their States—and I know of very few States that don't have that problem—I ask them to sit down with us and talk about how we can make this a better program. I would like to see it passed. I think it could provide a very significant boost and help get our country on the right track.

I ask unanimous consent that the text of the bill and a section-by-section analysis of the provisions be printed in the RECORD.

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

S. 208

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 ''HUBZone Act of 1997''.

SEC. 2. HISTORICALLY UNDERUTILIZED BUSINESS ZONES.

(a) DEFINITIONS.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(o) DEFINITIONS RELATING TO HISTORICALLY UNDERUTILIZED BUSINESS ZONES.—In this section:

''(1) HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—The term 'historically underutilized business zone' means any area located within one or more qualified census tracts or qualified nonmetropolitan counties.

''(2) SMALL BUSINESS CONCERN LOCATED IN A HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—The term 'small business concern located in a historically underutilized business zone' means a small business concern—

''(A) that is owned and controlled by one or more persons, each of whom is a United States citizen;

''(B) the principal office of which is located in a historically underutilized business zone; and

''(C) not less than 35 percent of the employees of which reside in a historically underutilized business zone.

''(3) QUALIFIED AREAS.—

''(A) QUALIFIED CENSUS TRACT.—The term 'qualified census tract' has the same meaning as in section 42(d)(5)(C)(i)(I) of the Internal Revenue Code of 1986.

''(B) QUALIFIED NONMETROPOLITAN COUNTY.—The term 'qualified nonmetropolitan county' means, based on the most recent data available from the Bureau of the Census of the Department of Commerce, any county—

''(i) that is not located in a metropolitan statistical area (as that term is defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986); and

''(ii) in which the median household income is less than 80 percent of the nonmetropolitan State median household income.

''(4) QUALIFIED SMALL BUSINESS CONCERN LOCATED IN A HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—

''(A) IN GENERAL.—A small business concern located in a historically underutilized business zone is 'qualified', if—

''(i) the small business concern has certified in writing to the Administrator that—

''(I) it is a small business concern located in a historically underutilized business zone;

''(II) it will comply with the subcontracting limitations specified in Federal Acquisition Regulation 52.219–14;

''(III) in the case of a contract for services (except construction), not less than 50 percent of the cost of contract performance incurred for personnel will be expended for employees of that small business concern or for employees of other small business concerns located in historically underutilized business zones; and

''(IV) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the small business concern (or a subcontractor of the small business concern that is also a small business concern located in a historically underutilized business zone) will perform work for not less than 50 percent of the cost of manufacturing the supplies (not including the cost of materials) in a historically underutilized business zone; and

''(ii) no certification made by the small business concern under clause (i) has been, in accordance with the procedures established under section 30(c)(2)—

''(I) successfully challenged by an interested party; or

''(II) otherwise determined by the Administrator to be materially false.

''(B) CHANGE IN PERCENTAGES.—The Administrator may utilize a percentage other than the percentage specified in under subclause (III) or (IV) of subparagraph (A)(i), if the Administrator determines that such action is necessary to reflect conventional industry practices among small business concerns that are below the numerical size standard for businesses in that industry category.

''(C) CONSTRUCTION AND OTHER CONTRACTS.—The Administrator shall promulgate final regulations imposing requirements that are similar to those specified in subclauses (III) and (IV) of subparagraph (A)(i) on contracts for general and specialty construction, and on contracts for any other industry category that would not otherwise be subject to those requirements. The percentage applicable to any such requirement shall be determined in accordance with subparagraph (B).

''(D) LIST OF QUALIFIED SMALL BUSINESS CONCERNS.—The Administrator shall establish and maintain a list of qualified small business concerns located in historically underutilized business zones, which list shall—

''(i) include the name, address, and type of business with respect to each such small business concern;

''(ii) be updated by the Administrator not less than annually; and

''(iii) be provided upon request to any Federal agency or other entity.''.

(b) FEDERAL CONTRACTING PREFERENCES.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following:

''SEC. 30. HISTORICALLY UNDERUTILIZED BUSINESS ZONES PROGRAM.

''(a) IN GENERAL.—There is established within the Administration a program to be carried out by the Administrator to provide for Federal contracting assistance to qualified small business concerns located in historically underutilized business zones in accordance with this section.

''(b) CONTRACTING PREFERENCES.—

''(1) CONTRACT SET-ASIDE.—

''(A) REQUIREMENT.—The head of an executive agency shall afford the opportunity to participate in a competition for award of a contract of the executive agency, exclusively to qualified small business concerns located in historically underutilized business zones, if the Administrator determines that—

''(i) it is reasonable to expect that not less than 2 qualified small business concerns located in historically underutilized business zones will submit offers for the contract; and

''(ii) the award can be made on the restricted basis at a fair market price.

''(B) COVERED CONTRACTS.—Subparagraph (A) applies to a contract that is estimated to exceed the simplified acquisition threshold.

''(2) SOLE-SOURCE CONTRACTS.—

''(A) REQUIREMENT.—The head of an executive agency, in the exercise of authority provided in any other law to award a contract of the executive agency on a sole-source basis, shall award the contract on that basis to a qualified small business concern located in a historically underutilized business zone, if any, that—

''(i) submits a reasonable and responsive offer for the contract; and

''(ii) is determined by the Administrator to be a responsible contractor.

''(B) COVERED CONTRACTS.—Subparagraph (A) applies to a contract that is estimated to exceed the simplified acquisition threshold and not to exceed $5,000,000.

''(3) PRICE EVALUATION PREFERENCE IN FULL AND OPEN COMPETITIONS.—In any case in which a contract is to be awarded by the head of an executive agency on the basis of full and open competition, the price offered by a qualified small business concern located in a historically underutilized business zone shall be deemed as being lower than the price offered by another offeror (other than another qualified small business concern located in a historically underutilized business zone) if the price offered by the qualified small business concern located in a historically underutilized business zone is not more than 10 percent higher than the price offered by the other offeror.

''(4) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—

''(A) SUBORDINATE RELATIONSHIP.—A procurement may not be made from a source on the basis of a preference provided in paragraph (1), (2), or (3) if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act.

''(B) SUPERIOR RELATIONSHIP.—A procurement may not be made from a source on the basis of a preference provided in section 8(a), if the procurement would otherwise be made from a different source under paragraph (1), (2), or (3) of this subsection.

''(5) DEFINITIONS.—In this subsection, the terms 'executive agency', 'full and open competition', and 'simplified acquisition threshold' have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act.

''(c) ENFORCEMENT; PENALTIES.—

''(1) IN GENERAL.—The Administrator shall enforce the requirements of this section.

''(2) VERIFICATION OF ELIGIBILITY.—In carrying out this subsection, the Administrator shall establish procedures relating to—

''(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made by a small business concern under section 3(o)(4)(A)); and

''(B) verification by the Administrator of the accuracy of any certification made by a small business concern under section 3(o)(4)(A).

''(3) RANDOM INSPECTIONS.—The procedures established under paragraph (2) may provide for random inspections by the Administrator of any small business concern making a certification under section 3(o)(4).

''(4) PROVISION OF DATA.—Upon the request of the Administrator, the Secretary of Labor and the Secretary of Housing and Urban Development shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this subsection.

''(5) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a 'small business concern located in a historically underutilized business zone' for purposes of this section, shall be subject to the provisions of—

''(A) section 1001 of title 18, United States Code; and

''(B) sections 3729 through 3733 of title 31, United States Code.''.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO THE SMALL BUSINESS ACT.

(a) PERFORMANCE OF CONTRACTS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking '',, small business concerns owned and controlled by socially and economically disadvantaged individuals'' and inserting '', qualified small business concerns located in historically underutilized business zones, small business concerns owned and controlled by socially and economically disadvantaged individuals''; and

(B) in the second sentence, by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,'';

(2) in paragraph (3)—

(A) by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,'' each place that term appears; and

(B) by adding at the end the following:

''(F) In this contract, the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act.'';

(3) in paragraph (4)—

(A) in subparagraph (D), by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,''; and

(B) in subparagraph (E), by striking ''small business concerns and'' and inserting ''small business concerns, qualified small business concerns located in historically underutilized business zones, and'';

(4) in paragraph (6), by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,'' each place that term appears; and

(5) in paragraph (10), by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,''.

(b) AWARDS OF CONTRACTS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) in subsection (g)(1)—

(A) by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,'' each place that term appears; and

(B) by inserting after the second sentence the following: ''The Governmentwide goal for participation by qualified small business concerns located in historically underutilized business zones shall be established at not less than 1 percent of the total value of all prime contract awards for fiscal year 1998, not less than 2 percent of the total value of all prime contract awards for fiscal year 1999, not less than 3 percent of the total value of all prime contract awards for fiscal year 2000, and not less than 4 percent of the total value of all prime contract awards for

fiscal year 2001 and each fiscal year thereafter.'';

(2) in subsection (g)(2)—

(A) in the first sentence, by striking '',, by small business concerns owned and controlled by socially and economically disadvantaged individuals'' and inserting '', by qualified small business concerns located in historically underutilized business zones, by small business concerns owned and controlled by socially and economically disadvantaged individuals'';

(B) in the second sentence, by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,''; and

(C) in the fourth sentence, by striking ''by small business concerns owned and controlled by socially and economically disadvantaged individuals and participation by small business concerns owned and controlled by women'' and inserting ''by qualified small business concerns located in historically underutilized business zones, by small business concerns owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women'';

(3) in subsection (h), by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,'' each place that term appears.

(c) OFFENSES AND PENALTIES.—Section 16 of the Small Business Act (15 U.S.C. 645) is amended—

(1) in subsection (d)(1)—

(A) by inserting '', a 'qualified small business concern located in a historically underutilized business zone','' after '' 'small business concern','; and

(B) in subparagraph (A), by striking ''section 9 or 15'' and inserting ''section 9, 15, or 30''; and

(2) in subsection (e), by inserting '', a 'small business concern located in a historically underutilized business zone','' after '' 'small business concern',''.

SEC. 4. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Section 2323 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by inserting before the semicolon the following: '', and qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)''; and

(2) in subsection (f), by inserting ''or as a qualified small business concern located in a historically underutilized business zone (as that term is defined in section 3(o) of the Small Business Act)'' after ''subsection (a))''.

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A(b)(13) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(13)) is amended—

(1) by striking ''concerns and small'' and inserting ''concerns, small''; and

(2) by inserting '', and qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)'' after ''disadvantaged individuals''.

(c) SMALL BUSINESS ECONOMIC POLICY ACT OF 1980.—Section 303(e) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(e)) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act).''.

(d) SMALL BUSINESS INVESTMENT ACT OF 1958.—Section 411(c)(3)(B) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(c)(3)(B)) is amended by inserting before the semicolon the following: '', or to a qualified small business concern located in a historically underutilized business zone, as that term is defined in section 3(o) of the Small Business Act''.

(e) TITLE 31, UNITED STATES CODE.—

(1) CONTRACTS FOR COLLECTION SERVICES.—Section 3718(b) of title 31, United States Code, is amended—

(A) in paragraph (1)(B), by inserting ''and law firms that are qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)'' after ''disadvantaged individuals''; and

(B) in paragraph (3)—

(i) in the first sentence, by inserting before the period ''and law firms that are qualified small business concerns located in historically underutilized business zones'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act.''.

(2) PAYMENTS TO LOCAL GOVERNMENTS.—Section 6701(f) of title 31, United States Code, is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) qualified small business concerns located in historically underutilized business zones.''; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act (15 U.S.C. 632(o)).''.

(3) REGULATIONS.—Section 7505(c) of title 31, United States Code, is amended by striking ''small business concerns and'' and inserting ''small business concerns, qualified small business concerns located in historically underutilized business zones, and''.

(f) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—

(1) ENUMERATION OF INCLUDED FUNCTIONS.—Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(A) in paragraph (11), by inserting ''qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act),'' after ''small businesses,''; and

(B) in paragraph (12), by inserting ''qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act (15 U.S.C. 632(o)),'' after ''small businesses,''.

(2) PROCUREMENT DATA.—Section 19A of the Office of Federal Procurement Policy Act (41 U.S.C. 417a) is amended—

(A) in subsection (a)—

(i) by inserting ''the number of qualified small business concerns located in historically underutilized business zones,'' after ''Procurement Policy''; and

(ii) by inserting a comma after ''women''; and

(B) in subsection (b), by adding at the end the following: ''In this section, the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act (15 U.S.C. 632(o)).''.

(g) ENERGY POLICY ACT OF 1992.—Section 3021 of the Energy Policy Act of 1992 (42 U.S.C. 13556) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''or'';

(B) in paragraph (3), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(4) qualified small business concerns located in historically underutilized business zones.''; and

(2) in subsection (b), by adding at the end the following:

''(3) The term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act (15 U.S.C. 632(o)).''.

(h) TITLE 49, UNITED STATES CODE.—

(1) PROJECT GRANT APPLICATION APPROVAL CONDITIONED ON ASSURANCES ABOUT AIRPORT OPERATION.—Section 47107(e) of title 49, United States Code, is amended—

(A) in paragraph (1), by inserting before the period ''or qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)'';

(B) in paragraph (4)(B), by inserting before the period ''or as a qualified small business concern located in a historically underutilized business zone (as that term is defined in section 3(o) of the Small Business Act)''; and

(C) in paragraph (6), by inserting ''or a qualified small business concern located in a historically underutilized business zone (as that term is defined in section 3(o) of the Small Business Act)'' after ''disadvantaged individual''.

(2) MINORITY AND DISADVANTAGED BUSINESS PARTICIPATION.—Section 47113 of title 49, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking the period at the end and inserting a semicolon;

(ii) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(3) the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act (15 U.S.C. 632(o)).''; and

(B) in subsection (b), by inserting before the period ''or qualified small business concerns located in historically underutilized business zones''.

HISTORICALLY UNDERUTILIZED BUSINESS ZONE ACT OF 1997— SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Historically Underutilized Business Zone Act of 1997, hereinafter referred to as the ''HUBZone Act of 1997.''

SECTION 2. HISTORICALLY UNDERUTILIZED BUSINESS ZONES

Definitions

Historically Underutilized Business Zone (HUBZone) is any area located within a qualified metropolitan statistical area or qualified non-metropolitan area.

Small business concern located in a Historically Underutilized Business Zone is a small business whose principal office is located in a HUBZone and whose workforce includes at least 35% of its employees from one or more HUBZones.

Qualified Metropolitan Statistical Area is an area where not less than 50% of the households have an income of less than 60% of the metropolitan statistical area median gross income as determined by the Department of Housing and Urban Development.

Qualified Non-metropolitan Area is an area where the household income is less than 80% of the non-metropolitan area median gross income as determined by the Bureau of the Census of the Department of Commerce.

Qualified Small Business Concern must certify in writing to the Small Business Administration (SBA) that it (a) is located in a HUBZone, (b) will comply with subcontracting rules in the Federal Acquisition Regulations (FAR), (c) will insure that not less than 50% of the contract cost will be performed by the Qualified Small Business.

Contracting Preferences

Contract Set-Aside to a qualified small business located in a HUBZone can be made by a procuring agency if it determines that 2 or more qualified small businesses will submit offers for the contract and the award can be made at a fair market price.

Sole-source Contracts can be awarded if a qualified small business submits a reasonable and responsive offer and is determined by SBA to be a responsible contractor. Sole-source contracts cannot exceed $5 million.

10% Price Evaluation Preference in full and open competition can be made on behalf of the Qualified Small Business if its offer is not more than 10% higher than the other offeror, so long as it is not a small business concern.

Enforcement; Penalties

The SBA Administrator or his designee shall establish a system to verify certifications made by HUBZone small businesses to include random inspections and procedures relating to disposition of any challenges to the accuracy of any certification. If SBA determines that a small business concern may have misrepresented its status as a HUBZone small business, it shall be subject to prosecution under title 18, section 1001, U.S.C., False Certifications, and title 31, sections 3729–3733, U.S.C., False Claims Act.

SECTION 3. TECHNICAL AND CONFORMING AMENDMENTS TO THE SMALL BUSINESS ACT

HUBZone Preference

The Small Business Act is amended to give qualified small business concerns located in HUBZones a higher preference than small business concerns owned and controlled by socially and economically disadvantaged individuals (8(a) contractors).

HUBZone Goals

This section sets forth government-wide goals for awarding government contracts to qualified small businesses. In Fiscal Year 1998, the goal will be not less than 1% of the total value of all prime contracts awarded to qualified small businesses located in HUBZones. In FY 1999, this goal will increase to 2%, in FY 2000, it will be 3%; and it will reach 4% in FY 2001 and each year thereafter.

Offenses and Penalties

This section provides that anyone who misrepresents any entity as being a qualified small business in order to obtain a government contract or subcontract can be fined up to $500,000 and imprisoned for not more than 10 years and be subject to the administrative remedies prescribed by the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–3812).

SEC. 4. OTHER TECHNICAL AND CONFORMING AMENDMENTS

This section makes technical amendments to other federal government agency programs that have traditionally provided contract set asides and preferences to disadvantaged small businesses by expanding each program to include small businesses located in an Historically Underutilized Business Zone.

By Mr. BREAUX:

S. 209. A bill to increase the penalty for trafficking in powdered cocaine to the same level as the penalty for trafficking in crack cocaine, and for other purposes; to the Committee on the Judiciary.

ILLEGAL DRUG TRAFFICKING LEGISLATION

● Mr. BREAUX. Mr. President, last year I was shocked to learn of the huge difference that exists between the Federal penalties for trafficking powder cocaine and for trafficking the exact same amount of crack cocaine.

Right now, selling five grams of crack cocaine results in the same 5-year mandatory minimum prison term as selling 500 grams of powder cocaine. Selling 50 grams of crack cocaine gets you a 10-year minimum sentence, while you'd have to sell 5,000 grams of powder cocaine to get the same 10 years in prison.

While these penalties are vastly different—100 times greater if you sell crack cocaine—the damage caused by these criminal acts are the same. Lives are lost, families are destroyed, careers are ruined, and our Nation itself is seriously threatened.

Tough penalties are necessary to send a clear signal that the United States will not tolerate selling illegal drugs. The answer to the problem presented by this wide difference in penalties is not to lower penalties for selling crack cocaine but to increase the penalties for selling powder cocaine.

Therefore, my legislation is very simple and very clear. Trafficking—that is the manufacture, distribution, or sale—of 50 grams of powder cocaine will result in a 10-year minimum sentence—the same as dealing in crack cocaine.

Manufacture, distribution or sale of 5 grams of powder cocaine will result in a 5-year minimum sentence—the same as dealing in crack cocaine.

I look forward to working with my colleagues to pass a bill that deters the use of all cocaine—powder and crack.●

By Mr. MURKOWSKI (for himself and Mr. AKAKA):

S. 210. A bill to amend the Organic Act of Guam, the Revised Organic Act of the Virgin Islands, and the Compact of Free Association Act, and for other purposes; to the Committee on Energy and Natural Resources.

AMENDMENT LEGISLATION

Mr. MURKOWSKI. Mr. President, I send to the desk for appropriate referral legislation dealing with the several issues of the territories of the United States and the freely associated States. This is legislation that is similar to measures reported by the Committee on Energy and Natural Resources at the end of the last Congress and could not be considered prior to adjournment, although we had managed to work out the text with both the House and the administration. I want to acknowledge the contribution of the staff of the Energy and Natural Resources Committee, as well as the Resource Committee in the House as well.

Section 1 of the legislation proposed will extend the agriculture and food programs that the United States provides for the populations on the atolls in the Marshall Islands affected by the nuclear testing program for an additional 5 years.

The support program was initiated under the trusteeship and continued under the Compact of Free Association for a limited time period. Unfortunately, the atolls are not yet capable of fully supporting the populations, and an additional extension time is necessary.

The amendment will also alter the program to reflect changes in population since the effective date of the compact. I visited many of these areas last year and certainly concur with the recommendations in section 1.

Section 2 of the legislation would repeal a provision of law dealing with the American Memorial Park in Saipan that would permit the government of the Commonwealth to take over the park. While I think some transfer could be considered of the marina area if the Commonwealth were interested, I think that the actual war memorial and interpretive areas should remain under the jurisdiction of the National Park Service during the remainder of the lease.

Section 3 of the legislation makes a series of technical amendments to permit each of the three educational institutions in the freely associated States to operate independently as land grant institutions rather than having to operate as a College of Micronesia.

I visited that college and was very impressed with the dedication and the commitment of those who were responsible for education as well as the people of the area. They are very proud of that institution. I can tell you, Mr. President, there is a tremendous sacrifice being made to foster higher education in the College of Micronesia.

These amendments, as we propose, reflect the new status of the representative Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands and were requested by the President of the College of Micronesia-FSM when Senator AKAKA and I visited the campus last year.

Section 4, hopefully, will resolve a different issue and one that is difficult for Guam relating to the disposal of real property that the Department of Defense no longer needs for military purposes. These lands were acquired by the United States for defense purposes after World War II when Guam had been liberated from occupation by Japan and while Guam was a closed defense area.

We have the residents of Guam and their attitude where they have indicated that they are prepared to support the Federal Government of the United States as they are a territory, but did so with the expectation—in other words, the people of Guam expected that those lands, if no longer needed for defensive purposes, would be returned to either public or private ownership in Guam.

The Department of Defense presently owns about one-third of Guam, although we have been able to return several parcels over the past few years. As part of the discussion on the Commonwealth, the administration had agreed to similar general transfer language, but when we considered this legislation last year, the Fish and Wildlife Service testified in opposition. The Fish and Wildlife Service, in testifying in opposition, said that they had a desire to acquire some portions for a wildlife refuge.

I am going to talk a little bit about the U.S. Fish and Wildlife Services' interest in acquiring this refuge because I think there is a lack of continuity that deserves some examination.

I am not going to go into the curious presentation from the Service at our hearing or the question that they are unwilling to expend any of their own money on the eradication of the brown snake, which has virtually overrun the island, but only note they were able to block any agreement on land transfer previously.

What I am proposing this year is a general transfer authorization for all lands except those within the proposed overlay that would be a refuge overlay that are identified on a map that is subject to transfer only by statute. That, hopefully, will release the other lands to Guam.

No specific disposition is recommended for the other lands, and Congress will consider them on a parcel-by-parcel basis as they become surplus to defensive needs. This will allow both Guam and the Fish and Wildlife Service to make their case, assuming both want the lands, or anyone else.

I note that Congress, not the Executive, has the plenary authority under the Constitution to deal with territories and with the disposal of Federal properties. So it is appropriate that Congress—Congress—decide on the disposition of these lands when the time is right. And I think the time is right. The people of Guam have waited long enough.

I also note that this is the only method I can think of that will guarantee the Government of Guam an opportunity to participate in the process. I hope that the administration will support the public process.

One of the inconsistencies here in this land that is in dispute, approximately 2,000 acres that is held by the Department of Defense—clearly the defensive requirements are no longer pertinent that necessitate the Department of Defense to hold this land. So it is basically surplus land. The U.S. Fish and Wildlife Service, in its interest in acquiring the land, the rationale is to protect the various species on the island and maintain a natural habitat. Some of the species may be facing endangerment.

The inconsistency here is the U.S. Fish and Wildlife Service's inability to address what is eradicating many of the species that are in decline and may be in danger. That is the brown snake. The island is virtually overrun with the brown snake. The U.S. Fish and Wildlife Service refuses to initiate any action to eradicate the brown snake, which is really causing the decline in various other species that are unique to the island.

So I think it is fair to say that the U.S. Fish and Wildlife Service has been somewhat irresponsible in its obligation to address the perpetrator causing the decline of the various birdlife on Guam and other species because the ferociousness of the brown snake is such that it has really taken over the island. And they refuse to spend any of their own money.

I had an opportunity to visit with the Governor of Guam. We had an evening at his residence. He brought several of the brown snakes in cages and gave us a little rundown of what the brown snakes were doing in overrunning Guam and the inability of the U.S. Fish and Wildlife Service to meet its obligation to address any type of control, of predator-type control, to reduce and eliminate this.

So I think it is fair to say the U.S. Fish and Wildlife Service has had its opportunity. They cannot justify taking land and just holding it in a habitat without addressing their obligation to try to enhance the species native to Guam by eradicating the brown snake. So until they come up with some kind of realistic program, I do not have much sympathy for their claim for further land.

I think this land should go to the Commonwealth of Guam and be disposed of under the legislative jurisdiction by the elected people of Guam and get on with it. I intend to pursue that with a great deal of energy to ensure that we see that land transferred over to Guam for their disposition and designation as they see fit. I think they are the most appropriate ones to address some procedure relative to the concern of the brown snake and its continued expansion over the land mass of Guam.

Section 5 of the legislation—I might add further, the Fish and Wildlife Service testified last year that they had 18 listed species on Guam. I am told that three are extinct and five more no longer occur on Guam. At the rate that the Fish and Wildlife Service is dealing with the brown snake, this will be probably the only refuge dedicated to an extinct species.

I think that says something about the stewardship of the U.S. Fish and Wildlife Service with regard to the unique species that were native to Guam, and now the brown snake has taken over and that seems to be taking care of whatever is left. But the Fish and Wildlife Service continues to, I think, neglect its responsibility.

Moving on, section 5 of the legislation, Mr. President, makes a technical change in statutes dealing with drug enforcement to provide equal treatment for all the territories as we contemplated when the original act passed.

Section 6 of the legislation would make two changes to the Revised Organic Act of the Virgin Islands. The first would authorize the issuance of parity rather than priority bonds secured by the Rum fund—an authority generally available in the States; and the second would provide that the Governor would retain his authority when absent from the territory on official business, which is often the case.

Section 7 of the legislation provides for an economic study commission for the Virgin Islands. I think the idea of a study on what the future holds is important and timely. I want to emphasize that I want this commission to focus directly and quickly on realistic economic alternatives that are helpful to the Virgin Islands and the Congress and not produce a theoretical tome to gather dust on a shelf.

Section 8 clarifies the availability of assistance from the Public Health Service in the radiation related medical surveillance and treatment programs provided under section 177(b) of the Compact of Free Association in the Republic of the Marshall Islands to persons directly exposed as a result of the nuclear testing program in the Marshall Islands.

We observed those areas when we were over there last year, as well as meeting with the people. I think this is an appropriate action.

Section 9 would clarify that residents of the freely associated States who are lawfully admitted to the United States under the Compact of Free Association are eligible for assistance under certain programs. This assistance had been provided before the effective date of the Compact under the Trusteeship and subsequently until a particularly strained and convoluted interpretation by attorneys who demonstrated a questionable familiarity with English created a problem. As usual, the answer was that the interpretation didn't make a lot of sense and was contrary to past practice, but if Congress disagreed, it could clarify the law. Well I disagree and this language should clarify the law. One problem that was raised is that under current law, aliens are given a preference over United States citizens and that creates inequities in small areas like Guam and the Commonwealth of the Northern Mariana Islands. The answer, of course, is to treat residents of the freely associated States like United States citizens, not to fabricate a legal opinion to deny them benefits altogether. Section 9

would provide equal but not preferential treatment, and I think that is fully in line with our intent under the Compact in encouraging residents of the freely associated States to come to the United States for work and study.

