

RULE 5.—VOTING

(a) Vote to report a measure or matter.—No measure or matter shall be reported from the Committee unless a majority of the Committee is actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his or her vote to report a matter be cast by proxy. The proxy shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the rollcall vote of the members present and voting, as an official record of the vote on the measure or matter.

(b) Vote on matters other than to report a measure or matter.—On Committee matters other than a vote to report a measure or matter, no record vote shall be taken unless a majority of the Committee are actually present. On any such other matter, a member of the Committee may request that his or her vote may be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman any time before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

RULE 6.—QUORUM

No executive session of the Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the swearing in of witnesses, and the taking of testimony.

RULE 7.—STAFF PRESENT ON DAIS

Only members and the Clerk of the Committee shall be permitted on the dais during public or executive hearings, except that a member may have one staff person accompany him or her during such public or executive hearing on the dais. If a member desires a second staff person to accompany him or her on the dais he or she must make a request to the Chairman for that purpose.

RULE 8.—COINAGE LEGISLATION

At least 40 Senators must cosponsor any gold medal or commemorative coin bill or resolution before consideration by the Committee.

EXTRACTS FROM THE STANDING RULES OF THE SENATE

RULE XXV. STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(d)(1) Committee on Banking, Housing, and Urban Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Banks, banking, and financial institutions.

2. Control of prices of commodities, rents, and services.

3. Deposit insurance.

4. Economic stabilization and defense production.

5. Export and foreign trade promotion.

6. Export controls.

7. Federal monetary policy, including Federal Reserve System.

8. Financial aid to commerce and industry.

9. Issuance and redemption of notes.

10. Money and credit, including currency and coinage.

11. Nursing home construction.

12. Public and private housing (including veterans' housing).

13. Renegotiation of Government contracts.

14. Urban development and urban mass transit.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to international economic policy as it affects United States monetary affairs, credit, and financial institutions; economic growth, urban affairs, and credit, and report thereon from time to time.

COMMITTEE PROCEDURES FOR PRESIDENTIAL NOMINEES

Procedures formally adopted by the U.S. Senate Committee on Banking, Housing, and Urban Affairs, February 4, 1981, establish a uniform questionnaire for all Presidential nominees whose confirmation hearings come before this Committee.

In addition, the procedures establish that:

(1) A confirmation hearing shall normally be held at least 5 days after receipt of the completed questionnaire by the Committee unless waived by a majority vote of the Committee.

(2) The Committee shall vote on the confirmation not less than 24 hours after the Committee has received transcripts of the hearing unless waived by unanimous consent.

(3) All nominees routinely shall testify under oath at their confirmation hearings.

This questionnaire shall be made a part of the public record except for financial information, which shall be kept confidential.

Nominees are requested to answer all questions, and to add additional pages where necessary.●

ORDER OF BUSINESS

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

(The remarks of Mr. THOMAS pertaining to the introduction of S. 314 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. THOMAS. Mr. President, I thank you for the time. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT AND SOCIAL SECURITY TRUST FUNDS

Mr. REID. Mr. President, hopefully the week we get back, we will be able to start a serious debate on the most important issue relating to the balanced budget amendment, namely whether or not Social Security trust fund moneys should be counted in the constitutional amendment to balance the budget.

There will be an amendment offered, of course, that the Social Security trust fund moneys should be excluded from that. It seems each day that goes by we get added support for our amendment. We have received support over the months from various individuals, and just yesterday we received an opinion from the Congressional Research Service of the Library of Congress that was very important.

There has been some talk in the Chamber today that they have changed their opinion. Nothing could be further from the truth. And that certainly can come from reading the transmission from the American Law Division of the Congressional Research Service today. My friend, the Senator from North Dakota, will discuss this when I complete my remarks. But, Mr. President, all you need to do is read this new document that they put out where it says:

Only if no other receipts in any particular year could be found would the possibility of a limitation on drawing down the Trust Funds arise. Even in this eventuality, however, Congress would retain the authority, under the [balanced budget amendment] to raise revenues—

Of course, if you can get a supermajority.

or to reduce expenditures—

That's very true, you could continue to cut.

to obtain the necessary moneys to make good on the liquidation of securities from the Social Security Trust Funds.

Mr. President, this is certainly the same opinion that they rendered yesterday. The Social Security Trust Fund is the largest money out there, this year, \$80 billion. This is being applied toward the deficit to make it look smaller. And that is all they are saying, that is, in effect, when it comes time to balance the budget, they will look to Social Security. The way the balanced budget amendment is written, if there are not surpluses over and above the Social Security Trust Fund moneys, people simply would not be able to draw their checks.

I will yield the floor—

Mr. DORGAN. I wonder if the Senator will yield?

