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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Sovereign God, help us to hear and accept the psalmist's prescription for peace. ''Cast your burden on the Lord and He shall sustain you.''—Psalm 55:22.

In this quiet moment of liberating prayer, we deliberately commit each one of our burdens, large or small, into Your gracious care. Help us not to snatch them back. Give us an extra measure of Your wisdom, insight, and discernment as we tackle the challenges of this day. Make this a productive day in which we live with confidence that You will guide our thinking, unravel our difficulties, and empower our decisions. Especially we ask for Your guidance for the vote on the balanced budget amendment. Help us to maintain unity in the midst of differences. Now, we are ready for the day. We intend to live it with freedom and joy, through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will resume consideration of Senate Joint Resolution 1, the constitutional amendment for a balanced budget. Under a previous order, from 9:30 a.m. to 12:30 p.m., the time will be equally divided between the two managers for closing remarks on Senate Joint Resolution 1. The Senate will recess from the hours of 12:30 to 2:15 p.m. for the weekly policy conferences, and at 2:15, then, the manager of the Democratic side will control 1 hour of debate with Senator BYRD being recognized for 20 minutes, the following hour will be under the control of Senator HATCH, with the next half-hour being under the control of the Democratic leader or his designee. Debate will conclude, then, with 30 minutes under the control of the majority leader. At 5:15, a vote will occur on passage of Senate Joint Resolution 1. I remind all Senators again of this 5:15 vote and ask all Senators to be in their seats for this important roll-call vote. It has been traditional, when we have major votes on a constitutional question, that Senators come and take their seats and then stand in place and cast their votes.

I thank our colleagues for their attention in this matter, and I yield the floor.

RECOGNITION OF THE ACTING DEMOCRATIC LEADER

The PRESIDING OFFICER (Mr. HUTCHINSON). The acting Democratic leader.

Mr. LEAHY. Mr. President, I concur with what the majority leader said about being on the floor for the vote. I concur. I think it is an extremely important one. Also, under our unanimous-consent agreement, I will be controlling the time for the Democratic side. A number of Senators on our side have asked for specific carve-outs of time other than what has been set in the unanimous consent. I urge Senators who wish to speak to come to the floor and be prepared to speak.

I see my distinguished friend from Utah, who will be handling that side. We have all been able to work things out as traffic cops on this, but I hope everyone who wishes to speak will have the opportunity.

I yield the floor.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

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

The legislative clerk read as follows:

A joint resolution (Senate Joint Resolution 1) proposing an amendment to the Constitution of the United States to require a balanced budget.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. The time until 12:30 p.m. shall be equally divided between the two managers. The Senator from Utah.

Mr. HATCH. Mr. President, I am very honored to be able to turn to a man who has led the fight for the balanced budget amendment ever since he arrived at the Senate, the most senior Senator in the whole U.S. Senate, a person all look up to, who has been my mentor on this issue and so many others, and one of my dearest friends in this world, the distinguished Senator from South Carolina, Senator STROM THURMOND, for 5 minutes or whatever time he needs.

Mr. THURMOND. Mr. President, I rise today as we draw to a close the debate on this historic opportunity to adopt Senate Joint Resolution 1, the balanced budget amendment. This debate is about much more than an amendment to the Constitution, as significant as that is. It is about taking action once and for all that will control the size and scope of the Federal Government.

I have been deeply concerned during my years in the Senate over the growth of the Federal bureaucracy. The first $100 billion budget in the history of the Nation occurred in 1962. This was almost 180 years after the Nation was founded. Yet, it took only 9 years, from 1962 to 1971, for the Federal budget to reach $200 billion. Then, the Federal budget continued to skyrocket; $300 billion in 1975, $500 billion in 1979, $800 billion in 1983, and the first $1 trillion budget in 1987. The budget for fiscal year 1996 was over $1.5 trillion.

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

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With this voracious congressional appetite for spending has come deficit spending. In the past three decades, the Federal Government has run deficits in every year except one. During the 1960's, deficits were averaging around $6 billion per year. The following decade, the 1970's, saw deficits rise an average $36 billion per year. In the last decade, the 1980's, deficits continued to rise and averaged $156 billion per year. So far, in the 1990's, deficits have averaged $259 billion per year. Compare this to 1957, my third year in the Senate, when the entire national debt was less than $275 billion and there was no deficit, but rather a $3 billion surplus.

During my service here, there has never been a shortage of legislation creating new Federal programs or of efforts to increase spending in existing programs. It has been too easy for the Congress to pass legislation creating new Federal programs and spending more tax dollars whenever there is a call for Federal intervention. This Nation has drifted from its original foundations as a national Government of limited authority. A balanced budget amendment is the single most important addition we can propose to the Constitution to begin reducing the size and scope of the Federal Government.

Mandating balanced Federal budgets is not a new idea. The first constitutional amendment to balance the budget was proposed in 1936. Since the beginning of the 84th Congress in 1955, constitutional amendments to require a balanced Federal budget have been proposed during each Congress. Finally, in 1982 while I was chairman of the Judiciary Committee, the Senate passed a balanced budget amendment which I authored. Our victory was short-lived, however, because the Speaker and the majority leader at that time led the movement to kill it in the Democrat-controlled House of Representatives. That was our high water mark as we fell one vote short in 1986, four votes short in 1994, and one vote short 2 years ago. Once again, we have a historic opportunity to pass the balanced budget amendment and send it to the American people for ratification.

I would note that today the Congress is working hard to balance the Federal budget. However, this is a very recent development brought about by a change in the control of the Congress, and by this body finally listening to the will of the people. We must act to instill legislative accountability that will not waver with the membership of the majority.

Our third president, Thomas Jefferson, stated:

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

Mr. President, it is time we make that moral obligation to pay our debts a constitutional one. Not only will we restore order to the fiscal policy of this Nation, we will be making a giant leap toward restoring the fundamental principle of limited authority to the Federal Government.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, we have been considering this proposed 28th amendment to the Constitution of the United States since this session began almost 2 months ago. In fact, we have been engaged in floor debate for nearly 4 weeks. The distinguished Senator from Utah and I have begun to think we live on this floor with this debate.

Mr. President, stop and think what we are debating—a proposed 28th amendment to the Constitution. The Constitution has been amended only 17 times since the Bill of Rights. During this time, the United States has been through some very, very serious situations—the War of 1812, the Civil War, two world wars, Korea, Vietnam, the Great Depression, westward expansion. One would have to assume during that time, there have been hundreds and hundreds of times that we have seen crises in our Nation that, some would say, reached a constitutional magnitude. We know that hundreds, even thousands, of constitutional amendments have been proposed, but those who have gone before us have seen fit to only amend the Constitution 17 times—which was very wise—since the Bill of Rights.

I say this because nobody in the Senate owns a seat in the Senate. We are only passing through, no matter how long we serve. What we ought to do is remember that we have a responsibility not only to those who went before us, but those who will come after. So during this debate, some of us have tried to look at the substance behind this bumper-sticker title and even the poll-driven politics that led to this proposal, again occupying the No. 1 position in the majority's legislative agenda.

We have examined the resolution in our Judiciary Committee hearings, markup and report and during the Senate debate. We have become, and certainly the American people have become, more and more aware of the serious substantial failings in this proposal. I believe this debate has shown any objective observer that this resolution fails to meet the standards set by our founders in article V of the Constitution for its amendment: It cannot be found necessary by two-thirds of this Senate.

Moreover, the proponents have failed to answer the serious questions raised about the various provisions over the past several weeks. They have failed the Byrd challenge by being unable to demonstrate what it means and how it would work. The distinguished senior Senator from West Virginia came on this floor and, in his usual careful manner, his usual sense of history, his usual understanding of the Constitution, asked the pertinent questions: How would it work? What does it mean? What does it do? And no answer was forthcoming. Having now had an opportunity to focus on the language of the resolution before us, none of us can be confident concerning its meaning or its use.

During the course of this debate, we have had the principal proponents of the resolution concede that it does not require a balanced budget, but that it is intended to provide incentive to balance the Federal budget and exert pressure on Congress. It is intended just to make us do our job. That is not sufficient reason to amend the Constitution. As the President said in his State of the Union Message, we have but to vote a balanced budget, he has but to sign it to have a balanced budget. We do not have to tinker with the Constitution in a way that would actually throw the whole matter over to the courts, not to the President and the Congress.

The President and Congress have shown over the past 4 years that we can make progress undoing the mistakes of the deficit-building decades of the 1980's without a proposed amendment to the Constitution. We succeeded in reducing the deficit in each of the last 4 years. We have cut the deficit by more than 60 percent. At the same time, we are pursuing sound economic and fiscal policies doing those things that have made the United States economy the strongest in the world.

What we are now asked to do is tinker with obvious success. But more than that, we are asked to give people something they can put on a bumper sticker that says, ''I voted to balance the budget,'' when, indeed, it does not do that, instead of saying, ''I voted to really mess up the Constitution,'' which is what it would do.

I hope that we will think not only of our political fortunes of this day and the political polls of our State of this moment, but think of the United States and think of those who will come after us.

I reserve the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 10 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President, and I thank the distinguished Senator from Utah for the fine job he has done in leading this very important debate, because really this debate is one of the most defining moments of our times. Will Congress deliver a balanced budget? Will we set the future economic stability of our country in place right now? Will we win this fight that we have undertaken on behalf, not of ourselves, but of our future generations?

The American dream has always been that a parent could wish that his children or her children would have a better quality of life than he or she has had. That is why people came to this country. They wanted to work harder so that they could give their children a little better chance in life.

What we are fighting for is a change that will assure that we can keep the American dream. We are trying to make lower interest rates, a higher standard of living, more job opportunities, a country liberated from an ever-increasing debt. Our children will not have a higher quality of life if we continue to build on this $5 trillion debt, Mr. President. This debate is about our children. It is not about political expedience. We know what must be done. Thomas Jefferson told us. Thomas Jefferson said one of the two things that he was concerned about after the Constitution was written and adopted was that we had not provided for the constraints on Congress that would not allow them to spend more than was in the public Treasury. Jefferson said that. In fact, his quotes were:

> Each successive generation ought to be guaranteed against the dissipations and corruptions of those preceding it.

Mr. President, Thomas Jefferson was the greatest visionary President perhaps we have ever had. Even Thomas Jefferson would not have dreamed our country, that he worked so hard to put together, would one day have a $5 trillion debt.

Even Jefferson could not have been that visionary, and thank goodness, because so many of his generation fought and died for this country to be formed. If they had thought that the stewards of our future would not have the guts, would not have the ability to constrain their spending to the tune of $5 trillion, I wonder if they would have fought so hard.

The idea of saddling generation after generation of Americans with a suffocating debt would have been unthinkable to those honorable men.

Some say we don't need an amendment. They say we haven't been tuned in. I am going to tell you something, I have been tuned in. I have been watching the debate on this floor. I have seen what has happened to Medicare reform, to Social Security reform, to welfare reform, to Medicaid reform. It has taken a lot to get one of those four—welfare reform—and we have failed on the other three. If you think we do not need an amendment to constrain the appetite of Congress to spend other people's money, you have not been tuned in.

Some say that this is going to tie the hands of Government. Hallelujah. That is exactly what we want to do. We want to get big government out of the hard-working American's pocketbook. Most Americans pay 50 percent of what they earn in taxes of some kind. All of us want to pay our fair share. But, Mr. President, 50 percent is too much. That does not allow the freedom to pursue the American dream. A balanced budget amendment to the Constitution will cure that appetite because Congress will be constrained, yes, their hands will be tied, from getting into the pocketbooks of our children and their children.

So, Mr. President, I think the time has come for us to do what is right. The greatest issues of our time have taken many years. Americans debated the evil of slavery from the earliest days of the Republic, but it was not until 1865 that the 13th amendment to the Constitution was ratified and slavery was abolished. Women began their fight for suffrage in the early 19th century, but it was 1920 when the 19th amendment was ratified giving women the right to vote.

Like these two epic struggles, the balanced budget amendment has been fought for a long time. It is a fight we are waging on behalf of our children, our grandchildren, and their grandchildren. And we will not stop the fight. Each year we lose by a very narrow margin. Last year it was one vote. This year, unless someone looks up and says, ''My gosh, what am I doing for my children,'' and changes his or her mind, unless someone does that, we are going to lose again probably by one vote.

So, Mr. President, I hope that we will not be dissuaded from continuing this fight, because it is worthy of the other great issues that have taken so long.

It is very important that we look not to the next election, but to the next generation, as we are making our decision today. This amendment is not the panacea, but what it does is give us the opportunity to make sure that there is a stability in our economy for evermore, that no Congress of the future will be able to go into a deficit unless there is a war or an emergency, which there is a safety valve of a three-fifths vote that can unbalance the budget. Those are the safety valves, of course, if we are in a war or a dire emergency, we will do the responsible thing.

But if we can constrain ourselves in normal times, we will have a stable economy. We will have lower mortgage rates, lower car payments rates. We will have more jobs, and we will have more expendable money by the hard-working people of this country if we will face the fact that we need to tie the hands of a government that is so big, it could have brought together a $5 trillion debt.

This vote today, if we win, could be the first step in a very long journey, and, by doing this, we would assure that there is a destination to the journey, that there is a shining city on the hill that is America.

If we do not have a balanced budget, and the constraints of an amendment that would assure that we always will, there may not be a destination, there may not be a shining city on the hill that is America because future Congresses will be able to add just a little—it does not seem like so much, but just a little is now $5 trillion, Mr. President.

We do need to tie the hands of future Congresses so there will be economic stability. And, Mr. President, this Congress has the ability to take the first step in that long journey to put our country back on track so that our children will have the same American dream that we have had, which is that they would be able to wish for their children a better quality of life than they have had because each generation expects to be able to do better. If we have a balanced budget amendment to the Constitution, we will assure that that will happen.

Mr. President, this debate is defining of our times. And I hope we have the will to do what is right for our children and for theirs.

Thank you, Mr. President, and I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Vermont.

Mr. LEAHY. Mr. President, we talk about how many votes there may be and we talk about this debate, which, incidentally, has been interfered with in some ways over the weekend, at the same time we talk about evil money in politics. We have seen some so-called ''independent'' expenditures in running ads on this. They are about as independent as absolutely nothing. I think it is unfortunate that apparently the proponents of this constitutional amendment do not feel that they can make their case well enough on the Senate floor. They have to do this.

We talk about whether it is one vote or not. Let us talk about votes. In 1993, we started down this road to concerted, consistent deficit reduction. We did that without a single Republican vote in either the House or the Senate for the President's budget. After 12 years of ever-larger deficits, voted for by the Republican Members of Congress, when we finally started cutting the deficit, not a single Republican Member voted to do that.

Over the last 4 years, we have succeeded in reducing the deficit by 63 percent. It went up for 12 years; the national debt went up. We started bringing the deficit down. When President Clinton took office, the deficit was at its highest point ever—$290 billion. Today, the deficit is at its lowest dollar figure since 1981, $107 billion. In fact, it is at the lowest point as a percentage of the economy since 1974.