Section 10 would provide the consent of the United States to two amendments to the Hawaiian Homes Commission Act as required by the Admissions Act for the State of Hawaii. This language was requested by the administration and is supported by the Hawaii delegation and I'm pleased to say by my colleagues, Senators INOUYE and AKAKA.

Section 11 would provide for an economic study commission for American Samoa similar to that provided for the Virgin Islands. Like the Virgin Islands Commission, the Secretary of the Interior will be a voting member ex officio in recognition of his responsibilities. Given the unique cultural situation in American Samoa and the importance of land tenure and Matai rights, three of the seven members of the commission will come from nominations by the Governor. Unlike the Virgin Islands, American Samoa still relies on annual appropriations for both operations and infrastructure, and the commission is directed to focus on the needs in those areas over the next decade and look to ways to minimize that dependence. As part of its report, the commission is directed to provide an historical overview of the relationship between American Samoa and the United States and include copies of relevant documents in an appendix to the report. I want to emphasize that this is an overview and I do not want the commission to depart from its focus on what economic opportunities exist to replicate scholarly studies. There are certain constraints on economic development in American Samoa as a result of its status outside the customs territory of the United States, for example, and that needs to be noted.

Mr. President, the Committee on Energy and Natural Resources plans to hold a hearing on this legislation on February 6. I hope to be able to report the measure and have it considered by the Senate prior to the February recess. I hope that the administration will support this measure, although I know they dislike commissions and studies. I am not a great fan of them either, but from time to time a fresh look at a problem can be useful. I do not want these commissions to go beyond their limited life and I want them to produce something useful. I hope the administration will agree with the unique circumstances surrounding these provisions and the need for them. and recognize the obligation that we have to these areas under the Organic Act of Guam and the revised Organic Act of the Virgin Islands and the Compact of Free Association Act that mandates an oversight and continued responsibility by the Federal Government.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 210

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARSHALL ISLANDS AGRICULTURAL AND FOOD PROGRAMS.

Section 103(h)(2) of the Compact of Free Association Act of 1985 (48 U.S.C. 1903(h)(2) is amended by striking ''ten'' and inserting ''fifteen'' and by adding at the end of subparagraph (B) the following:

''The President shall ensure that the amount of commodities provided under these programs reflects the changes in the population that have occurred since the effective date of the Compact.''.

SEC. 2. AMERICAN MEMORIAL PARK.

Section 5 of Public Law 95–348 is amended by striking subsection (f).

SEC. 3. TERRITORIAL LAND GRANT COLLEGES

(a) LAND GRANT STATUS. Section 506(a) of the Education Amendments of 1972 (Public Law 92–318, as amended; 7 U.S.C. 301 note) is amended by striking ''the College of Micronesia,'' and inserting ''the College of the Marshall Islands, the College of Micronesia-FSM, the Palau Community College,''.

(b) ENDOWMENT. The amount of the land grant trust fund attributable to the $3,000,000 appropriation for Micronesia authorized by the Education Amendments of 1972 (Public Law 92–318, as amended; 7 U.S.C. 301 note) shall, upon enactment of this Act, be divided equally among the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau for the benefit of the College of the Marshall Islands, the Collage of Micronesia-FSM, and the Palau Community College.

(c) TREATMENT. Section 1361(c) of the Education Amendments of 1980 (Public Law 96–374, as amended; 7 U.S.C. 301 note) is amended by striking ''and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands)'' and inserting ''the Republic of the Marshall Islands, and the Federated States of Micronesia, and the Republic of Palau''.

SEC. 4. AMENDMENT TO THE GUAM ORGANIC ACT.

Section 28 of the Organic Act of Guam (48 U.S.C. 1421f) is amended by adding at the end the following new subsection:

''(d) TRANSFER OF EXCESS LAND. (1) At least 180 days before transferring to any Federal agency excess real property located in Guam other than real property identified on map ____ and dated ____ as land subject to transfer only by statute, the Administrator of General Services Administration shall notify the government of Guam that the property is available under this section.

''(2) The Administrator shall transfer to the government of Guam all right, title, and interest of the United States in and to excess real property located in Guam, by quit claim deed and without reimbursement, if the government of Guam, within 180 days after receiving notification under paragraph (1) regarding the property, notifies the Administrator that the government of Guam intends to acquire the property under this section.

''(3) For purposes of this subsection, the term 'excess real property' means excess property (as that term is defined in section 3 of the Federal Property and Administrative Services Act of 1949) that is real property.

''(4) With respect to any real property identified on the map referenced in paragraph (1) of this subsection, such property may not be transferred to another federal agency or out of federal ownership except pursuant to an Act of Congress specifically identifying such property.''.

SEC. 5. CLARIFICATION OF ALLOTMENT FOR TERRITORIES.

Section 901(a)(2) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)(2)) is amended to read as follows:

''(2) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands;''.

SEC. 6. AMENDMENTS TO THE REVISED ORGANIC ACT OF THE VIRGIN ISLANDS.

(a) TEMPORARY ABSENCE OF OFFICIALS. Section 14 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1595) is amended by adding at the end the following new subsection:

''(g) An absence from the Virgin Islands of the Governor or the Lieutenant Governor, while on official business, shall not be a 'temporary absence' for purposes of this section.''.

(b) PRIORITY OF BONDS. Section 3 of Public Law 94–392 (48 U.S.C. 1574c) is amended—

(1) by striking ''priority for payment'' and inserting ''a parity lien with every other issue of bonds or other obligations issued for payment''; and

(2) by striking ''in the order of the date of issue''.

(c) APPLICATION. The amendments made by subsection (b) shall apply to obligations issued on or after the date of enactment of this section.

SEC. 7. COMMISSION ON THE ECONOMIC FUTURE OF THE VIRGIN ISLANDS.

(a) ESTABLISHMENT AND MEMBERSHIP.

(1) There is hereby established a Commission on the Economic future of the Virgin Islands (the ''Commission''). The Commission shall consist of six members appointed by the President, two of whom shall be selected from nominations made by the Governor of the Virgin Islands. The President shall designate one of the members of the Commission to be Chairman.

(2) In addition to the six members appointed under paragraph (1), the Secretary of the Interior shall be an ex-officio member of the Commission.

(3) Members of the Commission appointed by the President shall be persons who by virtue of their background and experience are particularly suited to contribute to achievement of the purposes of the Commission.

(4) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them in the performance of their duties.

(5) Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

(b) PURPOSE AND REPORT.

(1) The purpose of the Commission is to make recommendations to the President and Congress on the policies and actions necessary to provide for a secure and self-sustaining future for the local economy of the Virgin Islands through 2020 and on the role of the Federal Government. In developing recommendations, the Commission shall—

(A) solicit and analyze information on projected private sector development and shifting tourism trends based on alternative forecasts of economic, political and social conditions in the Caribbean;

(B) analyze capital infrastructure, education, social, health, and environmental needs in light of these alternative forecasts; and

(C) assemble relevant demographic, economic, and revenue and expenditure data from over the past twenty-five years.

(2) The recommendations of the Commission shall be transmitted in a report to the President, the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives no later than June 30, 1999. The report shall set forth the basis for the recommendations and include an analysis of the capability of the Virgin Islands to meet projected needs based on reasonable alternative economic, political and social conditions in the Caribbean, including the possible effect of expansion in the near future of Cuba in trade, tourism and development.

(c) POWERS.

(1) The Commission may—

(A) hold such hearings, sit and act at such times and places, take such testimony and receive such evidence as it may deem advisable;

(B) use the United States mail in the same manner and upon the same conditions as departments and agencies of the United States; and

(C) within available funds, incur such expenses and enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out the Commission's functions.

(2) Within funds available for the Commission, the Secretary of the Interior shall provide such office space, furnishings, equipment, staff, and fiscal and administrative services as the Commission may require.

(3) The President, upon request of the Commission, may direct the head of any Federal agency or department to assist the Commission and if so directed such head shall—

(A) furnish the Commission to the extent permitted by law and within available appropriations such information as may be necessary for carrying out the functions of the Commission and as may be available to or procurable by such department or agency; and

(B) detail to temporary duty with the Commission on a reimbursable basis such personnel within his administrative jurisdiction as the Commission may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay or other employee status.

(d) CHAIRMAN. Subject to general policies that the Commission may adopt, the Chairman of the Commission shall be the chief executive officer of the Commission and shall exercise its executive and administrative powers. The Chairman may make such provisions as he may deem appropriate authorizing the performance of his executive and administrative functions by the staff of the Commission.

(e) FUNDING. There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary, but not to exceed an average of $300,000 per year, in fiscal years 1997, 1998 and 1999 for the work of the Commission.

(f) TERMINATION. The Commission shall terminate three months after the transmission of the report and recommendations under subsection (b)(2).

SEC. 8. PUBLIC HEALTH SERVICE PHYSICIANS.

The Secretary of Health and Human Services shall provide, on a non-reimbursable basis, assistance for direct radiation related medical surveillance and treatment programs under section 177(b) of the Compact of Free Association. Such programs may include the services of physicians, surgeons, dentists, nurses, and other health care practitioners.

SEC. 9. ELIGIBILITY FOR HOUSING ASSISTANCE.

(a) Section 214(a) of the Housing Community Development Act of 1980 (42 U.S.C. 1436a(a)) is amended—

(1) by striking ''or'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; or''; and

(3) by adding at the end the following new paragraph:

''(7) an alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: *Provided*, That, within Guam and the Commonwealth of the Northern Mariana Islands any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.''.

SEC. 10. CONSENT TO HAWAIIAN HOMES COMMISSION ACT AMENDMENTS.

As required by section 4 of the Act entitled ''An Act to provide for the admission to the State of Hawaii into the Union'', approved March 18, 1959 (73 Stat. 4), the United States consents to the following amendments to the Hawaiian Homes Commission Act, 1920, adopted by the State of Hawaii in the manner required for State legislation:

(1) Act 339 of the Session Laws of Hawaii, 1993, and

(2) Act 37 of the Session Laws of Hawaii, 1994.

SEC. 11. AMERICAN SAMOA STUDY COMMISSION.

(a) SHORT TITLE.—This section may be cited as ''The American Samoa Development Act of 1997''.

(b) ESTABLISHMENT AND MEMBERSHIP.

(1) There is hereby established a Commission on the Economic Future of American Samoa (the ''Commission''). The Commission shall consist of six members appointed by the President, three of whom shall be selected from nominations made by the Governor of American Samoa, and the Secretary of the Interior ex officio. The President shall designate one of the appointed members of the Commission to be Chairman.

(2) Members of the Commission appointed by the President shall be persons who by virtue of their background and experience are particularly suited to contribute to achievement of the purposes of the Commission.

(3) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them in the performance of their duties.

(4) Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

(c) PURPOSE AND REPORT.

(1) The purpose of the Commission is to make recommendations to the President and Congress on the policies and actions necessary to provide for a secure and self-sustaining future for the local economy of American Samoa through 2020 and on the role of the Federal Government. In developing recommendations, the Commission shall—

(A) solicit and analyze information on projected private sector development, including, but not limited to, tourism, manufacturing and industry, agriculture, and transportation and shifting trends based on alternative forecasts of economic, political and social conditions in the Pacific;

(B) analyze capital infrastructure, education, social, health, and environmental needs in light of these alternative forecasts;

(C) assemble relevant demographic, economic, and revenue and expenditure data from over the past twenty-five years;

(D) review the application of federal laws and programs and the effects of such laws and programs on the local economy and make such recommendations for changes in the application as the Commission deems advisable;

(E) consider the impact of federal trade and other international agreements, including, but not limited to those related to marine resources, on American Samoa and make such recommendations as may be necessary to minimize or eliminate any adverse effects on the local economy.

(2) The recommendations of the Commission shall be transmitted in a report to the President, the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives no later than June 30, 1999. The report shall set forth the basis for the recommendations and include an analysis of the capability of American Samoa to meet projected needs based on reasonable alternative economic, political and social conditions in the Pacific Basin. The report shall also include projections of the need for direct or indirect federal assistance for operations and infrastructure over the next decade and what additional assistance will be necessary to develop the local economy to a level sufficient to minimize or eliminate the need for direct federal operational assistance. As part of the report, the Commission shall also include an overview of the history of American Samoa and its relationship to the United States from 1872 with emphasis on those events or actions that affect future economic development and shall include, as an appendix to its report, copies of the relevant historical documents, including, but not limited to, the Convention of 1899 (commonly referred to as the Tripartite Treaty) and the documents of cession of 1900 and 1904.

(d) POWERS.

(1) The Commission may—

(A) hold such hearings, sit and act at such times and places, take such testimony and receive such evidence as it may deem advisable: *Provided*, That the Commission shall conduct public meetings in Tutuila, Ofu, Olosega, and Tau;

(B) use the United States mail in the same manner and upon the same conditions as departments and agencies of the United States; and

(C) within available funds, incur such expenses and enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out the Commission's functions.

(2) Within funds available for the Commission, the Secretary of the Interior shall provide such office space, furnishings, equipment, staff, and fiscal and administrative services as the Commission may require.

(3) The President, upon request of the Commission, may direct the head of any Federal agency or department to assist the Commission and if so directed such head shall—

(A) furnish the Commission to the extent permitted by law and within available appropriations such information as may be necessary for carrying out the functions of the Commission and as may be available to or procurable by such department or agency; and

(B) detail to temporary duty with the Commission on a reimbursable basis such personnel within his administrative jurisdiction as the Commission may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay or other employee status.

(e) CHAIRMAN. Subject to general policies that the Commission may adopt, the Chairman of the Commission shall be the chief executive officer of the Commission and shall exercise its executive and administrative

powers. The Chairman may make such provisions as he may deem appropriate authorizing the performance of his executive and administrative functions by the staff of the Commission.

(f) FUNDING. There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary, but not to exceed an average of $300,000 per year, in fiscal years 1997, 1998 and 1999 for the work of the Commission.

(f) TERMINATION. The Commission shall terminate three months after the transmission of the report and recommendations under subsection (c)(2).

By Mr. WELLSTONE:

S. 211. A bill to amend title 38, United States Code, to extend the period of time for the manifestation of chronic disabilities due to undiagnosed symptoms in veterans who served in the Persian Gulf war in order for those disabilities to be compensable by the Secretary of Veterans Affairs; to the Committee on Veterans Affairs.

THE PERSIAN GULF WAR VETERANS COMPENSATION ACT OF 1997

● Mr. WELLSTONE. Mr. President, I am pleased and proud to introduce a bill today that will address a serious problem faced by many Persian Gulf veterans—the denial of their claims for VA compensation based solely on the fact that their symptoms arose more than 2 years after they last served in the gulf. This bill is a companion to H.R. 466 introduced recently by Congressman LANE EVANS, ranking minority member of the House Veterans' Affairs Committee and an outstanding, energetic, and dedicated veterans' advocate.

This bill would extend from 2 to 10 years the time by which a veteran must develop symptoms after departing the gulf to be eligible to file for VA disability compensation.

While this legislation is simple and straight forward, there are a number of reasons that I am introducing it that require some elaboration.

Over a month ago Congressman EVANS and I sent a joint letter to VA Secretary Jesse Brown asking him to administratively extend the presumptive period from 2 to 10 years. We pointed out that the VA had denied about 95 percent of Persian gulf veterans' claims for undiagnosed illnesses and noted that in House testimony last March Secretary Brown himself said that ''most of the people we are denying, a large percentage of the people that we are denying, do not have a disease within the 2-year period.'' The Secretary added that there was a need to examine health problems emerging after that time period.

Mr. President, our letter also noted that continuing disclosures about possible exposures of our troops in the gulf to chemical weapons make it clear that it may take many years before we have a full understanding of what occurred during the Persian Gulf war and how these events affected our veterans. In closing, we stressed that gulf war veterans must be given the benefit of the doubt.

Although Secretary Brown has not yet replied to our letter, I know that he is a fearless and deeply committed advocate of our Nation's veterans and fully shares my view that America's veterans must always be given the benefit of the doubt. Under his leadership, the VA is now reviewing 11,000 cases to ensure that Persian Gulf veterans are indeed given the benefit of the doubt in the development and adjudication of their compensation claims.

Secretary Brown, at the request of President Clinton, is formulating a plan to expand the deadline for compensation which is to be submitted to the President in March. I anticipate that the administration will extend the deadline and believe that when this occurs they'll want congressional authorization. This bill is intended to grant them that authority.

Mr. President, so that my colleagues on both sides of the aisle will better understand my reasons for introducing this bill and why I believe the administration must and will extend the deadline for filing gulf war claims, permit me to list some of the key factors involved:

Sick Persian Gulf veterans shouldn't be kept in limbo, waiting years for the completion of research that should have been done years ago on the long-term health effects of low-level exposures to chemical and other agents;

In this connection, the experience of atomic veterans for over 50 years is hardly encouraging, with disputes among scientists persisting about the long-term effects of exposure to low-level radiation and about the validity of U.S. Government-funded radiation dose reconstructions—dose reconstructions which continue to be a major factor in denial of the vast majority of atomic veterans' claims for VA compensation;

While I'm pleased that research is finally taking place after a delay of over 5 years stemming from DOD's contention that there were no chemical exposures and that low-level exposures had no health effects, I fear there is a possibility that the etiology of Persian Gulf illnesses may never be known because needed scientific data was not collected immediately after the war and because of the complexity of figuring out the synergistic effects of various combinations of harmful agents present during the gulf war.

DOD and CIA are developing new information about possible chemical and other exposures during the gulf war that could further complicate the search for the causes of illnesses, while the media sometimes carry contradictory reports on such exposures that add to the uncertainties and anxieties of veterans and their families;

There are a number of serious diseases that are not manifested until 10 years or more after initial exposure to harmful agents.

In closing, Mr. President, I would like to pay tribute to the brave Minnesota veterans of Operation Desert Shield/Desert Storm whom I met with over a month ago. These Minnesota veterans who are my mentors told me about the illnesses and symptoms they developed after the war, including skin rashes, hair loss, reproductive problems, memory loss, headaches, aching joints, and internal bleeding. They said that they are scared to death about their health problems. I was deeply moved by their accounts and pledged to do all I could to help them. Moreover, I was distressed to learn that as of last month, out of 171 Minnesota gulf veterans who had filed disability claims, only 18 were receiving full or partial disability benefits.

As part of an action plan to help Minnesota gulf veterans, I told them that Congressman EVANS and I were writing to Secretary Brown to extend the 2-year period to 10 years. This initiative was supported both by Minnesota Persian Gulf veterans and State veterans' leaders and the bill I'm now introducing is a logical followup to the letter sent to Secretary Brown.

I am very pleased to note that this legislation is supported by the American Legion and the Vietnam Veterans of America and I urge my colleagues to join these organizations in strongly supporting this bill.

I dedicate this bill to the patriotic and courageous Minnesota veterans who served in the Persian Gulf war.

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. 211

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 ''Persian Gulf War Veterans Compensation Act of 1997''.

SEC. 2. EXTENSION OF PRESUMPTIVE PERIOD FOR MANIFESTATION OF CHRONIC DISABILITIES DUE TO UNDIAGNOSED SYMPTOMS IN VETERANS WHO SERVED IN THE PERSIAN GULF WAR.

Subsection (b) of section 1117 of title 38, United States Code, is amended to read as follows:

''(b) The provisions of subsection (a) shall apply in the case of a disability of a veteran becoming manifest within 10 years after the last date on which the veteran performed active military, naval, or air service in the Southwest Asia theater of operations during the Persian Gulf War.''●

By Mr. WELLSTONE:

S. 212. A bill to increase the maximum Federal Pell Grant award in order to allow more American students to afford higher education, and to express the sense of the Senate; to the Committee on Labor and Human Resources.

THE AFFORDABLE HIGHER EDUCATION THROUGH PELL GRANTS ACT

Mr. WELLSTONE. Mr. President, on January 21 I cosponsored S. 212, the Senate leadership's version of President Clinton's education tax deduction and credit plan. As an educator for 20

years and a Senator who believes in education, I couldn't be more enthusiastic that the President and the leadership have chosen to invest $35 billion over the next 5 years into higher education in this country. This is a marvelous goal and I support it without hesitation.

When it comes to investing a large sum of money into education, with the goal of making education more affordable for more students and working families, I think that it is important to explore every viable option. The tax system is one way to distribute money to working families. Another existing system is the Pell Grant Program, which is already geared toward targeting money at the students who are most likely not to attend college because of a lack of funds. Currently, Pell Grants go almost exclusively to lower income families. But that is not how Pell was designed. It was designed to reach families based on their need, not based on their income. If the Pell Grant Program were to be funded up to its authorized level, it would be of great benefit to many middle-class families as well as lower middle-class families. Because Pell is a proven entity and a great deal could be gained by investing in it, I rise today to introduce a second option on how to bring higher education into the reach of more Americans.

It is both saddening and shameful that in this country, the best predictor of attending college is the family income. We have engineered a system in this country where the doors to college are closed for those who have the most to gain from higher education. Only 16 percent of college freshmen come from households earning $20,000 a year or less. Only half of them actually graduate by age 24, and those that drop out cite the expense of college as their No. 1 concern. Clearly, we are doing an inadequate job of addressing the financial needs of our Nation's college bound youth. According to David Wessel of the Wall Street Journal, three-quarters of higher income students attend college. Half of middle income students attend college. But just one-quarter of poorest income students attend college.

As reported by the New York Times, ''the impact of [financial pressures on the poor] has been camouflaged by the steady growth in college attendance by more affluent students and by older people. But students from poor families have increasingly been left behind.'' The proportion of students earning college degrees by age 24 from families in the richest quarter of the population has jumped from 31 percent in 1979 to 79 percent in 1994. But the rate among students from families in the poorest population over the exact same years, 1979 to 1994, has stayed dead flat at 8 percent.

Looked at another way, affluent students in 1979 were 4 times more likely to graduate from college at 24 than poor students, but 10 times more likely in 1994. According to Thomas Mortenson, a higher education policy analyst in Iowa City, ''there has been a redistribution of educational opportunity. We have a greater inequality of educational attainment by age 24 than at any time during the last 25 years. Lower income kids are having a terrible time in higher education.''

Mr. President, 25 years ago, the Pell Program was created to respond to these discrepancies. The goal of Pell grants was to target funds toward those families that were likely to send their children to college but couldn't afford to. Consequently, Pell grants have no income limit. Even a family with a very high income is eligible for Pell, if it can be shown that they have need—for example, if they have several children and all the kids are in college, they are supposed to fall under the umbrella of the Pell Program. Pell grant awards go first to the neediest students, and are phased out as need decreases.

It was hoped that the Pell Program would pay off in three very important ways. First, it would enable more motivated but financially insecure students to gain the skills necessary to have productive lives. Second, it would increase the number of students enrolled in institutions of higher learning, and therefore reduce the cost of higher education for everyone. Third, it would provide to the Nation all the wonderful benefits of a well-educated population—a skilled work force, an improved ability to compete with other nations, a more financially secure country.

The Pell Grant Program has done a world of good. Over the 25 years, 68.2 million awards have been given out to an estimated 30 million students. Millions of lower income students have been able to attend college thanks to Pell. While Pell itself has been unable to actually reduce college tuitions, it is frightening to imagine how expensive colleges would be without the Pell Program, and how few lower income families would be able to obtain diplomas. In terms of overall effect of the Pell Program on our country, it is almost impossible to overstate the significance of having educated so many people who otherwise would have been unlikely to have increased their standard of living and the standards of their families and those around them.

When Pell was created, it bore a price tag of $47.5 million—in 1971 dollars, $118 million in 1997 dollars—and benefited 176,000 grant recipients. By 1980 it aided 2.7 million students, and today, the Pell Grant Program invests $6.4 billion a year into the education of 3.6 million grant recipients a year. We should not misinterpret the growth of this program as having successfully met the need for the program; however, Pell Grants are something of which the Congress should be extremely proud.

Let me explain how the Pell Program works, and how it manages to invest money right where it is needed. The formula is simple. First, the ''expected family contribution'' is determined through a formula used for all Federal student aid programs. The nickname for the expected family contribution is EFC. The EFC takes into account the family income, the number of dependents in the family, the number of family members currently receiving aid or attending college, and certain assets if the family earns more than $50,000 a year.

Here's an example. A typical two-earner family with an income of $50,000 that has one dependent child in college would be expected to contribute $4,000 per year toward their child's education. The EFC is then subtracted from the maximum Pell Grant award, which under current law is authorized to be $4,500. If you add up the cost of the child's tuition, fees, room, board, and books and it comes out to more than $4,500, then that family could expect to receive $500 in Pell grants.

This example also succeeds in demonstrating the problem with the Pell grant system. Currently, the Pell maximum award is, indeed, authorized to be $4,500. However, because there was not enough money available for the Pell Program last year, the appropriators lowered the Pell maximum award to only $2,700. That means that the average three person family, which I have described above, will not receive a Pell grant award if their income is over $38,600.

You see, Pell, as originally designed, is supposed to benefit the middle class. But for this to be successful, enough money must be allocated to the program so that the appropriations process can provide the statutory maximum award for each student.

But this has seldom happened over the years. While the statute sets the maximum award, limited funds available for the program have meant that appropriations language has almost always reduced the maximum award.

Because the appropriations process reduces the maximum Pell award every year, the purchasing power of Pell grants has dwindled in relation to college costs. During the 80's and 90's, college costs have increased at an annual rate of between 5 percent and 8 percent, increases that have always outpaced inflation. In 1980, the average Pell award of $882 paid 26 percent of the total annual cost of attendance for a 4-year public institution—$3,409—as compared to today, when the average award of $1,579 pays only 16 percent of total costs of $9,649. This, in light of the fact that, as stated in the Higher Education Act, the purpose of the Pell Grant Program is to provide an award that ''in combination with reasonable family and student contribution and—other Federal grant aid—will meet at least 75 percent of a student's cost of attendance.''

In real dollars, appropriations for the Pell Grant Program have increased by almost 50 percent since 1980. However, the appropriated maximum grant has

increased only 34 percent, which means that if inflation is factored in, the maximum award has fallen 13 percent. The result is that few families with incomes above $30,000 are likely to qualify for Pell. Last year, 54 percent of Pell recipients had incomes of less than $10,000.

This is where the bill I introduce today comes in. At a similar cost to the President's tax deduction and credit proposals—$35 billion over 5 years—my bill would increase the maximum Pell grant award to $5,000 from the present level of $2,700, thus bringing the award to the level at which it was created, adjusted for inflation. With the maximum increased, two intents would be accomplished. First, lower income students would be entitled to a larger award, thus having more opportunity to attend college. Second, because the maximum is increased, more students—including students from middle income families—would be eligible for Pell grants.

Here are a few illustrations. Under current law, a single, independent student with no children is ineligible for even a minimum Pell grant award if she has an income of over $9,800. My bill would effectively double the income eligibility; a single student with no children with an income of over $16,200 would still be eligible for Pell. If that student is a single parent, with two children, her income could be as high as $50,600 and she would still be eligible for Pell, as opposed to current law, which would eliminate her eligibility at an income of $38,800.