Mr. REID. I will be happy to.

Mr. DORGAN. Mr. President, I wanted to make an observation and make a point. The Congressional Research Service has sent a second letter. I wanted to make the point the Senator from Nevada made. The second letter says the same as the first letter on the question of whether surpluses in the Social Security Trust Fund can be used in the outyears to be spent for Social Security needs. The answer is, in the first letter from CRS and in the second, the answer is no, unless there is a corresponding tax increase in the same fiscal year, or corresponding spending cuts, equal to those surpluses. And that is the very point we were making.

The second letter from the Congressional Research Service simply says the same thing that they said earlier with slightly different wording. We

want to make that point, that this is not a change in position for them at all.

In the outyears, the way the constitutional amendment to balance the budget is worded, the Government would be prevented from using the surpluses accrued in the Social Security Trust Fund that were saved for the specific purpose of being used later when they were needed. It would be prevented from using those unless in those years it also increased taxes sufficient to cover them or cut spending sufficient to cover them. This, despite the fact that they were accrued as surpluses, above other needs in the Social Security system now, in order to meet the needs in the future.

I know this is confusing. We just wanted to leave the message that the Congressional Research Service is saying the same thing. This is not a change in message from them at all, and this is about a \$3 trillion issue. It is of great significance, and I hope Members will take account of it as we consider these issues.

Mr. REID. I say to my friend from North Dakota, also, we will discuss this at great length right after the break. But it is interesting that we are talking about trust fund moneys like it is some fungible commodity that can be used for any purpose. The fact of the matter is, Social Security Trust Fund moneys are put, supposedly, into a trust fund to be used for people's retirement, not to make the deficit look smaller.

Mr. DORGAN. If the Senator will yield for 1 additional minute, that is exactly the point of this debate. It is not an attempt in any way to create more diversion, or any diversion, on the issue of a constitutional amendment to balance the budget.

The question is, Shall the Constitution be altered? But we are raising the question of, if an alteration of the Constitution is made, how will that affect, in the outyears, the opportunity to spend the surpluses that we are accruing each year now because we need it when the baby boomers retire?

And the answer is, according to the Congressional Research Service, it will have a profound and enormous effect on the Government's ability to do that. That is what we want our colleagues to understand.

The PRESIDING OFFICER. The Chair will inform the Senators, under the previous order we were in morning business for up to 5 minutes each, and I must notify the Senators that time has elapsed.

The Senator from Utah.

Mr. HATCH. Mr. President, I would like to take this time to briefly respond to my friend from North Dakota and others. In their press conference that was held this morning, as I understand it—I was not there, but Senators CONRAD, DORGAN and REID were—at that event a one-page memorandum from the Congressional Research Service, which was inaccurately termed a

“study,” was characterized as proof that passage and ratification of the balanced budget amendment will harm Social Security.

The problem is that the CRS memorandum did not conclude that at all. All the CRS memorandum concluded was that the Social Security existing surpluses after 2019—the year the program no longer produces surpluses because of the retirement of the baby boomers—cannot be used to fund the program unless such expenditures were offset by revenue or budget cuts.

Of course, this is technically true. That is what a balanced budget does. It balances outlays and receipts, and expenditure of any part of the budget is an outlay.

But these critics of the balanced budget fail to mention a few things. They fail to mention that CRS, in the memorandum, also concluded that the present day surpluses are “an accounting practice.” Past CRS studies clearly demonstrate that the Social Security trust funds are, indeed, an accounting measure. There is no separate Federal vault where Social Security receipts are stored. Social Security taxes—called FICA taxes—are simply deposited with all other Federal revenues. The moneys attributed to Social Security are tracked as bookkeeping entries so that we can determine how well the program operates. As soon as the amounts attributed to FICA taxes are entered on the books, Federal interest-bearing bonds are electronically entered as being purchased. That is the safest investment that exists in the world today.

This country has a unified budget. This means that the proceeds from Social Security taxes are part of the Treasury—of general revenue. CRS has recognized this.

Moreover, I might add, without including the present day surpluses, the budget cannot be balanced. That is why President Clinton has included Social Security funds in every one of his budgets.

Do Senators DORGAN, CONRAD, and REID oppose that? If they do, they have a right to, but the President includes them because he has to.

I recognize that Social Security is in danger. But the problem is not the inclusion of Social Security funds in the budget. The problem is that, with the retirement of the baby boomers and that generation, there will not be enough FICA taxes to fund their retirement. CRS, in a study, concluded that the present day surpluses would not be sufficient to resolve this problem. CRS concluded that the Social Security program needs to be fixed.