In his testimony to the committee, Robert Greenstein of the Center on Budget and Policy Priorities notes that over the past 10 years the deficit has actually declined 70 percent as a percentage of gross domestic product—5.1 percent in 1986 to 1.4 percent in 1996. In fact, as a percentage of gross domestic product, our deficit is now at the lowest level of any major industrialized nation in the world. The deficit is at the lowest level of any industrialized nation in the world. We are the envy of the rest of the world. But it has taken

some political courage to do that. And the budgets are starting to bring that deficit down.

I say to my good friends in the Republican Party, it was done without a single vote from their side of the aisle, notwithstanding those deficits grew up over 12 years of Republican administrations.

The record of deficit reduction is an accomplishment of the Clinton administration. It is an accomplishment that the Clinton administration's policies have restored fiscal sanity and have kept the economy strong. The result of the recent election is testimony that the American people recognize these facts. In fact, were it not for the interest on the $2.462 trillion debt that was rung up during President Reagan's term and President Bush's term, our budgets over the last several years would already have been in balance. Just think of that. They ran up a debt of $2.462 trillion. The rest of the budget, including entitlements, is already balanced. We didn't need a constitutional amendment to do that. All we needed was courage. If we were not paying the interest on that debt run up, we would be totally in balance.

This deficit progress has been achieved through tough votes over the last 4 years. But we have seen its impact on our growing economy with lower interest rates. In 1980, the annual interest on the national debt accumulated over our entire history was $75 billion. Think about this. In 1980, when President Reagan came to office, it took a whole national debt to accumulate over 200 years, and the interest was $75 billion. Yet, when 12 years of Republican administrations ended, that amount had skyrocketed. So the interest on the national debt is now $248 billion.

We had failed fiscal economic policies of the last decade, and we are paying the price. These interest payments on the national debt remain too high, and they have to be reduced further. But the proposed constitutional amendment, were it to pass, only allows Members of Congress who don't want to step up and cast the tough votes to bring down the deficit to say when the Constitution is going to do it. We can delay congressional action. Eventually we will toss it into the courts and let them do it.

Frankly, I wish Congress and the President would, instead of talking about a debate here that will go nowhere, sit down and do the tough things that are necessary to bring the budget under control.

Mr. President, I notice that the other side now has another speaker. I reserve the remainder of my time and yield the floor.

Mr. HATCH. Mr. President, how much time does the Senator need?

Mr. THOMAS. About 10 minutes.

Mr. HATCH. Mr. President, I yield 10 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I thank my friend from Utah for the time, but more particularly for the effort and the leadership he has given to this issue. Interestingly enough, it is one of the toughest issues. One would think moving to a balanced budget, ensuring a balanced budget, ensuring financial responsibility would not be such a tough issue. But this has been going on for a very long time. So I appreciate very much the job that has been done. We come to the vote on the issue finally. We have talked quite a little about it this year. We, of course, have talked for a number of years before.

We can talk about a balanced budget if you choose, but what we are really talking about is financial responsibility. It is interesting to me to hear those who oppose it—and for good reason—who have been here for 20 years and say, ''Let's just do it, take the tough votes.'' But they haven't done it for 20 years. The monument in front of the leader's desk represents 28 years of unbalanced budgets. Yet, we hear all the time, just do it, take the tough votes and do it. Well, the evidence is that isn't what is done.

We hear the same words every year: ''I am for a balanced budget, but * * *'' and then they go on to say why it can't be done. They go on to find reasons for not voting for the kind of discipline that it clearly takes to balance the budget. That is not a brand new idea. It is something we do in most of our States. We do it in my State of Wyoming, and we are proud of that. The legislature doesn't spend any more, under the constitution, than they take in.

I am always interested in how we seek to shift this to some kind of a partisan thing and talk about the Presidents. Frankly, the Presidents don't decide the budget. That is specifically, under the Constitution, the prerogative and the role of the Congress. It starts in the House of Representatives. Spending—the President cannot do any spending without the Congress. So we say, oh, Reagan did this, and Bush did that, and Bill Clinton did this. I think we ought to get real with ourselves and say, wait a minute, it is the Congress that does the spending. But we hear the same thing. Then Senators go home and talk about balancing the budget, but then come and say, ''But, gosh, there is this little thing, and I cannot accept it in this present form.'' How many times have we heard that?

Well, today, we have a chance to vote. I am very proud of the fact that there will be 55 Republicans and 11 Democrats voting aye, voting for fiscal responsibility, voting to say $5.5 trillion debt is more than we want to send off to our kids and grandkids. Other than defense, interest is the largest item in the budget—interest on the debt. We pay $270 billion in interest on the debt.

So the real issues here, it seems to me, are broader than the details of the amendment. They are broader than whether we are going to balance the budget. They really have to do with your view of how large and inclusive the central Government is going to be. There is a very real relationship between the size of spending, the size of the deficit, and the size of Government.

When I go home—and I think it is true of every other place—I hear that we have too much Federal Government. Every night on TV, we see all these things that are being spent. Nearly everyone believes that. Yet, spending continues to go up. The Senator talked about the great amount of courage it took to move, in 1993, to seek to balance the budget. How? The largest tax increase in the history of the world. So you see Government grow as that tax increase grows. So the real basic issue is more than just the amendment, more than just arithmetic, more than just the budget, it is how much Federal Government do you want in your lives and what are the proper roles of State and Federal Government and the private sector? Those are the real issues. So it divides pretty clearly between those who want more Government and want to spend more and whether or not people ought to be able to keep their own money. After all, the Government has no money except what it takes from us.

So we hear constantly, ''Let's just do it.'' But the monument stays right in front of us. We haven't done it. Then we hear, ''Well, but we are going to do it now.'' But the President's budget has not moved toward balance. The President promised us a balanced budget, and it is not a balanced budget. No one would agree it is a balanced budget by 2002. On the contrary, there will probably be a $50 billion to $70 billion more deficit then. It will go up from where it is now.

Furthermore, we don't have the kinds of things we would like to have that are targeted to needed tax relief for families. We need permanent tax relief that is not triggered. We need capital gains to encourage the economy. Instead of that, we have a budget presented—and we are to accept that as movement toward a balanced budget, by having a 75-percent backload; temporary tax cuts of $98 billion, but tax increases of $76 billion? Taxes go up the first year, and the tax cuts are not phased in until later. More entitlement spending, more Government—$60 billion in new entitlement spending.

Is that called balancing the budget? It is, if you want to continue raising taxes. That is the real choice you and I have as voters and taxpayers. If you want more services, you have to pay more. That is the way that works. You know the best example of a really good government, I suppose, is on the local level when the school board says we need a new science room for the high school and it is going to cost you $50 a year and you get to vote on it and you balance it. You say, is it worth it, yes; is it worth it, no. Do we get to do that in the Federal Government? Oh, no, of course not.

So what we are talking about here is really direction, whether we have less Government or whether we, on the central level, move more Government to States and local communities, whether we in fact are able to spend more money for our families as we choose or whether we spend more total tax—now the average family in the country spends 39 percent—on our income. I saw a poll the other day in which almost unanimously they said 25 percent is the maximum that we ought to pay. We are paying nearly 40.

So, Mr. President, this is our opportunity. This is our chance to put our money where our mouth is. If we are going to balance the budget, this is the way to do it. The evidence is that we can't do it any other way.

So I hope we have our vote this afternoon and it passes. If it doesn't, it is not the end. We will continue to do this. We will have to. It is the only way that we can be financially and fiscally responsible for the future.

Mr. President, I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, as I listened to the debate on the floor of the Senate, I heard that the budget deficits begin in Congress and not with the President. Let's look at the facts. During the Reagan years President Reagan got 99.999 percent of everything he asked for in the budget, including the deficit. In fact, during those years President Reagan vetoed only one appropriations bill. Only one spending bill did President Reagan veto. Why? Because it didn't spend as much money as he had requested. Congress actually had come back with less money than he requested. So he vetoed the bill and asked for more money.

So let's just fully understand what happened. It was the same way with the Bush administration. The budget was what the President asked for. But let's assume that it begins here in the Congress. Then, I ask my friends in the Republican majority, where is your budget? You can't have it both ways. You can't say that the budget deficits are the fault of the Congress and those who lead the Congress. Republicans lead the Congress. Where is the budget?

Instead of spending weeks and weeks and weeks on the floor debating how we might amend the Constitution—it has been amended only 17 times since the Bill of Rights—instead of debating why we would amend the Constitution with an amendment that even its proponents can't explain its consequences, trying to amend the Constitution just because somebody is taking a poll and says that is popular without going into the details of what is involved, instead of spending all of the time doing that, why not actually negotiate the details of the historic agreement of trying to balance the budget? Why aren't we doing that? Because it is easier to pass a constitutional amendment which is so flawed that even its proponents cannot say what it does to Social Security, what it does to a capital budget, what it does to a court challenge, what it does to the power of purse. It is easier to do that than to sit down and say, let's talk about the tough votes, let's talk about what we do with school lunch, let's talk about what we do with the defense budget, let's talk about what we do with Medicare, let's talk about what we do with Medicaid, let's talk about what we do with a farm program, or a foreign program, and on and on and on.

That means that every time you come up to vote, you are going to anger somebody; you are going to anger a special interest group on the right, or you are going to anger a special interest group on the left.

So it is a lot easier to say, let's just toss it over to the courts, let's toss it over to a constitutional amendment, let's toss it to something that we can't even explain. We can't even say what it does to Social Security or to a capital budget or anything else. But we can go home with a slogan that has been tested by the polls and by focus groups. We can say, ''I voted to balance the budget.'' Boloney. It is sort of like me voting to grow hair. It might make me feel good, but ''it ain't gonna work.'' It is the same thing here.

In light of all we have experienced, but also what we have accomplished in the last 4 years in bringing the deficit down in each of those 4 years, there is no basis today for seriously contending that a constitutional amendment is needed or that it is a necessary substitute for political will or even that it is the only way to achieve a balanced budget. We have shown in 4 years of bringing down the deficit—and now going into a fifth—that there are other ways.

During the course of time that has been reserved for debate on this proposed constitutional amendment, there has been a good deal of talk about the President's proposed budget. The President made a State of the Union Address on February 4. He submitted his statement on his proposed balanced budget the following day. Then on the next day, February 6, the President sent his proposed budget to Congress. My good friends in the Republican Party have been quick to criticize that proposed budget, but they left out one thing in their criticism. They never said where their budget is or what their budget does. I ask my friends on the other side of the aisle, Where is your budget? If you want to say that the budgets really come from the Congress, you are in the majority. You run the Congress. You turn the lights on in the morning. You turn them off at night. In between, prepare a budget. Where is the alternative? Where are the proposed amendments to the President's plan?

I hope that we do not get into partisan harping and carping and, instead, get on to the process of developing a bipartisan consensus. It is not going to be easy, Mr. President. Like so many other Members who have voted to bring the deficit down 4 years in a row, I bear the scars of saying no to every special interest group from the right to the left when I voted for cut after cut after cut—the farm bill being one good example of that, the Lugar-Leahy farm bill. Item after item, we have done it not by gimmicks but by solid votes. But it has been a month now and we have not seen a proposal for modification of the President's budget nor have we seen an alternative for the majority party. The President even came to Capitol Hill to meet with congressional leaders, going the extra mile—going the extra 2 or 3 miles.

We are fast approaching our statutorily imposed deadline of April 15 for a budget resolution. So let's see what this budget resolution is going to be, and let's debate it. Let's proceed to debate the budget and, in the words of Secretary Rubin, ''finish the job of balancing the budget by the year 2002.'' It has been 4 years of bringing the deficit down, and we are about go into the fifth year of bringing it down. Let's get a budget that does the job.

What it means is that the Republicans and the Democrats are going to have to hold hands, and we are going to have to vote in a way that is going to offend some of our core constituencies. But the American people in the long run will be better off. Certainly the American people would be better off and the world's strongest economy would be better off without tinkering with the Constitution, which basically becomes a judicial nightmare and does nothing to balance the budget.

Mr. President, I reserve the remainder of my time.

Mr. HATCH. Mr. President, I am delighted to have the relationship with our cosponsor on this amendment on the Democrat side, Senator BRYAN from Nevada. He has fought a valiant battle here, and I appreciate the opportunity of working with him on this. We are still hoping that this vote will turn out all right at the end of the day.

So I am more than delighted to yield 15 minutes to my distinguished friend and colleague. I thank him for his leadership on this matter.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I thank the Chair. I thank the distinguished Senator from Utah for his thoughtful comments.

Mr. President, let me just say, by way of prefacing my comments, that I have enjoyed being a participant in this debate. And I have enjoyed the manner in which my colleague, the distinguished Democratic floor leader—who has a very different point of view from that which Senator HATCH and I share—has conducted himself and the arguments that he has made and the responses by the senior Senator from Utah. It seems to me that that is what this institution is all about—the ability to conduct an honest debate on the

floor with different points of view being expressed. Hopefully from that collision of different points of view will emerge a public policy which will enable this country to move forward on the correct course.

Mr. President, the Senate will soon cast a historic vote to decide whether Senate Joint Resolution 1 should become a part of our Constitution. This may very well be the most significant vote the Senate will cast in this session of the Congress. If we are successful, it could dramatically alter the future of our country in a very positive way. I renew my request and urge my colleagues to vote in favor of a balanced budget amendment for the sake of future generations.

The Senate has been debating Senate Joint Resolution 1 for an entire month, and just as it should when we are considering an amendment to our Constitution, the debate has been thoughtful and thorough. We have debated serious and credible amendments on a wide range of topics including the treatment of Social Security and capital budgeting. The Senate debated these issues and after debate decided to leave Senate Joint Resolution 1 intact and rejected each of those proffered amendments. I supported several of the amendments, but it is now time to put the debate on those amendments behind us and pass the amendment. While some of us may have felt that the amendment could be improved with certain change, all of us must realize that we are better off with this amendment than with the status quo.

I would like to take a moment to recognize the two of my colleagues who have spent more time in the Chamber debating this than any of us, and that would be the senior Senator from Utah [Mr. HATCH], and the senior Senator from West Virginia [Mr. BYRD]. These men have served in this institution with distinction for a combined 60 years. During this past month, each of them has treated us to his own brand of eloquence in espousing his point of view. It has been a delight for those of us who are privileged to serve in this institution to hear and to share in that debate. No one who has observed the floor proceedings can question the depth of their sincerity about their feelings. It is a tribute to the democratic process to see this kind of debate occur in this Chamber.

Mr. President, amending our Constitution is the most significant action the Senate can take, and it should not be undertaken lightly. In this case I believe the future of our country is at stake—the ability of our children and our children's children to have the same economic choices in their time that our generation has enjoyed.

We are constantly reminded that everyone is for a balanced Federal budget but not everyone is for a constitutional amendment which puts that process in place and helps us to achieve that goal. On its face, this position appears to me to be inconsistent. If you are for a balanced budget, it would seem the more logical course of action would be to support a mechanism that would help to facilitate the outcome. I believe the amendment accomplishes that purpose. The amendment itself is very straightforward. Congress may not let spending exceed revenues in a given year unless a 60-percent supermajority of those elected both in the House and the Senate vote to permit a specific amount of deficit spending. While this does not guarantee balanced budgets, it will, in my judgment, make it more difficult to authorize deficit spending if this process, a constitutional amendment, is in place.