Parents trying to put a dependent child through college would also benefit from this bill. For example, a two-parent family with one child in college under current law is eligible only if their income is lower than $38,600. My bill would raise this eligibility to just under $50,000. Under Pell as it exists today, a family with four children in college receives the minimum award for each of their children as long as their income is lower than $72,600. Under this bill, an average family with four children in college would receive the minimum award for each child even if their income was as high as $107,300.

Now let me take a moment to explain why my proposal and the Clinton proposal are so deserving of the attention and support of this body.

These days, parents putting children through college, and young adults trying to do it on their own, are facing an increasingly daunting challenge. According to the college board, tuition costs have gone up more than 40 percent since 1985. Expressed in constant 1994 dollars, in 1985 tuition at the average private college was $10,058. By 1994, it was $14,486—a 44 percent increase. The average public college tuition was $2,095 in 1985. By 1994, it was $2,948—a 41 percent increase.

Last year alone, college tuition went up 6 percent, more than double the rate of inflation. Since 1980, college tuition has risen faster than medical costs, and more than twice as fast as family income.

For the last 10 years, tuition increases at State universities, community colleges, and technical colleges in Minnesota have ranged from 2 to almost 9 percent every single year. The largest trend in tuition increases began in the early 1980's. Since then, tuition at the University of Minnesota has risen 264 percent while the Consumer Price Index has gone up 71 percent—available chart shows only the increase between 1981 and 1992, that is why its numbers are smaller. Next academic year, a freshman at the UM Liberal Arts College will pay $3,618, plus a higher activity fee, plus a new $135 computing fee.

All over Minnesota—at private schools, public universities and colleges—tuition is going up faster than personal disposable income per capita.

Meanwhile, Government and private aid has declined. Federal appropriations for student aid fell 9 percent between 1980 and 1993 while States allocations fell 13 percent between 1986 and 1992. Corporate and private giving is far too small to offset these declines. Last year, the Federal Government spent nearly 40 percent less than it did the year before to help young people in Minnesota pay for college with Perkins loans. That's $1.5 million less in loans—3,214 fewer students getting help with their educations. Overall, public subsidies to higher education have shrunk from 45 percent of higher education's revenues in 1980 to 35 percent today, most of it to public universities. Today, more than 80 percent of America's college students study at public universities.

The trend in Federal aid to post-secondary students is towards more loans and away from grants. Although more money is now available to college students, a greater proportion of it must be paid back. According to the college board, the Federal Government invested 80 percent of its higher education budget into Grants and only 20 percent in loans. Today, those numbers are almost exactly reversed. This is a trend that affects poorer students much more than those who are wealthier, as poor students are forced to ask themselves—what if I don't graduate, what will I do with my debt? For these students, Pell Grants are a lifeline that keeps being pulled out of their reach.

Between 1985 and 1994, the share of college costs covered by the maximum Pell grant has steadily fallen for all types of institutions. For example, at a private university, a Pell Grant covered about 17 percent the cost of attendance in 1985. By 1994, that fell to about 10 percent. Similarly, at a public university, a Pell Grant paid for about 50 percent of college costs in 1985. In 1994, that figure was down to about 30 percent.

As a result, the average debt of those emerging from higher education grows at a rate much greater than inflation. Six-and-a-half million students, nearly half of the Nation's enrollment, have loans totaling $23.8 billion. Student borrowing has grown at an average rate of 22 percent per year since 1990, outpacing personal income growth four times over.

At Moorehead State University in Moorehead, MN, students are graduating with a staggering amount of debt. The average student graduating this spring who finished her degree in 4 years owes $10,762. For those who take 5 years to graduate, their debt is even higher, an average of $11,450. Those figures are both much higher than only 4 years ago.

The Minnesota State Colleges and Universities report that students graduating from 2-year colleges incur debt of $8,000 to $10,000. Those attending State universities are coming out of school with $15,000 to $20,000 of debt.

It should be no surprise that defaults cost the Federal Government over $2 billion a year.

It's not only students that are increasingly saddled with debt. Parents are borrowing more and more in order to finance their children's educations. The average loan in the PLUS Program—parental loans for undergraduate students—between 1992 and 1993 jumped from $3,260 to $4,525. In addition, the loan volume for the program grew by 26 percent.

If you are a student planning to attend college, or a parent planning on paying for your child, you'd better start saving now. Even if you plan to send your child to a State school, and even if you start saving 17 years in advance, you are going to have to start putting away a chunk of change.

Put together, rising costs of education and decreasing Government aid spells a greater burden on students and their families—a burden that is often impossible to initiate, and at times, if attempted, impossible to sustain.

But it's crazy for us to allow this to go on. Education is the key to the economic security of this Nation. By the year 2000, 50 percent of all new jobs will require a college education. It is not only our duty and obligation to assist these students in their higher education endeavors, it is essential for our country's future.

Higher education pays off. Every year of higher education increases an individual's income between 6 and 12 percent. In fact, a college-educated male earns 83% more during his lifetime than a noncollege-educated male.

Education is married to earnings potential. A high school dropout can expect to earn, on average, under $13,000 a year; a high school graduate, under $19,000; while a college graduate can earn over $32,000 and a master's degree recipient can earn over $40,000; a doctoral recipient can earn over $54,000; and a professional degree recipient earns, on average, over $74,000.

A recent survey of managers showed that an investment in the educational

level of their work force resulted in twice the return in increased productivity of a comparable increase in work hours and nearly three times the return of an investment in capital stock.

Data from the Society of Research also reveals that poverty rate declines as education levels increase. According to the 1992 Census, almost a quarter of the children under the age of 6 in the United States live in poverty. For many, the opportunity for a higher education lies only in the availability of Pell grants. Therefore, the Pell Grant Program is integral in breaking the chain of poverty. In fact, a national study conducted in 1995 revealed that AFDC recipients receiving financial aid are 80 percent more likely to graduate college and obtain permanent jobs.

Families who live in the middle or higher socio-economic bracket will send their children to college regardless of available financial assistance. Such is not the case for low income groups. Cut backs in financial assistance correlate to lack of enrollment and long term attendance among lower socio-economic groups. Without the availability of Pell grants, low income students will not have the opportunity for advanced degrees.

Mr. President, these are the reasons that I am introducing this bill. Ultimately, education is what separates those who achieve from those who can never realize the American Dream. The Government needs to invest in its citizens if democracy is to flourish, if we are to compete in the global marketplace, and if we are to live up to our responsibility to the American people.

As we plan for our country's future and that of its youth, let us be sure that a higher education is available and accessible for all. Let's create a system in the 21st century in which the No. 1 predictor of college attendance is not income, but rather desire.

I urge my colleagues to support S. 212 and to support this bill.

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:

S. 212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE

This bill shall be known as ''The Affordable Higher Education through Pell Grants Act.''

SEC. 2. FEDERAL PELL GRANTS.

Section 401(b)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(2)(A) is amended—

(1) in clause (iv), by striking ''and'' after the comma;

(2) in clause (v), by inserting ''and'' after the comma; and

(3) by inserting after clause (v) the following:

''(vi) $5,000 for academic year 1998–1999 and each of the 4 succeeding academic years,''.

SEC. 3. SENSE OF THE SENATE

It is the sense of the Senate that Congress should appropriate funds to provide the maximum Federal Pell Grant award permitted under this Act for academic year 1998–1999 and each of the 4 succeeding academic years to all eligible students.

AID CUTS PUT COLLEGE BEYOND REACH OF POOREST STUDENTS

(By Karen W. Arenson)

As state governments keep whittling away their support for higher education, tuition at public institutions is likely to continue rising as financial aid shrinks, moving college further beyond the reach of poor students, education experts say.

''There has been a redistribution of educational opportunity,'' said Thomas G. Mortenson, a higher education policy analyst in Iowa City and a senior scholar at the National Council of Educational Opportunity Associations in Washington.

To some experts, New York State is a case in point. Earlier this month, Gov. George E. Pataki proposed to increase tuition at New York's public universities by $400 a year and reduce state aid for the state's neediest students. Tuition at both the State University colleges and City University would rise to $3,600 a year at CUNY's four-year colleges and $3,800 a year at SUNY's.

Governor Pataki's proposals are not certain to be adopted; the Legislature rejected similar cuts last year. But experts say that higher tuition and reduced aid are inevitable.

''It's not this 400 bucks that Governor Pataki is proposing, it's the general pattern,'' said Arthur Levine, president of Teachers College at Columbia University.

At the City University of New York, which charged no tuition until 1976, tuition now accounts for 43 percent of the four-year college's budget, up from 19 percent seven years ago, CUNY's current budget proposal shows. Students there say any increases strain their stretched personal budgets.

''If tuition goes up, I don't think I will have to drop out, but it will not be pleasant,'' said Michelle Whitfield, a 34-year-old Harlem resident who is a voice student at Brooklyn College's Conservatory of Music.

She works 30 hours a week as a temporary worker doing word processing on Wall Street to pay for college and to support herself and her elderly mother. She earns too much to qualify for financial aid, she said, but had to withdraw from college last spring when she ran out of money. Although she is back in school, she said she might have to sit out future semesters if costs rise.

Higher-income and middle-income students have been going to college in evergreater numbers as college becomes an increasingly important factor in earning a decent salary. But lower-income students are going in about the same proportions that they did in the 1970's.

For decades, public universities have remained an important source of higher education for those who cannot afford private institutions. Today, more than 80 percent of America's college students study at public universities.

But while these universities are still considerably less expensive than most private colleges, they, too, are increasingly pricing themselves beyond the means of the poorest Americans, experts say.

Morton Owen Schapiro, dean at the University of Southern California and a specialist in the economics of higher education, said that tuition at public colleges and universities had risen by an annual average of 4 percent to 4.5 percent after inflation since the late 1970's, well ahead of the growth in financial aid.

''That is going to hurt a lot of people,'' he said, adding that while some private colleges offer generous financial aid to needy students, most of them go to public institutions.

He and Michael S. McPherson, president of Macalester College in St. Paul, Minn., have found that public subsidies to higher education have shrunk from 45 percent of higher education's revenues in 1980 to 35 percent today—most of it to public universities.

Compounding the financial problems of many students are continuing cuts in financial aid. Federal Pell grants, aimed at helping the nation's neediest students pay expenses other than tuition, now amount to a maximum of $2,700 for students at public four-year colleges. Mr. Mortenson calculates that had they kept pace with inflation, they would amount to more than $5,500 today.

For many students, state tuition support has declined, too. For 20 years, New York's Tuition Assistance Program—available to students with incomes below a certain level—had always covered tuition at the public universities for students who qualified. But in 1995, New York reduced the maximum award for public university students to 90 percent of tuition.

And now Governor Pataki has again proposed that students who receive Pell grants are well as state tuition assistance should receive less from the state program.

To some extent, the impact of these financial pressures has been camouflaged by the steady growth in college attendance by more affluent students and by older people. But students from poor families have increasingly been left behind.

Mr. Mortenson has found that the proportion of students earning college degrees by age 24 from families in the richest quarter of the population (in 1994, those with incomes above $65,000) has jumped sharply, to 79 percent in 1994 from 31 percent in 1979. But the rate among students from families in the poorest population (with 1994 incomes below $22,000) stayed flat over the same years, at about 8 percent.

Looking at the trend another way, affluent students were nearly four times as likely as the poorest ones to graduate from college by age 24 in 1979, but nearly 10 times as likely in 1994. ''We have greater inequality of educational attainment by age 24 than at any time in the last 25 years,'' Mr. Mortenson said. ''Lower income kids are having a terrible time in higher education.''

In 1995, City University surveyed 545 CUNY students who had left the university system even though they were in good academic standing. Thirty-four percent cited lack of money or the need to work as the reason. When the City University raised tuition by $750 in 1995 and New York State cut financial aid, the university saw a sudden drop in undergraduates: 138,000 students enrolled at its four-year colleges, 4,500 fewer than the previous year and about 6,500 fewer than projected.

''I am convinced that the reason was simply financial,'' said the university's Chancellor, W. Ann Reynolds. ''Students needed to have much more cash on the barrel. I am convinced that we are denying opportunity for poor students to go to college.''

City University, the nation's largest urban university system, has the highest percentage of students in poverty: about 40 percent of the 139,000 undergraduates at its four-year colleges come from households with incomes of less than 420,000. More than half of all undergraduates—85,000—qualify for Pell grants, and 72,000 get tuition assistance from New York State.

Still, more than half of the students also work: 27 percent hold full-time jobs and 32 percent work part time—many to support their own families, because 29 percent have children.

Even with multiple sources of support, many City University students encounter financial problems, which are reflected in their frequent moves in and out of school and the longer time they take to graduate.

Abdul Khan, a 36-year-old immigrant from Pakistan and an engineering major at City College, has been forced to skip semesters because his full-time job at a newsstand—which pays $13,000 a year—leaves little extra money after living expenses. If costs rise further, he said, ''maybe I can take one semester every year.''

Mr. Mortenson, the analyst of higher education, said that if financial aid is not increased, one answer for students like Mr. Khan may be to take out more loans—an often unpalatable option for those unsure they will be able to finish college.

David Torres, a 35-year-old psychology major at Brooklyn College who lives in Ozone Park, Queens, said he had weighed taking out a loan, now that he has exhausted his state tuition assistance.

''But loans terrify me,'' he said. ''What if I don't finish and can't pay if off? It's scary.''

Mr. Mortenson has an answer for students like Mr. Torres.

''What I tell kids,'' he said, ''is that as scary as paying for college is, you have to go. The only thing more expensive than going to college is not going to college.''

By Mr. LEAHY (for himself, Mr. FEINGOLD, and Mr. JEFFORDS):

S. 213. A bill to amend section 223 of the Communications Act of 1934 to repeal amendments on obscene and harassing use of telecommunications facilities made by the Communications Decency Act of 1996 and to restore the provisions of such section on such use in effect before the enactment of the Communications Decency Act of 1996; to the Committee on Commerce, Science, and Transportation.

LEGISLATION TO REPEAL THE INTERNET CENSORSHIP PROVISIONS OF THE COMMUNICATIONS DECENCY ACT

Mr. LEAHY. Mr. President, I rise to introduce a bill to repeal the Internet censorship law that the 104th Congress hastily passed as part of the new Telecommunications Act. I vigorously opposed the so-called Communications Decency Act, along with Senator FEINGOLD, as unnecessary, unworkable and—most significantly—unconstitutional.

So far, every court to consider this law has agreed with us that the Communications Decency Act flunks the constitutionality test. Two separate panels of Federal judges in Pennsylvania and New York have determined that the Internet censorship law serves as an unconstitutional ban on constitutionally protected indecent speech between and among adults communicating on-line. The first amendment to our Constitution will not tolerate this level of governmental intrusion into what people say to each other over computer networks. The matter is now before the Supreme Court, which will hear argument on this case in March.

We will be ready to pass this bill and repeal the Internet censorship law as soon as the Supreme Court acts—as I am confident they will—to strike down the law as unconstitutional. I exhort the Supreme Court to make clear that we do not forfeit our first amendment rights when we go on-line. Only such guidance will stop wrong-headed efforts in Congress and in State legislatures to censor the Internet.

The first amendment to our Constitution expressly states that ''Congress shall make no law abridging the freedom of speech.'' The CDA flouts that prohibition for the sake of political posturing and in the name of protecting our children. Giving full-force to the first amendment on-line would not be a victory for obscenity or child pornography. This would be a victory for the first amendment and for American technology.

Let us be emphatically clear that the people at risk of committing a felony under the CDA are not child pornographers, purveyors of obscene materials or child sex molesters. These people can already be prosecuted and should be prosecuted under longstanding Federal criminal laws that prevent the distribution over computer networks of obscene and other pornographic materials harmful to minors, under 18 U.S.C. sections 1465, 2252, and 2423(a); that prohibit the illegal solicitation of a minor by way of a computer network, under 18 U.S.C section 2252; and that bar the illegal luring of a minor into sexual activity through computer conversations, under 18 U.S.C section 2423(b). In fact, we recently passed unanimously a new law that sharply increases penalties for people who commit these crimes.

There is absolutely no disagreement in the Senate about wanting to protect children from harm. All 100 Senators, no matter where they are from, would agree that obscenity and child pornography should be kept out of the hands of children and that those who sexually exploit children or abuse children should be vigorously prosecuted. As a former prosecutor, I have prosecuted people for abusing children. This is something where there are no political or ideological differences among us.

But that is not the issue before us. In the heated debate over censoring the Internet, I fear that many Members, who have never used a computer let alone surfed the Internet, may have been under the misapprehension that the Internet is full of sexually explicit material. While such material may be accessible on the Internet, one court estimated that ''the percentage of Internet addresses providing sexually explicit content would be well less than one-tenth of 1 percent of such addresses'' and that ''as much as 30 percent of the sexually explicit material currently available on the Internet originates in foreign countries.'' Shea versus Reno, 930 F. Supp. 916, 931, S.D.N.Y. 1996. Banning indecent material from the Internet is like using a meat cleaver to deal with the problems better addressed with a scalpel.

We all want to protect our children from offensive or indecent online materials. But we must be careful that the means we use to protect our children does not do more harm than good. We can already control the access our children have to indecent material with blocking technologies available for free from some online service providers and for a relatively low cost from software manufacturers. At some point we ought to stop saying the Government is going to make a determination of what we read and see, the Government will determine what our children have or do not have. Let us encourage the technology that empowers parents—not the government—to make choices for about what is best for their children.

The CDA is a terribly misguided effort to protect children that instead tramples on the free speech rights of all Americans who want to enjoy this medium. The Internet censorship law takes a blunderbuss approach that puts all Internet users at risk of committing a crime. It penalizes with 2-year jail terms and large fines anyone who transmits indecent material to a minor, or displays or posts indecent material in areas where a minor can see it. By criminalizing what is vaguely referred to as ''indecent'' speech, this law imposes far-reaching new Federal crimes on Americans for exercising their free speech rights on-line and on the Internet.

What strikes some people as indecent or patently offensive may look very different to other people in another part of the country. Given these differences, a vague ban on patently offensive and indecent communications may make us feel good but threatens to drive off the Internet and computer networks an unimaginable amount of valuable political, artistic, scientific, health and other speech. Let me give a couple of examples of what is at risk.

A university professor would risk prosecution by making available on-line to a freshman literature class excerpts from certain classics, such as Catcher in the Rye or Of Mice and Men, all of which have been challenged in a number of communities as indecent for minors.

Forwarding to a child an on-line version of Seventeen magazine, which is a frequently challenged school library material, might violate this law, even though children are free to buy the magazine at newsstands.

An e-mail message from one teenager to another with certain four-letter swear words would violate this law.

Museums with Web sites will think twice before posting images of classic nude paintings or sculptures showing sexual organs, that are suspect under the new censorship law.

On-line discussions about AIDS and other sexually transmitted diseases may be illegal under this new law. No one knows.

Advertisements that would be perfectly legal in print could subject the advertiser to criminal liability if circulated on-line.

In short, the Internet censorship law leaves in the hands of the most aggressive prosecutor in the least tolerant

community the power to set standards for what every other Internet user may say on-line.

In bookstores and on library shelves, the protections of the first amendment are clear. The courts are unwavering in the protection of indecent speech. Altering the protections of the first amendment for online communications could cripple this new mode of communication.

The Internet is an American technology that has swept around the world. As its popularity has grown, so have efforts to censor it in Germany, in China, in Singapore, and other countries. We should be leading the efforts to keep the Internet uncensored, and taking the high ground to champion first amendment freedoms. Instead, however, the Communications Decency Act tramples on the principles of free speech and free flow of information that has fueled the growth of this medium.

Let us get this new unconstitutional law off the books as soon as possible. This bill would repeal the provisions of Communications Decency Act that result in a ban of constitutionally protected on-line speech, and simply restores the provisions of section 223 of the Communications Act of 1934 in effect before passage of the CDA.

Mr. President, in the last Congress this body and the other body passed a piece of legislation called the Communications Decency Act. It was done I believe because many felt a concern about what might be seen by children on the Internet. Unfortunately—and I said this at the time on the floor—the bill is overly broad. It stepped into the first amendment in a way that would not have been done with anything else.

We would not have gone down the road of trampling on the first amendment and say that we would have to close down all magazine stores because they might sell a magazine, which while acceptable to adults might be objectionable to children. We would never say that we would close every library in the country, including the Library of Congress, because it may have books there that while acceptable to all adults might not be acceptable to children. And we would never pass a law to close down a publishing house because it published books that might be acceptable to adults but unacceptable to children.

But basically that is what we said we would do with the Internet. We said that even though the Internet may be providing something that is acceptable to adults, we would basically close down large segments of it with criminal penalties because it might have something unacceptable to children.

The first amendment to our Constitution says that Congress shall make no law abridging the freedom of speech. And what the CDA, or the Communications Decency Act, did was to go way beyond what we believe the first amendment stands for. I do not in any way hold any brief for child pornographers or child abusers. I am one of the few people in this body who have sent child abusers to prison. Whenever I had somebody who was involved in child molestation or abusing when I was the prosecutor, I prosecuted this as a top priority in my office and sought the strongest penalties possible. Everyone, whether parents or grandparents, would do everything possible to stop anybody from abusing our children. As parents, we would take the responsibility to make sure that our children are protected from offensive or indecent material, whether it is online, or the Internet, or elsewhere.

But, unfortunately, no matter what every single one of us feel, Republicans or Democrats, or no matter where we are from, the CDA is a terribly misguided effort to protect children that instead tramples on the free speech of all Americans who want to use the Internet. It takes a blunderbuss approach. It puts all Internet users at risk of committing a crime. It penalizes by a 2-year jail term and large fines anyone who transmits indecent material to a minor, or places or posts indecent material in areas where a minor might see it—not whether they do or not but they might.

What this means is a university professor risks prosecution by making available online to a freshman literature class excerpts from Catcher in the Rye, or Of Mice and Men—all of which have been challenged in communities as indecent for minors. Or forwarding to a child online a version of Seventeen magazine might violate the law, even though any child could buy that magazine freely at a newsstand. E-mail messages from one teenager to another using some four-letter words violates the law. Museums for web sites are going to think twice before posting images of something like Michelangelo's David because showing sexual organs would be specifically excluded under this law. Online discussions about sexually transmitted diseases could be illegal. Advertisements that would be illegal in print could be illegal here.

So it is because of that, because it went so far, that the courts have looked at this and have unanimously struck it down. They have said that it is unconstitutional. Multijudge panels in Philadelphia and New York City came unanimously to that view, and it is now before the U.S. Supreme Court.

Experts from the right to the left that I have spoken with on constitutional law predict that the Supreme Court will uphold the unanimous decision of the lower Federal court and find it unconstitutional.

So I am going to introduce a bill to repeal the Internet censorship parts of the Communications Decency Act, and I will do this along with Senator FEINGOLD because the law is unnecessary, unworkable, and, most significantly, unconstitutional. There are better ways of doing this. Let us work with computer software producers on programs that can screen out material which parents find offensive and allow a parent to know where a child has gone on the Internet and allow parents to make this decision—just as when my children were growing up before the Internet, I would say, ''I know you can go to such and such a bookstore and buy this or that magazine but your mother and I prefer you do not. And let us instead give you some ideas of better things to read,'' and work with them.

Technology will allow parents to do that. It will allow them to block out offensive material. But perhaps more importantly when their children become computer literate—something that those of our age may not be able to do—allow parents to work with their children and find out how the Internet works and find out about the tremendous things available from the Smithsonian, the Library of Congress, the Vatican museum, the sports pages, computer games, information from major magazines and writers—and things that are sometimes junkie and frivolous but harmless nonetheless.

That is what we should do and not be in the position of putting the heavy hand of Government censorship on something that is so quintessentially American as the Internet, which has shown the genius of what we are able to do in this country and how we are able now to bring it to all other countries around the world. This happened because—and very specifically because—the Government stepped out of the picture and allowed the genius of individuals to do it. That means, just like the publishing of newspapers, magazines and everything else, that you get a certain amount of junk that gets in there. Most of us can pretty well decide what is junk and what is not. We discard that, and we go on to the best. We can do this.

So I summit, Mr. President, on behalf of myself, Mr. FEINGOLD, and Mr. JEFFORDS, legislation as I said, to repeal the Internet censorship provisions of the Communications Decency Act, and simply restore the law in effect before we banned constitutionally protected on-line speech. I ask unanimous consent that it be appropriately referred.

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. 213

Be it enacted by the Senate and House of representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF PROVISIONS ON OBSCENE AND HARASSING USE OF TELECOMMUNICATIONS FACILITIES ENACTED BY COMMUNICATIONS DECENCY ACT OF 1996.

Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended by striking subsections (a) and (d) through (h).

SEC. 2. RESTORATION OF PROVISIONS ON OBSCENE AND HARASSING USE OF TELECOMMUNICATIONS FACILITIES IN EFFECT BEFORE COMMUNICATIONS DECENCY ACT OF 1996.

Section 223 of the Communications Act of 1934 (47 U.S.C. 223), as amended by section 1 of this Act, is further amended by inserting before subsection (b) the following new subsection (a):

''(a) Whoever—

''(1) in the District of Columbia or in interstate or foreign communications by means of telephone—

''(A) makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent;

''(B) makes a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number;

''(C) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

''(D) makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number; or

''(2) knowingly permits any telephone facility under his control to be used for any purpose prohibited by this section,

shall be fined not more than $50,000 or imprisoned not more than six months, or both.''.

Mr. FEINGOLD. Mr. President, I am pleased to join the Senator from Vermont [Mr. LEAHY] in introducing this legislation to repeal the Communications Decency Act [CDA]. I believe Congress made a grave mistake in enacting the CDA and it is time to correct it.

Congress passed the CDA without taking the time to fully examine its ability to protest children and its effect on the free speech rights of Americans. As a result, the CDA has been the subject of a court challenge since the day it was signed into law. Last June, a three-judge Federal panel granted a preliminary injunction against the Federal enforcement of key provisions of the CDA finding them unconstitutional. The Supreme Court will hear oral arguments in the first amendment challenge to the CDA on March 19, 1997.

The Communications Decency Act, enacted as part of the Telecommunications Act of 1996, subjected anyone who transmitted indecent material to minors over the Internet to criminal sanctions. The commonly accepted definition of ''indecency'' includes mild profanity.

I strongly opposed the CDA not only because I believe it violates our constitutionally guaranteed right to free speech, but also because I feel strongly that it fails to truly protect children from those who might seek to harm them.

The fundamental error of CDA proponents was their attempt to apply decades-old broadcasting standards to an emerging technology that defies categorization—the Internet. While the Supreme Court has allowed speech restrictions for broadcast media, it has made clear that such restrictions do not violate the first amendment only if there is a compelling Government interest in restricting speech and the restriction is applied in the least restrictive means. It is predominantly the nature of the medium which determines whether or not a criminal prohibition on speech is the least restrictive means of meeting a compelling Government interest. in the case of a radio or television, the fact that a child might simply turn on a station and hear offensive material provides a basis for allowing an arguably tighter restriction on indecent speech. Restraints upon newspapers and other print media, which are inherently noninvasive, have been very limited.