Finally, not including Social Security in the budget would harm the program. Congress could rename social programs—as they have done before—as Social Security and use the FICA taxes to fund those programs to the detriment of senior citizens; that is, if we do not handle this matter the way the balanced budget amendment requires us to do.

My colleagues' problem, in reality, is not with the balanced budget amendment but with the problems the Social Security program faces and will face in the future. We need to fix that. Adopting the balanced budget amendment is a good start. If we do not do that and if they take these matters so they are not part of the unified budget, then I submit every senior in this country is going to be hurt some time in the future because there will not be the will to get matters under control and spending under control.

We saw the charts of the distinguished Senator from West Virginia all afternoon, which I think make my case, and so do these 28 years of unbalanced budgets. The only way we are going to face up to the needs of Social Security and the needs of our seniors is if it is part of the unified budget.

Frankly, the CRS is right, this is an accounting process. The way to do it right is to have a balanced budget amendment passed that works.

Mr. President, I ask unanimous consent that the Congressional Research Service, Library of Congress, February 12, 1997, letter to the Honorable PETE V. DOMENICI, attention Jim Capretta, from the American Law Division, on the subject of “Treatment of Outlays from Social Security Surpluses under BBA,” signed by Johnny H. Killian, Senior Specialist, American Constitutional Law, be printed in the RECORD at this point.

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

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, February 12, 1997.
To: Honorable Pete V. Domenici, Attention:
Jim Capretta.
From: American Law Division.
Subject: Treatment of Outlays from Social Security Surpluses under BBA.

This memorandum is in response to your inquiry with respect to the effect on the Social Security Trust Funds of the pending Balanced Budget Amendment (BBA). Under S.J. Res. 1 as it is now before the Senate, §1 would mandate that “[t]otal outlays for any fiscal year shall not exceed total receipts for that fiscal year. . . .” Outlays and receipts are defined in §7 as practically all inclusive, with two exceptions that are irrelevant here.

At some point, the receipts into the Social Security Trust Funds will not balance the outlays from those Funds. Under present law, then, the surpluses being built up in the Funds, at least as an accounting practice, will be utilized to pay benefits to the extent receipts for each year do not equal the outlays in that year. Simply stated, the federal securities held by the Trust Funds will be drawn down to cover the Social Security deficit in that year, and the Treasury will have to make good on those securities with whatever moneys it has available.

However, §1 of the pending BBA requires that total outlays for any fiscal year not exceed total receipts for that fiscal year. Thus, the amount drawn from the Social Security Trust Funds could not be counted in the calculation of the balance between total federal outlays and receipts. We are not concluding that the Trust Funds surpluses could not be drawn down to pay beneficiaries. The BBA would not require that result. What it would

mandate is that, inasmuch as the United States has a unified budget, other receipts into the Treasury would have to be counted to balance the outlays from the Trust Funds and those receipts would not be otherwise available to the Government for that year. Only if no other receipts in any particular year could be found would the possibility of a limitation on drawing down the Trust Funds arise. Even in this eventuality, however, Congress would retain authority under the BBA to raise revenues or to reduce expenditures to obtain the necessary moneys to make good on the liquidation of securities from the Social Security Trust Funds.

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

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we will likely have a longer debate about this, and I shall not lengthen it today, but the Senator from Utah always makes a strong case for his position.

In the circumstances this evening, he, once again, has made a strong case, but on a couple of points, in my judgment, he is factually in error, and I want to point that out.

In one respect he is not in error, he is absolutely correct. President Reagan, President Bush, and President Clinton have all sent budgets since 1983 to this Congress—1983 is the period in which we began to decide we were going to accumulate substantial surpluses in Social Security to save for a later time when they are needed—all Presidents have sent budgets to this Congress that use the Social Security trust funds as part of the unified budget. I think 2 days ago on the floor of this Senate, I pointed out the President did that in his budget, and his budget that he says is in balance is not in balance. I pointed that out about this President. I made the same point about President Bush and President Reagan when they did it as well.

But, having said that, the Senator from Utah says the Social Security trust funds that are derived from Social Security taxes taken from paychecks of workers all across this country and from the employers, is a technical issue, and they simply go into all other funds and they are commingled. This technical resolution of all these moneys means that there really is not a dedicated Social Security fund, and so on and so forth.

I would be happy to go for a drive with the Senator from Utah to Parkersburg, WV, where the Social Security trust fund securities are held under armed guard. I might even be able to bring him a copy of one of those securities so we could show him that those securities exist. They are held under armed guard. I can tell him where they are held, and it is not merely technical. It is much, much more important than that.