My experience as Governor of Nevada convinces me of the merits of this process. With a State constitution that requires a balanced budget, those of us who were privileged to serve as the chief executive of our States were forced to make hard choices in spending and on revenues, particularly during the period of economic slowdown during the 1980's. The year that I assumed the Governorship of Nevada, January 1983, we were concerned that the State payroll would not clear because budget revenues had fallen far short of their original and earlier projections. Yet, with that hammer of a constitutional amendment in place in our own State, it would have been much more difficult, much more difficult to have ignored the constitutional mandate to balance the budget. Therefore, both the Governor and the State legislature were able to resist the pressure of those good people in our State urging spending for programs that many of us were for.

The point I think, Mr. President, is the hard choice. It is the nature of those who are advocates for these programs, good people all, to urge more spending than they know a Governor at the State level or the legislature at the State level can approve, and it becomes the responsibility of those of us who have served at the State level as Governors to submit a balanced budget and for State legislatures to require a balanced budget.

We did not have the luxury of avoiding the painful cuts by running deficits. That would have been the easy way out and, unfortunately, the way the Federal Government has chosen to proceed in 59 of the last 67 years.

My experience as a Senator has also taught me how difficult those budget choices can be. The process is essentially the same, with a much greater magnitude, and while we have made impressive progress in reducing the deficit over the last 4 years—$107 billion in the last fiscal year, projected at one time to be $292 billion—the President and Congress can justifiably take pride in what they have accomplished, but balancing the budget by the year 2002 will require sustained discipline, the kind of discipline that has not characterized our actions either from the White House or from the Congress. If we are successful, we will have accomplished something that has occurred only once in the last 33 years.

After 2002, the deficit picture gets worse, and gets dramatically worse, when the baby-boom generation, a tidal wave, begins to impact the programs that we have put in place for the elderly in America. Without the balanced budget amendment, the temptation will always be there, the temptation to avoid making the hard choices.

History shows us all too well that at the Federal level both the White House and the Congress, without reference to partisan affiliation, has tended to take the easy road. It is true that Senate Joint Resolution 1 does not guarantee that we will not take the easy road, but I submit it would make it much harder to do so.

Many of my colleagues who have indicated they plan to vote against Senate Joint Resolution 1 have stated their concerns over not excluding Social Security from the budget calculations. While I agree that excluding Social Security would be in our long-term best interests, I believe they are mistaken if they believe that Social Security will be better off without the balanced budget. I believe our best option would be to exclude Social Security from a balanced budget amendment, and I have so voted. But our next best option is enacting the balanced budget amendment as it appears in the Chamber today and as we will vote on it this afternoon. Our worst option is to preserve or to retain the status quo, and that is to do nothing, to reject this proposed balanced budget amendment.

No one disputes that a balanced budget amendment will help end our string of deficits. Some will argue that we do not need it to achieve our goal, but no one says it will not help. And while the amendment does not mandate a balanced budget, it does, in my opinion, make it more likely. Therefore, I think it is reasonable to conclude that a balanced budget amendment will lead to less deficit spending than if we fail to enact the balanced budget amendment.

If a balanced budget amendment will help cut deficit spending, what will the effects of less deficit spending be on programs that we all support, like Social Security? Every dollar of deficit spending that occurs now is a dollar that will not be available to pay Social Security retirees when they need it. And even worse, we lose not only that dollar but we lose the interest that we pay on it, which multiplies rapidly with the magic of compounding.

The best example of this can be illustrated by looking at where we were in 1980. If we had adopted a balanced budget amendment in 1980, 17 years ago, and had not increased the national debt from about $1 trillion to more than $5 trillion today, we would not have to cut a single dollar from this year's budget to achieve balance. In other words, we would be in surplus if we did not have to make the interest payments on the deficits that were run up over the last 20 years.

I do not want Senators years from now to say, ''Gee, if they had only adopted a balanced budget amendment in 1997, we would not have added trillions more to our national debt. We would not have added billions more in interest payments in servicing that debt. We would not have to be cutting the worthwhile spending programs because of the larger national debt.''

Mr. President, the trend line is both alarming and disturbing. Since 1980, the percentage of our budget dedicated to servicing the debt has risen from 7 to 15 percent. This year's budget contains a line item of $245 billion for interest payment on the national debt. That is the net interest payment. In other words, almost $1 out of every $6 in our budget goes to servicing the $5.3 trillion national debt.

Worse than that, if the interest we earn from Social Security and other trust funds which is supposed to be saved to be paid out in future years is excluded, the gross interest we owe is really $350 billion.

No one claims running a Federal budget deficit actually helps Social Security or other Federal program over the long haul. Congressman JOE KENNEDY who is an undisputed champion of social programs to help the poor makes this point very eloquently. He maintains that deficit spending has not helped, but has hurt, spending for social programs.

Every dollar that must go to servicing the national debt is a dollar that cannot go to school lunch programs, paving roads, or repairing our neglected national parks. Interest payments are now the second largest Federal spending item following Social Security in our budget.

I must ask my colleagues who support taking Social Security out of the balanced budget amendment, as I do, whether their interests are not better served by a constitutional amendment that helps facilitate a balanced budget.

This is now my 9th year in the Senate. I do not recall a single Senator getting up and offering a budget that excluded Social Security from the budget calculations. For those who profess to feel so strongly about Social Security that they cannot vote for a balanced budget amendment, why have they never attempted to exclude Social Security from past budgets?

While it is wrong to use Social Security to mask the true size of the deficit, including Social Security, that is no reason to vote against a balanced budget amendment, in my view.

The greatest threat to Social Security is the debt. There are real and tangible benefits for every American family if we balance the Federal budget.

Interest rates are estimated to be 2 percent higher because of the deficit. The average price of a new home is $37,000 more because we can't balance the budget. A student loan is estimated to be almost $2,000 more expensive and a new car $1,000 more expensive because we haven't balanced the budget.

Under current trends, a child born today will have to pay $180,000 over their lifetime to service the national debt. What kind of burden are we passing on to future generations?

Given the overwhelming benefits of a balanced Federal budget, I strongly believe this country needs a balanced budget amendment to help us achieve this goal. Yes, there are some risks that a minority of our legislators will act irresponsibly—but that can happen today if 41 Senators choose to filibuster. Therefore, I believe we gain the benefits of greater pressure to achieve a balanced budget without incurring additional risks.

We have a historic opportunity this afternoon to change the future course of our country in a very positive way. If we fail, I am afraid we will look back 20 years from now and be even further in debt, with fewer economic choices for that generation, and regret that we had not taken this important step today.

I urge my colleagues to vote in favor of Senate Joint Resolution 1. This vote will be your legacy to your children and to our country's future economic well-being.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my distinguished friend and colleague, and certainly for his kind remarks regarding me. I take those as a special feeling of friendship and love for the work he has done and the kindness he has shown to me. I want to personally express my appreciation for how hard he has worked on this amendment, how much it has meant to me and others on this side—very much—and, I think, to his colleagues who are voting with him on his side. I just want to personally express my gratitude to him for the good work he has done.

I reserve the remainder of my time.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I also have great affection and respect for the Senator from Nevada. I know to err is human and to forgive divine. While I make no claims of divinity, I forgive him for his position on this.

I also point out both the distinguished Senator from Nevada and the distinguished Senator from Utah are two of the hardest working Members of this body. In their debate, they have been strong and forthright, as has the distinguished Presiding Officer, who made his first speech on the Senate floor on this issue. I noted at that time, so many times when one gives his or her first speech on the floor it is on an inconsequential item. This time, it was one of the most important items that the distinguished Presiding Officer will have a chance to debate during his tenure in this body.

I say this because I think during the past weeks of debate, all of us, Republicans and Democrats, have tried to fulfill our responsibility as one of the two Houses of Congress to create a full and fair record. Sometimes it may have seemed tiring, for the distinguished Senator from Utah and myself, as floor managers, to be here. But the more we have listened, the more we have realized that this is one of those issues where a strong and full debate record has been made. Even if those of us who have been here may not realize that at this moment, certainly historians will.

I believe most of the men and women in this body, in both parties, have approached this historic debate with a seriousness the consideration of a constitutional amendment requires. Every one of us should pause and think: We vote either to amend the Constitution or not to amend the Constitution. With the exception of a vote to declare war or with the exception of one or two other areas, I cannot think of anything that approaches the seriousness of voting on a constitutional amendment. No Member of the Senate should take that lightly. All Members of the Senate should think they may only once in their lifetimes actually have a vote that will determine whether the long and almost sacred process of amending our Constitution begins. So we should think long and hard how we vote.

Those of us who expressed our reluctance to amend the Constitution, for this or many other issues, have at least said, if we are going to amend the Constitution, let us make sure the amendment is as good as can be written.

We have offered serious and substantial amendments to this proposal. I believe the amendments that we have offered—all from this side of the aisle—have revealed serious and substantial flaws in this proposed change to our Constitution.

What has bothered me in this debate is instead of addressing these serious and substantial flaws, instead of acknowledging what writers outside the Senate have acknowledged, that the proposed change to the Constitution is flawed, but instead of addressing the substantial flaws, the sponsors of the resolution have proceeded with a no-amendment strategy, in which they have failed to consider the merits of the amendments. I think there was an up-or-down vote only one of the amendments. The others were all tabled. The sponsors of this proposed constitutional amendment have taken the unyielding position that no changes in the language are acceptable.

I cannot think of an instance that a major and contentious issue has reached the Senate floor where Members have not realized, before its conclusion, that there may well have to be some changes. During the weeks of debate on Senate Joint Resolution 1, this no-amendment strategy has been a disappointment to many, certainly to the senior Senator from Vermont. I do not believe this is the way to debate an amendment to the Constitution of the United States. Both proponents and opponents of this proposed constitutional change should be searching for the best

language possible to propose to the States.

My own feelings, as a Member of the U.S. Senate, is that if this is going to pass, let it at least pass in the best possible form. Today, it is a long way from that.

As the distinguished Senator from New Jersey [Mr. TORRICELLI], said, ''Good is simply not good enough when we are amending the Constitution of the United States.''

Frankly, Mr. President, constitutional amendments are held to a higher standard. The perfecting and substitute amendments offered during the debate on this amendment showed the serious and substantial flaws, and I will recall a few of them.

I will continue speaking. I have already talked with my good friend from Utah about when a Member on the other side comes and seeks recognition, I will, of course, yield for him or her to speak. But while waiting for that, let me talk about a few of these amendments.

We had the Durbin amendment. The distinguished Senator from Illinois [Mr. DURBIN], offered the first amendment during our debate, and it highlighted the fact that Senate Joint Resolution 1 is unsound economic policy. What he did in his amendment would have allowed us to waive this article by majority vote in the event of an economic recession or a serious economic emergency.

His amendment had the underpinning of the statements of more than a thousand of the Nation's most respected economists, including at least 11 Nobel laureates and the former chairman of President Nixon's Council of Economic Advisers, the current and former Federal Reserve Board Chairman, the former Democratic and Republican directors of the Congressional Budget Office. All agreed that the underlying resolution, Senate Joint Resolution 1, was unsound economic policy. They all agreed that it would hamper the Government's ability to cope with economic downturns.

Treasury Secretary Rubin, one of the most respected Treasury Secretaries I have served with in my 22 years here, testified before the Judiciary Committee:

> A balanced budget amendment would subject the Nation to unacceptable economic risk in perpetuity. This balanced budget amendment could turn slowdowns into recessions and recessions into more severe recessions or even depressions.

I think of the history books that tell us that as the United States was going into its greatest depression, President Herbert Hoover, wanting to give credibility to the American people and hope to them, instituted a balanced-budget policy. It was like throwing gasoline on to the smoldering embers of an embryonic depression, and what might have been only a slight recession became a depression that destroyed the hopes and dreams of many of our parents and grandparents. It was a depression that wreaked the greatest havoc in the lives of American people in this century. It was a depression that caused great migration of people from various parts of our country, nearly wreaked our farm economy, our agrarian economy, and destroyed the hopes and dreams of families in every part of America.

What we have done now is say if your State or region is hit by a major recession or emergency that a minority of Senators or a minority of Representatives could stop a Federal response to that major recession or emergency. Although the sponsors of this measure repeatedly outline the dangers of a budget deficit, they fail to address how the proposed constitutional amendment will provide for the flexibility needed in economic downturns without holding working families in hard-hit regions hostage to a supermajority vote. Senator DURBIN's amendment would have restored that flexibility by requiring a majority vote to respond to economic recessions and emergencies.

But the sponsors and proponents of Senate Joint Resolution 1 opposed the Durbin amendment. The sponsors and proponents of the underlying resolution did not offer alternative language to address the real economic concerns surrounding Senate Joint Resolution 1. Instead, with lockstep voting, they defeated the Durbin amendment by a vote of 64 to 35. Having forced this effort to be tabled on February 10, and they rejected the Torricelli amendment on February 26, the Republican leadership hinted this weekend that they are now themselves finally considering an amendment along these lines but have not brought one forward.

It is ironic, last Friday, the Senate passed an air ticket tax—they reinstated one that had lapsed—imposed a significant tax without a recorded vote by unanimous consent. I wonder whether the proponents of the provisions of the underlying resolution would draft in the Constitution a requirement that such measures only be passed by a constitutional majority after a recorded vote. In this body the majority leader called up the matter, and, in moments, it was done. I am not suggesting it should not have been done, but it is also reality. This is a significant tax. It is a significant tax from which the American people benefit. Hopefully, it will make our airports safer, air traffic more efficient and safer, and we benefit by it. But it was not reinstated with a recorded vote.

I withhold the remainder of my time. Mr. President, I had other amendments I was going to speak to, but I see the distinguished Senator from Maryland on the floor who is seeking time. How much time does the Senator from Maryland want?

Mr. SARBANES. Twelve minutes.

Mr. LEAHY. Mr. President, I yield 12 minutes to the distinguished Senator from Maryland. And, Mr. President, before doing that, I understand this, that we are going back and forth. Does the distinguished Senator from Utah have any objection?

Mr. HATCH. I have no objection. This is fine. I am happy to accommodate the minority on this.

Mr. LEAHY. Mr. President, I was going to speak about the Dodd amendment, but I will withhold on that and will do that at another time. I yield 12 minutes to the distinguished Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I thank the distinguished Senator from Vermont for yielding me this time.

Mr. President, there is no doubt that this is an extremely important vote that Senators are about to cast this afternoon. An amendment to the Constitution to require a balanced budget ought to give every Senator great pause.

First of all, amending the Constitution is no light enterprise under any circumstances. Second, we ought to be certain that we are not falling into the trap of unintended consequences, that we do not pass an amendment that does more harm than good. In this respect, we ought to heed the advice which we have been receiving from many quarters with respect to the potential impact of this amendment to the Constitution on our ability to conduct wise economic policy.

In this respect let me make four points in opposition to the balanced budget amendment.

First, let me discuss the effect of this amendment on our ability to avert or slow economic downturns.