While the Net bears some similarities to both media, it is a unique and ever-changing communications medium. One can be a speaker, a publisher and a listener using the Internet. Currently, anyone with the know-how and the proper hardware and software can set up a Web page, become a de facto publisher, making information available to others at little cost to oneself or the consumer of that information. One can also post a message to an Internet newsgroup, an informal and often unmoderated information sharing forum, which can then be ready by anyone accessing that newsgroup.

The promise of the Internet is its free flow of information across vast physical distances and boundaries to anyone with access to a computer and an Internet connection. The threat of the Communications Decency Act is its undeniable ability to stifle this free-flowing speech on the Net. Mr. President, that threat exists because Congress failed to recognize the danger of applying an overly broad indecency standard to a technology with the characteristics of the Internet.

Out of fear of prosecution, the vagueness of the indecency standard, and an inability to control the age of those who might ultimately see the information, speakers on the Net will become silent. Those offering commercial access to the Internet will be required to restrict access to speech in order to protect themselves from criminal prosecution.

Last year, a panel of three Federal judges came to the same conclusion: this statute cannot be enforced without violating the Constitution. The Court stated:

> . . . the Internet may fairly be regarded as a never-ending worldwide conversation. The Government may not, through the CDA, interrupt that conversation. As the most participatory form of mass speech yet developed, the Internet deserves the highest protection from government intrusion.

I believe the Federal Court came to this conclusion because the judges took the time to study and understand the characteristics of the Net before rushing to judgement—something Congress failed to do.

It is time to undo that mistake by repealing the Communications Decency Act. Not only does the CDA infringe on free speech rights of adults, it does not protect children from those who seek to harm them using the Internet, and it may actually impede the development of more sophisticated screening software in the marketplace. When Congress passed the CDA, there already existed filtering software which gave parents the ability to filter out objectionable content such as indecency, violence, adult topics etc. The passage of the CDA necessarily will reduce demand for such software products, which are effective in preventing children's access to such content. The CDA merely provides parents with a false sense of security that the Federal Government will somehow protect their children, so they no longer have to worry about the Internet themselves.

And that is the irony, Mr. President. The CDA is simply not capable of protecting children on the Internet. Much Internet content originates on foreign soil, making effective enforcement of the CDA impossible. Furthermore, the dissemination of materials which we all agree are most harmful to children—obscenity and child pornography—is already illegal on the Internet and subject to hefty criminal sanctions. We should put our law enforcement resources into aggressively prosecuting these criminal violations and recognize that the Internet is merely another tool used by those seeking to harm our children. We must prosecute the crime, not demonize the medium used by the criminal.

Mr. President, it is time to repeal the Communications Decency Act—an unconstitutional statute that fails to protect children. We owe that to all Americans and most important, we owe it to this country's children.

By Mr. AKAKA (for himself, Mr. INOUYE and Mr. GLENN):

S. 214. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to combat fraud and price-gouging committed in connection with the provision of consumer goods and services for the cleanup, repair, and recovery from the effects of a major disaster declared by the President, and for other purposes; to the Committee on Environment and Public Works.

THE DISASTER VICTIMS CRIME PREVENTION ACT OF 1997

Mr. AKAKA. Mr. President, today I am introducing the Disaster Victims Crime Prevention Act of 1997, on behalf of myself, Senator INOUYE, and Senator GLENN to combat fraud against victims of Federal disasters. Like similar legislation I introduced in the 103d and 104th Congresses, this measure would make it a Federal crime to defraud persons through the sale of materials or services for cleanup, repair, and recovery following a federally declared disaster.

We are all aware of the tremendous costs incurred during a natural disaster. California is recovering from the devastating floods that have caused nearly $1.6 billion in damage and has made 42 of the State's 58 counties eligible for disaster assistance. Just before

the dams and levees in California overflowed, the Pacific Northwest was hit with violent storms, and recently Minnesota, North Dakota and South Dakota have been declared Federal disaster areas, as have 13 counties in Idaho and four in Nevada.

During the 1990's, a number of deadly natural disasters have occurred throughout the United States and its territories including hurricanes, floods, earthquakes, tornadoes, wild fires, mudslides, and blizzards. Many were declared Federal natural disasters like Hurricane Iniki, which in 1993 leveled the island of Kauai in Hawaii causing $1.6 billion in damage and Hurricane Andrew which devastated southern Florida.

Through instant, onscreen media coverage, the Nation has had ringside seats to the destruction caused by these catastrophic events. We sympathetically watch television as families sift through the debris of their lives and as men and women assess the loss of their businesses. We witness the concern of others, such as Red Cross volunteers passing out blankets and food and citizens traveling hundreds of miles to help rebuild strangers' homes.

Despite the outpouring of public support that follows these catastrophes, there are unscrupulous individuals who prey on trusting and unsuspecting victims, whose immediate concerns are applying for disaster assistance, seeking temporary shelter, and dealing with the rebuilding of their lives.

The Disaster Victims Crime Prevention Act of 1997 would criminalize some of the activities undertaken by these unprincipled people whose sole intent is to defraud hard-working men and women. This legislation will make it a Federal crime to defraud persons through the sale of materials or services for cleanup, repair, and recovery following a federally declared disaster.

Every disaster has examples of individuals who are victimized twice—first by the disaster and later by unconscionable price hikes and fraudulent contractors. In the wake of the 1993 Midwest flooding, Iowa officials found that some vendors raised the price of portable toilets from $60 a month to $60 a day. In other flood-hit areas, carpet cleaners hiked their prices to $350 per hour, while telemarketers set up telephone banks to solicit funds for phony flood-related charities.

Nor will television viewers forget the scenes of beleaguered south Floridians buying generators, plastic sheeting, and bottled water at outrageous prices in the aftermath of Hurricane Andrew.

After Hurricane Iniki devastated the island of Kauai, a contractor promising quick home repair took disaster benefits from numerous homeowners and fled the area without completing promised construction. These fraud victims have yet to find relief.

While the Stafford Natural Disaster Act currently provides for civil and criminal penalties for the misuse of disaster funds, it fails to address contractor fraud. To fill this gap, our legislation would make it a Federal crime to take money fraudulently from a disaster victim and fail to provide the agreed-upon material or service for the cleanup, repair, and recovery.

The Stafford Act also fails to address price gouging. Although it is the responsibility of the States to impose restrictions on price increases prior to a Federal disaster declaration, Federal penalties for price gouging should be imposed once a Federal disaster has been declared. I am pleased to incorporate in this measure an initiative Senator GLENN began following Hurricane Andrew to combat price gouging and excessive pricing of goods and services. Fortunately, citizens in Hawaii were spared spiraling cost increases after Hurricane Iniki because the State government acted swiftly to counteract attempts at price gouging by instituting price and rent freezes.

There already is tremendous cooperation among the various State and local offices that deal with fraud and consumer protection issues, and it is quite common for these fine men and women to lend their expertise to their colleagues from out-of-State during a natural disaster. This exchange of experiences and practical solutions has created a strong support network.

However, a Federal remedy is needed to assist States when a disaster occurs. There should be a broader enforcement system to help overburdened State and local governments during a time of disaster. The Federal Government is in a position to ensure that residents within a federally declared disaster area do not fall victim to fraud. Federal agencies should assist localities to provide such a support system.

In addition to making disaster-related fraud a Federal crime, this bill would also require the Director of the Federal Emergency Management Agency to develop public information materials to advise disaster victims about ways to detect and avoid fraud. I have seen a number of antifraud materials prepared by State consumer protection offices and believe this section would assist States to disseminate antifraud-related material following the declaration of a disaster by the President.

I look forward to working with my colleagues to pass legislation that sends a clear message to anyone thinking of defrauding a disaster victim or raising prices unnecessarily on everyday commodities during a natural disaster.●

By Mr. JEFFORDS:

S. 215. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation,

THE NATIONAL BEVERAGE CONTAINER REUSE AND RECYCLING ACT OF 1997

Mr. JEFFORDS. Mr. President, I introduce the National Beverage Container Reuse and Recycling Act of 1997. This bill is identical to legislation that Senator Hatfield and I have introduced in past Congresses. I introduce this bill again today because I firmly believe that deposit laws are a common sense, proven method to increase recycling, save energy, create jobs, and decrease the generation of waste and proliferation of overflowing landfills.

The experience of 10 States, including Vermont, attest to the success of a deposit law or bottle bill as it is commonly called. Recycling rates of well over 70 percent have been achieved for beverage containers in bottle bill States. The rate is over 90 percent in Vermont. To put this in perspective, consider this: 30 percent of Americans who live in bottle bill States account for over 80 percent of beverage container recycling in this country.

The concept of a national bottle bill is simple: To provide the consumer with an incentive to return the container for reuse or recycling. Consumers pay a nominal cost per bottle when purchasing a beverage and are refunded their money when they bring the bottle back either to a retailer or redemption center. Retailers are paid a fee for their participation in the program, and any unclaimed deposits are used to finance State environmental programs.

Under my proposal, a 10-cent deposit on beer, water, and soft-drink containers would take effect in States which have beverage container recovery rates of less than 70 percent, the minimum recovery rate achieved by existing bottle bill States. Labels showing the deposit value would be affixed to containers, and retailers would receive a 2-cent fee per container for their participation in the program.

We are constantly reminded of the growing problem of excess waste as we hear news reports of waste washing up on our Nation's beaches, pitched battles over the siting of landfills and communities lacking adequate waste disposal facilities. Our country's solid waste problems are very real, and they will continue to haunt us until we take action. The throw-away ethic that has emerged in this country is not insurmountable, and recycling is part of the solution.

Finally, a national bottle bill serves a much greater purpose than merely cleaning up littered highways. Recycling creates jobs, saves energy, and preserves our Nation's precious natural resources. In fact, the demand for recycled glass and aluminum has grown to such a point that the Chicago Board of Trade now sells futures in these materials. Recycling makes good business sense.

The legislation I introduce today is consistent with our Nation's solid waste management objectives. A national bottle bill would reduce solid waste and litter, save natural resources and energy, and create a much needed partnership between consumers, industry, and local governments. I urge my colleagues to support this important legislation.

By Mr. JEFFORDS (for himself, Mr. FRIST, and Mrs. HUTCHISON):

S. 216. A bill to amend the Individuals With Disabilities Education Act to authorize appropriations for fiscal years 1998 through 2002, and for other purposes; to the Committee on Labor and Human Resources.

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

Mr. JEFFORDS. Mr. President, with my colleague, Senator FRIST, I am introducing the Individuals With Disabilities Education Act Amendments of 1997. This legislation is identical to S. 1578, which was reported out of the Labor and Human Resources Committee in the last Congress. Senator FRIST did a tremendous job in assisting, getting that prepared and passed out of committee. Unfortunately, the bill did not pass in the last legislative session.

We are introducing this legislation today so everyone will have a common frame of reference. However, I want to make it very clear to my colleagues in the Senate and to my colleagues and friends within the education and disability community across the Nation that this legislation is not perfect and it can and will be improved. This is the beginning of the process, not the end.

I am well aware that there are still issues to be resolved and I intend to work with my colleagues to examine these issues and to move forward with revisions to this important law that are commonsense solutions to issues which are very real at the local school level.

We are aided in this effort by the majority leader, who is committed to helping us achieve the broadest based consensus on a final project, one that has the support of families of children with disabilities and educators, but also of all Members of Congress and the President. We have set an ambitious schedule for completing our work on IDEA, and by introducing the IDEA Amendments of 1997 today, we are taking a very important first step.

IDEA was originally enacted in 1975. I was a Member of the House at the time, and participated in the development of this landmark law. It was a response to court decisions that created a patchwork of legal standings, which in turn generated considerable uncertainty about rights and responsibilities. IDEA guaranteed each child with a disability access to a free, appropriate public education, and we all support that goal. In that sense, the legislation has clearly stood the test of time. But it has not in terms of the level of funding support that we promised to the States to assist them in meeting their obligation to educate children with disabilities.

In IDEA, Congress promised to contribute 40 percent of the cost of educating children with disabilities. Our colleague, Senator GREGG, has kept our feet to the fire, reminding us that we should keep our promise. In last year's appropriations measure we were able to garner large increases for this program. We must continue our effort to reach our full Federal commitment.

After 22 years, I think it is appropriate to thoroughly review the administrative and fiscal demands that are associated with providing a free appropriate education to children with disabilities. The population of students demanding assistance has changed significantly, but the law has not provided enough flexibility to States to meet those changing demands.

The writing is on the wall. If we do not make needed changes to IDEA now, based on common sense, school districts and parents will increasingly turn to the courts to get the answers. School districts will do so in hope of getting relief from or clarification of their responsibilities. The parents will do so in hope of procuring the services that they believe their child needs. Since the genesis of IDEA lay in avoiding litigation, true to its intent to do so today, we have an opportunity, through the reauthorization of IDEA, to ensure the emphasis will shift once again and remain on educating children, well into the next century.

If we work together, we have the power to ease the pressure on local communities and States. Through the reauthorization of IDEA, we have the power to give educators incentives and opportunities to educate children with disabilities, including those at risk of failing, with less bureaucracy and meaningful accountability. Let us do it now.

Mr. FRIST. Mr. President, the Individuals with Disabilities Education Act, commonly known as IDEA, is a civil rights law that ensures that children with disabilities have access to a free appropriate public education. This 22-year-old law has been a great success.

During the 104th Congress, I served as Chairman of the Subcommittee on Disability Policy. In that capacity, I worked extensively on a bipartisan, common sense approach to reauthorizing this vital law, but time ran out before the full Senate could vote on this comprehensive bill.

Today, Senator JEFFORDS and I are picking up where we left off by introducing the Individuals with Disabilities Education Act Amendments of 1997. The IDEA Amendments of 1997, which will serve as the starting point, is the very bill that I introduced last year and that was passed unanimously by the Labor and Human Resources Committee on March 21, 1996.

We are introducing the IDEA Amendments of 1997 not because the law is failing, but because it is succeeding.

These amendments reflect the recognition that our Nation's schools are moving past the initial challenge of how to educate children with disabilities to today's challenge of how to educate children with disabilities so that they may become productive, independent citizens. The IDEA Amendments of 1997 will help the Nation's schools succeed in that.

Twenty-two years ago, before IDEA, a newborn with a disability had little hope of receiving help during the critical early years of development; children with disabilities who went to school were segregated in buildings away from their siblings and peers; and many young people with disabilities were destined to spend their lives in institutions.

Young people with less-obvious disabilities, like learning disabilities and attention deficit disorder, were denied access to public education because they were considered too disruptive or unruly. These children tended to grow up on the streets and at home with no consistent access to an appropriate education.

Today, infants and toddlers with disabilities receive early intervention services; many children with disabilities attend school together with children without disabilities; and many young people with disabilities learn study skills, life skills and work skills that will allow them to be more independent and productive adults.

Children without disabilities are learning first hand that disability is a natural part of the human experience, and they are benefiting from individualized education techniques and strategies developed by the Nation's special educators.

Children with disabilities are now much more likely to be valued members of school communities, and the Nation can look forward to a day when the children with disabilities currently in school will be productive members of our community.

As a nation, we have come to see our citizens with disabilities as contributing members of society, not as victims to be pitied.

As a nation, we have begun to see that those of us who happen to have disabilities also have gifts to share, and are active participants in American society who must have opportunities to learn.

While there is no doubt that the Nation is accomplishing its goals to provide a free, appropriate public education to children with disabilities, many challenges remain, and we have made an effort to deal with them in the IDEA Amendments of 1997.

IDEA was originally enacted by the 94th Congress as a set of consistent rules to help States provide equal access to a free appropriate public education to children with disabilities. But over the years, that initial need to provide consistent guidelines to the States has sometimes been misinterpreted as a license to write burdensome compliance requirements.

The IDEA Amendments of 1997 address these problems. These amendments give educators the flexibility and the tools they need to achieve results and ease the paperwork burden that has kept teachers from spending the maximum time teaching.

By shifting the emphasis of IDEA to helping schools help children with disabilities achieve educational results,

we are able to reduce many of the most burdensome administrative requirements currently imposed on States and local school districts.

The IDEA Amendments of 1997 streamline planning and implementation requirements for local school districts and States. In assessment and classification, these amendments would allow schools to shift emphasis from generating data dictated by bureaucratic needs to gathering relevant information that is needed to teach a child.

These amendments also give schools and school boards more control over how they use special purpose funds to provide training, research and information dissemination. We want to encourage every school in America to create programs that best serve the needs of all of their students, with and without disabilities.

The IDEA Amendments of 1997 clarify that the general education curriculum and standards associated with that curriculum should be used to teach children with disabilities and to assess their educational progress.

Educators at both the local and State levels will use indicators of student progress that allow them to track the progress of children with disabilities in meaningful ways along with the progress of other children.

In an effort to reduce confrontation and costly litigation, the IDEA Amendments of 1997 require States to offer mediation to parents who have a dispute over their child's education. The amendments also address the serious issue of disciplining children with disabilities who break school rules that apply to all children.

By providing fair and balanced guidelines to help schools discipline students with disabilities, the amendments ensure that all children in our public schools are given the opportunity to learn in a safe environment.

By preserving the right of children with disabilities to a free appropriate public education, by providing school districts with new degrees of procedural, fiscal, and administrative flexibility, and by promoting the consideration of children with disabilities in actions to reform schools and make them accountable for student progress, IDEA will remain a viable, useful law that will provide guidance well into the next century.

The introduction of the Individual with Disabilities Education Amendments of 1997 today represents my continued commitment to the reauthorization of IDEA. I am pleased that the substantial work done on the reauthorization of IDEA during the last Congress will serve as a foundation for our efforts during this Congress. I recognize that there is still much debate to come, and much hard work to be done before we successfully strengthen and extend this vital law into the 21st century. I look forward to working with my Senate colleagues on both sides of the aisle and the disability and education communities during the upcoming reauthorization effort.

Together we have the opportunity to bring common sense improvements to IDEA, improving the law and opportunities for children with disabilities.

Mr. JEFFORDS. Mr. President, I thank the Senator from Tennessee for all the work he has done. He deserves, and should get, accolades and helpful attention to this bill, because we do need help in making sure it gets into law. But the work he did last year has been incredibly helpful. It moves us a long way toward that goal.

By Mr. BIDEN:

S. 217. A bill to amend title 38, United States Code, to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States; to the Committee on Veterans' Affairs.

THE VETERANS PLOT ALLOWANCE ACT OF 1997

• Mr. BIDEN. Mr. President, for the third consecutive Congress, I am introducing legislation to expand the Federal Government's $150 payment to States when they bury veterans in State-owned veterans cemeteries.

For those who are not familiar with my proposal, it is quite simple. My bill says that if a State buries a veteran free of charge in a State-owned cemetery—and that veteran is eligible for burial in a national veterans cemetery—the Federal Government will pay the State $150 for the cost of the plot.

In other words, Mr. President, rather than the multiple and restricted criteria of plot allowance payments to States under current law, there would instead be only one standard in judging whether a State receives assistance from the Federal Government. And, that standard is: Is the veteran eligible for burial in a national cemetery? Period.

Not only is it simple, it is the only thing that makes sense and the only thing that is fair. When the plot allowance for States was first established a decade ago, Congress did it in part to relieve the pressure on the national cemetery system. Our national cemeteries were filling up rapidly. That trend continues today. More than half of all national cemeteries are closed to additional burials, and there is no where near enough space for all of America's World War II veterans, let alone the veterans from later conflicts. So, rather than undertake the expensive process of building more national cemeteries, we entered into a partnership with the States for the creation of State-owned veterans cemeteries.

That partnership has worked well, especially in States like Delaware that do not have a national cemetery to begin with. But, after entering into this partnership, the Federal Government then limited for whom it would reimburse States for the cost of the plot. We said that States would receive the $150 payment only if the veteran was receiving disability compensation or a pension; died in a veterans hospital; was indigent and the body was unclaimed; or was discharged from the military due to a disability.

In other words, we ask States to bury all veterans eligible for burial in a national cemetery—but then we do not financially help them when they do.

And, States are not even being reimbursed for all wartime veterans that they bury. Let me repeat that. States are not being reimbursed for all wartime veterans that are buried in State-owned veterans cemeteries. I mention that, Mr. President, because some people have characterized this bill as an attempt to provide the plot allowance to States for the burial of nonwartime veterans, and an attempt to give a benefit intended for those who fought in wartime to those who did not. That is simply not the case.

There are thousands of wartime veterans who do not meet the current law's criteria. In fact, each year, about 5,000 veterans—many of them wartime veterans—are eligible for burial in a national cemetery and are buried without charge in State-owned veterans cemeteries, but do not meet the criteria set forth in current law for the States to receive the plot allowance. That is not fair to the States, and it is not right for America's veterans.

Mr. President, the Congressional Budget Office has estimated that this proposal would cost $1 million per year. While we all want to balance the budget—and this proposal will be paid for—$1 million per year is a relatively small sum in order to fulfill our commitment to America's veterans.

In 1995, the Senate recognized this in unanimously approving this proposal as an amendment to the budget bill. Whether this bill is voted on separately or as part of another measure, it does not matter. What matters is that we work to ensure that America's veterans are guaranteed a decent and dignified burial.

I encourage my colleagues to join me in this effort.•

By Mr. BIDEN:

S. 218. A bill to invest in the future American work force and to ensure that all Americans have access to higher education by providing tax relief for investment in a college education and by encouraging savings for college costs, and for other purposes; to the Committee on Finance.

THE GET AHEAD ACT

• Mr. BIDEN. Mr. President, today I am reintroducing a comprehensive bill I first introduced last summer to make college more affordable for middle-class families. Formally titled the ''Growing the Economy for Tomorrow: Assuring Higher Education is Affordable and Dependable'' Act, it is known as the Get Ahead Act for short.

This legislation contains numerous provisions—some of which have been or will be introduced by others as separate bills; other provisions are novel to this bill—but they all have one thing in

common. They all are an attempt to renew our commitment to see that the American Dream of a college education remains within reach of all Americans.

Because, the plain truth is, that dream is slipping out of reach for many middle-class families. When I was in college 30 some years ago, my parents could send me to a State university for less than 5 percent of their income. And, it stayed about that much—college costs went up each year by about the same amount that the average family's income went up—until 1980. And, then, college costs exploded. Since 1980, the cost of public college tuition and fees has increased nearly three times faster than the average family's income.

We can debate endlessly the reasons why and who or what is to blame. But, all that middle-class families know is that the costs have skyrocketed, and they must constantly worry about how they will ever be able to afford to send their children to college.

For a long time now, Members on both sides of the aisle have believed that the Federal Government has a role and responsibility in helping Americans get to college. Not to guarantee that everyone in America goes to college, but to guarantee that no one who qualifies for college is turned away just because they cannot afford it. It is important for individual Americans—and it is important for the future of America as a whole.

But, I think it is legitimate to question that commitment today when costs are rising out of control; when we spend more on loans that have to be repaid and less on grants that do not; and when the tax law rewards investment in machines but not investment in people.

It is time, Mr. President, to renew and reaffirm our commitment to higher education. And, so, I offer the Get Ahead Act, and I invite my colleagues to join me in this effort.

Let me take just a few minutes to review what this bill would do. And, I ask that a much more detailed summary of the bill be included in the RECORD at the conclusion of my remarks.

First, the Get Ahead Act provides direct tax relief for the costs of higher education. This is accomplished by creating a $10,000 tax deduction for college tuition and fees as well as the interest on student loans. We currently give tax breaks to businesses for investment in the future—in research and development and in the purchase of new plant and equipment. I support that. But, at the same time, we do not provide tax relief to middle-class families who invest in their own children's future through higher education. We should.

In addition, under the Get Ahead Act, all scholarships, including that used for room and board, would be excluded from taxable income, as was the case prior to the 1986 Tax Reform Act.

And, the tax exclusion for employer-provided educational assistance would be extended and made permanent. As my colleagues know, when an employer pays part or all of the costs of an employee's education, that does not have to be counted as income to the employee for tax purposes. Last year, we extended that provision through May 31, 1997. What my bill does is make it a permanent part of the Tax Code—so we do not have to keep coming back and extending it every year or so—and my bill ensures that the tax exclusion applies to both undergraduate and graduate education. Last year, unfortunately in my view, in extending the tax exclusion, we applied it only to undergraduate education.

Second, Mr. President, the Get Ahead Act encourages people to save for the costs of higher education. Specifically, it would allow individuals to withdraw funds from their Individual Retirement Accounts for education expenses—without incurring a 10-percent penalty tax. Also, more Americans would be able to take advantage of Series EE Savings Bonds. These are the bonds where you do not have to pay tax on the interest if the money from the bonds is used to pay for college tuition.

And, my bill would create Education Savings Accounts—accounts similar to IRA's. Each year, families could put tax free up to $2,000 per child into an ESA for their children. That money would accumulate tax free—and you would never have to pay taxes on it if the money was used to pay for college.

Finally, Mr. President, the Get Ahead Act would award merit scholarships to all students who graduate in the top 5 percent of their class. While the $1,000 scholarship would cover about two-thirds of the cost of a community college, I realize this is not a large sum of money for someone attending a 4-year institution, especially if it is a private college. But, it could make a difference for many students, and I believe that, regardless, it is important that we start to reward students who meet high academic standards.

There is one provision not in the bill that was in last year's bill. Last year, I included a section clarifying the Federal tax treatment of State prepaid tuition plans. Similar provisions were enacted last year as part of the minimum wage bill, and therefore I did not need to include them in this year's bill.

Mr. President, the Get Ahead Act is aimed at seeing that individual Americans have the opportunity to get ahead. In today's economy, in today's world, you need a college education to do it. And, for those who would criticize this proposal as a handout to the middle class, let them ponder what the future of America will be like if the vast masses of the middle class are denied a college education.

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:

THE GET AHEAD ACT

TITLE I—TAX INCENTIVES FOR HIGHER EDUCATION; SUBTITLE A—TAX RELIEF FOR HIGHER EDUCATION COSTS; SECTION 101—DEDUCTION FOR HIGHER EDUCATION EXPENSES

An above-the-line tax deduction (available even to those who do not itemize deductions) would be allowed for the costs of college tuition and fees as well as interest on college loans.

In the case of tuition costs, beginning in tax year 2000, the maximum annual deduction would be $10,000 per year; a maximum deduction of $5,000 would be available in tax years 1997, 1998, and 1999. The full deduction would be available to single taxpayers with incomes under $70,000 and married couples with incomes under $100,000; a reduced (phased-out) deduction would be available to those with incomes up to $90,000 (singles) and $120,000 (couples). The income thresholds would be indexed annually for inflation.

Interest on student loans would be deductible beginning with interest payments made in tax year 1997. Interest payments could be deducted on top of the $10,000 deduction for payment of college tuition and fees. There would be no annual maximum and no income limits with regard to the deductibility of interest on student loans.

Language is included to coordinate this tax deduction with other education provisions of the tax code—to ensure that individuals do not receive a double benefit for the same payments. Specifically, qualified higher education expenses that could be tax deductible would be reduced by any payments made from Series EE savings bonds (and excluded from taxable income), any veterans educational assistance provided by the federal government, and any other payments from tax-exempt sources (e.g. employer-provided educational assistance). Also, tax-free scholarships and tax-excluded funds from Education Savings Accounts (see section 112) would first be attributed to room and board costs; the remainder, if any, would count against tuition and fees and would reduce the amount that would be tax deductible. However, if tuition and fees still exceeded $10,000 even after the reductions, the full tax deduction would be available.