If it is purely technical, then I say to the tens of millions of workers out there, "The next time you get your paycheck stub and you see that little portion where they take some tax away from you and they say, 'We're doing

this to put it in the Social Security account and it's a dedicated tax to go into a dedicated trust fund to be used for only one purpose,' you deserve a tax break; you ought not be paying that if it is not going to where it is indicated it is going, to a trust fund to save for the future." If this is just like other money, commingled with other funds, let's stop calling it a trust fund, let's stop calling it a dedicated tax and call it an income tax, and a regressive one because everybody pays the same amount.

In fact, it is the case that most Americans pay more in this payroll tax than they do in taxes, regrettably, but they do so because they believe it goes into a trust fund. I reject the notion somehow that there is no difference between all this money. I think the trust funds are dedicated funds that we promised workers would be saved for their future.

The Congressional Research Service says nothing in the second letter they did not say in the first. They say—and you can say it two ways—the Government with this constitutional amendment to balance the budget, the way it is worded, would be prevented from using the Social Security trust funds in the outyears, when we are going to use that surplus because it is needed, unless a corresponding tax increase or corresponding spending cut equal to those trust funds is enacted by Congress. That is one way of saying it.

The other way of saying it, which they now have in this paper, says the Congress, in the outyears, can use the Social Security trust funds, but only if there is a corresponding tax increase or spending cut. It is another way of saying exactly the same thing. Why use two pieces of paper when you can use one? It doesn't matter much to me. It is probably a waste of paper, but it says exactly the same thing.

I want to make one final point. The reason I have taken issue with President Bush, President Reagan, and, yes, President Clinton on this issue, and taken issue with the Senator from Utah, is embodied in the debt clock that the Senator brought to his hearing. I hope we will have this discussion at some point soon. The Senator will I think agree that the clock showing the amount of public debt that is owed in this country will not stop with the passage of this balanced budget amendment and the passage of a budget that complies with this amendment.

I ask the Senator from Utah, is it not true that if the Congress passes this constitutional amendment to balance the budget and then passes a budget in compliance with that, in the very year in which that budget is so-called balanced, is it not true that the Federal debt will increase \$130 billion in that year? And if it is, and I believe the Senator from Utah would admit that it is, if it is true that in the year in which it is represented to the American people that the budget is balanced, then why does the Federal debt rise by another

\$130 billion? Somehow that doesn't pass any standard of common sense in my hometown.

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

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Thank you, Mr. President. It is interesting to see what has transpired in this past year. It seems there is a new tact now to get the constitutional balanced budget amendment passed, and that is to trash Social Security—"it is going broke; its program is bad; the baby boomers aren't going to get any money"—to do what we can to make Social Security look bad.

Mr. President, Social Security is the most successful social program in the history of the world. It is a good program, and people who want to say Social Security is in deep trouble, it is going out of business soon, simply are wrong. Even the 13-member bipartisan commission which reported back on Social Security acknowledged that until the year 2029, Social Security is going to pay out all the benefits as it now pays out. In fact, in the year 2029, if we did nothing else, benefits would still be paid out at about 80 percent. We have to do some adjustment to Social Security in the outyears. There are many ways we can do that.

Social Security is not in trouble of going broke unless this balanced budget amendment passes, and then there is going to be some real trouble. The trouble is that the surpluses have been and will continue to be used to balance the budget. The fact that there has been a procedure used in years gone by that is wrong does not mean we should enshrine that in the Constitution.

So I suggest that the argument that Social Security is going broke is about as valid as the argument that is used on a continual basis that States balance their budget. The State of Nevada balances its budget, but capital improvements are off budget.

So, Mr. President, I believe we should have a constitutional amendment to balance the budget. I am willing to go for that. I voted for all the motions to table. But I believe we should exclude Social Security trust fund moneys from the numbers that allow the false way of obtaining a balanced budget.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I say to my dear friend and colleague, that would be one of the most tragic errors we could make. To me, that would be almost fiscal insanity.

I am not saying anything is purely technical. What I am saying is that the money, not the securities, the money from FICA is commingled with all Treasury funds. Everybody knows that. That is No. 1.

No. 2, as to the outyear issue, CRS says in various studies that the present surplus is not enough to fund the needs of the system when the baby boomers retire. That is a reality.

No. 3, not including Social Security within the purview of the balanced budget amendment will ultimately hurt that program, because there will not be the same force to reform the program and make sure it works when the baby boomers come on that there may be now, that is included in the unified budget.

I might also add, Mr. President, this is very important. This is the highest item in the Federal budget. How can we take it out of the unified Federal budget and not consider it? Yes, we have surpluses for a few years, but then all of a sudden, it goes into deep deficit. Both sides need to be in the full balanced budget if we are going to meet our realities and meet our necessities.