Mr. President, over 1,100 economists have taken out an advertisement condemning the balanced budget amendment as unsound and unnecessary. Its signers include 11 Nobel laureates in economics, and they state—and I quote:

> We condemn the proposed ''balanced-budget'' amendment to the Federal Constitution. It is unsound and unnecessary.

They then go on to say—and I think this is an extremely important statement:

> The proposed amendment mandates perverse actions in the face of recessions.

I repeat: ''The proposed amendment mandates perverse actions in the face of recessions.'' The statement continues:

> In economic downturns, tax revenues fall and some outlays, such as unemployment benefits, rise. These so-called built-in stabilizers limit declines of after-tax income and purchasing power. To keep the budget balanced every year would aggravate recessions.

Secretary Rubin, the Secretary of the Treasury, testifying before the Senate Judiciary Committee, echoed these sentiments when he stated that the balanced budget amendment threatens to turn economic downturns into recessions and recessions into depressions.

Mr. President, along these lines, I want to draw attention to this chart beside me which shows the fluctuations in real economic growth from 1870 to

1995. This is 1870 here. This is 1995 out here. What this chart shows is that since the end of World War II, when we began using automatic fiscal stabilizers—what the 1,100 economists call the ''so-called built-in stabilizers''—we have been able to greatly ameliorate the fluctuations in the business cycle. You still get business cycle fluctuations, but you do not get the boom-and-bust pattern which characterized the pre-World War II period in which a downturn would become a recession, and a recession would become a depression.

We have had fluctuations since 1945. But they have almost always been in the positive range in terms of economic growth. Our economy has benefited enormously from this stability. When the economy slows down, unemployment rises, tax revenues fall off, and the paying out of unemployment benefits increases. We therefore automatically start incurring deficits which serve to slow down and head off the economic downturn. These automatic stabilizers have enabled us to significantly ameliorate the business cycle.

As the economists' statement says, an amendment to the Constitution requiring a balanced budget would prevent this kind of countercyclical fiscal policy and, therefore, would greatly increase the risk of severe economic fluctuations during an economic downturn.

Amendment supporters say, well, we will be able to see an economic downturn begin and we will get a supermajority to waive the amendment's balancing requirements. The fact of the matter is, however, that it is very difficult to tell when you are in an economic downturn. The beauty of the current system is that it automatically adjusts as the economy goes soft. As the economists said in this full-page ad in the paper, ''The proposed amendment mandates perverse actions in the face of recessions. In economic downturns, tax revenues fall and some outlays, such as unemployment benefits, rise.'' No congressional action is required for this system to go into effect.

If, in an economic downturn, you try to balance the budget by cutting back on unemployment benefits and raising taxes in order to balance it, you will just drive the economy even deeper.

In short, Mr. President, this amendment prevents us from doing the very things that have allowed our economy to stay on an even keel for the last 50-plus years.

Second, Mr. President, it is very important to understand that we do not have a capital budget at the Federal level. The argument is being used by the proponents of this amendment that because State governments have to balance their budgets, local governments have to balance their budgets, business firms balance their budgets, and private individuals balance their budgets that the Federal Government should have to balance its budget. But none of these entities—not States, local governments, private companies, or households—would balance their budgets if they kept their budget the way the Federal Government does in accounting terms. There is no capital budget at the Federal level.

State and local governments have a capital budget, and they borrow in order to finance it. I sat on a committee that received testimony from two State Governors in favor of the balanced budget amendment to the U.S. Constitution. One of the arguments they made in favor of the balanced budget amendment to the Constitution was that their State balanced budget amendments gave them a better credit rating for when they went into the bond market to borrow, allowing them to borrow at lower interest rates.

Of course, my question to these Governors was, if you are required by your Constitution to have a balanced budget, why do you have to borrow? Their response was, ''Well, Senator, you don't understand. We borrow to finance the capital budget. Our constitutional requirement for a balanced budget is for the operating budget, but we can have a capital budget for which we borrow.''

Of course, it makes good sense to borrow for capital items. Businesses do it when they invest in new plant equipment and private individuals do it when they buy a home or a car. Very few people can afford to buy those items out of cash in the year of purchase. If you calculate prudently in terms of your expected income flow and the amount you are spending for the capital asset, it makes good sense to borrow in order to finance the capital asset, have the use of it over time, and pay it off over that period as you amortize the use of that capital asset. Business does it all the time. Private individuals do it all the time.

So this analogy that amendment proponents draw to State and local government, private individuals, and business does not work because there is no capital budget at the Federal level. And amendments that were offered on the floor to introduce capital budgeting into the Federal accounting process were rejected.

Third, it is argued that if we face an economic or military emergency, you will get a supermajority in this body in order to waive the amendment's balancing requirements. Well, Mr. President, we have seen the difficulty we have around here extending the debt limit by a simple majority. This legislation requires a three-fifths supermajority, three-fifths of the total membership of the body, in order to raise the debt limit. Very few of the efforts to raise the debt limit in recent years have had that kind of support.

I have voted for debt-limit increases with Republican Presidents because I thought it was the responsible thing to do. But in many of those instances, even where there was some bipartisanship involved, the vote to increase the debt limit failed to garner 60 votes.

The difficulty of gathering a supermajority simply cannot be overestimated. Yet amendment supporters assert, well, clearly, Congress will see a crisis and make the proper response. Our history, however, simply does not support that contention.

Let me give you just one example, involving national security, because proponents of this amendment contend that it will not inhibit us from addressing our national security needs. In 1940, on the recommendation of President Roosevelt, the United States enacted a 1-year draft. The draft came up for renewal a year later, in the fall of 1941, not too long before Pearl Harbor.

At this point, the House of Representatives had an intense debate about extension of the draft. Speaker Rayburn, in fact, went into the well of the House to appeal for the extension of the draft, saying it was essential for the security of our country. That extension passed in the House on a vote of 203 to 202. That vote would not meet the requirements of this balanced budget amendment, because to meet the requirements of the balanced budget amendment, you have to have a majority of the whole membership to waive the balanced budget amendment in time of national security emergency. The majority of the whole then—as now—would have been 218; 203 falls short of the majority of the whole requirement in the balanced budget amendment, let alone the supermajority requirements that are contained in the amendment. So those who place faith in the assumption that the Congress would easily waive the balancing requirements are much too sanguine. I am very apprehensive as to whether, either in a national security crisis or an economic crisis, we would be able to respond. In both instances, it is imperative to be able to respond early. The longer you wait, the more serious the problem, the further you fall behind the curve. This balanced budget amendment has the effect, at best, of delaying essential action, and at worst, of preventing such action at all.

Fourth and finally, let me very quickly make the point that the way to balance the budget is to make the budget decisions that we are confronted with, not to amend the Constitution. We have been trying to do that, and we have had some good success over the last 4 years. We have brought the deficit down.

How do you actually bring down the deficit? How do you really address this problem? What I have argued here this morning is that amending the Constitution carries with it great risks, as the economists in this article have indicated, and that we can do the job—and have been doing it—without a balanced budget amendment.

I ask unanimous consent that the full economists' statement be printed in the RECORD.

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

1,100 ECONOMISTS CONDEMN BALANCED BUDGET AMENDMENT: ''UNSOUND AND UNNECESSARY''

The statement below has been signed by over 1,100 prominent economists, more than double the number who signed a similar statement in 1992.

The signers include 11 Nobel laureates in economics: Kenneth J. Arrow and William Sharpe of Stanford University; Gerard Debreu and John Harsanyi of the University of California-Berkeley; Lawrence R. Klein of the University of Pennsylvania; Wassily Leontieff of New York University; Herbert A. Simon of Carnegie Mellon University; James Tobin of Yale University; and Franco Modigliani, Paul A. Samuelson and Robert Solow of M.I.T. The statement was drafted by Robert Eisner, James Tobin and Robert Solow.

''We condemn the proposed 'balanced-budget' amendment to the federal Constitution. It is unsound and unnecessary.

''The proposed amendment mandates perverse actions in the face of recessions. In economic downturns, tax revenues fall and some outlays, such as unemployment benefits, rise. These so-called built-in stabilizers limit declines of after-tax income and purchasing power. To keep the budget balanced every year would aggravate recessions.

''Unlike many state constitutions, which permit borrowing to finance capital expenditures, the proposed federal amendment makes no distinction between capital investments and current outlays. Private businesses and households borrow all the time to finance capital spending. The amendment would prevent federal borrowing to finance expenditures for infrastructure, education, research and development, environmental protection, and other investment vital to the nation's future well-being.

''The amendment invites Congress to require states and localities and private businesses to do what it cannot finance itself. It also invites more cosmetic accounting, such as increased sales of public lands and other assets counted as deficit-reducing revenues. Disputes on the meaning of budget balance could end up in the courts.

''The amendment does contain escape hatches, but they require super-majorities in peacetime, three-fifths of the 'whole number' (including absentees and non-voters) of each House to adopt an unbalanced budget or to raise the debt and a majority of these whole numbers to pass a bill to raise taxes. These provisions are recipes for gridlock and opportunities for irresponsible minorities to insist on their agendas.

''The amendment is not needed to balance the budget. The measured deficit has fallen dramatically in recent years, from $290 billion in 1992 to $107 billion in 1996, to some 1.3 percent of gross domestic product, a smaller proportion than that of any other major nation, none of which hobbles its economy with a balanced-budget mandate. Congress and the President can reduce the deficit to zero, that is, balance the budget, or even create budget surpluses, without a constitutional amendment.

''There is no need to put the nation in an economic strait-jacket. Let the President and Congress make fiscal policies in response to national needs and priorities as the authors of our Constitution wisely provided.

Mr. SARBANES. To summarize once again the economists' statement, first of all, the balanced budget amendment would not enable us to respond automatically to economic downturns, running the risk, therefore, of turning recessions into depressions. Second, and I quote, ''Unlike many State constitutions, which permit borrowing of financed capital expenditures, the proposed Federal amendment makes no distinction between capital investments and current outlays. Private businesses and households borrow all the time to finance capital spending. The amendment would prevent Federal borrowing to finance expenditures for infrastructure, education, research and development, environmental protection, and other investment vital to the Nation's future well-being.''

If we had a capital budget right now, we would have a balanced budget, because there is well over $107 billion worth of capital items in the Federal budget.

Third, I addressed the escape hatches and the difficulty of obtaining these supermajorities. That is really a recipe for gridlock.

Fourth, and this leads again to my final point, we have brought the deficit down consecutively now for 4 straight years. How? We made tough decisions on spending and taxing. We voted for the 1993 economic plan. Many of those pushing the balanced budget amendment to the Constitution voted against that economic plan with respect to the budget. That was the plan that enabled us to bring the deficit down from $290 billion in 1992 to $107 billion in the past fiscal year—a cut of almost two-thirds in the deficit. That was done by making tough decisions. The chart beside me reveals this progress.

An amendment to the Constitution, by itself, does nothing. You still have to make the budget decisions. We have been doing a good job of it. In fact, as this next chart shows, we have brought the deficit down from 4.9 percent of our gross domestic product down to 1.4 percent. This is the best performance in a quarter of a century, as a percent of GDP.

So, Mr. President, we have been doing the job. And the way to continue to do the job is to address the deficit. As I noted, it is now down to 1.4 percent of GDP. This is better than any other major industrial power in the world. Chairman Stiglitz of the Council of Economic Advisors says he now goes to international conferences and everyone is talking about how well and how successfully the American economy is working. This figure—deficit as a percent of GDP, 1.4 percent—is better than any of the other major industrial countries. Consider this chart beside me. This is the U.S. deficit as a share of GDP, 1.4 percent. Here is Japan at 3.1 percent; Germany at 3.5 percent; Canada, 4.2 percent; France, 5 percent; the United Kingdom, 5.1 percent; Italy, 7.2 percent. So we have been doing the job, and we have been doing the job the way it needs to be done.

In short, Mr. President, we ought not to meddle with the Constitution. We ought not run the risk of provoking economic prices, of preventing a timely response to a national security threat, of failing to make capital investments in the future of our country. Mr. President, I urge the rejection of this amendment to the Constitution.

I thank the Senator from Vermont for yielding me time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I have enjoyed listening to the distinguished Senator from Maryland. He has made these points before.

Let me tell you something. It is easy to bring the deficit down when you pass the largest tax increase in history, and when you have just ended paying for the savings and loan crisis. In all honesty, that is what happened. But, we still have, for the next 4 years, the deficit going back up. Only in Washington, DC, when you talk about reducing the increase in the amount of money the deficit goes up, do you call it cutting the budget.

The fact is that, under the best of circumstances, we have at least a $107 billion annual deficit. It is going up to $200 billion by the year 2002, by the budget the President submitted. So it is nice to talk in terms of how the deficit seems to be coming down for the last 4 years, after the largest tax increase in history, and the fact that the deficit was artificially high in 1992 because we got through paying for the debacle of the S&L crisis. I am not sure who to blame there. There is more than enough blame to go around for who created the debt, the question for today is who will vote to fix it?

President Reagan's desire to have marginal tax rate reductions to spur economic growth proved to be the right policy. The marginal tax rate reductions in 1981, actually, according to many observers, resulted in an increase in revenues of over 40 percent during the additional years. At the lowest, it was 28 percent. Really, I think it was closer to 40 percent. But the real problem was that our friends of the more liberal persuasion kept spending, and President Reagan himself spent more on defense. So there is no question that all of that was what caused the high deficits, not the tax rate reductions.

Having said all of that, we also know that automatic stabilizers are not what they claim to be. There are many reasons why we come out of recessions and why we haven't had deeper ones than we have had. Automatic stabilizers is probably a very minor part of that, according to most economists today.

Today is the day of decision for Senate Joint Resolution 1, which proposes to amend the Constitution and provide for a means of getting us to a balanced budget. The sad reality is that if we do not adopt the balanced budget amendment to the Constitution, then the bridge to the 21st century is likely to be washed out with a flood of debt.

The amendment we will vote on this afternoon is the bipartisan, bicameral consensus. Everybody knows it is the only one that has a chance of passing and the only chance we have of getting things under control. It is recommended to the American people by

us for their deliberation and their State legislatures by Americans of good will who will have reached across party lines to do what is right for our country's future.

Some have suggested that it is somehow inappropriate to suggest that we amend the Constitution to correct the Federal Government's borrowing and spending habits. I would like to emphasize. What is the Constitution for? It seems to me that it's primary purpose is to limit the Federal Government's power to act in ways destructive of the liberties of the people. And the most central power of Government, especially of the Congress, is the power of the purse. That should not seem like a new idea. Ever since the nobles of England forced King John to sign the Magna Carta at Runnymede, our constitutional history has been a series of actions to rein in the abuse of power of the purse to protect the freedoms of the people. That is what we want to do here because it is apparent. If you look at these last 28 years of budgets, all unbalanced, none of which has done the job, that have put us where we are, it wasn't just Reagan, Bush, Clinton, or Carter. It is 28 years of this. And, if you really want to stop things, yes, we have to have better Presidential leadership on the budget. But ultimately, the fiscal buck stops right here in Congress, and the Congress is the body that can't get its spending habits under control.