SECTION 102—EXCLUSION FOR SCHOLARSHIPS AND FELLOWSHIPS

College scholarships and fellowship grants would not be considered income for the purposes of federal income taxes. This returns the tax treatment of scholarships and fellowships to their treatment prior to the 1986 Tax Reform Act (which limited the exclusion of scholarships and fellowships to that used for tuition and fees).

Scholarships and fellowship grants would be fully excludable for degree candidates. In the case of non-degree candidates, individuals would be eligible for a lifetime exclusion of $10,800—$300 per month for a maximum 36 months.

Language is included to clarify that federal grants for higher education that are conditioned on future service (such as National Health Service Corps grants for medical students) would still be eligible for tax exclusion.

This section would be effective beginning with scholarships and fellowship grants used in tax year 1997.

SECTION 103—PERMANENT EXCLUSION FOR EDUCATIONAL ASSISTANCE

As part of the minimum wage/small business tax relief bill enacted in 1996, the tax exclusion for employer-provided educational assistance was reinstated retroactively and extended through May 31, 1997. But, as of July 1, 1996, the tax exclusion only applies to educational assistance for undergraduate education.

This section would extend the employer-provided educational assistance tax exclusion by making it a permanent part of the tax code. In addition, it would retroactively reinstate the tax exclusion for graduate education.

SUBTITLE B—ENCOURAGING SAVINGS FOR HIGHER EDUCATION COSTS; SECTION 111—IRA DISTRIBUTIONS USED WITHOUT PENALTY FOR HIGHER EDUCATION EXPENSES

Funds could be withdrawn from Individual Retirement Accounts (IRAs) before age 59½ without being subject to the 10 percent penalty tax if the funds were used for higher education tuition and fees. (However, withdrawn funds, if deductible when contributed to the IRA, would be considered gross income for the purposes of federal income taxes.)

This section would be effective upon enactment.

SECTION 112—EDUCATION SAVINGS ACCOUNTS

This section would create IRA-like accounts—known as Education Savings Accounts (ESAs)—for the purpose of encouraging savings for a college education.

Each year, a family could invest up to $2000 per child under the age of 19 in an ESA. For single taxpayers with incomes under $70,000 (phased out up to $90,000) and married couples with incomes under $100,000 (phased out up to $120,000), the contributions would be tax deductible. (These income thresholds would be indexed annually for inflation.) For all taxpayers, the interest in an ESA would accumulate tax free; the contributions would not be subject to the federal gift tax; and, the balance in an ESA would not be treated as an asset or income for the purposes of determining eligibility for federal means-tested programs.

ESA funds could be withdrawn to meet the higher education expenses—tuition, fees, books, supplies, equipment, and room and board—of the beneficiary. Funds withdrawn for other purposes would be subject to a 10 percent penalty tax and would be considered income for the purposes of federal income taxes (to the extent that the funds were tax deductible when contributed). The penalty tax would not apply in cases of death or disability of the beneficiary of the ESA and in cases of unemployment of the contributors.

In addition, when the beneficiary of the account turns age 30 and is not enrolled in college at least half time, any funds remaining in the ESA would be (1) transferred to another ESA; (2) donated to an educational institution; or (3) refunded to the contributors. In the first two cases, there would be no penalty tax and the money would not be considered taxable income. In the third case, the penalty tax would not apply, but the funds would be counted as income to the extent that the funds were tax deductible when contributed.

Finally, parent could roll over funds from one child's ESA to another child's ESA without regard to any taxes, without regard to the $2000 annual maximum contribution to an ESA, and without regard to the age 30 requirement note above. Funds rolled over would also not be subject to the federal gift tax.

Language is also included to allow individuals to designate contributions to an ESA as nondeductible even if such contributions could be tax deductible. This gives families the option to build up the principal in an ESA while at a lower tax rate, rather than having to pay taxes on unspent ESA funds when the contributors are older and likely in a higher tax bracket.

Tax deductible contributions to ESAs would be allowed beginning in tax year 1997.

SECTION 113—INCREASE IN INCOME LIMITS FOR SAVINGS BOND EXCLUSION

For taxpayers with incomes below certain thresholds, the interest earned on Series EE U.S. Savings Bonds are not considered taxable income if the withdrawn funds are used to pay for higher education tuition and fees. This section increases the income thresholds to allow more Americans to use the Series EE Savings Bonds for education expenses.

Effective with tax year 1997, the income thresholds would be the same as the income thresholds for the higher education tax deduction (see section 101): $70,000 for single taxpayers (phased out up to $90,000), and $100,000 for couples (phased out up to $120,000). As with the higher education tax deduction, these income thresholds would be indexed annually for inflation.

TITLE II—SCHOLARSHIPS FOR ACADEMIC ACHIEVEMENT

Beginning with the high school graduating class of 1998, the top 5 percent of graduating seniors at each high school in the United States would be eligible for a $1000 merit scholarship. If an individual receiving such a scholarship achieved a 3.0 (''B'') average during his or her first year of college, a second $1000 scholarship would be awarded.

However, the merit scholarships would be available only to those students in families with income under $70,000 (single) and $100,000 (couples). These income thresholds would be increased annually for inflation.

Funds are authorized (and subject to annual appropriations) for five years. The first year authorization (fiscal year 1998) is $130 million. In each of the next four years (FY 1999–FY 2002), because the scholarships could be renewed for a second year, the authorization is $260 million per year. Total five-year authorization: $1.17 billion.

TITLE III—DEFICIT NEUTRALITY

To ensure that the ''GET AHEAD'' Act does not increase the deficit, this title declares it the sense of the Senate that the costs of the bill should be paid by closing corporate tax loopholes.●

By Mr. DASCHLE (for himself and Mr. GRASSLEY):

S. 219. A bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States; to the Committee on Finance.

VALUE-ADDED AGRICULTURAL PRODUCTS MARKET ACCESS ACT OF 1997

Mr. DASCHLE. Mr. President, I am pleased to introduce today with my distinguished colleague, Senator GRASSLEY, two important pieces of international trade legislation. These bills are designed with one very simple, clear goal in mind: to secure fair trade opportunities for America's highly competitive producers of agricultural products.

There is no more important sector of the U.S. economy than agriculture as far as international trade is concerned. Last year, the trade surplus in agricultural products reached $28.5 billion, the largest of any industry, including aircraft. This surplus offset to an important degree the Nation's large and persistent deficit in manufactured goods.

Trade is vitally important to farmers. Production from more than one-third of harvested acreage is exported. Agricultural exports are important to the rest of the economy as well. According to the U.S. Department of Agriculture, each dollar generated by agricultural exports stimulates another $1.39 in supporting economic activity to produce those exports. Nearly every State exports farm products.

Despite the obvious success American producers are enjoying in world markets, a closer look reveals that we could be doing far better. Judging from the annual surveys compiled by the Office of the U.S. Trade Representative, roughly half of all foreign trade barriers facing U.S. products are in the agricultural sector. This suggests that our overall merchandise trade deficit, which is estimated to total nearly $170 billion for 1996, could be considerably lower if we succeeded in removing more of these barriers.

The recent Uruguay round took only the first, tentative steps toward devising effective and fair rules governing international agricultural trade. As our able negotiators would be the first to acknowledge, we have a long way to go. Although we made significant progress in subjecting export subsidies to international rules, the Uruguay round secured only modest commitments by governments to open their markets and administer food health and safety standards fairly. In the long run, the fairness of world trade in agricultural products will depend on how aggressively and systematically the U.S. Government insists on compliance by foreign governments with their existing commitments and presses them for new ones.

The two bills we introduce today will improve our ability to meet this challenge both institutionally and with respect to one specific, immediate problem regarding the European Union. Passage of this legislation will help to assure farmers and their communities that trade liberalization remains in their interest as much in practice as in theory.

THE VALUE-ADDED AGRICULTURAL MARKET ACCESS ACT OF 1997

The first bill, the Value-Added Agricultural Market Access Act of 1997, would improve our institutional capacity to set priorities among the vast array of foreign agricultural trade barriers we face and give those priorities the high-level attention they deserve within the executive branch. In so doing, it would provide our negotiators with an important new tool with which to increase their leverage in consultations with foreign governments.

The bill would create a ''Special 301'' procedure for value-added agricultural products virtually identical to that which currently exists for intellectual property products. It would require the U.S. Trade Representative [USTR] each year to designate as ''priority countries'' those trading partners having the most onerous or egregious acts, policies, or practices resulting in the greatest adverse impact—actual or potential—on U.S. value-added agricultural products.

The USTR would be required to initiate a section 301 investigation within 30 days after the identification of a priority foreign country with respect to any act, policy, or practice that was the basis of the identification, unless the USTR determines initiation of the investigation would be detrimental to U.S. economic interests and reports the reasons in detail to Congress. The procedural and other requirements of section 301 authority would generally apply to these cases with the important exception that investigations, and negotiations must be concluded and determinations made on whether the measures are actionable within 6 months, as opposed to 12 or 18 months for conventional section 301 cases. This 6-month deadline may be extended to 9 months if certain criteria are met. USTR may choose not to designate a country as a priority foreign country if it is entering into good faith negotiations or making significant progress in bilateral or multilateral negotiations to provide fair and equitable access to its markets.

According to the Congressional Research Service, agriculture as a whole is the largest positive contributor to the U.S. trade balance, and exports of value-added products—intermediate products such as wheat flour, feedstuffs, and vegetable oils or consumer-ready products such as meats—have recently become the largest component of our agricultural trade. In fiscal year 1996, these higher value exports accounted for $32 billion, or 54 percent by value, of all such exports.

It is no wonder that U.S. value-added agriculture is making such gains. Our farmers have worked hard to increase their value-added production, and they should be proud of what they have accomplished. Unfortunately, they are being denied the full fruits of their labors by a varied and complex array of market restrictions in many foreign countries. Notwithstanding the progress made in the Uruguay round, many foreign governments maintain considerably stricter limits on U.S. products than we do on theirs. In addition, even as formal barriers fall or become more transparent as a result of the Uruguay round, new and informal trade barriers often take their place. These may take the form of arbitrary sanitary and phytosanitary measures that ignore sound principles of science and globally accepted food safety and inspection standards.

In the past few years alone, United States sausages have been denied entry to Korea because the Korean Government imposed arbitrary and unscientific shelf-life standards on imported sausages; the European Union has banned U.S. beef treated with natural hormones even though scientists from Europe and around the world have declared natural-hormone-treated beef to be safe; and, high-value U.S. pork products cannot be exported to Europe because European meat inspectors require U.S. slaughter and packing plants to meet standards that even their own producers cannot meet.

These are but a few examples of the barriers to entry facing U.S. producers of value-added farm products. The unfortunate result is that our farmers are being prevented from realizing their full export potential. The Foreign Agricultural Service estimates that U.S. agricultural exports are reduced by $4.7 billion annually due to unjustifiable sanitary and phytosanitary measures alone. Imagine the impact on farm income, rural communities, and the U.S. economy if these barriers were removed.

The Value-Added Agricultural Market Access Act of 1997 will bring added focus to this set of issues within the trade policymaking machinery of the U.S. Government. We have a strong inter-agency team of trade negotiators and analysts; over the years, through Democratic and Republican administrations alike, it has been one of the most efficient operations anywhere in the Federal Government. However, the USTR and its support agencies confront an almost overwhelming variety of demands and challenges. They currently are deeply involved in several very ambitious multilateral trade negotiations or preparations for them, including free trade arrangements in the Western Hemisphere and the Pacific rim, NAFTA expansion, and WTO agreements on high-technology products and telecommunications equipment and services.

The sheer number and complexity of the issues confronting the USTR make priority-setting one of USTR's most important responsibilities. With so much attention now on visionary multilateral initiatives, we must take care not to lose sight of two other practical aspects of trade policy: our bilateral efforts to improve market access and our responsibility to ensure that governments comply with the agreements they have already signed with us, be they multilateral or bilateral. These two aspects of U.S. trade policy are particularly important to the agricultural community, which, as I have emphasized, is second to none in terms of our international commercial prospects.

As my colleague, Senator GRASSLEY, the distinguished chairman of the Finance Subcommittee on International Trade, knows well, Congress holds a major share of the responsibility, indeed prerogative, for setting U.S. trade policy. It is explicitly assigned that power under article I, section 8 of the U.S. Constitution. Our bill would exercise this authority to institutionalize an appropriate degree of attention on agriculture in U.S. trade policy.

U.S. agriculture traditionally has been one of the strongest of any segment of the economy in its support for multilateral trade liberalization, including the negotiation of free trade agreements. Yet, in talking to individual farmers in my State as well as their national representatives, I have the impression that the strength of American agriculture's future support for such initiatives will hinge on how well our Government performs in these areas of our bilateral trade relations. Indeed, I believe that adroit use by the USTR of the procedures established by this bill would enhance our chance of achieving new multilateral rules for agriculture in the next negotiating round of the World Trade Organization in the same way that creation of ''Special 301'' by Congress in 1988 created leverage and momentum for our negotiators in the run-up to the adoption of intellectual property rules in the Uruguay round.

FAIR TRADE IN MEAT AND MEAT PRODUCTS ACT OF 1997

The second bill we are introducing today addresses one specific, egregious barrier to U.S. value-added agricultural exports: the European Union's [EU] continuing refusal to implement a commitment it made in 1992 to treat our food safety and inspection standards as roughly equivalent in effectiveness to their own. This procedural form of protectionism has shut American exports of pork and beef out of the European market. The loss of this lucrative market has contributed to the severe drop in cattle prices in this country and deprived American pork producers of an estimated $60 million in sales last year. By any objective standard, U.S. meat products are among the most competitive in the world and represent one of the most promising areas of growth for American trade.

On November 1, 1990, the European Union prohibited imports of U.S. pork and beef on the grounds that our products did not comply with the safety and inspection requirements of the EU's Third Country Meat Directive [TCD]. The prohibition was imposed despite the fact that the requirements of the TCD are largely similar to those already mandated by the U.S. Department of Agriculture. As a result, American pork and beef exports to the European Union virtually ceased.

Following this action, the industry filed and the Bush administration accepted a petition under section 301 of the 1974 Trade Act. After USTR concluded preliminarily that the EU's administration of the TCD imposed a burden and restriction on U.S. commerce, the EU agreed to resolve the dispute in an exchange of letters that came to be known as the 1992 Meat Agreement. At the time, U.S. Trade Representative Carla Hills noted that the practices of the European Union would have been actionable under section 301 absent the 1992 agreement and would become so again if the European Union violated its terms. Overwhelming evidence now indicates that the European Union has done just that.

The 1992 Meat Agreement outlined a specific series of steps that American producers could take to become eligible for export to the European Union,

and concluded that the inspection systems of the United States and European Union provided ''equivalent safeguards against public health risks.'' The GATT Agreement on Sanitary and Phytosanitary Measures corroborated this finding and required the European Union to treat USDA inspection requirements as equivalent to its own.

Five years later, after millions of dollars in investment by American producers to meet the terms of the 1992 Meat Agreement, only a handful of American plants have been recertified for export to the European Union. Plants managers report that inspections for certification have not been conducted in an objective or transparent manner, and the European Union has failed to acknowledge changes enacted specifically at its request. The cost of this unjustified action has been millions of dollars in lost sales to American pork and beef producers.

The administration has been more than patient with the European Union, consulting with its diplomats for many months. In my view, the time for waiting has ended. The European Union must tear down its walls and give our farmers and ranchers the level playing field they were promised. Indeed, in just the last few weeks, the European Union has been considering yet another change in animal product approval procedures that would block an additional $1 billion in agricultural exports to the European Union. This action was taken despite the fact that the United States has been working in good faith for over 2 years on a veterinary equivalence agreement that would accommodate European Union concerns. Simply put, it is time to send the European Union a clear message that we will not stand by while they ignore their obligations.

For this reason, Senator GRASSLEY and I are introducing legislation to require the USTR to determine formally whether the European Union has violated its international obligations, seek prompt initiation of the relevant international dispute settlement proceedings, and review our certification of their meat exporting facilities. This is a straightforward response to a blatant breach of faith on the part of the European Union. The bill sends a clear message that trade is a two-way street, and procedural protectionism is every bit as unacceptable as traditional market barriers like discriminatory quotas and tariffs.

Mr. President, we have consulted with the USTR and Department of Agriculture as we have drafted the legislation, and I am pleased to inform my colleagues that the administration is fast coming to an appreciation of the need for the type of action prescribed by the bill. Last week, it notified the European Union via telex that, absent a resolution of this issue, as of April 1, 1997, all European Union meat and meat product exports will have to ''specifically adhere to and meet U.S. regulatory standards.'' Moreover, ''Any plant in the member states of the European Unionropean Union which desires to ship meat, meat products, poultry, or poultry products to the United States will have to be inspected by officials of the Food Safety and Inspection Service of the U.S. Department of Agriculture and be certified before it is eligible to ship to market.''

I am pleased that the administration is headed in the direction prescribed by our bill. I call on my colleagues to support this legislation as well as the value-added agricultural products market access bill as a way to reinforce our Government's emerging stance on this immediate problem and ensure that similar problems in the future receive the serious and timely attention they deserve.

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

S. 219

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 ''Value-added Agricultural Products Market Access Act of 1997''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The export of value-added agricultural products is of vital importance to the economy of the United States.

(2) In 1995, agriculture was the largest positive contributor to the United States merchandise trade balance with a trade surplus of $25,800,000,000.

(3) The growth of United States value-added agricultural exports should continue to be an important factor in improving the United States merchandise trade balance.

(4) Increasing the volume of value-added agricultural exports will increase farm income in the United States, thereby protecting family farms and contributing to the economic well-being of rural communities in the United States.

(5) Although the United States efficiently produces high-quality value-added agricultural products, United States producers cannot realize their full export potential because many foreign countries deny fair and equitable market access to United States agricultural products.

(6) The Foreign Agricultural Service estimates that United States agricultural exports are reduced by $4,700,000,000 annually due to unjustifiable imposition of sanitary and phytosanitary measures that deny or limit market access to United States products.

(7) The denial of fair and equitable market access for United States value-added agricultural products impedes the ability of United States farmers to export their products, thereby harming the economic interests of the United States.

(b) PURPOSES.—The purposes of this Act are—

(1) to reduce or eliminate foreign unfair trade practices and to remove constraints on fair and open trade in value-added agricultural products;

(2) to ensure fair and equitable market access for exports of United States value-added agricultural products; and

(3) to promote free and fair trade in value-added agricultural products.

SEC. 3. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS.

(a) IDENTIFICATION REQUIRED.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end the following:

''SEC. 183. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS FOR VALUE-ADDED AGRICULTURAL PRODUCTS.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the annual report is required to be submitted to Congressional committees under section 181(b), the United States Trade Representative (hereafter in this section referred to as the 'Trade Representative') shall identify—

''(1) those foreign countries that—

''(A) deny fair and equitable market access to United States value-added agricultural products, or

''(B) apply standards for the importation of value-added agricultural products from the United States that are not related to public health concerns or cannot be substantiated by reliable analytical methods; and

''(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.

''(b) SPECIAL RULES FOR IDENTIFICATIONS.—

''(1) CRITERIA.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall only identify those foreign countries—

''(A) that engage in or have the most onerous or egregious acts, policies, or practices that deny fair and equitable market access to United States value-added agricultural products,

''(B) whose acts, policies, or practices described in subparagraph (A) have the greatest adverse impact (actual or potential) on the relevant United States products, and

''(C) that are not—

''(i) entering into good faith negotiations, or

''(ii) making significant progress in bilateral or multilateral negotiations,

to provide fair and equitable market access to United States value-added agricultural products.

''(2) CONSULTATION AND CONSIDERATION REQUIREMENTS.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—

''(A) consult with the Secretary of Agriculture and other appropriate officers of the Federal Government, and

''(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.

''(3) FACTUAL BASIS REQUIREMENT.—The Trade Representative may identify a foreign country under subsection (a)(1) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(3).

''(4) CONSIDERATION OF HISTORICAL FACTORS.—In identifying foreign countries under paragraphs (1) and (2) of subsection (a), the Trade Representative shall take into account—

''(A) the history of value-added agricultural trade relations with the foreign country, including any previous identification under subsection (a)(2), and

''(B) the history of efforts of the United States, and the response of the foreign country, to achieve fair and equitable market access for United States value-added agricultural products.

''(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

''(1) AUTHORITY TO ACT AT ANY TIME.—If information available to the Trade Representative indicates that such action is appropriate, the Trade Representative may at any time—

''(A) revoke the identification of any foreign country as a priority foreign country under this section, or

''(B) identify any foreign country as a priority foreign country under this section.

''(2) REVOCATION REPORTS.—The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

''(d) DEFINITIONS.—For purposes of this section—

''(1) VALUE-ADDED AGRICULTURAL PRODUCT.—The term 'value-added agricultural product' means a product that has traditionally been considered by the Secretary of Agriculture as being a value-added product within the scope of section 303 of the Agricultural Trade Act of 1978 (7 U.S.C. 5653).

''(2) FAIR AND EQUITABLE MARKET ACCESS.—A foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product through the use of laws, procedures, practices, or regulations which—

''(A) violate provisions of international law or international agreements to which both the United States and the foreign country are parties, or

''(B) constitute discriminatory nontariff trade barriers.

''(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of the action under subsection (c).

''(f) ANNUAL REPORT.—The Trade Representative shall, not later than the date by which countries are identified under subsection (a), transmit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the actions taken under this section during the 12 months preceding such report, and the reasons for such actions, including a description of progress made in achieving fair and equitable market access for United States value-added agricultural products.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 182 the following:

''Sec. 183. Identification of countries that deny market access for value-added agricultural products.''.

SEC. 4. INVESTIGATIONS.

(a) INVESTIGATION REQUIRED.—Subparagraph (A) of section 302(b)(2) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)) is amended by inserting ''or 183(a)(2)'' after ''section 182(a)(2)'' in the matter preceding clause (i).

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 302(b)(2) of such Act is amended by inserting ''concerning intellectual property rights that is'' after ''any investigation''.

SEC. 5. AUTHORIZED ACTIONS BY UNITED STATES TRADE REPRESENTATIVE.

Section 301(c)(1) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D)(iii)(II) and inserting ''; or''; and

(3) by adding at the end the following:

''(E) with respect to an investigation of a country identified under section 183(a)(1), to request that the Secretary of Agriculture (who, upon receipt of such a request, shall) direct the Food Safety and Inspection Service of the Department of Agriculture to review certifications for the facilities of such country that export meat and other agricultural products to the United States.''.

By Mr. GRASSLEY (for himself and Mr. DASCHLE):

S. 220. A bill to require the U.S. Trade Representative to determine whether the European Union has failed to implement satisfactorily its obligations under certain trade agreements relating to U.S. meat and pork exporting facilities, and for other purposes; to the Committee on Finance.

FAIR TRADE IN MEAT AND PORK PRODUCTS ACT OF 1997

Mr. GRASSLEY. Mr. President, I join the minority leader today in introducing two important bills regarding agricultural trade. The first is a bill that requires the U.S. Trade Representative to determine whether the European Union has violated its trade agreements with the United States by failing to certify U.S. beef and pork processing plants for export to the European Union. The failure to certify our plants has cost the pork industry alone as much as $60 million annually.

The problem arises under the E.U.'s so-called Third Country Meat Directive. This directive, which has been in place since 1985, calls for E.U. inspection and certification of U.S. meat plants as a condition for accepting exports from those plants. Simply put, if a plant has not been certified, it cannot export to the E.U. member nations. Since the mid-1980's the E.U. has used this directive to prohibit over 400 U.S. facilities from exporting beef and pork to the E.U.

Many bilateral discussions have taken place between the E.U. and the United States on this issue since 1985. But no satisfactory resolution has ever been reached. In early 1991, the then-U.S. Trade Representative, Carla Hills, initiated an action under section 301 of the 1974 Trade Act. After a year of consultations and the certification of some U.S. plants, we entered into a settlement agreement, known as the 1992 meat agreement. In exchange for the settlement agreement, the United States agreed to withdraw its 301 action.

Under the 1992 meat agreement, the E.U. agreed that U.S. plants would be certified if their inspection systems are equivalent to the E.U.'s. In spite of this agreement, and its commitments made under the WTO Agreement on Sanitary and Phytosanitary Measures, the E.U. has not made any significant progress in certifying U.S. plants. Europe effectively remains a closed market for United States beef and pork.

What this bill does is require the USTR to determine under section 306 whether the E.U. has violated its trade agreements. This is important because once a determination has been made, the USTR is required to take action. The action could take the form of unilateral retaliation, for example. Furthermore, the bill requires the U.S. Department of Agriculture to reconsider our certification of European plants if this problem continues.

Mr. President, the impact of the E.U.'s blatant disregard of our trade agreements is substantial for the U.S. meat industry. Our cattle and hog farmers have been effectively shut out of the entire European market. This comes at a time when American agriculture is becoming more dependent on foreign markets. In fact, USDA calculates that American farmers will soon derive up to 30 percent of their net income from foreign trade. So global market access is critical to the viability of the family farmer.

This bill sends a strong signal to the E.U. that we are no longer willing to tolerate this egregious behavior. Bilateral negotiations have failed. It is time to take swift and strong action to eliminate this barrier to our value-added agricultural products.

We must also send a signal to our other foreign trading partners. Trade agreements must be followed. Commitments must be kept. The United States will no longer sit idly by as the rest of the world thumbs it nose at their responsibilities as a trading partner. The stakes are simply too high in terms of American jobs and standard of living.

This leads me to the second bill that I have cosponsored today with the minority leader. This bill requires the USTR to identify, on an annual basis, those countries that deny market access to our value-added agricultural products. It also requires identifying countries who are violating the sanitary and phytosanitary provisions of the GATT. This procedure is similar to the special 301 procedure for intellectual property rights.

It is necessary to identify and understand the trade barriers faced by American agriculture so we can work to eliminate them. Not only is foreign trade vital to American farmers, it is vital to the U.S. balance of payments. Agriculture trade is the shining star in an otherwise increasing trade deficit. But we cannot rest on the success of the past. In existing markets we could be doing much better in terms of market share. And many markets remain closed to U.S. ag products.

This bill will help pinpoint our successes and our failures so we can move forward on bilateral negotiations and, eventually, a new round of agricultural negotiations in the World Trade Organization, beginning in 1999. This annual report will serve as a blueprint to achieving worldwide access for the commodities produced on America's family farms.

I appreciate the minority leader's hard work on these two pieces of legislation. And I look forward to working

with him during this Congress to get these bill enacted into law.

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. 220

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 ''Fair Trade in Meat and Pork Products Act of 1997''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The European Union's Third Country Meat Directive has been used to decertify more than 400 United States facilities exporting beef and pork products to the European Union even though United States health inspection procedures are equivalent to those provided for in the Third Country Meat Directive.