The question of the Senator from North Dakota, Senator DORGAN, "If the balanced budget amendment would truly require a balanced budget, then why will the debt increase," is, with all due respect, a bit of sophistry. The balanced budget amendment will require a balanced budget. Outlays must not exceed receipts under section 1 of Senate Joint Resolution 1.

It is true that gross debt may still increase even if the budget is balanced. That is because the Government's exchange of interest-bearing securities for the present Social Security surplus is counted in the gross debt. It is merely an accounting or bookkeeping notation of what one agency of Government owes another agency. It is analogous to a corporation buying back its stock or debentures. Such stocks and bonds are considered retired obligations that, once retired, have no economic or fiscal significance.

Moreover, the Defense and Energy Departments list billions of dollars of environmental and nuclear cleanups as liabilities. All in all, gross debt, which includes all debt, is simply an overall indicator of Federal Government obligations. This sets the floor on increasing debt that has a direct, current effect on the overall economy, as the administration agrees. This is very different from obligations owed by the Federal Government to the public. This type of debt termed "net debt" or debt held by the public is legally enforceable and is what is economically significant.

If net debt zooms because of interest payments of debt, which last year amounted to \$250 billion, budget deficits balloon with all the dire economic consequences. To assure that budgets will be balanced unless extraordinary situations arise, debt held by the public cannot be increased unless three-fifths of the whole number of each House concur.

It is true that a balanced budget amendment does not by itself reduce the \$5.3 going to \$5.4 trillion national debt. But what it does do is straighten out our national fiscal house. Passage of Senate Joint Resolution 1 will increase economic growth. Almost everybody agrees to that on Wall Street. It

will increase economic growth. It will allow us to run surpluses. With this, our national debt may be decreased if Congress desires to do so in the interest of national security, stability, and prosperity.

Without Senate Joint Resolution 1, as we saw from the charts of the distinguished Senator from West Virginia all afternoon long today, without Senate Joint Resolution 1, this will be an impossibility. We will just continue the same darn programs producing deficits producing the 28 years of unbalanced budgets, unbalanced budgets that will just continue on ad infinitum. Ultimately our kids are going to have pay these debts, and it will be a doggone big debt for them. We just cannot do it to them.

I just suggest to my colleagues, as sincere as they are, the worst thing they can do for our senior citizens is to try to exclude Social Security from the budget because then all these big spenders around Congress are going to find everything to be a Social Security expenditure. Ultimately, it will impinge on the Social Security program and ruin the program, which Senator REID this evening has rightly called one of the greatest programs in the history of the world. He called it the greatest. I will certainly say it is one of the greatest in the history of the world.

If we want it to continue, it seems to me we have to treat it, since it is a high item in our budget, as a budgetary item. These accounting approaches are going to go on no matter what happens. So I think if we pass the balanced budget amendment, a balanced budget will ultimately become a reality. We are going to have to face reform of Social Security in the best interests of our senior citizens.

If we keep going where we are going, there will not be any moneys for Social Security and a lot of people are going to get hurt. To exclude Social Security from the budget is penny wise and pound foolish and it is a fiscal gimmick to try to take the largest item in the Federal budget out of the Federal budget without reforming the program to keep it solvent. Passage of the balanced budget amendment will pressure Congress to fix Social Security. Passage of the balanced budget amendment will help increase revenues and economic growth that will aid Social Security.

I yield the floor.

Mr. DORGAN. Mr. President, I wonder if I might—I will not belabor this because there will be another time when we can have a lengthier discussion. I hope we can have some questions back and forth.

The Senator used the word "sophistry." I was recalling when in high school I worked at a service station and learned how to juggle three balls. I remember how difficult it was when I started trying to learn to juggle three balls at once, but how easy it became once I learned how. And I marvel some-

times at how those who really know how to juggle do it with total ease. It seems effortless.

The juggling that I just saw was interesting. The Senator said there may be an increase in gross debt even when the budget is in balance. It is not "may." The Congressional Budget Office says there "will" be an increase in gross debt by \$130 billion the very year in which people claim there is a balanced budget. So it is not "may"; it is "will."

The question I was asking was, does that matter? Is it not a paradox or contradiction that when we say we have balanced the budget, my young daughter will inherit a higher national debt? And the Senator from Utah, I think, said, yeah, but that is just technical. He said the gross debt is different than the net debt.

In fact, the only reason we keep track of the gross debt, as I heard him say it, is because it has an impact on the economy. But if it has an impact on the economy, I did not understand the second position of why it does not count. It seems to me that the circumstances of the gross debt are that if you increase the indebtedness of the Federal Government, this cannot simply be on cellophane paper someplace. It represents securities that my daughter and sons and all others in the country will have to repay. I would be happy to yield for a question.