For the first century and a half of our Nation's history our Nation—it literally went without saying—the Government would only borrow in times of supreme emergency, and then would repay the debt in good times. That began to be abandoned in the 1930's and was entirely abandoned in the 1960's and 1970's. In 58 of the last 66 years, and for the last straight 28 years, the Federal Government has spent more money than it has taken in. Yet, we have these people coming to the floor saying, ''All we have to do is do it, and the President will sign it.'' Give me a break.

Mr. SARBANES. Will the Senator yield for a question?

Mr. HATCH. I do not have the time to yield, or I would be happy to. Let me just finish my remarks.

This pile of books illustrate the nearly three decades of unbroken deficits. Think of it. Nearly 30 years in an unbroken line, and 58 of the last 66 years during good times and bad times the Federal Government has simply spent money that it didn't have. And, frankly, it is our fault in Congress for allowing this condition to continue.

Some question. ''Who has this hurt? We owe the money to ourselves. It has no effect.'' Right? Wrong. It has hurt average Americans by reducing their wealth and by reducing the Nation's economic sovereignty as we have relied on foreign creditors, and foreign creditors are starting to control our country. Because the Government is competing for money to borrow, it has driven up the interest rates making home mortgages, student loans, and automobile loans even more expensive.

The Joint Economic Committee has estimated that the average family will save about $1,500 if we implemented a balanced budget amendment. Our debt has made it more difficult for small businesses to grow and to expand, and so has decreased the number of new jobs that we might have created.

In these and many other ways, real wealth has been taken away from the American people and from the American families throughout this country. Who else does it hurt? Certainly our children and our grandchildren. A child born today enters life with about $20,000 of debt as his or her share of our $5.3 trillion national debt. It has been estimated that this same child will pay $200,000 in extra taxes just to pay the interest on the national debt over the lifetime of that child. In fact, that child will pay over $94,000 in extra taxes just to pay the interest on the national debt, up until that child's first 18 years are completed. These children did not get to vote on this debt and tax burden. They didn't vote on the spending programs that they will be paying for. Mr. President, I have called this ''fiscal child abuse,'' and that is exactly what it is. It is also taxation without representation in its purest form.

The clear fact is that the Federal Government's debt habit is hurting current and future Americans. But in a way that avoids direct electoral accountability. By taking the easy course to borrowing, the Government can hand out Federal money without having to raise Federal money directly through taxes.

Over the period of debt financing the Government has grown and has intruded itself into every area of life but has become even less and less accountable for the people. Some say, ''Let's just do it,'' meaning that we can balance the budget right now, if we will. We have tried all of that. Republicans, Democrats, and the White House have promised balanced budgets, and the debt just continued to go up. Democrats and Republicans promised balanced budgets, and the debt went up. We had recessions and wars, and the debt went up. We had peace and prosperity, and the debt went up. Since 1978, we passed no fewer than five major budgetary regimes to force us to balance the budget, and the debt went up.

Just think about it. In the last Congress, we even passed a balanced budget. But the President vetoed it. And the debt went up again. We have tried promises. We have tried statutes. They don't work.

Look at this stack of failed attempts of 28 straight years; 58 of the last 66 year of unbalanced budgets. ''Let's just do it'' just doesn't do it. That line may be great for selling sneakers, but it has not helped us to balance the budget. I will tell you that.

We have a fundamental problem with the way our Government operates. We need a constitutional solution because that is what the Constitution is for—to fix basic problems of Government, and to limit the ability of Government to act in ways that are harmful to the people. It seems to me quite clear that to remedy this fundamental problem in our National Government that it is entirely appropriate to amend our basic charter to say to the Government, ''Stop spending our national inheritance.'' By limiting the Federal Government's ability to borrow and spend and spend away our American legacy, we will be protecting the liberties of all Americans.

Mr. President, there is still time for Senators to reconsider their position. I hope that those who have shown that changing their minds is not out of character will think twice again and decide to vote the right way—in the way they promised their constituents, in the way they ran upon it, and in the way they were elected upon it. The balanced budget is the right thing to do for our children, our grandchildren, and for all Americans.

I reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SARBANES. Mr. President, will the Senator yield me 2 minutes?

Mr. LEAHY. I yield 2 minutes.

Mr. SARBANES. Mr. President, I simply want to make this observation.

Well over half of those budgets that the Senator from Utah points to in that pile would have been in balance if we had a capital budget. The fact of the matter is we didn't—and don't—have capital budgets. State and local governments have capital budgets. Businesses and private individuals have capital budgets. But we have a budget accounting system that requires us to cover the capital items as well as the operating items. If we had done budget keeping the way everyone else does budget keeping, well over half of those budgets would have been in balance.

He talks about young people being born with a debt hanging over them. They are also born with a tremendous number of physical assets that have been purchased that are available to them for their use—a transportation network, a communication network, a research and development network, and an educational infrastructure. All have been paid for by previous generations for their use out into the future.

Mr. HATCH. Will the Senator yield on my time?

Mr. SARBANES. Yes.

Mr. HATCH. Is that why you want a capital budget? I guess it is so you can continue what you have been doing. Sure. So you can continue to just spend, and just call it a capital budget. My gosh. It suddenly dawned on me. I was starting to think maybe a capital budget was a good thing. But there is no bond rating system to restrain the Federal Government, as is the case in the States. We make the money. We

print it ourselves. We do whatever we want to. I guess we could just continue business as it is, and just call it a capital budget. Put all of these things that we should have to pay for into a capital budget, and say, ''We balanced the budget.'' Just continue the same system. That is what we are talking about.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, on my time, if we are going to go by rating, I say to my friend from Maryland, let's see how we would rate. I think probably one way of rating is our deficit as a share of GDP. I say this because we do it for ourselves. We talk about having our household budgets in line. As a U.S. Senator, I own a home, of course. But my real home is in Vermont. But I have a home to use when I am down in the Senate. Now, I do as almost all Vermonters, unless they have a lot more money than I do. I buy that with a mortgage. I could not pay for those homes all in 1 year. I am in deficit.

Mr. SARBANES. If the Senator will yield.

Mr. LEAHY. I am in deficit on that.

Mr. SARBANES. Exactly. The year the Senator took out the mortgage, he was in violation of the concept of the balanced budget amendment to the Constitution.

Mr. LEAHY. Exactly.

Mr. SARBANES. Any business that borrowed to expand plant and equipment—and virtually all businesses do it—violates the concept of this balanced budget amendment to the Constitution.

Mr. LEAHY. In fact, I might say to my friend from Maryland, we talk about how they might rate us if we had a capital budget. I look at the chart that he has been good enough to bring up, and I think that the United States is rating pretty darned good. We are an awful lot better in our deficit than all the rest of the First World—Japan, Germany, Canada, France, UK, Italy. I think our bonds would be pretty darned good. I say this to my friend from Maryland. We all know we are in about as much of a global market certainly as at any time in the Senator's lifetime or my lifetime, and markets become even more global as we go on with everything from the Internet to plants worldwide. I ask my friend, what is the dominant currency when we talk about that global market? Is it not the dollar?

Mr. SARBANES. If the Senator will yield, it is certainly the dollar. Everyone is anxious to hold U.S. Treasury bonds. Let me say to my colleague, the Maastricht Agreement for the European Union set out certain criteria that countries had to meet in order to qualify for the monetary unit. These were regarded as extremely severe criteria. One criterion set out in the Maastricht Agreement was that they had to bring their deficit as a share of GDP down to 3 percent—3 percent. That is the target that those countries are working to achieve. Everyone says, well, that is a really tough standard that these European countries are trying to meet.

The United States is at 1.4 percent.

Mr. LEAHY. We have cut in half what they have set as that tough target. We have done half again better. Is that what the Senator from Maryland is saying?

Mr. SARBANES. The Senator is absolutely correct. Another criterion they had was that your debt, your total debt had to be at 60 percent of your GDP. We are at 50 percent. I do not have a chart on that one. But we are at 50 percent. We easily meet both of the criteria that are being used by the European countries pursuant to the Maastricht Convention guidelines. And everyone is saying, boy, this is a tough job. If you get to it, you are showing tremendous fiscal discipline.

We are already well within both of those targets. None of the 15 countries that are members of the European Union have done as well as the United States on these two criteria, with the exception of Luxembourg.

Mr. LEAHY. Mr. President, I see now that my distinguished colleague from Utah has someone to speak on the other side. I am about to yield to him. I hope, though, that those who watch this debate around the world will realize that we are making debate on what is the world's strongest economy, the strongest economy recorded history has ever shown. I worry sometimes when I hear this denigration of our economy and that we need gimmicks to fix it. It is like some of the debate on the military budget during the cold war: Oh, my God, we are falling so far behind, until someone said, well, would we trade our Air Force for the Soviet Air Force or our Navy for the Soviet Navy or our Army for the Soviet Army? And everybody said, Oh, of course not. I ask just one question. Would we trade the U.S. economy for any economy in the world?

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. The only gimmicks I have seen are the gimmicks of these amendments that are really filed for one purpose and that is to cover what really is a very difficult vote, voting against the balanced budget amendment.

I yield 4 minutes to the distinguished Senator from Tennessee.

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

Mr. FRIST. Mr. President, I rise today in strong support of Senate Joint Resolution 1, the balanced budget amendment to the Constitution. I especially want to commend my good friend, Senator HATCH, for his tireless dedication to passing this amendment.

Mr. President, our Nation faces a critical choice about our economic future: Are we going to continue to shackle our children and grandchildren with debt or are we going to curtail the excessive spending habits of Washington? Passing the balanced budget amendment signals a choice for fiscal discipline, economic prosperity, and a better future for our children.

Federal spending cannot continue indefinitely on its current course. If we continue on our current path, entitlements and interest on the debt will consume all Federal revenues by 2012—leaving not a single tax dollar for defense, education, medical research, national parks, and other important government functions. For 28 years, we have continued on this path. We cannot continue on it for the next 28.

Today, the Federal debt stands at $5.3 trillion. Grasping the concept of a trillion dollars is difficult, but let me try. If you started a business in the year 1 and that business lost $1 million every day since then, you still would not have lost your first trillion dollars. Paying interest alone on America's debt costs taxpayers about $300 million a year. Thus, a child born today will pay more than $180,000 on the debt over his or her lifetime—just in interest.

The balanced budget amendment will take a bold step toward reversing this trend by adding a simple rule to the Constitution, a rule followed by families when they draw up their own budgets and by businesses when they forecast their finances. This rule says, ''total outlays in a particular year will not exceed total receipts in that year.'' That is legalese for forcing Congress to live within its means.

Some people have asked me why Congress and the President need to enshrine this rule in a document as important as the Constitution. Especially given today's new commitment to bipartisanship, some wonder why their lawmakers cannot agree to make the tough choices necessary to balance the budget. The simple answer is that Congress and the President need the amendment to guarantee fiscal discipline whether or not that political commitment to a balanced budget exists. We need the amendment to ensure the budget is balanced in 2002 and 2012 and 2022.

Opponents of the amendment cite four objections. First, they claim we should exempt Social Security from budget calculations to protect seniors and preserve the program. However, exempting Social Security from the balanced budget amendment will not strengthen Social Security in any way, will not add a single year to the Social Security trust fund, and will make balancing the budget even more difficult. Simply moving Social Security off budget does not address the structural challenges the program will face when the baby boomers begin to retire. The President knows this. He cites Social Security as one of his reasons for opposing the amendment but does not exempt it in his own budget. The greatest threat to Social Security is not the

balanced budget amendment; it is the unrestrained growth of debt that jeopardizes every single Federal program, especially Social Security because it is the largest.

The second objection is that the amendment restricts our ability to run deficits in times of emergency or recession. Running deficits is, at times, unavoidable. But recent budget history shows that deficit spending has become the rule rather than the exception in Washington, a trend that is unacceptable to the American taxpayer. The first sentence of the amendment provides appropriate flexibility to permit deficits when a three-fifths majority of Congress deems it necessary.

Third, opponents claim that the amendment risks judicial interference in budget decisions. In his State of the Union Address, the President himself cited his concern of ''unwanted results such as judges halting Social Security checks.'' The balanced budget amendment does not allocate power to the courts to decide budget and economic matters. Rather, it establishes a procedure to restrict Congress' budget authority—a supermajority vote to run deficits.

Fourth, opponents say we should include an exemption for capital budgets. Capital investments are very important. Everyone knows that. However, as I discussed earlier, we will have no money for capital investments in just 15 years if we continue on our current budget course. As with Social Security, the debt is the greatest threat to these investments.

Furthermore, if we created a separate capital budget, the process of defining ''capital spending'' could be abused—opening a huge loophole for deficit spending. We have seen this happen in the States. In New York City, for example, they declared the useful life of a school textbook to be 30 years, stretching out spending far beyond the book's actual existence.

All of these arguments are a smoke screen that obscures the real issue at stake: constitutionally mandated fiscal discipline.

If we can enact and sustain this discipline, the economic rewards are considerable. Looking back, if we had not run deficits the past two decades, the average American family's annual income would be $15,500 higher. Looking ahead, if we balance our budget now, we can increase per capita income by 26 percent over the next 20 years.

Passing the balanced budget amendment represents the first step down this road to economic prosperity. With a fiscal discipline embedded in the Constitution, Congress will be forced to confront tough problems sooner—rather than pushing mountains of debt on to future generations to endure.

I urge my colleagues to pass the balanced budget amendment.

Mr. HATCH. I thank my colleague for his excellent statement, Mr. President. I yield 6 minutes to the distinguished Senator from Virginia. And I want to personally thank him and express my gratitude for the good leadership and hard work he has shown in trying to pass this amendment.

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

Mr. ROBB. Mr. President, I must confess that I am not particularly comfortable as a proponent of adding a balanced budget amendment to the Constitution, and I never have been.

Many of those with whom I am frequently aligned on issues that don't enjoy much popular political support yet represent sound public policy are very much opposed to this amendment—and cannot understand why I am supporting it.

But I am not persuaded by the impassioned arguments against it, and, regrettably, that leaves me at odds with the President, the leadership of my party, most editorial writers, and virtually all of the progressive organizations with which I often find common cause.

It was out of frustration that I first came to support the amendment well over a decade ago during the time the Federal Government began to run huge annual deficits year after year, with no evidence of the discipline necessary to rein them in and I have been a reluctant backer ever since.

As most of our colleagues know, however, I've always been far more committed to a balanced budget than to a balanced budget amendment and I would not be supporting an amendment now, if I held out any hope that we would actually reach that goal without it.

In truth, actually achieving a balanced budget will be extremely difficult and there is no guarantee that we'll reach it, with or without the amendment, because we will have to make some politically painful decisions to get there—either way.

And that is really the point.

Why fear the amendment if it will only put more pressure on us to make the same tough decisions we're going to have to make anyway if we're serious about balancing the budget.

We owe it to the American people, and to future generations in particular to be a whole lot more candid about the choices we face, and the decisions we are going to have to make.

We cannot keep promising that we will not touch Social Security or Medicare or Medicaid or veteran's pensions or any other entitlement program, because we are going to have to make some adjustments to all of these programs, or we will put them all at risk.