(2) An effect of the decertifications is to prohibit the importation of United States beef and pork products into the European Union.

(3) As a result of the decertifications, the highly competitive United States pork industry loses as much as $60,000,000 each year from trade with European Union countries.

(4) In July 1987 and November 1990, at the request of affected United States industries, the United States initiated investigations under section 301 of the Trade Act of 1974 into the European Union's administration of the Third Country Meat Directive and sought resolution of the meat and pork trade problems through the dispute settlement process established under the General Agreement on Tariffs and Trade.

(5) The United States Trade Representative preliminarily concluded on October 10, 1992, that the European Union's administration of the Third Country Meat Directive created a burden on and restricted United States commerce.

(6) Bilateral talks, initiated as a result of that finding, resulted in an Exchange of Letters in which the United States and the European Union concluded that the meat inspection systems of the United States and the European Union provided ''equivalent safeguards against public health risks'' and agreed to take steps to resolve remaining differences regarding meat inspection.

(7) Even though the United States terminated the section 301 investigation as a result of the Exchange of Letters, the United States determined that the practices under investigation would have been actionable if an acceptable agreement had not been reached.

(8) United States meat and pork producers have displayed consistent interest in exporting products to the European Union and have undertaken substantial investment to take the steps specified by the Exchange of Letters.

(9) The European Union has failed to acknowledge changes in plant safety and inspection procedures undertaken in the United States specifically at the European Union's request and has not fulfilled its obligation to inspect and relist United States producers who have taken the steps specified by the Exchange of Letters.

(10) The actions of the European Union in conducting United States plant inspections places the European Union in violation of commitments made in the Exchange of Letters.

(11) The European Union, in addition to being a party to the Exchange of Letters, is a signatory to GATT 1994 and to the Agreement on the Application of Sanitary and Phytosanitary Measures, which requires that meat and pork inspection procedures under Department of Agriculture regulations be treated as equivalent to inspection procedures required by the European Union under the Third Country Meat Directive if the regulations achieve the European level of sanitary protection.

(12) Whenever a foreign country is not satisfactorily implementing an international trade measure or agreement, the United States Trade Representative is required under section 306(b)(1) of the Trade Act of 1974 (19 U.S.C. 2416(b)(1)) to determine the actions to be taken under section 301(a) of such Act.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) EXCHANGE OF LETTERS.—The term ''Exchange of Letters'' means the exchange of letters concerning the application of the Community Third Country Directive, signed in May 1991 and November 1992, which constitute the agreement between the United States and the European Economic Community regarding the Third Country Meat Directive.

(2) GATT 1994.—The term ''GATT 1994'' means the General Agreement on Tariffs and Trade annexed to the WTO Agreement.

(3) THIRD COUNTRY MEAT DIRECTIVE; COMMUNITY THIRD COUNTRY DIRECTIVE.—The terms ''Third Country Meat Directive'' and ''Community Third Country Directive'' mean the European Union's Council Directive 72/462/EEC relating to inspection and certification of slaughter and processing plants that export meat and pork products to the European Union.

(4) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement establishing the World Trade Organization entered into on April 15, 1994.

SEC. 4. REQUIREMENT FOR DETERMINATION BY UNITED STATES TRADE REPRESENTATIVE.

Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall determine, for purposes of section 306(b)(1) of the Trade Act of 1974, whether the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other Agreement.

SEC. 5. REQUEST FOR DISPUTE SETTLEMENT.

If the United States Trade Representative determines under section 4 that the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other agreement, the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures applicable to the agreement.

SEC. 6. REVIEW OF CERTAIN MEAT FACILITIES.

(a) REVIEW BY FOOD SAFETY AND INSPECTION SERVICE.—If the United States Trade Representative determines pursuant to section 4 that the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other Agreement, the United States Trade Representative shall request the Secretary of Agriculture (who, upon receipt of the request, shall) direct the Food Safety and Inspection Service of the Department of Agriculture to review certifications for European Union facilities that import meat and other agricultural products into the United States.

(b) RELATIONSHIP TO USTR AUTHORITY.—The review authorized under subsection (a) is in addition to the authority of the United States Trade Representative to take actions described in section 301(c)(1) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)).

By Mr. GREGG:

S. 221. A bill to amend the Social Security Act to require the Commissioner of Social Security to submit specific legislative recommendations to ensure the solvency of the Social Security trust funds; to the Committee on Finance.

SOCIAL SECURITY ACT AMENDMENTS

Mr. GREGG. Mr. President, I rise to introduce legislation which I now send to the desk.

Mr. President, I am sure that my colleagues are familiar with the report recently released by the Social Security Advisory Council. That group, appointed by HHS Secretary Donna Shalala, was charged with making recommendations as to how to place our largest and most popular program—Social Security—on a stable and secure path for the 21st century. Their recommendations have accelerated an already vigorous debate concerning the eventual course of Social Security reform.

As someone who is greatly concerned about the future of Social Security, let me offer my view that we cannot afford the kind of gridlock and partisanship in rescuing that program that we have seen in the Medicare debate. It is vitally important that all of us come together to address problems of retirement security in a bipartisan way—one that involves all of the important players in this debate—both in Congress and within the administration.

My legislation, Mr. President, would simply establish an additional safeguard for the solvency of the Social Security system on which so many American senior citizens depend. Specifically, it will require the Commissioner of Social Security—at the same time each year that the Social Security trustees report to Congress on the solvency of the Social Security system—to recommend those legislative actions which the Commissioner deems necessary to place the Social Security system in long-term actuarial balance.

Mr. President, I believe that there is broad bipartisan consensus about certain aspects of Social Security. Certainly there is wide bipartisan support for the view that protecting the stability and solvency of the system should be among our highest national priorities. And, most of us recognize the stark fiscal realities facing the Social Security system. I refer to the fact that according to the Social Security trustees, beginning in the year 2012, the Social Security system will face annual operating deficits, meaning that there will then be inadequate revenues coming into the system to support current benefits. From that year onward—indeed for most of the 75-year period during which actuarial solvency is measured—there is an ever widening

gap between the promises of Social Security and the means available to pay for them, unless we act to change the law.

It is beyond those points of agreement, however, that our bipartisan consensus breaks down. Even though we all know that it will take bipartisan action to safeguard this system, the Social Security system could well become a sharpening focus of partisan political activity. Apparently the temptations here are simply too great for politicians to resist. It is the easier—though less responsible—course to ignore the problems within the system, and to take political advantage of those who seek to repair them.

We thus find ourselves in a peculiar situation. Each year, the Social Security trustees send information to Congress about Social Security's troubled future, and call upon Congress to act to restore the system to long-term solvency. Yet, at the same time, the custodians of that system—indeed, the soon-departing Social Security Commissioner herself—remain utterly silent as to how this is to be done. It is astounding to me that an individual will again be placed in charge of this most enormous and vital Government program, and yet not be required under the law to forward proposals to keep it stable and secure.

Toward the end of last year, the staff of the Budget Committee were briefed by representatives of the Social Security Administration as to how they were meeting their established performance goals under the Government Performance and Results Act. One of the goals established by the Social Security Administration was to improve public confidence in Social Security. Meanwhile, no recommendations are coming from the Commissioner of Social Security as to how to justify that confidence in the long term. It is long past time to repair this discontinuity.

I believe that this legislation should not be controversial. It stands to elementary reason that it should be part and parcel of the duties inherent in the position of Social Security Commissioner, to make such recommendations as are necessary to protect the future of the Social Security system. I hope that Congress will act quickly, and will pass this legislation early in this session.

By Mr. DOMENICI:

S. 222. A bill to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies; to the Committee on Governmental Affairs.

THE NATIONAL DROUGHT POLICY STUDY ACT OF 1997

Mr. DOMENICI. Mr. President, I rise to introduce legislation that I believe will finally start us down the long neglected road of developing a coherent, integrated, and coordinated national drought policy. I offer this legislation, Mr. President, in the wake of one of the most devastating droughts the southwestern United States has seen in a century, a drought for which there was simply no preparation at either Federal, State, or local levels.

Mr. President, some people do not consider a drought to be a disaster, but if live in a drought, and live through a drought, it is just as much a disaster as a tornado or an earthquake. It causes just as much devastation.

The problem is it kind of creeps up. And in the flow of its destructive force are many ruined lives, many lost businesses, many people who cannot make the mortgages on their farms and homes. It is time we have some coordinated effort to address these disasters. This legislation seeks to get that done.

Before I talk about the particulars of my bill, however, I would like to spend a few minutes describing to my colleagues just how devastating a serious drought disaster can be. Unfortunately, my State of New Mexico can be used as a prime example of this devastation.

Mr. President, water is everything in New Mexico. Ours is an arid State, and the rain and snowfall we receive in the spring and winter is literally a matter of life and death to our cities, towns, businesses, and environment. In 1995–96, however, precipitation levels were the lowest the had been in the 100 years that the State has been keeping such records. The results were nothing less than disastrous.

For example, the drought decimated the State's agricultural community. Every single county in the State received disaster declarations from the USDA. Farmers in the southern part of the State were forced to go to water wells, depleting an already-taxed aquifer. And, in northeastern New Mexico, winter wheat crops failed for the first time in anyone's memory.

The drought also destroyed forage for livestock producers, causing an industry already hit hard by high feed prices to hurt even more. In all, it was estimated that ranchers lost up to 85 percent of their capital.

The drought had a catastrophic impact on New Mexico's forests. The Dome, Hondo, and Chino Wells fires were all sparked by the incredibly dry conditions brought on by the drought, and were exacerbated by the lack of water needed to extinguished them. In all, there were over 1,200 fires in New Mexico last year burning over 140,000 acres of land and wiping out dozens of homes and businesses.

The drought also caused municipal water systems to be taxed to the hilt, forcing many cities and towns to consider drastically raised water rates for their citizens. And the drought meant that critical stretches of the Rio Grande River were almost completely dry, which in turn meant vastly reduced amounts of water for wildlife such as the endangered silvery minnow.

And New Mexico's problems were those of just one State: the 1995–96 drought devastated the entire southwestern region. Arizona, California, Colorado, Nevada, Oklahoma, Texas, Utah, and Kansas were all severely impacted by the drought. Small businessmen, farmers, and ranchers all across the area were wiped out. Oklahoma experienced almost $500 million in agricultural losses alone. Texas's agricultural losses exceeded $2 billion, while its overall statewide losses were over $5 billion. And in the southwest as a whole, almost 3 million acres of land were engulfed by fire, an amount almost three times the 5-year acreage.

In short, Mr. President, this drought was a killer. We in the Southwest were fortunate that this year is proving to be a much better year for precipitation than the last. But we do not know what the next year will bring. There could be yet another drought, again sending towns scrambling to drill new water wells, sweeping fire across bone-dry forests, and forcing farmers and ranchers to watch their way of life being wiped out.

But I do not want to give the impression that severe droughts are solely the curse of the Southwest. Every region in the United States can be hit by these catastrophes. In 1976–77, a short but intense drought struck the Pacific Northwest, requiring the construction of numerous dams and reservoirs to secure millions of additional acre feet of needed water. The 1988 Midwest drought caused over $5 billion in losses. And the infamous 7-year drought of 1986–93 experienced by California, the Pacific Northwest, and the Great Basin States caused extensive damage to water systems, water quality, fish and wildlife, and recreational activities.

And yet, even though they are so pervasive, and even though they so seriously impact the economic and environmental well-being of the entire Nation, we in New Mexico have learned from hard experience that the United States is poorly prepared to deal with serious drought emergencies. As a result of the hardships being suffered in every part of my state last year, I convened a special Multi-State Drought Task Force of Federal, State, local, and tribal emergency management agencies to coordinate efforts to respond to the drought. The task force was ably headed up by the Federal Emergency Management Agency, and included every Federal agency that has programs designed to deal with drought.

Unfortunately, what the task force found was that although the Federal Government has numerous drought related programs on the books, there simply is no integrated, coordinated system of implementing those programs. For example, while most of the Federal drought programs require a person to apply proactively for relief under them, there was almost a total lack of knowledge about those programs on the part of the victims they were designed to help. Worse yet, the programs that are in place are fragmented and ad hoc, and stop well short

of comprehensively helping people prepare for or respond to drought. Consequently, at first drought victims in this Nation do not know who to turn to for help, and then find that the help that is available is too late and totally inadequate.

These fundamental problems were specifically identified by the Multi-State Drought Task Force in its final report on the drought of 1995–96. The task force stated that ''[t]he States are left are left to navigate the ocean of applicable assistance programs as best they can.'' The task force went on to observe:

The Federal government does not have a national drought policy, national climatic monitoring system, nor an institutionalized organizational structure to address drought. Therefore, every time a drought occurs the Federal government is behind the power curve playing catch up in an ad hoc fashion to meet the needs of the impacted states and their citizens.

The Western Governors' Association recognized the exact same problems in its 1996 Drought Response Action Plan. The WGA stated that ''[t[he absence of a lead agency to handle drought—in addition to the lack of Federal interagency coordination—has significantly reduced the Federal Government's ability to provide adequate support over the long term.''

Indeed, the Multi-State Drought Task Force recommended that ''Congress in coordination with the administration develop and adopt a National Drought Policy to include a national drought monitory system and an institutionalized organizational structure with a designated lead Federal agency to direct and coordinate the efforts of the Federal Government in preparing for, responding to, and recovering from drought, as well as mitigating the impacts of drought.''

Similarly, the Western Governors' Association recommends ''[d]evelop[ing] a national drought policy or framework that integrates actions and responsibilities among all levels of government (Federal, State, regional, and local). This policy should plainly spell out preparedness, response, and mitigation measures to be provided by each entity.'' And it is my understanding that the National Governors' Association is considering adopting a similar recommendation sponsored by Governor Johnson of New Mexico.

All of this, Mr. President, has led me to introduce today's legislation. I believe that my bill will be the first step toward finally establishing a coherent, effective national drought policy. My bill creates a commission comprised of representatives of those Federal, State, local, and tribal agencies and organizations which are most involved with drought issues. On the Federal side, the Commission will include representatives from USDA, Interior, the Army, FEMA, SBA, and Commerce—agencies which all currently have drought-related programs on the books. Equally important will be the nonfederal members, including representatives from the National Governors' Association, the U.S. Conference of Mayors, and four persons representative of those groups that are always hardest hit by drought emergencies.

The Commission will be charged with determining what needs exists on the Federal, State, local, and tribal levels with regard to drought; with reviewing existing Federal, State, local, and tribal drought programs; and with determining what gaps exist between the needs of drought victims and those programs currently designed to deal with drought.

More importantly, the Commission will then be charged with making recommendations on how Federal drought laws and programs can be better integrated into a comprehensive national policy to mitigate the impacts of, and respond to, serious drought emergencies. Should Federal drought programs be consolidated under one single existing agency? How can the Nation be better prepared for these disasters? Should emergency loan programs that stand the risk of sinking drought victims deeper into debt be reevaluated? These are just some of the questions that we in Congress need guidance on if we are to move to the next level in developing a national drought strategy.

In conclusion, Mr. President, my legislation is just the first step in addressing the major national problem of drought disasters, but it is a step that must be taken quickly. Drought can strike any State, at any time, for any duration. I urge my colleagues to support this bill.

By Mr. THURMOND (for himself, Mr. FAIRCLOTH, Mr. HELMS, Mr. HUTCHINSON, Mr. KEMPTHORNE, Mr. SHELBY, and Mr. SESSIONS):

S. 223. A bill to prohibit the expenditure of Federal funds on activities by Federal agencies to encourage labor union membership, and for other purposes; to the Committee on Labor and Human Resources.

LABOR UNION MEMBERSHIP LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce a very important piece of legislation that would affect every American taxpayer. This measure would prohibit Federal funds from being used to encourage labor union membership.

Mr. President, I was shocked to learn that the Department of Labor has published and distributed brochures which state, If you don't have a union, you may want to consider joining an existing union or working with others to start one. These brochures are designed to help American workers know their rights when it comes to various forms of discrimination. I recognize the importance of these brochures, but I firmly believe that it is not the responsibility of the Federal Government to encourage or discourage labor union membership in any form. Organized labor has the resources and the manpower to do their own recruiting. They certainly should not be receiving free solicitation at the expense of the American taxpayer.

The legislation that I am introducing today specifically prohibits any Federal agency from using Federal funds for programs, seminars, staff positions, or publications which would compel, instruct, encourage, urge, or persuade individuals to join labor unions. As I stated before, it simply is not the responsibility of the Federal Government to encourage union membership. The American taxpayer should not bear the burden of promoting labor unions.

My distinguished colleagues, Senators FAIRCLOTH, HELMS, HUTCHINSON, KEMPTHORNE, SHELBY, and SESSIONS, join me as original cosponsors of this measure that I send to the desk. I invite our other colleagues to join us in support of this important legislation.

By Mr. WARNER:

S. 224. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes; to the Committee on Armed Services.

MILITARY RETIREES HEALTH BENEFITS LEGISLATION

Mr. WARNER. Mr. President, I rise today to introduce legislation which will return a sense of fairness to the military health care system by providing Medicare-eligible military retirees the same health care plan that is currently available to every other retired Federal employee. Under this legislation, all Medicare-eligible military retirees and their family members will be given the option to participate in the Federal Employee Health Benefits Plan [FEHBP].

Under the current system military retirees lose their guaranteed access to military medical care at age 65 and are forced to rely exclusively on Medicare. It is worth noting that our military retirees are the only group of Federal employees whose health plan is taken away at age 65. I am sure that my colleagues would agree that this situation is not only inherently unfair, but that it also breaks a long standing health care commitment to our military retirees. When these men and women joined the Armed Forces, they were promised health care for both them and their families, for the rest of their lives. This was a commitment. This was in writing. Now, at age 65, they find out that this commitment is being withdrawn.

Mr. President, the commonly held belief that the health care provided for military retirees is second to none is a myth. The truth is that when you compare it to what is provided by other large employers including General Motors, IBM, Exxon, and the rest of the Federal Government, the health care that is provided to our Medicare-eligible military retirees and their family members has become second to almost all others.

This bill that I am introducing today is the same legislation that I introduced in the 104th Congress. Although my legislation was not adopted, the fiscal year 1997 Senate-passed version of the National Defense Authorization Act Conference Report directed the Department of Defense to conduct a study of the cost and feasibility of extending the option of enrollment in FEHBP to our Medicare-eligible military retirees. This report is due to Congress on March 1, 1997. I am hopeful that this study will thoroughly examine this issue and provide meaningful recommendations that we can use to strengthen the military health care system during the Armed Services Committee's consideration of the bill I am introducing today.

Mr. President, this legislation represents a major step forward in the application of equitable standards of health care for all Federal employees and honors our commitment to those veterans who served our Nation faithfully through many years of arduous military service. I invite my colleagues to join me as cosponsors of this bill.

By Mr. KOHL:

S. 225. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

THE SUNSHINE IN LITIGATION ACT

Mr. KOHL.

Mr. President, I rise today to offer the Sunshine in Litigation Act, a measure that addresses the growing abuse of secrecy orders issued by our Federal courts. All too often our Federal courts allow vital information that is discovered in litigation—and which directly bears on public health and safety—to be covered up, to be shielded from people whose lives are potentially at stake, and from the public officials we have asked to protect our health and safety.

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

The measure that I am introducing today will bring crucial information out of the darkness and into the light. The measure amends rule 26 of the Federal Rules of Civil Procedure to require that judges weigh the impact on public health and safety before approving these secrecy orders. It is simple, effective, and straightforward. The Judiciary Committee reported out identical legislation last Congress by a bipartisan 11 to 7 majority.

Our bill essentially codifies what is already the practice of the best judges. In cases that do not affect public health safety, existing practice would continue, and courts could still issue protective orders as they do today. But in cases affecting public health and safety courts would apply a balancing test: they could permit secrecy only if the need for privacy outweighs the public's need to know about potential health or safety hazards. Moreover, courts could not, under this measure, issue protective orders that would prevent disclosures to regulatory agencies.

Although the law may result in some small additional burden on judges, a little extra work from judges seems a tiny price to pay for protecting blameless people from dangers. Every day, in the course of litigation, judges make tough calls about how to construe the public interest and interpret other laws that Congress passes. I am confident that the courts will administer this law fairly and sensibly. If this requires extra work, then the work is well worth it. After all no one argues that spoiled meat should be let out on the market because stricter regulations mean more work for FDA meat inspectors.

The problem of excessive secrecy orders in cases involving public health and safety has been apparent for many years. The Judiciary Committee first held hearings on this issue in 1990. ''Court Secrecy,'' Hearings before the Subcommittee. On Courts and Administrative Practice, Committee on the Judiciary, May 17, 1990, 101st Congress, 2d Session. The committee held hearings again in 1994.

In 1990, Arthur Bryant, the executive director of Trial Lawyers for Public Justice, told us: ''The one thing we learned * * * is that this problem is far more egregious than we ever imagined. It goes the length and depth of this country, and the frank truth is that much of civil litigation in this country is taking place in secret.'' Four years later, the attorney Gerry Spence told us about 19 cases he had been involved in in which his clients had to sign secrecy agreements. They included cases involving defects in a hormonal pregnancy test that caused severe birth defect, a defective braking system of a steam roller, and an improperly manufactured tire rim.

Individual examples of this problem abound. For over a decade, Miracle Recreation, a U.S. playground equipment company, marketed a merry-go-round that caused serious injuries to scores of small children—including severed fingers and feet. Lawsuits brought against the manufacturer were confidentially settled, preventing the public and the Consumer Products Safety Commission from learning about the hazard. It took more than a decade for regulators to discover the hazard and for the company to recall the merry-go-round.

There are yet more cases like these. In 1973, GM began marketing vehicles with dangerously-placed fuel tanks that tended to rupture, burn, and explode on impact more frequently than regular tanks. Soon after these vehicles hit the American road, tragic accidents began occurring, and lawsuits were filed. More than 150 lawsuits were settled confidentially by GM. For years, this secrecy prevented the public from learning of the dangers of these vehicles—6 million of which are still on the road. It wasn't until a trial in 1993 that the public began learning of the dangers of GM sidesaddle gas tanks and the GM crash test data which demonstrated these dangers.

Another case involves Fred Barbee, a Wisconsin resident whose wife, Carol, died because of a defective heart valve. Mr. Barbee told us that months and years before his wife died, the valve manufacturer had quietly, without public knowledge, settled dozens of lawsuits in which the valve's defects were demonstrated. So when Mrs. Barbee's valve malfunctioned, she rushed to a health clinic in Spooner, WI, thinking, as did her doctors, that she was suffering from a heart attack. Ignorant of the evidence that her valve was defective, Mrs. Barbee was misdiagnosed. Mrs. Barbee was treated incorrectly and died. To this day, Mr. Barbee believes that but for the secret settlement of heart valve lawsuits, he and his wife would have been aware of the valve defect, and his wife would be alive today.

At the 1994 Judiciary Committee hearing, we heard from a family which I must call the Does because they are under a secrecy order and were afraid to use their own names when talking to us and to our committee. The Does were the victims of tragic medical malpractice that resulted in serious brain damage to their child. A friend of the Does is using the same doctor, but Mrs. Doe is terrified of saying anything to her friend for fear of violating the secrecy order that governed her lawsuit settlement. Mrs. Doe is afraid that if she talks, the defendant in her case will suspend the ongoing settlement payments that allow her to care for her injured child.

What sort of court system prohibits a woman from telling her friend that her child might be in danger? And the more disturbing question is this: What other secrets are currently held under lock and key which could be saving lives if they were made public?

Mr. President, having said all this, I must in fairness recognize that there is another side to this problem. Privacy is a cherished possession, and business information is an important commodity. For this reason, the courts must,

in some cases, keep trade secrets and other business information confidential. The goal of this measure I have introduced is to ensure that courts do not carelessly and automatically sanction secrecy when the health and safety of the American public is at stake. At the same time, it will still allow defendants to obtain secrecy orders when the need for privacy is significant and substantial.

To attack the problem of excessive court secrecy is not to attack the business community. Most of the time, businesses seek protective orders for legitimate reasons. And although a few opponents of product liability reform may dispute that businesses care about public health and safety, we know that they do. Business people want to know about dangerous and defective products, and they want regulatory agencies to have the information necessary to protect the public.

The Sunshine in Litigation Act is a simple effort to protect the safety of the American people. Its benefits far outweigh any of the worst imaginable disadvantages. And the longer we wait to enact the legislation, the more people are put at risk.

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. 225

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 ''Sunshine in Litigation Act of 1997''.

SEC. 2. PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

''§ 1659. Protective orders and sealing of cases and settlements relating to public health or safety

''(a)(1) A court shall enter an order under rule 26(c) of the Federal Rules of Civil Procedure restricting the disclosure of information obtained through discovery or an order restricting access to court records in a civil case only after making particularized findings of fact that—

''(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

''(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

''(ii) the requested protective order is no broader than necessary to protect the privacy interest asserted.

''(2) No order entered in accordance with the provisions of paragraph (1) shall continue in effect after the entry of final judgment, unless at or after such entry the court makes a separate particularized finding of fact that the requirements of paragraph (1)(A) or (B) have been met.

''(b) The party who is the proponent for the entry of an order, as provided under this section, shall have the burden of proof in obtaining such an order.

''(c)(1) No agreement between or among parties in a civil action filed in a court of the United States may contain a provision that prohibits or otherwise restricts a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information.

''(2) Any disclosure of information to a Federal or State agency as described under paragraph (1) shall be confidential to the extent provided by law.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding after the item relating to section 1658 the following:

''1659. Protective orders and sealing of cases and settlements relating to public health or safety.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect 30 days after the date of the enactment of this Act and shall apply only to orders entered in civil actions or agreements entered into on or after such date.

By Mr. KOHL (for himself and Mr. DEWINE):

S. 226. A bill to establish felony violations for the failure to pay legal child support obligations, and for other purposes; to the Committee on the Judiciary.

THE DEADBEAT PARENTS PUNISHMENT ACT OF 1997

● Mr. KOHL. Mr. President, I introduce the Deadbeat Parents Punishment Act of 1997. Along with Senator SHELBY and Congressmen HYDE and SCHUMER, I introduced the original Child Support Recovery Act in 1992, and today Senator DEWINE and I are pleased to introduce a measure that will toughen the original law to ensure that more serious crimes receive more serious punishment. In so doing, we can send a clear message to deadbeat dads and moms: ignore the law, ignore your responsibilities, and you will pay a high price. In other words, pay up or go to jail.

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

Police officers and prosecutors have used the current law effectively, but they have found that current misdemeanor penalties do not adequately deal with more serious cases—those cases in which parents move from State to State to intentionally evade child support penalties, or fail to pay child support obligations for more than 2 years—serious cases that deserve serious, felony punishment. In response to these concerns, President Clinton has drafted legislation that would address this problem, and we are pleased to introduce it today.

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

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

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

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:

S. 226

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 ''Deadbeat Parents Punishment Act of 1997''.

SEC. 2. ESTABLISHMENT OF FELONY VIOLATIONS.