Mr. HATCH. Let me just say I never did learn how to juggle things. I think that is one reason why I strongly believe in balanced budgeting, is because I am tired of all the juggling that has gone on around here. But under the exemption proposal of the distinguished Senator from North Dakota, the debt will increase much faster because there is nothing being done about it. His proposal does not change that one bit.

Our proposal says we are tired of this. We are tired of 28 straight years of unbalanced budgets, and we want to face the music of budget deficits and do it within the realm of fiscal restraint. And, if we do not keep all items together, then there are going to be loopholes that literally will blow this country apart. We will have the regular budget and a separate Social Security budget. One will be required to be balanced under the constitutional amendment and the other will be an exempted Social Security budget that can run deficits because under the proposal it will be excluded from the constitutional amendment. Congress will transfer costly programs to the exempted budget. These costly programs will be funded out of Social Security revenues. This will ruin and hurt every senior citizen in this country. Exempting Social Security is just a fiscal gimmick.

Mr. DORGAN addressed the Chair.

Mr. HATCH. We also know it is accounting.

Mr. DORGAN. Reclaiming my time, I was yielding for a question. I guess the question that often comes up for us is: Isn't our balanced budget amendment a

gimmick? Isn't yours real, the one offered by the Senator from Utah? The answer, I would say to the Senator from Utah, is, it is now 6:27. If at 6:28 we pass and all the States ratify your proposal, at 6:29 will there have been one penny difference in the Federal debt or the Federal deficit? The answer is "No."

Mr. HATCH. Of course not. Of course not. But passage of the balanced budget amendment is the first and only real step toward a balanced budget and fiscal sanity.

Mr. DORGAN. I say this. My proposal is a proposal to similarly require a balanced budget. I think there is merit in that discipline. But I would say this. When we alter the Constitution to require a balanced budget, I want to do it in a way that really requires that this debt clock that you brought to your hearing that day stop, dead stop; not a slow creep, but a dead stop. No more debt for your kids, my kids, no more debts for this country, so we can start paying down the debt rather than continue to increase the debt.

I do not want to create a shell game here where we say, let us have a giant feast because we have balanced the budget, and then have someone, some little kid point up to that debt clock and say, "Gee, Daddy, why is the debt clock still increasing, because Senator HATCH or Senator so and so said we balanced the budget?"

I say you and I do not have a disagreement about what we ought to be doing. We ought to balance the budget. Nor do we have a disagreement about whether there is merit to have put it in the Constitution.

We have a very big disagreement about the \$3 trillion in the next 20 years or so in Social Security surpluses, deciding that we ought to take those out of reach and save them for the purpose we said we are going to save them for. We have great disagreement about whether or not that is a gimmick or whether that is important for the future of this country. That is where we disagree.

Mr. HATCH. I think that is true. Let me just say, so I clarify, I did not say that the distinguished Senator from North Dakota is a sophist, though I think he would make a good one. I did say that I think his arguments are—

Mr. DORGAN. I did not say the Senator from Utah could juggle, although I think it looks to me like he has that talent.

Mr. HATCH. I admitted I could not.

Mr. DORGAN. I think he has the talent, the potential.

Mr. HATCH. Let me say this. I think there is a good argument the gross debt increase does not matter in this context. Why? Because it is just evidence of what one agency in the Government owes another agency. What is of economic consequence is net debt—net debt; that is debt held by the public which is legally enforceable.

Now, I have to say that the Senator's proposal does not stop the debt from growing, and under his proposal, if this balanced budget amendment goes

down, if his amendment was added—and it will go down and everybody knows that—the gross debt will grow at least as fast. So his solution is not a solution.

We all know that the only balanced budget amendment we have a chance of passing is the underlying amendment that includes everything on the budget. We also all know, in all fairness, that Social Security should be included because it is more than capable of competing with other programs, and it ought to have to compete. Let me tell you this, if it is not on there, I think it is a risky gimmick to take it out.

When somebody says our balanced budget amendment is a gimmick, I agree with the Senator from Maine, OLYMPIA SNOWE, who said today, if it was a gimmick, we would have passed it long ago. The fact is that it is why it is being fought so hard against. It will put fiscal restraints and discipline on all items of the budget that has been long overdue. I think that has to be done.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have been listening to this debate with a great deal of interest. I was especially interested that the Senator from Utah described as a fiscal gimmick separating out the Social Security trust fund from the rest of the Federal budget, because, if I am not mistaken, the Senator from Utah himself voted for that very proposition in 1990. In fact, we had a vote right on the floor of the U.S. Senate on the specific question of whether or not we were going to count the Social Security trust fund as part of the overall budget or not.