I am particularly concerned about arguments that suggest we threaten Social Security if we pass a balanced budget amendment. That is just not true.

The greatest risk for Social Security is not taking the need to balance the budget seriously.

The real threat to our security, to our Social Security, to our economic security, and to our national security is the national debt.

Each year we pay more interest, on more debt, and that leaves fewer dollars to spend on everything else we look to Government to provide.

And if we don't make some changes soon, in just 15 years every cent the Government takes in will be required just to pay for entitlement programs and interest on the national debt—every cent.

Now that is really something to worry about.

The other argument heard so often is that the balanced budget amendment, will not permit us to respond to national emergencies.

That is nonsense.

To be sure it is designed to increase the pressure on us to make the politically difficult choices we keep avoiding.

But for any real emergency we can override it with 60 votes, as we have in the past.

Just look at how many votes we get on our routine emergency supplemental appropriations bills.

In times of true national emergencies, we will have virtually unanimous support to waive the limitation and in the interim, we will have an added incentive, to be more fiscally responsible.

Mr. President, notwithstanding good intentions and despite the rhetoric to the contrary, I just do not believe either the executive branch of the Federal Government or the legislative branch of the Federal Government have the collective will to make the really tough but necessary decisions without the added pressure the balanced budget amendment will help guarantee.

So, the die may well be cast. It may be it will fall one vote short. But I hope all of those who profess to support a balanced budget, whether with or without an amendment, will keep those commitments in mind as we approach the very difficult choices that we inevitably face if we are ever to get to that particular goal.

Mr. President, I yield any time I have remaining, and I thank the Chair.

Mr. DOMENICI addressed the Chair.

Mr. HATCH. How much time does the distinguished Senator from New Mexico need? We are running out of time on this side, but I think the distinguished chairman of the Budget Committee deserves to take whatever he wants to.

Mr. DOMENICI. Mr. President, 7 or 8 minutes?

Mr. HATCH. All right, I yield 8 minutes to the distinguished Senator.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I just listened to my good friend from Virginia talk about whether we have the will or not without a constitutional amendment mandating a balanced budget. Let me say to everyone, the

President of the United States has been saying he has the will; the will to get a balanced budget by 2002 has been a cornerstone to what he has been saying during his campaign and during the last couple of months.

The truth of the matter is, I say to my friend from Virginia, he did not present a balanced budget. Last night, the Congressional Budget Office told us that the President's budget, in the last year, the year it is supposed to be in balance, is $70 billion in the red. You know, we are only starting this exercise at $106 billion. Mr. President, $106 billion is where we are, and after all the Presidential hoopla, sending us this great budget, those who estimate say it is still $70 billion in the red in 2002.

If that is not enough, let me tell you, the will seems to be to delay, delay, delay. A constitutional amendment would put a finality to that and you would reach the time when you could delay no more, which I believe is the reason that my good friend has decided that he must go for this amendment, even though we would all prefer to balance the budget on our own. Is delay part of the President's budget, while he admonishes us not to adopt a constitutional amendment? You bet. The Congressional Budget Office just told us that next year, the first year we are supposed to be moving toward balance, the deficit goes up $25 billion. Can you imagine a deficit increase, from a President telling us not to adopt a constitutional amendment because it is too rigid and he would like the flexibility, and stating he just sent Congress a balanced budget?

My friend, Congressman JOHN KASICH, tried to explain this, and I must borrow his analogy. He talked about somebody going on a diet and deciding that the first 4 years of the diet, you will increase your weight preposterously—$25 billion worth, in the first year—and then when you finally get to the year you are supposed to actually lose weight, you all of a sudden, in that last year, you are going to lose 100 pounds.

This budget is before us now, brought to us by a President who is telling us, I will balance the budget myself—right? That is what he is saying. Do you know how much of this deficit reduction, according to the experts that we must listen to, occurs in the last 2 years of this budget? I assume you were appalled, I say to Senator ROBB, when you heard 75 percent as the estimate 2 weeks ago. That is wrong. Mr. President, 98.5 percent of the President's deficit reduction occurs in the fourth and fifth year of this budget. Do you believe it? Do you believe that will happen? Of course not. You will have another budget stacked up here, saying, ''Well, we thought we were getting there, but we are not.''

As a matter of fact, the response of the administration today is, we are not changing a thing because, come that final year, we have a trigger. Did you ever hear of a trigger in budgeting? You pull a trigger and you cut spending. Why don't you pull the trigger next year and start cutting spending? You wait until the end and you ''trigger'' out—neat word—trigger out the tax cuts that you put in place. So you raise taxes, because you were wrong and you could not get to balance, so you say, we will cut your taxes for 3 years but in the fourth and fifth years, when we are out of balance, we will put the taxes right back on. That is a neat trigger, isn't it? It is a trigger, so clearly we ought to be down here saying, ''We do not need a constitutional amendment'' —this is a new one—''we have a trigger. Forget the amendment. We will balance the budget with a trigger.''

And then the President says, ''Of course, we cannot do it all by taxes.'' So, what we are going to do is we are going to trigger an across-the-board cut, 4 percent across-the-board on almost everything. Do you believe it? Of course not. It will not happen. It is an absolute phony device.

For those who think we do not need a constitutional amendment because we will balance the budget ourselves, I submit, with great regret, that the President's budget is not an example of doing it ourselves, for it will not achieve the goal. As a matter of fact, it obfuscates, it hides, it delays, it terminates a bunch of programs.

One big program is terminated in the fifth year, even though it is an entitlement. And guess the rhetoric? The rhetoric is, ''Well, the President promised to do it for only 5 years in his campaign, so it is in the budget for 5 years.'' A new entitlement, but at the end of 5 years, it is out. That won't happen. You already have hundreds of thousands of Americans on this entitlement to help pay for health care of one type or another. But because we had a campaign that said we are going to do this for 5 years, we will stop it.

You see, the President has just given us, in his budget, I regret to say, the best example of why we need a constitutional amendment. We just absolutely cannot put ourselves to making tough decisions. I say to those negotiating for the President, I remain hopeful that there are two things at play that may still get us to the Holy Land, and the two things are that this President cannot live with 4 years of a sustained fight with a Republican Congress—he cannot—because what kind of a legacy is that? ''I did battle with the Republicans for 4 years, and that is my legacy.'' Of course that is no legacy. Nor can the Republicans who control this place—and thanks to Senator ROBB for helping us on these matters. We don't draw lines. He is one of the most committed Senators to getting a balanced budget, and I compliment him for it. But we can't live fighting the President for 2 years or 4 years. So I think maybe the pot may be able to get stewed up moving in the right direction of getting a balanced budget.

Let me say, for those who claim we will do it ourselves, they better do a lot better than the President, because he is not doing it himself. His budget needs a constitutional amendment almost as bad as any of those budgets we have up here. How many years is that, I ask the Senator from Utah? Twenty-nine? Twenty-eight? We probably need it as bad on the President's budget as any of those budgets out here which caused us to go into this 5 trillion dollars worth of debt.

Mr. HATCH. Will the Senator yield?

Mr. DOMENICI. I will be delighted to.

Mr. HATCH. The President himself, in his budget, says by the fourth and fifth year, 75 percent of the savings or cuts, whatever, have to be obtained in the 2 years after he leaves office.

Mr. DOMENICI. Actually, it is 98 now. I gave you a new number.

Mr. HATCH. I was going to ask you, you said 98. He was off by that much?

Mr. DOMENICI. That's correct.

Mr. HATCH. He himself admitted to 75 percent.

Mr. DOMENICI. The number in his budget was 75. Now we have another party, a neutral party saying——

Mr. HATCH. Am I correct in my understanding? I was led to believe there was only a $49 billion deficit in the fifth year of the President's budget; in other words, it wasn't balanced by $49 billion. If I heard the distinguished Senator correctly, that is now up to $70 billion, according to the Congressional Budget Office?

Mr. DOMENICI. That's correct.

The PRESIDING OFFICER. The 8 minutes have expired.

Mr. HATCH. I don't know when I have heard a better speech on the balanced budget amendment than the Senator from New Mexico has just given, or a better set of arguments for it.

Mr. DOMENICI. I know I don't have any time left, but I would like to repeat something. Can I just have 30 seconds?

Mr. HATCH. I yield 30 seconds.

Mr. DOMENICI. Mr. President, the best thing the President can offer in his budget, in lieu of a constitutional amendment to do the job, is a trigger. This trigger is not going to get us where we have to be, but it is the only answer the President has to saying he will get us there. There is a newfangled procedure in budgeting that says when the time comes to do what we should have already done, we will use a gun and we will call it a trigger, and we will automatically cut things that we didn't have the courage to do anything about for the 4 preceding years.

Now, that is not doing it yourself and it is not anything that would justify our throwing away this constitutional amendment. However, I do believe we are not going to pass it because I think those opposed to it are still convinced we need bigger Government, and the constitutional amendment is an instrument for less Government rather than more, and that is the reason we are going to lose. I yield the floor.

Several Senators addressed the Chair.

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

Mr. LEAHY. Mr. President, I will not take long. I hear these debates, and I still say the same thing: All we need is the courage to vote. We all give great speeches about the need for a balanced budget, but I remember the Senate and the Senate leadership during the time of President Reagan endorsing huge deficits. In fact, we are still paying the interest on the deficits run up during the Reagan and Bush administrations, as contrasted to the Clinton administration where the deficit has come down 4 years in a row and is about to come down for the fifth year, something that has not happened in the lifetime of most of us in this body.

But to bring it down, you don't pass a bumper-sticker slogan and stick it on the Constitution of the United States of America. To bring it down, you cast difficult votes, unpopular votes, votes that make you stand up to special interests and single-issue groups from the right to the left.

What we are trying to do is to pass some kind of a feel-good amendment that would send most of this to the courts, that would cripple the strongest economy in the world. Let us remember that, with all those who come and talk about the dangers of our economy, I ask them, what country in the world would they trade economies with? We have the strongest economy in the world. It is like the days of the Soviet Union when everybody said, ''Well, our military is falling apart,'' and we say, ''Do you want to trade our Air Force for theirs, our Army for theirs, our Navy for theirs?'' We have to say no.

When we have the strongest economy in the world, when we have a deficit that is the smallest as percentage of our gross domestic product of any in the industrialized world, let's not start talking about trading what is working for countries that do not work anywhere near as well as what we have. Let us back off from the political siren call of saying, ''We'll do this on a bumper-sticker slogan slapped on to the Constitution,'' the greatest Constitution in the world, because then some day somebody else, probably a Federal court, will do what we can do today.

I know that we cannot legislate political courage and responsibility, but that is what we are trying to say we are going to do. No amendment to the Constitution can supply the representatives of the people of this great country with political courage and responsibility. Indeed, the majority report on this amendment concludes that the ultimate enforcement mechanism that can lead to balancing the budget is the electorate's power to vote. How true, but that power to vote doesn't come in 10 years from now in a constitutional amendment. That power to vote has been there throughout the history of this great country. The underlying resolution would actually cut, rather than enhance, our democratic principles of majority rule and separation of powers but ultimately lead to less accountability to the electorate. Why would it do that? Because it would destroy majority rule, and it would turn all contested issues of the budget over to the courts, not to the elected people of this country.

Political courage has been an essential ingredient that has helped us achieve remarkable deficit reduction over the past 4 years. That is a history that those who support this flimflam on the Constitution choose to ignore. We have succeeded in reducing the deficit every year of the past 4, we have cut the deficit by more than 60 percent in that time, and we have had a strong economy and sound fiscal policy. We did not do that through a flimflam amendment. We did that through political courage. It meant that some Members of this body and some Members of the other body actually lost their seats in the Congress by voting for what was right—but they did it—and reminds all of us that nobody owns a seat in the U.S. Senate. Nobody should have their decisions guided solely by polls, but rather by what is right.

So why do we not stay the course of what we have been doing, bringing the deficit down and use bipartisan work for further progress? It is an illusionary quick fix by constitutional amendment, and it makes the job more difficult.

The questions raised during this debate will not go away and cannot be ignored. They point to a series of fatal flaws in proposing and conducting our economic and budgetary functions this way.

A recent editorial in Vermont by the Burlington Free Press said it:

> Amending the Constitution to require a balanced budget amendment would be like using a sledgehammer to nail a picket in a fence. The picket might stand, but at great risk to the fence.

I think of what Senator Hatfield said when he stood up and opposed this. Senator Hatfield, then the chairman of the Senate Appropriations Committee, said:

> The debate on the balanced budget amendment is not about reducing the budget deficit. It is about amending the Constitution of the United States with a procedural gimmick.

What I say is, it is amending the Constitution with a bumper-sticker flimflam. That is what it is doing.

Senator Hatfield said:

> As I stated during the debate on the balanced budget amendment last year, a vote for this balanced budget amendment is not a vote for a balanced budget, it is a vote for a figleaf.

Mr. President, it is a pretty small figleaf. We ought to be embarrassed to put that figleaf on anything, especially on the greatest Constitution democracy has ever known.

Senator Hatfield said:

> Congress should not promise to the people to balance the Federal budget through a procedural gimmick. If the Congress has a political will to balance the budget, it should simply use the power that it already has to do so. There is no substitute for political will. And there never will be.

Our Senate oath of office has in it a promise to support and defend the Constitution of the United States. We owe to our constituents our best judgment on this. We owe to our children and our children's children our best judgment.

My children will live most of their lives in the next century. I want them to live in that century with the best Constitution democracy has ever known. We demean the Constitution with this amendment. I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 6 minutes to the distinguished Senator from Oklahoma.

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

Mr. NICKLES. Mr. President, I would like to thank my colleague, Senator HATCH, for his outstanding leadership on this very important constitutional amendment to balance the budget, as well as Senator CRAIG and others who have worked very hard to put us in a position to be able to pass this amendment.

Mr. President, I have been here now for 17 years. I cannot think of a more important vote that I have ever cast than the vote we will be casting today. If we cast a vote in favor of passing a constitutional amendment to balance the budget, we will change the way we do business in Washington, DC.

When we are sworn into office, we stand right here on the floor of the Senate, most of us with a hand on the Bible, saying we swear to uphold the Constitution of the United States. It will change the way we do business. It will mean we are going to start being responsible; we are going to quit spending more than we take in. It will not be easy. It will be a challenge, but we can do it. Almost all States do it. It does not mean it is easy, but they do it. And we should do it as well.

I will read something from Thomas Jefferson.

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

Thomas Jefferson was right. He also said:

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

He was exactly right.

Mr. President, there is an article where countless Presidents, almost every President when they made a State of the Union Address, said they

were going to lead us toward a balanced budget, including Bill Clinton, including Ronald Reagan, including George Bush, including almost all Presidents. But, unfortunately, we have not done it. And I say we. It is not just the administration. It is Congress. I think we need the constitutional constraint to get us there.

In the last election, President Clinton and Bob Dole said, hey, we need a balanced budget. Some people said, well, that means that it is a done deal. That is not really the case. I heard my colleague and friend, Senator LEAHY, say, well, the last 4 years we have brought the deficit down. The deficit has come down. What he did not say is the deficit last year was $107 billion. What he did not say is the next 4 years it goes up. According to CBO, the deficit goes up from $107 billion to, in 1997, $116 billion, and under President Clinton's budget to $142 billion in 1999, and $135 billion in the year 2000.