Section 228 of title 18, United States Code, is amended to read as follows:

''§ 228. Failure to pay legal child support obligations

''(a) OFFENSE.—Any person who—

''(1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than one year, or is greater than $5,000;

''(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than one year, or is greater than $5,000; or

''(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than two years, or is greater than $10,000;

shall be punished as provided in subsection (c).

''(b) PRESUMPTION.—The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

''(c) PUNISHMENT.—The punishment for an offense under this section is—

''(1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and

''(2) in the case of an offense under subsection (a)(2) or (a)(3), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

''(d) MANDATORY RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing:

''(e) DEFINITIONS.—As used in this section—

''(1) the term 'support obligation' means any amount determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

''(2) the term 'State' includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SECTION-BY-SECTION ANALYSIS

The Child Support Recovery Amendments Act of 1996 amends the current criminal statute regarding the failure to pay legal child support obligations, 18 U.S.C. §228, to create felony violations for egregious offenses. Current law makes it a federal offense willfully to fail to pay a child support obligation with respect to a child who lives in another State if the obligation has remained unpaid for longer than a year or is greater than $5,000. A first offense is subject to a maximum of six months of imprisonment, and a second or subsequent offense to a maximum of two years.

The bill addresses the law enforcement and prosecutorial concern that the current statute does not adequately address more serious instances of nonpayment of support obligations. A maximum term of imprisonment of just six months does not meet the sentencing goals of punishment and deterrence. Egregious offenses, such as those involving parents who move from State-to-State to evade child support payments, require more severe penalties.

Section 2 of the bill creates two new categories of felony offenses, subject to a two-year maximum prison term. These are: (1) traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than $5,000; and (2) willfully failing to pay a support obligation regarding a child residing in another State, if the obligation has remained unpaid for a period longer than two years or is greater than $10,000. These offenses, proposed 18 U.S.C. §228(a) (2) and (3), indicate a level of culpability greater than that reflected by the current six-month maximum prison term for a first offense. The level of culpability demonstrated by offenders who commit the offenses described in these provisions is akin to that demonstrated by repeat offenders under current law, who are subject to a maximum two-year prison term.

Proposed section 228(b) of title 18, United States Code, states that the existence of a support obligation in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that period. Although ''ability to pay'' is not an element of the offense, a demonstration of the obligor's ability to pay contributes to a showing of willful failure to pay the known obligation. The presumption in favor of ability to pay is needed because proof that the obligor is earning or acquiring income or assets is difficult. Child support offenders are notorious for hiding assets and failing to document earnings. A presumption of ability to pay, based on the existence of a support obligation determined under State law, is useful in a jury's determination of whether the nonpayment was willful. An offender who lacks the ability to pay a support obligation due to legitimate, changed circumstances occurring after the issuance of a support order has civil means available to reduce the support obligation and thereby avoid violation of the federal criminal statute in the first instance. In addition, the presumption of ability to pay set forth in the bill is rebuttable; a defendant can put forth evidence of his or her inability to pay.

The reference to mandatory restitution in proposed section 228(d) of title 18, United States Code, amends the current restitution requirement in section 228(c). The amendment conforms the restitution citation to the new mandatory restitution provision of federal law, 18 U.S.C. §3663A, enacted as part of the Antiterrorism and Effective Death Penalty Act of 1996, P.L. 104–132, section 204. This change simply clarifies the applicability of that statute to the offense of failure to pay legal child support obligations.

For all of the violations set forth in proposed subsection (a) of section 228, the requirement of the existence of a State determination regarding the support obligation is the same as under current law. Under proposed subsection (e)(1), as under current subsection (d)(1)(A), the government must show that the support obligation is an amount determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living.

Proposed subsection (e)(2) of section 228 amends the definition of ''State,'' currently in subsection (d)(2), to clarify the prosecutions may be brought under this statute in a commonwealth, such as Puerto Rico. The current definition of ''State'' in section 228, which includes possessions and territories of the United States, does not include commonwealths.●

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. REID, Mrs. FEINSTEIN, Mr. FORD, Mr. HOLLINGS and Mr. WYDEN):

S.J. Res. 12. A joint resolution proposing a balanced budget constitutional amendment; to the Committee on the Judiciary

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. DROGAN. Mr. President, I rise today to introduce a constitutional amendment for myself, Senator DASCHLE, Senator REID, Senator FEINSTEIN, Senator HOLLINGS, Senator FORD, and Senator WYDEN.

The constitutional amendment will be familiar to most Senators because it is about something that we are discussing a lot these days: balancing the Federal budget. It is a constitutional amendment to balance the Federal budget.

A number of us have taken the position that we would support a constitutional amendment to balance the budget if the constitutional amendment is the right kind of amendment. I want to talk a little about the constitutional amendment being proposed and the one was proposed 2 years ago here in the U.S. Senate.

I think fiscal discipline is necessary in this country, because our fiscal policy is out of whack. I think we have borrowed from our children and grandchildren. I think we ought to balance the Federal budget. I do not object to—in fact, I have supported and will support—the right kind of balanced budget constitutional amendment.

I will not, however, support a proposal to amend the U.S. Constitution that would enshrine in the Constitution the practice of using the Social Security trust funds to balance the Federal budget. That is precisely what the balanced budget amendment that the Judiciary Committee will mark up later this week would do. That is why Senator HOLLINGS and I and so many others are introducing a constitutional amendment to balance the budget, but one that will not use the Social Security trust funds to do so.

Let me explain why that is important. If you were in the private sector and you had a business and in that business you put away some money for your employees in a pension fund, and then at the end of the year you discovered that you had run a big loss, you might say, ''Well, I will just take my employees' pension funds and bring them over into the operating side of the business, and I will tell everybody that I didn't have a loss. I am using the employee pension fund to cover my operating loss.''

If you did that, you would be on your way to doing 2 years hard tennis in some minimum security prison because it is against the law. You can't do that. And we ought not be able to do it in the public sector either.

We are going to collect $78 billion more this year in Social Security revenues than we will expend in the Social Security system. We will, just this year alone, accrue a $78 billion surplus in Social Security. Why? Because we need the money after the turn of the century when the baby boomers retire. We have the biggest baby crop in the history of our country. When that baby crop retires after the turn of the century, we are going to have the largest strain on the Social Security system. Therefore, we are collecting more now than we need in the Social Security system and that savings is going to be used at the turn of the century to help fund the system when we need it.

But what is happening? What is happening is that extra revenue is used as just ordinary operating money and is used to say, ''Well, now we have reached a balanced budget in the year 2002,'' when, in fact, the budget is not in balance at all. It appears in balance only because you use the Social Security revenue or trust funds to show a balanced budget.

I want to demonstrate this with a chart. This chart is important because I was at a hearing the other day and they had the debt clock at the hearing—this clock that keeps running at $4,000 a second, or it is. The debt clock keeps running and running. I said to the chairman of the committee, Senator HATCH, the debt clock actually

makes the point I wanted to make at this hearing, because when you balance the budget, presumably you have stopped the debt clock from increasing. If you balance the Federal budget, the Federal Government ought not be taking on more debt. You have stopped the increase in debt. But guess what happens? In the very year in which the majority party says it will have balanced the budget, the Federal debt will increase by $130 billion, according to the Congressional Budget Office.

This is the debt. These are the numbers: $5.4 trillion in 2002, and it is still increasing on that year, by $130 billion. Why will the debt increase by $130 billion in the year in which you claim you have balanced the budget? Answer: The budget isn't in balance because you have collected the Social Security moneys that are an obligation because you need to use them later. But then you have brought them over here to use them to say you have balanced the budget.

We have not balanced the budget until and unless we stop the Federal debt increases. And the proposal to balance the budget before the Judiciary Committee does not do that. The congressional majority claimed that its budget plan would reach balance, but then the Congressional Budget Office says the deficit for that year is $104 billion, and the debt increases by $130 billion. This is a giant ruse. It, unfortunately, dishonestly uses the Social Security trust funds for a purpose that Congress never intended.

I know a little something about this because in 1983 I was on the House Ways and Means Committee when the Social Security reform bill was enacted. When it was enacted, it was determined there would be savings for the future when the Social Security trust funds would be needed. I offered an amendment that day 14 years ago in the committee saying, ''If you do not put these savings aside and out of the reach of people who want to use them for other purposes, they will not in fact be saved.'' Now these have grown to significant surpluses, and they are not out of reach. They are supposed to be out of reach because of what the Senator from South Carolina did when he wrote section 13301 of the Budget Enforcement Act, but they are not out of reach. They are used to show a balanced budget when the budget is not in balance.

So what we have done is very simply say, go ahead and pass a constitutional amendment to balance the budget. Let's do it the right and honest way. Let us make sure that the massive surpluses that we are going to accrue in the Social Security system are set aside, not counted as ordinary revenue, and that we balance the budget and save the Social Security trust fund revenues that are being taken out of workers' paychecks for that very purpose.

Last evening I was on the phone with Congressman MARK NEUMANN from Wisconsin of the House of Representatives. Incidentally, he is a Republican Congressman from Wisconsin. He feels exactly the same way and says there are a couple dozen Members of the House who feel exactly the same way. They [illegible] to use the Social Security trust funds which are saved for another purpose to show a balanced budget when, in fact, you are still increasing the Federal debt and you still have increases each year in the Federal deficit.

I have said before that I come from a town of 300 people and graduated in a high school class of nine. I probably didn't take the fanciest math in the whole world, but back in my hometown cafe, if they sit around and start talking about what ''balances'' are and what ''deficits and debts'' are, and if someone said, ''Do you think it would be appropriate to claim you have balanced the budget when the debt and deficit is still going to increase,'' it wouldn't take a lot of strong coffee to persuade people that that is not the right way to approach it and that is not an honest budget.

So we are introducing today a constitutional amendment to balance the budget that says when the budget is balanced, you will not have an increase in the Federal debt. You will have turned that debt clock into a stopwatch: no more increases in Federal debt and no more Federal deficits. There is a right way to do things and a wrong way to do things.

We propose that if we change the U.S. Constitution, we do it the right way. We propose that no one enshrine in the Constitution an opportunity to misuse up to $3 trillion of Social Security revenues that are taken from workers' paychecks with a solemn promise: this tax taken from your paycheck goes into a trust fund to be used for only one purpose, and that is to fund the Social Security system.

Some in this Congress, believing double-entry bookkeeping means you use the same money twice, have said we can promise that to the workers and then we can also use their money as an accounting entry over here to claim we have in fact reached a balanced budget.

That is wrong. It is certainly the wrong way to amend the U.S. Constitution. And we propose that when this Congress acts on a constitutional amendment, it act on an amendment that does the right thing—the right thing for workers, the right thing for retired folks in this country, but especially the right thing to balance this country's books and prevent us from continually seeing an increase in debt and deficits year after year.

Mr. President, we intend to talk about this later today, but I am delighted to see that my colleague from Kentucky, Senator FORD, is here, and my colleague, Senator HOLLINGS from South Carolina. Both Senators are cosponsoring this constitutional amendment.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 12

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

''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. I thank the distinguished Chair. Let me thank my distinguished colleague from North Dakota. Senator DORGAN has been forthright and persistent on this particular score. He has given us the necessary leadership to bring truth in budgeting.

I will never forget when we started out in this budget process back in 1973 and 1974—and I am the only remaining Member in either body, House and Senate, that still serves on that Budget Committee—the litany was all for a 10-year period and, particularly up through Gramm-Rudman-Hollings, about truth in budgeting. No more smoke and mirrors, no more rosy scenarios and those kinds of things—certainly no use of trust funds to obscure the actual size of the deficit.

It is very easy to determine what a deficit is. All you need to do is find out what the debt is this year and then what the debt is the ensuing year, and a simple subtraction will determine for you, if you please, that the debt this past fiscal year, for 1996, was $261 billion—not $107 billion. Not $107 billion, $261 billion.

I ask unanimous consent to have printed in the RECORD, if you please, a chart which shows that the U.S. budget ''busts'' the trust funds. It shows the trust fund surpluses, the real deficit, the gross Federal debt, and the gross interest costs.

President and year	U.S. budget (outlays—in billions)	Trust funds	Real deficit	Annual deficit change	Gross Federal debt (billions)	Gross interest
Truman:						
1945	92.7	5.4			260.1	
1946	55.2	3.9	−10.9		271.0	
1947	34.5	3.4	+13.9		257.1	
1948	29.8	3.0	+5.1		252.0	
1949	38.8	2.4	−0.6		252.6	
1950	42.6	−0.1	−4.3		256.9	
1951	45.5	3.7	+1.6		255.3	
1952	67.7	3.5	−3.8		259.1	
1953	76.1	3.4	−6.9		266.0	
Eisenhower:						
1954	70.9	2.0	−4.8		270.8	
1955	68.4	1.2	−3.6		274.4	
1956	70.6	2.6	+1.7		272.7	
1957	76.6	1.8	+0.4		272.3	
1958	82.4	0.2	−7.4		279.7	
1959	92.1	−1.6	−7.8		287.5	
1960	92.2	−0.5	−3.0		290.5	
1961	97.7	0.9	−2.1		292.6	
Kennedy:						
1962	106.8	−0.3	−10.3		302.9	9.1
1963	111.3	1.9	−7.4		310.3	9.9
Johnson:						
1964	118.5	2.7	−5.8		316.1	10.7
1965	118.2	2.5	−6.2		322.3	11.3
1966	134.5	1.5	−6.2		328.5	12.0
1967	157.5	7.1	−11.9		340.4	13.4
1968	178.1	3.1	−28.3		368.7	14.6
1969	183.6	−0.3	+2.9		365.8	16.6
Nixon:						
1970	195.6	12.3	−15.1		380.9	19.3
1971	210.2	4.3	−27.3		408.2	21.0
1972	230.7	4.3	−27.7		435.9	21.8
1973	245.7	15.5	−30.4		466.3	24.2
1974	269.4	11.5	−17.6		483.9	29.3
Ford:						
1975	332.3	4.8	−58.0		541.9	32.7
1976	371.8	13.4	−87.1		629.0	37.1
Carter:						
1977	409.2	23.7	−77.4		706.4	41.9
1978	458.7	11.0	−70.2		776.6	48.7
1979	503.5	12.2	−52.9		829.5	59.9
1980	590.9	5.8	−79.6		909.1	74.8
Reagan:						
1981	678.2	6.7	−85.7	[−6.1]	994.8	95.5
1982	745.8	14.5	−142.5	[−56.8]	1,137.3	117.2
1983	808.4	26.6	−234.4	[−91.9]	1,371.7	128.7
1984	851.8	7.6	−193.0	[+41.4]	1,564.7	153.9
1985	946.4	40.6	−252.9	[−59.9]	1,817.6	178.9
1986	990.3	81.8	−303.0	[−50.1]	2,120.6	190.3
1987	1,003.9	75.7	−225.5	[+77.5]	2,346.1	195.3
1988	1,064.1	100.0	−255.2	[−29.7]	2,601.3	214.1
Bush:						
1989	1,143.2	114.2	−266.7	[−11.5]	2,868.0	240.9
1990	1,252.7	117.2	−338.6	[−71.9]	3,206.6	264.7
1991	1,323.8	122.7	−391.9	[−53.3]	3,598.5	285.5
1992	1,380.9	113.2	−403.6	[−11.7]	4,002.1	292.3
Clinton:						
1993	1,408.2	94.2	−349.3	[+54.3]	4,351.4	292.5
1994	1,460.6	89.1	−292.3	[+57.0]	4,643.7	296.3
1995	1,514.4	113.4	−277.3	[+15.0]	4,920.0	332.4
1996	1,560.0	154.0	−261.0	[−16.3]	5,181.0	344.0

Note.—Historical Tables, Budget of the U.S. Government FY 1996; Beginning in 1962 CBO's 1995 Economic and Budget Outlook.

Mr. HOLLINGS. You see, by subtracting last year's debt from this year's debt, the increase of the debt over the last fiscal year gives us a deficit of $261 billion. Immediately the question is: How do we all run around claiming that we have a $107 billion deficit? The truth of the matter is that we go and borrow from other trust funds.

I ask unanimous consent at this particular point to have printed in the RECORD a list of those particular borrowings in trust funds.

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

Gross debt 1996	5,181
Gross debt 1995	4,920
Difference	261

	1996
Deficit	107
Trust Funds:	
Social Security	66
Medicare HI	−4
Medicare SMI	14
Military, civilian, other	42
Total	118
Additional borrowing:	
Banking	16
Treasury loans	20
Real deficit	261
Gross interest	344

NOTE.—The HI part of Medicare is projected to go broke by 2001. Based on numbers reported by the Treasury Department.

Mr. HOLLINGS. You will see that we had in 1995 a debt of $4.920 trillion and a gross debt in 1996 of $5.181 trillion. So the difference was $261 billion. And the reason that we listed the $107 billion is because we borrowed $66 billion from Social Security, a net of some $10 billion from Medicare, some $42 billion from the military and civilian retirement funds, banking and Treasury loans amounted to some $36 billion, for a total of $154 billion.

Trying to put Government on a pay-as-you-go basis has been my intent since I arrived here 30 years ago. I balanced the budget in South Carolina, and as Governor I received the first AAA credit rating of any Southern State, ahead of Texas on up through Maryland. I am proud of running Government on a pay-as-you-go basis.

I worked with George Mahon back in 1968–69, and we balanced the budget under President Lyndon Johnson. Incidentally, we did not use Social Security trust funds. Even though he

changed it to the unified budget, at this particular time the use of the funds was not necessary to balance the budget. So we have to credit President Johnson with the last balanced budget we have had in that 30-year period.

By the early 1980's, we realized that Social Security was going broke, and we came in here in a very formal fashion after a wonderful study by Alan Greenspan, the present Chairman of the Federal Reserve Board. We passed the Greenspan Commission program of tax increases in order to make Social Security solvent.

Let me go right now to the Greenspan Commission report, and you will find therein that ''a majority of the members of the national commission recommends that the operations of the OASI, DI, HI, SMI, trust funds,'' which is Social Security trust funds, ''should be removed from the unified budget. The national commission believes that changes in Social Security programs should be made only for programmatic reasons,'' and not—not—Mr. President, for balancing the budget.

When we debated this, we increased the taxes so that we would keep Social Security solvent until the distinguished occupant of the Chair was ready to receive his amount. This particular Senator is already receiving it. I am paying into Social Security. Senator THURMOND and I are also receiving Social Security. But, Mr. President, you are not going to receive it under the Domenici balanced budget to the Constitution. They absolutely prohibit it in the wording of this particular amendment.

Let me show you exactly what I am saying. You come right now to the resolution, S.J. Res. 1, just put in a couple days ago, and you will find:

> 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.

That repeals section 13–301. And if there were any doubt about it, let us read section 1.

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

I repeat very calmly, very clearly: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year—unless three-fifths of the whole Congress votes it.''

So that means that the very intent of the Greenspan Commission, namely that surpluses be built up to protect the baby boomers into the next generation—that money, even if it were saved, even if the surplus were built up and not being expended, as is the case—that money under this particular constitutional amendment could not be expended. You would have to cut right straight across the board. And let me be specific on just exactly what the Greenspan Commission stated at that particular time. If you refer to statement 5 on page 2, they talk about for the ''75-year valuation period, ending with 2056.'' You can move on further. They refer to 75 years several times in the report. On page 5, statement 5, 75 years. They were trying to provide solvency to the year 2056. In the 75 years ending in 2056, we were going to have a solvent surplus, a redeemable Social Security trust fund. And they recommended it be put off budget, not included in the unified budget, and not expended for other matters.

Now, let us get to that particular point about the taxes Congress voted for in 1983, because when you continue doing what we are doing now, you violate the trust. Back in 1983 we did not vote an increase in the payroll taxes for defense or for housing or for welfare or for foreign aid or for the expenses of the President or the Congress. It was a trust fund. You would have never gotten a majority vote in this national Government, in this Congress of the United States; you would have never gotten an affirmative vote, as we did in a bipartisan fashion, to increase the payroll taxes for the other instances of Government. We all pledged that that money was going into Social Security, and to make sure that the trust was maintained we voted it formally in July 1990.

I refer, as a past chairman of the Budget Committee, to the conference report of the Committee on the Budget on the Social Security Preservation Act, dated July 10, 1990. If you see, at that particular point on page 20, there was a Hollings motion to report the Social Security Preservation Act. It passed by a vote of 20 to 1—only the distinguished Senator from Texas, Mr. GRAMM, voted against it. All of the other present Senators voted it out at that particular time.

Then, of course, later on the floor of the U.S. Senate we had a vote of 98 to 2. It was on October 18, 1990. A bipartisan vote of 98 Senators here said, Take Social Security and put it out as a trust fund, not a unified budget.

It is very interesting to read in this particular Social Security Preservation Act, the language—and I want all the Members' attention to this, because this is the present chairman of the Budget Committee—I ask unanimous consent for 5 additional minutes.

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

Mr. HOLLINGS. I refer, on page 29, to the additional views, by Mr. DOMENICI, the present chairman of our Budget Committee. I quote:

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

And what was his reservation? It was that my provision was not strong enough. He wanted to build a firewall. He goes on to say:

> We need a firewall around those trust funds to make sure the reserves are there to pay Social Security benefits in the next century. Without a firewall or the discipline of budget constraints, the trust funds would be unprotected and could be spent on any number of costly programs.

I ask unanimous consent that these additional views of the distinguished chairman, the Senator from New Mexico, be printed in the RECORD.

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

ADDITIONAL VIEWS OF MR. DOMENICI

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

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

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

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

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

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

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

Furthermore, the Hollings bill says nothing about how or when we will achieve balance in the non-Social Security budget. The

bill simply takes Social Security out of the deficit calculation. If enacted, the Hollings bill would require $173 billion in deficit reduction in 1991 to meet the statutory GRH target (see attached table). Obviously, that is not going to happen.

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

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

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

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

PETE V. DOMENICI.

CBO JUNE BASELINE DEFICIT ESTIMATES

[Dollars in billions]

	1991	1992	1993	1994	1995
Baseline deficit excluding RTC	$164	$158	$162	$160	$142
Baseline deficit including RTC	232	239	194	146	138
Social Security surplus	73	83	95	109	124
Baseline deficit excluding RTC, and excluding Social Security surplus	237	241	257	269	266
Baseline deficit including RTC, and excluding Social Security surplus	305	322	289	255	262
GRH targets	64	28	0	0	0
Deficit reduction required to meet GRH targets from: Baseline deficit excluding RTC, and excluding Social Security surplus	173	213	257	269	266
Baseline deficit including RTC, and excluding Social Security surplus	241	294	289	255	262

Prepared by SBC Minority Staff, 23-Jul-90.

Mr. HOLLINGS. So at that particular time, and when 98 percent of this U.S. Senate voted for it, we had, if you please, the distinguished chairman who was very much concerned that it was not enough protection.

Now, here is what he writes today—you will see the difference here—on January 13, 1997 to Republican colleagues, the statement of Senator DOMENICI to his Republican colleagues here earlier this month.

Mr. President, I ask unanimous consent that letter be printed in the RECORD.

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

U.S. SENATE,

Washington, DC, January 13, 1997.

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

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

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

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

This is only a very small part of the story.

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

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

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

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

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

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

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

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

Sincerely,

PETE V. DOMENICI.

Mr. HOLLINGS. Mr. President, he said:

It is true that Social Security is currently running surpluses, and these surpluses offset deficit spending in the rest of the budget.

Well, heavens above, that is what we are trying to stop. We are not trying to pass a constitutional amendment as a subterfuge to the American people. He comes now and says we, who want to protect Social Security—as he voted to do in the Budget Committee, and provided in his formal views in the Budget Committee report, and thereupon, as he did on the floor of the U.S. Senate—are using the surpluses to ''offset deficit spending in the rest of the budget.'' That is a gimmick. That is a subterfuge. He expresses concern because we might build up deficits for Social Security in the next century. How about our deficit to Social Security this minute? Spending $66 billion, this past year over $70-some billion, we owe Social Security this minute $570 billion and by the year 2002 we will owe it $1 trillion.

Who is going to raise taxes $1 trillion to make Social Security solvent?

I ask unanimous consent to have printed in the RECORD, with this limited time, the Report of the Center on Budget and Policy Priorities.

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

THE BALANCED BUDGET AMENDMENT AND SOCIAL SECURITY

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

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

BACKGROUND

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

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

The acclaimed 1983 bipartisan Social Security commission headed by Alan Greenspan recognized this problem. It moved Social Security from a pure ''pay-as-you-go'' system to one under which the baby boomers would contribute more toward their own retirement. As a result, the Social Security system is now building up surpluses. By 2019, these surpluses will equal $3 trillion. After that, as the bulk of the baby boom generation moves into retirement, the system will

draw down the surpluses. This is akin to what families do in saving for retirement during their working years and drawing down their savings when they retire.

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

To pursue this approach, the tasks ahead are to reduce significantly or eliminate the deficit in the non-Social Security budget so that the surpluses in the Social Security trust funds contribute in whole or large part to national saving, and to institute further reforms in Social Security to restore long-term actuarial balance to the Social Security system. Restoring long-term balance will almost certainly entail a combination of building the surpluses to somewhat higher levels and reducing somewhat the benefits paid out when the boomers retire.

THE LEADERSHIP BBA AND SOCIAL SECURITY

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

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

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

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

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

LEADERSHIP BBA ALSO POSES OTHER PROBLEMS FOR SOCIAL SECURITY

Under the Leadership version, reductions in Social Security could be used to help Congress and the President balance the budget when they faced a budget crunch. This could lead to too little being done to reduce or eliminate deficits in the non-Social Security part of the budget and unnecessary benefit cutbacks in Social Security.

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

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

THE WYDEN/FEINSTEIN APPROACH

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

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

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

Mr. HOLLINGS. I will read just one paragraph from this report and then my statement will be complete.

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

Mr. President, we have some 33 cosponsors to Senate Joint Resolution 1, who now want to eviscerate the Social Security protections they voted for earlier. I have counted them. The majority of these cosponsors were here in 1990 when we voted to take it off budget—the others were not here in 1990 when this vote was taken, but 33 of these cosponsors were here.

We wrote a letter just a few years ago to Senator Dole, some five Members on this side. It was a letter dated March 1, 1995.

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

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

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

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

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

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

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

If the Majority Party can support this solution, then we are confident that the Senate

can pass the balanced budget amendment with more than 70 votes. If not, then we see no reason to delay further the vote on final passage of the amendment.

Sincerely,

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

Mr. HOLLINGS. Look, I have cosponsored a balanced budget amendment to the Constitution. I voted for a balanced budget amendment to the Constitution. But I am not going to, by gosh, play tricks with the Social Security trust fund and repeal the law that I worked so diligently to have enacted and signed, on November 5, 1990, by George Walker Herbert Bush into law. So we said: Not one vote of Senator HATFIELD from Oregon, here, Mr. Leader Dole, you can pick up five votes.

I cannot speak for the other four this morning. I have not checked with them. But he can get the vote of this particular Senator from South Carolina, if they write the constitutional amendment so as not to violate the trust that we so formally voted into law.