I believe separating out the Social Security trust fund received 97 or 98 votes. I believe the Senator from Utah was recorded in favor of the proposition that he now describes as a gimmick. I do not believe that he felt it was a gimmick then, and I do not believe that anybody who voted for it believed it was a gimmick then. It was a move to try to stop the nefarious practice of using Social Security trust fund surpluses to mask the true size of the operating deficit in this country.

Now what they are seeking to do is put that flawed principle in the Constitution of the United States. I just note that back in 1990 when we had that vote, passed by a vote, as I recall, of 20 to 1 in the Senate Budget Committee.

Mr. HATCH. Will the Senator yield?

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

Mr. HATCH. That is quite a bit different from what I am saying. We did not include Social Security in the budget in Gramm-Rudman-Hollings solely so as to not give the President the right to sequester Social Security funds. But this exclusion was not from the budget itself. But we should not lock the exemption into the Constitution. We can always change statutes. It is much harder to amend the Constitu-

tion. We should not lock into the Constitution the largest item in the Federal budget, which is outside the purview of the constitutional amendment. If you start doing that, that is risky.

You do not know how that will affect senior citizens. It is likely to hurt the senior citizens, and it is better to keep things on budget. I suspect that there is no question in anybody's mind that Social Security is more than capable of funding for itself and of getting another 98-to-2 vote in the Senate and an equivalent vote in the House that you cannot tamper with it.

Frankly, I am one of those that would make sure to vote that you do not tamper with Social Security, to lock the exemption in the Constitution forever. Such a budgetary practice, is risky. That could have a terribly bad effect on senior citizens. I think senior citizens are starting to wake up to that. They know this issue has been used blatantly and politically and demagogically for years now. I think they are getting tired of it.

Mr. CONRAD. Mr. President, let me say I find this argument very interesting because the principle is identical.

In 1990, we had a vote on the floor of the U.S. Senate to separate out the Social Security trust fund from the rest of the Federal budget. The Senator from Utah voted in favor of separating out the Social Security trust fund.

Today, he says we ought to enshrine in the Constitution the reverse principle, that we ought to put them together, that the Social Security trust fund ought to be married to the rest of the Federal budget.

What is wrong with that principle is what was wrong with it in 1990, and what I believe 98 Senators said, that we are not going to merge the two, we will not count the Social Security trust fund with the rest of the budget, because it is a risky financial move to put the two together. It masks the size of the deficits in the early years, and in the later years creates a whole series of other problems.

Mr. HATCH. Will the Senator yield?

Mr. CONRAD. If I could finish the thought, we are in a circumstance now where the Senator from Utah is advocating when he says locking into the Constitution is a risky matter, that is precisely what he is advocating.

In 1990, he voted to keep Social Security separate from the rest of the budget. Now he is advocating a constitutional amendment that would force the two together.

Mr. President, I think the Senator from Utah was right in 1990 when he cast that vote. I think he is simply mistaken in offering this constitutional amendment that puts the two together.

What is the difference between the Social Security trust fund and other parts of the Federal budget? Mr. President, the primary difference is a dedicated revenue source. We withhold in

the payroll of employees and employers specific amounts every month to go into a fund on the predicate they will then receive, when they retire, their Social Security benefit. Frankly, this proposal puts all of that at risk.

Mr. HATCH. I will end with this. The 1990 Budget Act basically stated in one section to take Social Security out of budget. It said in another section to leave it in. This is confusing. But both Congress and the President have construed the Budget Act of 1990 to allow Social Security to be included within the unitary budget.

Second, Social Security is not a pay-go system under the 1990 act. I want to add that once you make that decision to take the largest item out of the budget, you have provided a loophole where people can impinge on Social Security and hurt senior citizens. Anybody who does not believe in those loopholes better look at these stacks. They are filled with loopholes like that. We are trying to stop those loopholes.

I might also mention this, because I think it is pretty important. All constitutional scholars who testified before our committee, those for the balanced budget amendment and those against the balanced budget amendment, Senate Joint Resolution 1, testified that exempting Social Security in the Constitution was constitutionally risky. It is a risky gimmick to do that. No one knows how that will hurt the seniors, but we know it will. It would subject Social Security and the Constitution to a gaming approach. They could game the process. They could game Social Security. They could game the Constitution. That would be a disaster for our country.

Alan Morrison, one of the leading constitutional lawyers in this country, who disagreed about the wisdom of the balanced budget amendment, said: "Given the size of Social Security, to allow it to run at a deficit would undermine the whole concept of a balanced budget. Moreover, there is no definition of Social Security in the Constitution and it would be extremely unwise and productive of litigation and political maneuvering to try to write one. If there is to be a balanced budget constitutional amendment, there should be no exceptions."