Mr. LEAHY. Would the Senator yield?

Mr. NICKLES. No; I have only a couple minutes. I will be quick.

The point is, even under the President's budget, the deficit goes up. We have made some progress—and I think we can argue on who should take credit for that—but we are not making progress when the deficit is going up and it is higher in the year 2000 than it is in the year 1996. That is not balancing the budget. That is like somebody saying they are going to go on a diet, but first they want to gain 10 pounds for each of the next 3 years and, oh, yes, in the last year we are going to lose 40 pounds. That is what we have before us under the President's document.

I think we need a constitutional amendment to make the President and to make Congress be responsible, to make the tough decisions.

I am pleased that we are going to have 55 Republicans vote for this. I am disappointed that we do not have 12 Democrats to vote for it to make it happen. I wish we did. I think we are going to come up with 11. One of my jobs is to count votes. A couple of people basically are going to vote different than what they said they were going to do. That disappoints me. But regardless, we still have to roll up our sleeves, and I think we still have to balance the budget. I do not know there is the collective will to do it unless we have the constitutional restraint to make us do it.

When an administration campaigns on a balanced budget and says, ''Oh, yes, we brought the deficit down every year,'' and then have the deficit go up in the next 4 years, I find a lot of shell games going on in budgeteering. That bothers me. I hope we will be responsible. I hope we will work together as Democrats and Republicans, not have a Republican budget, not have a Democratic budget, but work together to actually balance the budget and provide some tax relief. We can do it. But it is a lot easier said than done.

I think we need a constitutional amendment to make us do it, to tell us to do it. One of the reasons I think we continually have a deficit is you are a lot more popular spending money for people than taking it away from people.

Mr. President, I believe this is one of the most important issues we will have confronting us this Congress, maybe in our lifetimes. If we really do want to have Government act responsibly and quit saddling our children with additional debt —right now, per capita, that debt is over $19,000 per child, per person, per American. I do not think it is responsible for us to continue to add more debt on future generations. So I urge my colleagues to support a constitutional amendment to balance the budget later this afternoon. I yield the floor.

Mr. LEAHY addressed the Chair.

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

Mr. LEAHY. Mr. President, I am sorry the Republican whip was unable to yield to me for an observation, but I will make this observation. He condemns President Clinton, who is the only President since he has been here in the Senate who has brought the deficit down 4 years in a row. He says it may go up in future years. I remind the Republican whip, my good friend from Oklahoma, that the Republicans have the majority of Senators and the Republicans have the majority of House Members. If they do not like the budget of the President, all they have to do is pass their own. But to this day they have not brought forward one page, one paragraph, one sentence or one word of a budget that would do better than what Bill Clinton has done.

Mr. NICKLES. Will the Senator yield?

Mr. LEAHY. We are now running out of time. I am going to have to do the same thing that the Republican whip did to me in not being willing to yield. I yield 5 minutes to the distinguished Senator from Arkansas.

Mr. BUMPERS. I thank the Senator. No. 1, Mr. President, as much respect as I have for a number of Members of the Senate—and we have some very bright people in the Senate—there isn't anybody here, really, that I want tinkering with what James Madison, John Adams, Alexander Hamilton, and all of the rest of those brilliant people, the most important assemblage of brilliant minds under one roof in the history of the world, did. Not only do I not want anybody tinkering with it, I do not want to adopt something as sloppily crafted as this amendment is.

As Senator BYRD has said time and time again, it is not even constitution-like language. It doesn't provide for a simple majority vote to unbalance the budget in case of depression. It doesn't provide for a simple majority vote in case we know we are going to war, as we did in Desert Storm. You would not have spent an extra dollar, under this amendment, to prepare for Desert Storm. You could not spend an extra dollar to have prepared for World War II, which everybody knew was coming, if it unbalanced the budget.

You talk about a minority, listen to this, Mr. President. With 435 House Members, 100 Senators, if we want to unbalance the budget, it is going to require 60 percent of both Houses. Let's assume that every single House Member, all 435, vote aye to unbalance the budget, bring it over to the Senate, and let us assume that 59 Senators vote aye to unbalance the budget, 41 obstreperous Senators—494 people favoring unbalancing the budget and 41 Senators oppose it. It will not be unbalanced.

What else? If we can't resolve the thousands of questions that this amendment leaves to be answered, then nobody has an answer and you go to court. Yes, coffee shop bantering is, ''I'm so tired of the courts making laws. I just want them to interpret the laws.'' Well, they are going to have to make a lot of laws if we are foolish enough to adopt this one.

In 1993, the Republicans in this body had an opportunity to do something courageous. The people back home always say, ''Why don't you people screw up your nerve and do something courageous?'' You know what that means? It sometimes means unpopular votes. ''Why don't you screw up your courage and vote for something that is worthwhile, even though it is unpopular?'' Well, happily, 50 Democrats did just that. AL GORE, the Vice President, broke the tie and the debt went down because of their courage. Everybody on that side prospered because they said, ''I'm tired of taxes.'' Do you know what they are proposing now? With a sanctimonious look on their faces, they are saying, ''We want a balanced budget amendment.'' What else? We want to cut taxes $238 billion over the next 5 years. We tried that snake oil in 1981, and we got a $3 trillion addition to the national debt.

What is the deficit going to be if we adopt a capital gains tax, which costs $33 billion the first 5 years, $133 billion the second 5 years—and who does it go to? The wealthiest people in America; 67 percent of it goes to the richest 1 percent of the people in America. How are we going to pay for it? Cut Medicare. Think of it. Cutting Medicare $100 billion to $200 billion in order to pass a tax, 67 percent of which goes to the richest 1 percent of the people in America. I will say one thing for the people on that side of the aisle. They are not covert about it; they are overt. Make no mistake about it, I have just told you precisely how it will work.

So, Mr. President, I am hoping that everybody holds fast. If we can beat this amendment today, which I think we can do, the American people are going to begin to hone in on it, and by this time next year, you won't even have it brought up. It will be just like term limits. It is going to go the same

way term limits went. That never was a good idea, and it is dead now.

So, Mr. President, I hope my colleagues will stand fast. I understand the politics of this. The majority leader was willing to tinker with this amendment. ''I will fix it. Will anybody vote for it if I change this?'' ''Will somebody else vote for it if we change that?'' That is how political it is.

I yield the floor.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleague for yielding.

Let me say to the Senator from Arkansas, if our Founding Fathers were here today, they would suggest that Thomas Jefferson was right. They would also have suggested that tinkering with the Constitution gave us the 13th amendment, which abolished slavery. I know the Senator from Arkansas would agree with me that it was a good amendment. He would probably also agree that the 19th amendment, when Congress tinkered with the idea that women should have a right to vote, was the right thing to do. Tinkering, generationally, has produced 27 amendments to our Constitution that, my guess is, the Senator from Arkansas and the Senator from Idaho would agree were generally the right things to do at those times in our Nation's history.

Mr. President, I rise in support today of what could become the 28th amendment to our Constitution. Let me thank the leadership that has worked so hard on this. Of course, there is Senator ORRIN HATCH, the chairman of the Judiciary Committee; our majority leader, TRENT LOTT; majority whip, DON NICKLES; the President pro tempore; certainly, the Senator from Nevada, Senator BRYAN; Senator GRAHAM from Florida; the Senator from Illinois, CAROL MOSELEY-BRAUN. They deserve recognition for bringing this critical issue to the floor. It is not a sunshine amendment. I first helped introduce this in 1982. It will not go away tomorrow. If we fail today, we will be back next year and the next and the next, until the American people gain their wish, which is to convince this Congress, with the power of the Constitution, that we should become fiscally responsible.

Let me also recognize the national, grass roots coalition that was formed under the leadership of Al Cors of the National Taxpayers Union in support of this amendment. I ask unanimous consent that a letter from that coalition be printed in the RECORD.

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

THE BALANCED BUDGET AMENDMENT COALITION,
Alexandria, VA., February 26, 1997.

DEAR SENATOR: The undersigned organizations strongly urge you to vote for and support the Balanced Budget Amendment, S.J. Res. 1. This bipartisan proposal (with over 60 total Senate cosponsors) has already passed the Senate Judiciary Committee on a 13 to 5 vote, and a Senate vote on S.J. Res. 1 is expected later this week.

The framers of the U.S. Constitution assumed each generation of Americans would pay its own bills—and that the federal budget would, over time, remain roughly in balance. According to Thomas Jefferson, ''we should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.''

In today's era of mass media, special interest politics, and expensive and sophisticated election campaigns, the checks and balances established 200 years ago are not up to the job of controlling the federal deficit. Recent Congresses and presidents have proven themselves incapable of acting in the broader national interest on fiscal matters. Whenever Congress considers spending cuts that could help balance the budget, only a few Americans are aware of it, and fewer still express their views about it. By contrast, those who stand to lost from budget restraint—typically the beneficiaries and administrators of spending programs—are well aware of what they stand to lose. They mount intensive lobbying campaigns to stop fiscal restraint.

This pro-spending and pro-debt bias has led to 27 straight unbalanced budgets. It took our nation 205 years—from 1776 to 1981—to reach a $1 trillion debt. Now, just 16 years later, the debt is $5.3 trillion. Each year, interest payments rise as the overall debt grows. These payments have been one of the fastest-rising items in the federal budget—they now account for more than the entire deficit, all by themselves. A succession of statutory remedies has failed to stem this historic and highly dangerous turn of events.

S.J. Res. 1 is a sound amendment that has evolved through years of work by the principal sponsors. It provides the constitutional discipline needed to make balanced federal budgets the norm, rather than the rare exception (once in the past 36 years), and it offers the proper flexibility to deal with national emergencies.

In addition to requiring a three-fifths majority vote to deficit spend or increase the federal debt limit, S.J. Res. 1 is designed to make raising federal taxes more difficult. It would require the approval of a majority of the whole number of members in both the House and Senate—by roll call votes—in order to pass any tax increase. This adds much-needed accountability.

Unless action is taken now, higher federal spending and debt will continue to cripple our economy and mortgage our children's future. We urge you to support S.J. Res. 1, the Balanced Budget Amendment.

Sincerely,

National Taxpayers Union.
American Bakers Association.
American Legislative Exchange Council.
American Subcontractors Association.
Americans for Financial Security.
Amway Corporation.
Associated Equipment Distributors.
Christian Coalition.
Council for Citizens Against Government Waste.
Family Research Council.
Food Distributors International.
Independent Bakers Association.
International Mass Retail Association.
National Association for the Self-Employed.
National Association of Manufacturers.
National Association of Wholesaler-Distributors.
National Federation of Independent Business.
National Restaurant Association.
Printing Industries of America.
Sixty Plus Association.
Textile Rental Services Association.
United Seniors Association.
U.S. Business and Industrial Council.
U.S. Federation of Small Business.
Alliance for Affordable Health Care.
American Farm Bureau Federation.
American Small Business Association.
Americans for a Balanced Budget.
Americans for Tax Reform.
Associated Builders and Contractors.
The Business Roundtable.
The Concord Coalition.
Electronic Industries Association.
Financial Executives Institute.
FMC Corporation.
International Dairy Foods Association.
Motorcycle Industry Council.
National Association of Home Builders.
National Association of Realtors.
National Cattlemen's Beef Association.
National Ready Mixed Concrete Association.
National Truck Equipment Association.
Reform Party.
Small Business Survival Committee.
Traditional Values Coalition.
United We Stand America.
U.S. Chamber of Commerce.

Mr. CRAIG. The question of whether Congress should pass a balanced budget amendment to the Constitution is one of the few truly momentous votes facing this country and the Congress today. The decision we face is in a class of votes like that of a declaration of war. The vote this afternoon will be a vote to end a war.

For more than 28 years, the national debt and the special interest groups that feed off the taxpayers have waged a war against our economy and, most importantly, a brutal war against the integrity of the investment of the senior citizens and the opportunity of our children and our Nation's future. The spoils of that war is a $5.3 trillion debt. That debt fuels inflation and squeezes the senior community that lives on fixed incomes. That debt already depresses wages and living standards of the working families.

More than one-half of all personal income taxes paid—let me repeat that, Mr. President—more than one-half of all personal income taxes that are paid today go to pay interest on debt alone.

The costs of unbalanced budgets will be the most oppressive to our children. A child born today will pay nearly $200,000 in additional taxes, not to pay down the debt, but to pay interest on that debt.

Under today's trends, when a child born today is fully grown and reaches his or her most productive years, not just the Government, but the entire economy could well be in bankruptcy.

The nonpartisan Congressional Budget Office puts it this way: The Federal ''debt would exceed levels the economy could reasonably support.'' In other words, somehow, a generation from now, we could actually see that generation having to jettison a debt under a declaration of bankruptcy as a nation. That should not be allowed to happen, and this Congress and this Senate this afternoon have an opportunity to make the kind of change that is needed. We can offer to the American people an opportunity for them to debate this issue and, in every State's capital around

the Nation, reclaim their authority over their central Government, by placing into the Constitution the restriction and the positive guidelines that this and every Congress must balance its budget.

Some who vote ''no'' today may claim that they want a balanced budget, or even a balanced budget amendment. They may use some other amendment as an excuse. But it should be said, and it should be said often, until the vote occurs this afternoon, a ''no'' vote today is a vote for the status quo, which means a growing Federal debt and a borrow-and-spend policy that has dominated this Government and this Congress for well over 30 years.

No wonder our former colleague Paul Simon calls it ''fiscal child abuse'' to continue this binge of borrow-and-spend.

This is a moral issue.

The money being borrowed and spent today belongs to our children. They will pay the bill for years of profligate spending.

Thomas Jefferson said it well:

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

INTEREST IS DOMINATING OTHER PRIORITIES

When a family takes out a mortgage on a house, or a business builds an addition to its shop, it borrows. But that family or business then spends the next few years balancing their budgets to pay off that debt.

The Federal Government, unfortunately, does not operate like that.

Every family and every farm or small business knows what happens when you borrow: You pay interest.

Gross interest, at $360 billion, is already the second largest item of spending in the Federal budget, almost exactly equal to the largest program—Social Security.

And what do we get for those interest payments? Nothing—except another year older and deeper in debt.

Not one more school, not one more meal for a hungry child, and no relief for overtaxed, overworked, families of modest and middle-class means.

Interest payments act like a giant sponge, soaking up money that we all want to go to other priorities.

They have already forced cuts in many Federal programs. They will continue to crowd out other public priorities, including, eventually, Social Security and Medicare.

In 1996, we sent $67.7 billion overseas in interest payments to foreign bondholders, because of the debt.

How can any Senator stand on this floor, say we should use our wealth at home to solve our problems, and then vote against this balanced budget amendment?

By default, it is the national debt—not Congress—that more and more decides how we spend the taxpayers dollars.

THE BBA IS THE ANSWER TO THE THREAT

The debt is the threat—to our children, our parents, and the way of life we cherish in this country.

The U.S. Senate has a chance today to begin putting an end to that threat—by passing the balanced budget amendment to the Constitution.