Mr. FORD. Mr. President, if there ever was a statement that the American people should listen to, that was just given by my distinguished colleague from South Carolina. He is here with institutional memory about what transpired and why—the intent. Now we find ourselves where this couple of words, balance the budget, supersedes all the work that has been done, cuts it off at its knees, so to speak, the Social Security trust fund. I think the people of this country, once they understand what the Senator from South Carolina, Mr. HOLLINGS, has just said, they will not be so interested in passing this particular balance the budget amendment.

I am one of those the other side criticized last time, I am one of the six. I changed my vote from balance the budget to against it. Why wouldn't I? Listen to Senator HOLLINGS, that is the reason I changed my vote. I have a responsibility to the seniors. We promised them we would not cut it or increase it to balance the budget, and we voted 83 to 16 last year saying that. That was just last year. Was that a political gimmick? Was that a campaign slogan? Or did we really mean it? I hope 83 of us really meant it. But we voted 83 to 16, saying we shall not raise or cut the Social Security in order to balance the budget.

I do not know where we are coming from. You may fool all of the people some of the time; you can even fool some of the people all the time; but you can't fool all of the people all the time. So what we are trying to do here now is fool the American people, saying to balance the budget it is going to give tax cuts, it is going to give interest rates cuts, it is going to do all these fabulous things. But we turn right around and break our word to the American people.

During the last debate on a balanced budget amendment, the other side of the aisle proposed not touching the Social Security trust fund until the year 2008. Don't touch it until 2008. That was a tacit admission that the Republicans planned to utilize the trust funds—and I make that plural—to balance the budget.

As my distinguished friend from South Carolina said, the money in the Social Security surplus, $71 billion in this year alone and accumulating to nearly $3 trillion by the year 2019, will be too tempting, Mr. President, for a Congress bound by the Constitution to balance the budget.

Once the Constitution is amended to require that, and I quote—and you heard it from the Senator from South Carolina—''total outlays for any fiscal year shall not exceed total receipts for that fiscal year.''

Social Security, I say to my friends, is placed in imminent danger, and it is likely that any attempt to exclude Social Security trust funds by implementing legislation—statutory language, that is—would be deemed then unconstitutional.

So, protecting the Social Security trust fund is not just a seniors issue. We promised not to reduce benefits—voted here for current Social Security beneficiaries—in order to balance the budget. We are just not going to do it.

But what about future retirees? Using the trust fund to offset other spending undermines generational equity, because under this scenario, total Government expenditures in any year, including expenditures for Social Security benefits, could not exceed total revenues collected in the same year. That would mean that Social Security surpluses could not be used to cover the benefit costs of the baby-boom generation when it retires.

We raised the taxes in 1983. We made a difference, so we would be able to cover. So now we say we can't expend more than we take in, and the trust fund is there so we can do it. So, therefore, we break our word to generations yet to come, as the Senator from South Carolina said to the occupant of the chair. The benefits, instead, would have to be financed in full by the taxes of those working in those years.

Using the Social Security surplus to pay for other spending programs would not only bankrupt Social Security, but would leave a system that needs long-term reform in order to meet the growth of future retirees virtually worthless. We need to reform and protect the Social Security trust fund in order to fulfill our contract of retirement security to working Americans.

You make a dollar and they take out your Social Security trust fund payments—all of it. Excluding the Social Security trust fund from a constitutional amendment to balance the budget is an important first step in fulfilling our contract with our working Americans and with those who want us to balance the budget.

Mr. President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

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

Mr. HOLLINGS. Mr. President, there are those in public service who feel that since posterity can do nothing for them, they see no reason to do anything for posterity. They look to the next election rather than the next generation, and this is the contrary for that.

We are not vying for the AARP or really the senior citizens. You don't get any letters on what we are talking about this morning from the AARP or any of those other seniors because they got their money. They know that surpluses are there right now. They are worried about Medicare, but they are not worried about this one.

The youngsters, the baby boomers that we are trying to look out for, the unborn that we are looking out for now have been told they are never going to get it, so they are all running around with IRAs and all these other kinds of things totally distorting a social insurance program.

Right to the point, and then I will sit down. We are doing this for the trust of the baby boomers, for the yet unborn in the next generation, not for the senior citizens right now. This is not a political thing for senior citizens or gimmick or tactic, as they call it in this morning's Washington Post. This is truth in budgeting and maintaining the trust that we all voted for 98 to 2.

Mr. REID. Mr. President, I say to all those within the sound of my voice that the two men whom you have just heard are people with an institutional memory, as Senator FORD has spoken. That is true. But also, these two Senators are gentlemen who have balanced budgets in their own States. They are Governors from two of the outstanding States in the Union, South Carolina and Kentucky. They know what they are talking about in truth in budgeting.

I am very happy to have been able to sit on the floor and listen to these two statements made by these two gentlemen who understand what we are talking about when we talk about balanced budgets. Of course, the three of us—the Senator from Kentucky, the Senator from South Carolina, the Senator from Nevada—support a balanced budget. We support a constitutional amendment to balance the budget, but we want to make sure it is a truth-in-budgeting balanced budget amendment, one that protects senior citizens and, most importantly, protects the real contract with America. That is the one that was developed some 50 years ago during the Great Depression when Social Security was first enacted.

We have an obligation to make sure that the moneys paid into that trust fund by the employers and employees is not used as a gimmick to balance the budget. Of course, it is easy to balance the budget if you use the hundreds of billions of dollars in the Social Security trust fund. But let's do it the hard way. Let's do it the right way. And

that is why, Mr. President, I was so elated, felt so good about the fact that in the other body, there are Members of the House of Representatives in both parties who are talking about maybe those few straggling voices in the Senate who last year were able to talk about the importance of the Social Security trust fund had something. Maybe we should look at what has gone on in the House when they pell-mell voted for a constitutional amendment and, in the process, said that we are going to destroy Social Security.

I think it is good that the other body is talking about having a vote on a constitutional amendment that will protect Social Security. That is all that we are asking. That seems fair. It seems, if we are going to balance the budget, we should do it the right way.

Finally, let me say this. Our position has been strengthened during the past year. It has been strengthened because the bipartisan commission to study Social Security has reported back, and they have said a number of things, but for purposes of this statement, I think the most important they have said is that all 13 members believe that all or part of the Social Security trust fund moneys should be invested in the private sector in some way. I say, Mr. President, how can those moneys be invested if there are not any? It is impossible.

So, if the 13 members believe some of the Social Security trust fund moneys should be invested in the private sector, then our constitutional amendment, which we are going to introduce today, which says we want a balanced budget but we want to do it excluding Social Security, then I think we have the support of those 13 members of the bipartisan commission.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I have, in the last few minutes, secured what I observed last evening on television by a statement by the most distinguished of distinguished Senators—there is none more responsible—the distinguished Senator from Utah, Senator ORRIN HATCH.

I now have his news release, Judiciary Committee, dated January 21, 1997.

I ask unanimous consent that the statement be printed in its entirety in the RECORD.

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

BALANCED BUDGET AMENDMENT LEGISLATIVE PRIORITY FOR HATCH

Washington, D.C. Balancing the budget topped Sen. Orrin Hatch's legislative agenda for the 105th Congress as 61 senators joined him today in introducing a constitutional amendment requiring the President and Congress to balance the federal budget and put an end to the growing addiction to deficit spending.

''The Balanced Budget Amendment will again be S.J. Res. 1 and that is appropriate because it is the single most important piece of legislation that will be voted on this Congress,'' Hatch said. ''The idea of a Balanced Budget Amendment is not new—unfortunately, neither is the problem it is designed to solve,'' Hatch said. ''Since the balanced budget in 1969, Congress has promised balanced budgets and failed to deliver them. With our national debt at nearly $5.3 trillion, we still have people telling us we do not need the Balanced Budget Amendment. The truth is the only way to change Washington's addiction to spending other people's money is to use the pressure of a constitutional amendment requiring a balanced budget.''

''Last Congress, when the Amendment fell a mere one vote short of passage in the Senate, I vowed that we would be back to try and pass this amendment and put America back on the course of fiscal responsibility,'' the senator added. ''Every one of the 55 Republicans in the Senate are original cosponsors and we are joined by seven strong Democrats giving us 62 original cosponsors. If only five other senators join us we will have the votes necessary. If everyone keeps their promises to their constituents and votes as they said they would before the November elections, we will pass the balanced budget amendment.''

Hatch noted that opponents to a constitutional amendment have tried and will continue to try to divert attention from the pressing issue of controlling our nation's debt. ''The fact is, contrary to opponent's scare tactics, the balanced budget amendment would ensure the long term stability of social security and other retirement investments of every American, as well as long term growth of the U.S. economy.''

The amendment introduced in the Senate today is the same as the one introduced in the last Congress. It requires a balanced federal budget by the year 2002. Any amendment to the Constitution needs a two-thirds approval in both houses of Congress as well as ratification by three-fourths of the states.

Hatch held hearings on the amendment Friday in the Senate Judiciary Committee and will convene a second hearing on the amendment Wednesday, January 22, 1997 at 10:00 a.m.

COSPONSORS OF S.J. RES. 1—THE BALANCED BUDGET AMENDMENT

Mr. Hatch (for himself and Mr. Lott, Thurmond, Craig, Nickles, Domenici, Stevens, Roth, Bryan, Kohl, Grassley, Graham, Specter, Baucus, Thompson, Breaux, Kyl, Moseley-Braun, DeWine, Robb, Abraham, Ashcroft, Sessions, D'Amato, Helms, Lugar, Chafee, McCain, Jeffords, Warner, Coverdell, Cochran, Hutchison, Mack, Gramm, Snowe, Allard, Brownback, Collins, Enzi, Hagel, Hutchinson, Roberts, Smith (OR), Bennett, Bond, Burns, Campbell, Coats, Faircloth, Frist, Gorton, Grams, Gregg, Inhofe, Kempthorne, McConnell, Murkowski, Santorum, Shelby, Smith (NH), and Thomas.

TEXT OF THE BALANCED BUDGET AMENDMENT

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

''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 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 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. HOLLINGS. I quote from this release.

Hatch noted that opponents to a constitutional amendment have tried and will continue to try to divert attention from the pressing issue of controlling our Nation's debt. The fact is, contrary to the opponents' scare tactics, the balanced budget amendment would ensure the long-term stability of Social Security and other retirement investments of every American as well as long-term growth of the United States economy.

Absolutely the contrary is the case. Absolutely the contrary is the case. You are not going to ''ensure the long-term stability of Social Security'' with this particular amendment.

This is the Senator that put it into the Budget Committee back in July 1990 where we voted 20 to 1 to protect Social Security. Thereupon, on the floor of this Senate, 98 Senators—the distinguished Presiding Officer was not present at that particular time—but 98 Senators voted in the affirmative, section 13–301 of the Budget Act signed into law by President Bush. That is what section 1 and section 7 of Senate Joint Resolution 1 does—vitiate, or to use the language that I included from the particular quote, ''eviscerate the intent of the Greenspan Commission.'' All this, after I worked to put into the law a provision saying ''Thou shalt not use Social Security trust funds to obscure the size of the deficit.''

When you use that $107 billion deficit for last year's figure, that is exactly what you are doing. So this is not a scare tactic.

Unfortunately, the media has picked up on the diversion because, as you can see this morning's paper here, our friend Eric Pearman here says, ''President Clinton intends to raise concerns about the potential impact of the amendment on the Social Security trust fund, a tactic Democrats used last time to defeat the amendment.''

This is no tactic. I have not talked to President Clinton about it. In a way, I do not welcome his joining in because it tries to make it a partisan issue. It was bipartisan, 98 votes of 100 in this Senate when we put into law section 13–301. It was a Republican President

that signed that into law. So it was not any Democratic tactic. It is truth in budgeting. And that is what we have a difficult time with.

You can see again in here—and I use the quote from our distinguished colleague from Utah:

Last Congress when the amendment failed by a mere one vote of passage in the Senate, I vowed that we would be back to try and pass this amendment and put America back on the course of fiscal responsibility,

the Senator added.

Every one of the 55 Republicans in the Senate are original cosponsors, and we are joined by 7 strong Democrats, giving us 62 original cosponsors. If only five other Senators join us, we will have the votes necessary. If everyone keeps their promises to their constituents and votes as they said they would before the November elections, we will pass a balanced budget amendment.

Mr. President, it wasn't one vote, it was five votes. And we had the five votes. We included it. I have that letter, Mr. President, for the CONGRESSIONAL RECORD. Here it is, dated March 1, 1995. We said at that particular time to Leader Dole, five Democratic Senators. It didn't fail by one vote, as they keep on saying. They had every opportunity to pass it, and they have every opportunity, I think, right at this moment to pass it. They say ''If everyone keeps their promises to their constituents,'' but they want to eviscerate the commitment we have made to Social Security. When they voted in 1990, that was a promise to their constituents in law. It is formalized in law, section 13301 of the Budget Act. That is what we are trying to do, keep our promises to our constituents. That is what we are doing, trying to keep our promise to the Greenspan Commission. When we raised the taxes, we didn't raise the taxes for foreign aid and welfare and food stamps. We raised the taxes for the Social Security trust fund—not for the seniors today, but as the Greenspan Commission report says, for the baby boomers in the next century. That is what we are trying to do. That is why we are having such a difficult time.

The media is looking only at today's politics, and the seniors could not be less interested in today's politics. They are concentrating on Medicare and their health costs. They know there is a big surplus that is already built up. So they are going to get their Social Security checks. But it's the baby boomers who are now misled into IRA's and investments in the stock market and everything else, because they almost believe, to a man or woman, that they are never going to get that money. And we continue to make sure they don't get that money by passing Senate Joint Resolution 1.

Now, I have talked to the leadership and said, ''Turn it around and make certain that we can carry out the trust that we instituted into law back in 1990.'' We voted for this again last year in another vote on the floor of the U.S. Senate by an overwhelming 86 votes. If we can carry out that promise to our constituents, you've got the Senator from South Carolina.

I believe in a balanced budget amendment to the Constitution. I have cosponsored it. I have introduced it. I have voted for it. But not with this situation here, where having passed it into law, I am supposed to vote to repeal my own trust and repeal my own law that I worked so hard on the Budget Committee to get.

We had a conscience in those days. We had a conscience. Now, it's all gimmickry, it's all pollster politics, unfortunately, on the floor of the National Government. Anything that is momentary, we fall. And right to the point, we are not really taking care of the needs of America.

I was on a panel—since we have a few moments—recently of 18 distinguished Senators and myself, and the question was, how could President Clinton make his mark now in history during the next 4 years? And the conventional wisdom right across the board with this particular panel, Mr. President, was that, look, there is not going to be any honeymoon. The Democrats are after GINGRICH, and GINGRICH was after GINGRICH. So any honeymoon would be short-lived. Very little would happen on the domestic front here in the next 4 years, just a little incremental adjustment perhaps on Medicare, a little bit on welfare. But the President's opportunity to make his mark in history was in foreign policy. They recommended—and it was a bipartisan group—what we ought to do is get computers to the third world, get technology to the emerging nations. That would make his mark in history.

When you drive home today, go down by Foggy Bottom, as I do, by the Watergate, and you will see the homeless lying on the streets of America. You will find this city in crime. You will find the children on drugs. You will find that schools are down, illiteracy is up. You will find the infrastructure, roads and bridges, haven't been repaired in 20 years. And those who are lucky enough to have a job are making less than what they were making some 20 years ago. As we work on that NIH budget, the medical brains of America come with these research grants, but 80 percent of the grants which are approved go unfunded. Medical and other research is languishing in this land. And here during this 4 years, we don't have a war, inflation is down, and the deficit is coming down, to President Clinton's credit.

The economy, generally speaking—the stock market—is strong. So this is a beautiful opportunity. With the fall of the Berlin Wall, where we had to sacrifice our economy heretofore during that 50-year period, we can now rebuild that economy. We can come in now and flesh out the meaningful programs that save us money in the long run. There is no question that only 50 percent of those on Women, Infants, and Children, Head Start, and title I for the disadvantaged are funded here at the Federal level. Rather than Goals, let's flesh out monetarily those programs; let's get revenue sharing back rather than Goals 2000; give the communities the revenue sharing to rebuild our educational system, the roadbeds of our railroads, and the infrastructure of our highways and airports. Instead, the $50 billion is going to be frittered away with pollster politics: a little here on capital gains, a little bit here for families, a little bit over here for some higher education. We can do way more on Pell grants than tax cuts for higher education. We haven't fleshed that out for those eligible.

We have a wonderful opportunity, but instead I am afraid we are on track now to get ourselves reelected. We are using the Government to get ourselves reelected. We are not responding to the needs, and the kick-off of this particular measure is totally political—Senate Joint Resolution 1, the balanced budget amendment to the Constitution. I will cut the spending with you. We will withhold on programs with you. We will increase taxes, if you can get some votes around here. My plan would not only reduce the deficit, it would reduce the trade deficit.

We are not willing to pay for what we are getting. That is the truth here in America.

Mr. DASCHLE. Mr. President, today I join with Senator DORGAN and others in introducing a balanced budget amendment to the Constitution. The amendment we are offering is identical to the one scheduled for markup in Judiciary Committee with one essential difference: Our amendment would protect Social Security by prohibiting the counting of Social Security trust funds toward balancing the budget.

The amendment to be considered in Judiciary Committee is likely to be the same as the one offered last year. It simply requires a balanced budget by a date certain without any consideration of the effect that it would have on Social Security.

We offered the amendment we are introducing today as an alternative in the last Congress. If the proponents of the Republican leadership amendment had accepted this single change, the amendment would have been sent to the States 2 years ago with resounding bipartisan support. Instead, they insisted on an amendment that in the year it claims to balance the budget will actually have a $104 billion deficit, masked by Social Security trust funds.

We believe to enshrine the practice of using Social Security funds as a part of the calculation for a balanced budget is just wrong. So our amendment would simply delete the Social Security trust funds from the calculations in determining whether the budget is balanced. It would ensure that, for all perpetuity, Social Security will not be abused again to balance the budget. Therefore, again this year, we will offer a balanced budget amendment to the Constitution that maintains a firewall between Social Security and rest of budget.

Why must Congress exclude Social Security? Looking back on the history

of the program, it becomes clear that to do otherwise would perpetuate a massive fraud on the American taxpayer. In 1977, and again in 1983, Congress took bold steps to shore up Social Security with major legislation to restore solvency to the program. The intention was to forward fund the anticipated retirement needs of future generations, especially the large cohort of so-called baby boomers.

The result was successful in terms of generating large surpluses. This year alone, the Government collects $72 billion more than it pays in benefits. Since 1983, the trust funds have developed reserves of over $550 billion.

This experiment has been far less successful than intended in terms of setting those surpluses aside. Instead of being saved to meet the retirement needs of future generations, the surplus revenues are being spent as soon as they are collected to finance the deficits being run up in the rest of the budget. In other words, Social Security payroll taxes of hard-working Americans are being used to pay for programs having absolutely nothing to do with Social Security.

Mr. President, this practice must end. Congress should balance the budget without counting Social Security so that those reserves will be there when they are needed. Consider the magnitude of this problem. Over the next 6 years, by 2002, surpluses will total $525 billion. In 2002, when the budget supposedly balances, Congress will rely on $104 billion in Social Security revenues.

Raiding the trust funds borrows from the future and places the burden on our children and grandchildren. Congress must not enshrine this practice in the Constitution.

If we adopt a balanced budget amendment without excluding Social Security, it would have the effect of reversing an earlier decision by Congress to take the program off-budget. In 1990, the Senate voted 98 to 2 for an amendment by the distinguished Senator from South Carolina [Mr. HOLLINGS] to take Social Security off-budget. The amendment proposed in the Judiciary Committee this year breaks that promise: Social Security could be used to pay for any other spending Congress chooses.

If we do not properly craft a balanced budget amendment, the retirement security of today's workers and future retirees will be at risk. By 2020, the trust fund reserves will total about $3 trillion. At that time, however, when those reserves are needed, two circumstances will make them unavailable. First, unless we balance the budget not counting Social Security and actually build real reserves, no funds will be available in the future to draw down. Second, and equally importantly, if Social Security outlays are counted under a balanced budget amendment, any funds that are paid out from a reserve will have to be offset in the same year with other tax increases or spending cuts.

Mr. President, this second point deserves emphasis. Unless Social Security is exempted from a balanced budget amendment, the reserves now accumulating through the tax contributions of America's work force will not be available as promised for retirees. The balanced budget amendment would make a mockery of the supposed reason for the high payroll taxes currently endured by today's workers. Even if those funds were saved as they should be, they could not be used to pay for Social Security benefits in the future.

Thus, the balanced budget amendment proposed in the Judiciary Committee condones the continued reliance on payroll taxes to finance general government expenditures. Keep in mind that Social Security is funded by a 12.4-percent payroll tax. It is collected only on the first $62,700 of income. This arrangement forces low- and moderate-income taxpayers to pay a larger share of their income than higher-income taxpayers. These taxes are justified by the progressive nature of Social Security benefits. However, this rationale would be eviscerated by enactment of the proposed balanced budget amendment. It would absolutely prevent these surplus payroll tax collections from being used for their intended purpose.

Mr. President, 58 percent of taxpayers pay more Social Security than income taxes. These workers, and indeed all American taxpayers, reject the systematic abuse of dedicated payroll taxes for purposes other than Social Security.

We should stop playing with fire regarding the future of the Social Security system. Congress should not approve an amendment to the Constitution that threatens Social Security's future and makes a mockery of the financing system it has put in place.

If Congress votes on our version of the balanced budget amendment, it will be approved with overwhelming bipartisan support. That would be the appropriate note with which to begin the 105th Congress.

By Mr. SHELBY:

S.J. Res. 13. A joint resolution proposing an amendment to the Constitution of the United States which requires—except during time of war and subject to suspension by the Congress—that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calendar year; to the Committee on the Judiciary.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. SHELBY. Mr. President, today I am introducing a balanced budget amendment to the Constitution. This is the same amendment which I have introduced in every Congress since the 97th Congress. Over the past 20 years, I have devoted much time and attention to promoting this idea because I believe that the single most important thing the Federal Government could do to enhance the lives of all Americans and future generations is to balance the Federal budget.

Mr. President, Alexander Hamilton once wrote that ''* * * there is a general propensity in those who govern, founded in the constitution of man, to shift off the burden from the present to a future day.* * *''

History has proven Hamilton correct. We have seen over the past 27 years, that deficit spending has become a permanent way of life in Washington. During the past three decades, we have witnessed countless ''budget summits'' and ''bipartisan budget deals,'' and we have heard, time and again, the promises of ''deficit reduction.'' But despite all of these charades, the Federal budget has never been balanced, and it remains severely out of balance today. The truth is, Mr. President, it will never be balanced as long as the President and the Congress are allowed to shortchange the welfare of future generations to pay for current consumption.

A balanced budget amendment to the Constitution is the only way possible to break the cycle of deficit spending and ensure that the Government does not continue to saddle our children and grandchildren with this generation's debts.

Mr. President, everyone in America would benefit from a balanced Federal budget. The Congressional Budget Office has stated that a balanced Federal budget would lower interest rates by up to 2 full percentage points. That would save the average American family with a $75,000 mortgage on their home, about $2,400 per year. It would save the average student with an $11,000 student loan about $1,900. That is real money put in the pockets of hard-working Americans, simply by the Government balancing its books.

Moreover, if the Government demand for capital was reduced, that would increase the private sector's access to capital, which in turn, would generate substantial economic growth and create thousands of new jobs.

On the other hand, without a balanced budget amendment, the Government will continue to waste the taxpayers' money on unnecessary interest payments. In fiscal year 1996, the Federal Government spent about $241 billion just to pay the interest on the national debt. That is more than double the amount spent on all education, job training, crime, and transportation programs combined.

Mr. President, we might as well be taking these hard-earned tax dollars and pouring them down a rat hole. We could be putting this money toward improving education, developing new medical technologies, finding a cure for cancer, or even returning it to the people who earned it in the first place. But

instead, about 15 percent of the Federal budget is being wasted on interest payments because advocates of big government continue to block all efforts to balance the budget.

Mr. President, a balanced budget amendment will change all of that. It will put us on the path to begin paying off our national debt, which is currently more than $5 trillion. This amendment will help ensure that taxpayers' money will not continue to be wasted on interest payments.

Opponents of a balanced budget amendment act like it is something extraordinary. Mr. President, a balanced budget amendment will only require the Government to do what every American already has to do: balance their checkbook. It is simply a promise to the American people that the Government will act responsibly.

Mr. President, we do not need any more budget deals. We do not need any more ''bipartisan'' summits resulting in huge tax increases. What we need is a hammer to force the Congress and the President to agree on a balanced budget, not just for this year, but forever. Mr. President, a constitutional amendment to balance the budget is the only such mechanism available.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 2, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for American families, and for other purposes.

S. 3

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 3, a bill to provide for fair and accurate criminal trials, reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, reduce the fiscal burden imposed by criminal alien prisoners, promote safe citizen self-defense, combat the importation, production, sale, and use of illegal drugs, and for other purposes.

At the request of Mr. HATCH, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 3, supra.

S. 4

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 6

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 6, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 7

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 7, a bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes.

S. 9

At the request of Mr. NICKLES, the names of the Senator from Oklahoma [Mr. INHOFE] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 9, a bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

S. 15

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 15, a bill to control youth violence, crime, and drug abuse, and for other purposes.

At the request of Mr. KERREY, his name was added as a cosponsor of S. 15, supra.

S. 29

At the request of Mr. LUGAR, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 29, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 30

At the request of Mr. LUGAR, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 30, a bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from inheritance taxes.

S. 31

At the request of Mr. LUGAR, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 31, a bill to phase-out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 75

At the request of Mr. KYL, the names of the Senator from Montana [Mr. BURNS] and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 75, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 94

At the request of Mr. BRYAN, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 94, a bill to provide for the orderly disposal of Federal lands in Nevada, and for the acquisition of certain environmentally sensitive lands in Nevada, and for other purposes.

S. 102

At the request of Mr. BREAUX, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 102, a bill to amend title XVIII of the Social Security Act to improve Medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes.

S. 104

At the request of Mr. MURKOWSKI, the names of the Senator from Wyoming [Mr. THOMAS], the Senator from Virginia [Mr. ROBB], and the Senator from Kansas [Mr. BROWNBACK] were added as cosponsors of S. 104, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 139

At the request of Mr. FAIRCLOTH, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of S. 139, a bill to amend titles II and XVIII of the Social Security Act to prohibit the use of Social Security and Medicare trust funds for certain expenditures relating to union representatives at the Social Security Administration and the Department of Health and Human Services.

S. 143

At the request of Mr. DASCHLE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 143, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer.

S. 181

At the request of Mr. GRASSLEY, the names of the Senator from Wyoming [Mr. THOMAS], the Senator from Colorado [Mr. ALLARD], and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of S. 181, a bill to amend the Internal Revenue Code of 1986 to provide that installment sales of certain farmers not be treated as a preference item for purposes of the alternative minimum tax.

SENATE JOINT RESOLUTION 2

At the request of Mr. HOLLINGS, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Joint Resolution 2, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE JOINT RESOLUTION 9

At the request of Mr. KYL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of Senate Joint Resolution 9, a joint resolution proposing an amendment to the Constitution of the United States to