In conclusion, the biggest threat to Social Security is our growing debt and the concomitant interest payments. That related inflation hits hardest on those on fixed incomes, and the Government's use of capital to fund debt slows productivity and income growth and siphons off needed money for worthwhile programs. The way to protect Social Security benefits is to pass Senate Joint Resolution 1, the balanced budget constitutional amendment.

The proposal to exempt Social Security would not only destroy the balanced budget amendment—the only one that can pass, a bipartisan amendment, a bicameral amendment, bipar-

tisan in both parties—but, in all probability, would very badly hurt Social Security and every recipient of Social Security, and would definitely guarantee that the baby boomers would not have any Social Security in the future. They will come to the realization that it is going to hurt Social Security, too. The best thing we can do is keep everything in the budget and start being budget people who work, and who do what's right, and get rid of these 28 years of unbalanced budgets that have just about wrecked the country. And it could very well wreck Social Security. I yield the floor.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94-304, as amended by Public Law 99-7, appoints the Senator from New York [Mr. D'AMATO] as Chairman of the Commission on Security and Cooperation in Europe.

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, as modified by the order of February 10, 1997, appoints the Senator from Tennessee [Mr. FRIST] to read Washington's Farewell Address on Monday, February 24, 1997.

ORDERS FOR THURSDAY, FEBRUARY 13, 1997

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Thursday, February 13. I further ask that immediately following the prayer, the routine requests for the morning hour be granted and the Senate then proceed to a period of morning business until the hour of 3 p.m., with Senators to speak during the designated times:

Senator THOMAS, or his designee, in control of the time from 11 to 12 noon; Senator REED of Rhode Island and Senator KENNEDY for up to 30 minutes each, between 12 and 1 o'clock; the time from 1 o'clock until 2 o'clock divided among the following Senators: Senator GRAMS for 20 minutes, Senator DOMENICI for 10 minutes, Senator MURKOWSKI for 10 minutes, Senator COATS for 10 minutes, Senator FAIRCLOTH for 5 minutes; the time between 2 o'clock to 3 o'clock divided in the following fashion: Senator GRAHAM of Florida, 10 minutes; Senator KOHL, 10 minutes; and Senator HOLLINGS, 45 minutes.

The PRESIDING OFFICER. Without objection—

Mr. FORD. Mr. President, reserving the right to object, and I probably will not. I would like to ask the distinguished Senator from Utah, the acting floor leader, this. We have more Senators that would like to have an opportunity to speak tomorrow as it relates to morning business. I see that you are

cutting it off. And you have done a pretty good job there. You have 65 minutes assigned to an hour.

Mr. HATCH. Hopefully, by 2 o'clock tomorrow, the majority leader should be able to let us know what will be done thereafter. We can't extend morning business past 3 o'clock tomorrow.

Mr. FORD. Well, maybe we want to object to all of it, then, if we can't—

Mr. HATCH. I think we just have to work it out.

Mr. FORD. I understand you will work it out if you work it out your way. I just want us to have an opportunity to get involved in this. How do you intend to work it out?

Mr. HATCH. These are the only requests I have.

Mr. FORD. We have a list, a bushel basketful, just like you have, and these Senators want time. They have been told they could get time, and we expect to get them time.

Mr. HATCH. I am informed by the leadership office that we will be able to update the Senate about 2 o'clock tomorrow. Hopefully, these matters can be resolved. The majority leader may want to proceed to other business. I don't know. But my understanding is that there is going to be an effort to try to accommodate people. I think the two leaders will have to work that out. But we can't do it until 2 o'clock tomorrow.

Mr. FORD. Why can't the leader be asked tonight? We can suggest the absence of a quorum and see if we can get an answer tonight.

Mr. HATCH. Well, I think the Senator knows the problems of leadership. The things we are trying to do tomorrow can't be cleared tonight. So until we get to 2 o'clock, we can't resolve this.

Mr. FORD. Do I have the Senator's word that, at 2 o'clock tomorrow, this side will be notified as to the time available for us to allow our colleagues to have time in morning business—and it won't be 5 minutes; some will want more than 5 minutes. Some will want 15. I see on here that of the 1 hour you have, you have 65 minutes assigned. So you stretched it a little bit here. If you could do that on all the hours, maybe we can get more business done.

Mr. HATCH. I will certainly take the Senator's request to the majority leader and ask him to consider it.

Mr. FORD. I expect, at 2 o'clock, for us to be informed tomorrow as to how much time will be available to us and how many of my colleagues will be able to speak.

Mr. HATCH. I will take that request to the majority leader. I will certainly do that.

Mr. FORD. As long as it is a matter of record and you understand where I am coming from.

Mr. HATCH. I do. I know you are protecting your side, as you should.

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