Balancing the budget means real benefits to real people.

If we balance the budget by the year 2002 and keep it balanced, that will create 2.5 million new jobs. It will save the typical family $1,500 a year in interest costs on mortgages, student loans, and car loans. It will raise wages and incomes for working Americans and their families.

Yes, the President has promised a balanced budget. Yes, Congress has tried to pass a balanced budget.

But we have had standing on the Senate floor during this debate an 8-foot-tall stack of books.

This is the leaning tower of budgets—the last 28 budgets submitted by President Clinton and his predecessors.

In half of those budgets, the President who submitted them promised balanced budgets. Between them, those Presidents and past Congresses broke every promise.

Yes, deficits have declined. Congress has made some progress in controlling the year-to-year growth of spending. But deficits are already projected to go back up and—in a few years—off the charts. Maybe the President and this Congress can bind a future President and a future Congress to finish balancing the budget in 2002. Maybe. But then, what about 2003? And 2004?

Only one thing will impose a rule that Presidents can't ignore with impunity, that Congresses can't repeal or delay; only one thing will make Presidents and Congresses keep their promises; only one thing will make fiscal responsibility and tough choices the norm instead of the exception; the bridge to the 21st century may be paved with good intentions, but it will be a rickety, dangerous bridge unless it is constructed with the steel of the balanced budget amendment.

WILL THE SENATE SAY ''YES'' OR ''NO'' TO THE PEOPLE?

Unfortunately, this President—and a host of special interest groups comfortably feeding at the public trough—have put incredible pressure on the Senate to defeat this amendment. They want to say ''no'' to the people. But the people say, by a 70-to-30 percent margin in the latest poll, that they want us to pass the amendment; they want to say ''no'' to the people, who deserve the right to examine, debate, and decide on this amendment through their State legislatures.

Congressional passage would only be the start. The people deserve the final word on what goes in their Constitution. After passing Congress, the amendment would go to all 50 State legislatures for ratification. And that would begin one of the greatest public debates, one of the greatest civics lessons, in the history of our Nation.

FINAL PASSAGE IS THE VOTE THAT COUNTS

Some who vote ''no'' today may try to claim they want a balanced budget, or even a balanced budget amendment. They may use some other amendment as an excuse. But a ''no'' vote today is a vote for the status quo of borrow-and-spend. A ''no'' vote today is a vote in favor of the $3 trillion scheduled to be added to the debt over the next 10 years. How will another $3 trillion in debt help seniors on Social Security? No matter what you think is the best way to save Social Security, passing this balanced budget amendment is the certain way to save it.

Opponents have not made a case against this amendment—they have only shown they are afraid of balancing the budget. That's what it means when they say, ''If we can't run deficits, we may not be able to spend on this or that.'' Take so-called capital budgeting, for example: If we exempt narrowest category of investment spending in the President's budget, major physical capital, we could have run a larger deficit last year than we did. These pleas to exempt this or that item are not sound budgeting; they are a plea to continue the status quo.

It defies common sense: Opponents believe Congress will only do the right thing if we are allowed infinite borrowing and unlimited spending.

But we who support the amendment believe Congress will begin to do the right thing if it is required to live within its means and set priorities.

Our balanced budget amendment is a bipartisan amendment, written with painstaking care over several years by Democrats and Republicans, liberals and conservatives. It is the bipartisan, bicameral, consensus amendment. If we do not pass it today, we will be back until we do.

Why are we working so hard to pass it? Because we want economic security for our senior citizens. We want to preserve the American dream of growth and opportunity. We want a better world for our children.

The balanced budget amendment deserves to pass the Congress, and go to the people for their final, wise judgment.

Mr. President, I ask unanimous consent that I may have printed in the RECORD several fact sheets that my office, working with others, have prepared during this debate.

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

CLUBB

CONGRESSIONAL LEADERS UNITED FOR A BALANCED BUDGET

TOP TEN REASONS TO SUPPORT THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION (H.J.RES. 1/S.J.RES. 1)

No. 1 Kids: The future for our children depends on the future of the economy. Their standard of living could be 7 to 36 percent better by the year 2020, if we balance the

budget and keep it balanced.[1] In contrast, under current trends, in less than two generations, the size of the Federal debt is ''not computable . . . [because the] debt would exceed levels that the economy could reasonably support''.[2] In other words, the debt would bankrupt, not only the government, but the entire economy.

No. 2 Seniors: The debt is the threat to Social Security—and to Medicare and other priorities. Gross interest payments are already the second-largest single item of federal spending ($344 billion in FY 1996), nipping at the heels of Social Security, the largest ($347 billion).[3] An ever-growing debt makes it less and less likely that the government will have the cash it needs to meet future obligations and priorities.

No. 3 Interest Savings to Families. A typical family could save $1,500 or more every year because balanced budgets would reduce interest costs—$1,230 on a $50,000 mortgage, $216 on a student loan, $180 on a typical auto loan.[4]

No. 4 Jobs and Economic Growth: Balancing the federal budget can create 2.5 million new jobs and boost nonresidential investment by 4 to 5 percent.[5]

No. 5 Lower Taxes: According to analysis cited by both the Congressional Budget Office and the President's Office of Management and Budget, failing to change current trends in government debt could leave future generations with a lifetime net tax rate of up to 84 percent, counting taxes at all levels of government.[6] A child born today faces nearly $200,000 in additional taxes just to pay the interest on the federal debt.[7]

No. 6 The People: Public opinion surveys consistently show 70–80 percent of the American people support passing a Balanced Budget Amendment to the Constitution.

No. 7 Keeping Our Wealth at Home: Interest on the federal debt is largely a transfer from middle-income taxpayers to large institutions, wealthy individuals and foreign investors. In FY 1996, the U.S. Government sent $67.7 billion overseas in interest payments on Treasury securities held by foreign investors. This transfer amounts to 27.4 percent of all net interest—a steadily growing percentage; it was five times the amount of total spending on all programs in the ''International Affairs'' budget function[8] and is the largest ''foreign aid program'' in history.

No. 8 More Resources for Congress to Do the Will of the People: Moving toward a balanced budget during FY 1998–2002 should reduce federal debt service costs over that period by $36 billion and improve economic performance enough to produce a ''fiscal dividend'' of another $77 billion in revenues and interest rate savings—all of which would become newly-available for priorities within a balanced budget. Committing to a balanced budget helps pay for itself.[9]

No. 9 Reasonable Glide Path: Achieving balance requires discipline, but not draconian measures. Under the BBA, overall federal spending can continue to increase by more than 2.6 percent a year through FY 2002 (compared with more than 4.6 percent under current projections). To maintain balance after 2002, spending could continue to grow at more than 4.6 percent a year.[10]

No. 10 Letting the Constitution Work and the People Decide: A vote for the BBA in Congress is a vote to let the People and their state legislatures exercise their constitutional right to make the ultimate decision on this issue. Three-fourths (38) of the states would have to ratify any amendment to add it to the Constitution. Sending the BBA to the states would begin a great debate—from state capitols to coffee shops—on the appropriate size and role of government.

* Footnotes at end of article.

NOTES:

[1] General Accounting Office, Prompt Action Necessary to Avert Long-Term Damage to the Economy, June 1992. (More recent developments still would keep projections reasonably within this range.)

[2] Congressional Budget Office, The Economic and Budget Outlook: Fiscal Years 1997–2006, May 1996.

[3] Congressional Budget Office, The Economic and Budget Outlook: Fiscal Years 1998–2007, January 1997.

[4] Committee on the Budget, U.S. House of Representatives, based on a DRI-McGraw Hill study which assumed a 2% drop in interest rates resulting from balancing the budget.

[5] DRI-McGraw Hill, January 1995. Projections covered the years 1995–2002.

[6] Congressional Budget Office, May 1996 (up to 84%). Also, Budget of the United States, Analytical Perspectives, FY 1995 (up to 82%).

[7] House Budget Committee.

[8] Budget of the United States, Analytical Perspectives, FY 1998.

[9] Congressional Budget Office, January 1997.

[10] Congressional Budget Office, January 1997.

THE BALANCED BUDGET AMENDMENT—SAFEGUARDING SOCIAL SECURITY

THE BBA WILL PROTECT THIS AND OTHER PROGRAMS VITAL TO OUR SENIORS

Passage of the Balanced Budget Amendment to the Constitution (H.J. Res. 1/S.J. Res. 1) is critically needed to ensure that the federal government will continue to have the means to honor our obligations to our senior citizens. The best guarantee of the economic security of our seniors, today and in the future, would be the ironclad commitment of the Constitution to restore and maintain fiscal responsibility.

Balancing the budget and keeping it balanced means less debt, lower interest costs, rising living standards—and more money made available for seniors' priorities. If today's debt had been paid off in years past, the government would have run a $134 billion surplus last year.

Escalating interest payments crowd out ALL other priorities.

In 1976, 7.2 percent of the federal budget went to make interest payments on the federal debt. In 1996, net interest consumed 15.5 percent of the budget. As a result, other programs have already felt the budget knife. Social Security and Medicare are the first and third largest federal programs; these two programs alone made up more than 33 percent of last year's spending. All seniors and retirement programs make up about 40 percent of the budget, not counting seniors' participation in non-seniors programs.

We are all familiar with what happens to households and businesses that run up too much debt—the burden of interest payments on the debt becomes so great that they eventually have to go without necessities or face total bankruptcy. Unbalanced federal budgets mean growing interest payments (which are mandatory, to prevent default) that will increasingly crowd out all other public priorities—including those vitally important to seniors.

The debt is the threat to Social Security. Decades of borrow-and-spend government have produced a $5.3 trillion gross federal debt. About $600 billion of that is owed to the Social Security trust funds. (The law creating Social Security requires that any accumulated surpluses be invested in U.S. Treasury securities (i.e., loaned to the ''general fund'').) Under current trends, the total debt will double over the next dozen years and seniors will wonder—rightly—about the Treasury's ability to repay those debts. In the long run, a bankrupt federal government will not be able to send out ANY checks—to Social Security beneficiaries or any other debtor.

Balanced Budget Prosperity is a Senior's Best Friend.

Past promises regarding Social Security have been fulfilled because of a growing economy, enabling workers to pay into the system. Higher wages mean greater retirement benefits. Unfortunately, seniors are already paying for today's debt burden. A Federal Reserve Bank of New York study found that the federal debt accumulated in the 1980s already pinched our standard of living by 5 percent. The Concord Coalition estimates that the debt has taken $15,000 off the typical family's income. Continued deficit spending weakens the economy, deteriorates living standards for younger workers and seniors, and fuels resistance to the taxes that fund the growing requirements of Social Security and other seniors' programs.

The BBA would ensure TIMELY action to protect Social Security in the future.

The Social Security Trustees predict that benefits will exceed Social Security tax revenues by the year 2012—based on optimistic assumptions. Passing the BBA now promises to stem the tide of red ink spent on all other programs, in time to prevent a double-whammy when Social Security's financing needs escalate in a few years because of the retirement of baby boomers.

QUOTABLE:

''[T]he most serious threat to Social Security is the federal government's fiscal irresponsibility. If we continue to run federal deficits year after year, and if interest payments continue to rise at an alarming rate, . . . [e]ither we will raid the trust funds to pay for our current profligacy, or we will print money, dishonestly inflating our way out of indebtedness. Both cases would devastate the real value of the Social Security trust funds.

''Regaining control of our fiscal affairs is the most important step that we can take to protect the soundness of the Social Security trust funds. I urge the Congress to make that goal a reality—and to pass the Balanced Budget Amendment without delay.''—Robert J. Myers, former Chief Actuary and Deputy Commissioner for the Social Security Administration, former Executive Director of the National Commission on Social Security Reform

''Dorcas Hardy, the former commissioner of Social Security, emphasized this point in her book, Social Insecurity. Her number one recommendation for protecting the Social Security Trust Fund: Balance the federal budget.

''The fact that I have spent my legislative career fighting for seniors, for health care, and for other needed social programs would, I hope, at least cause some to pause in their passionate rhetoric to listen, and examine.... Only with this Amendment can we be confident that all of us will have a secure economic future.''—Former U.S. Senator Paul Simon (D-Illinois).

A CAPITAL SPENDING EXEMPTION—NOT A CAPITAL IDEA FOR THE CONSTITUTION

A special exemption for ''capital'' or ''investment'' spending does not belong in the Balanced Budget Amendment to the Constitution. A constitution deals with the most fundamental responsibilities of the government and the broadest, timeless principles of governance. It should not set budget priorities or contain narrow policy decisions such as defining a capital budget.

Whatever the merits are of making such spending a higher or lower priority than it has been, this question is best addressed in the annual budget process.

The debt is the threat to capital investment. Escalating interest payments on the huge federal debt are crowding out all other priorities. According to the National Entitlement Commission's 1995 report: ''By 2012, unless appropriate policy changes are made in

the interim, projected outlays for entitlements and interest on the national debt will consume all tax revenues collected by the federal government.'' That means no money left for capital investment—or defense, education, the environment, law enforcement, science, or other domestic discretionary programs.

If states, businesses, and families can borrow, why shouldn't the federal government? Everyone else repays the principal they have borrowed. Families take out a mortgage and then spend years paying it down. The same is true of capital investments by businesses and state and local governments. But the federal government just keeps borrowing more. And more.

Unlike state budgets or family finances, the federal budget is large enough to accommodate virtually all capital expenditures on a regular, ongoing basis. The justification that most businesses and state and local governments have for capital budgeting is that they occasionally need to make one-time, extraordinary expenditures that are amortized over a long period of time.

The federal budget is so huge—now more than $1.6 trillion—that almost no conceivable, one-shot project would make even a small dent in it.

Even the federal Interstate Highway System, which has been called the largest peacetime undertaking in all of human history, was financed on a pay-as-you-go basis. President Eisenhower initially proposed that the Interstate System be financed through borrowing by selling special bonds. However, Congress kept it on-budget and financed it through a gas tax at the urging of then-Senator Albert Gore, Sr.

There are protections against the abuse of capital budgets in state budgeting that do not constrain federal borrowing. State and local governments have a check on their use of capital budgets through bond ratings. If a state government were to abuse its capital budget, then its bond rating would drop and it would become difficult or impossible to continue borrowing to finance additional expenditures. In addition, many states require that bond issues be approved by the voters.

While state capital spending is often placed off-budget, so are state trust fund surpluses. According to a Price-Waterhouse study, in recent years, state budgets would have been roughly in balance if both capital expenditures and trust funds (such as retirement funds) were included on-budget.

The process of defining ''capital spending'' could be abused. Even a category of ''capital'' or ''investment'' spending that appeared to be tightly defined at first could become a tempting loophole to future Congresses and Presidents. For example, New York City, prior to its financial crisis in the 1970s, amortized spending for school textbooks by declaring their ''useful life'' to be 30 years.

Virtually any form of ''capital spending'' exemption would perpetuate the crisis of deficit spending. Even an exemption from the Balanced Budget Amendment for a narrow category in the President's budget, major public physical capital investment, would have allowed a deficit larger than the one that actually occurred in FY 1996 ($116 billion vs. $107 billion). It would result in an FY 1997 deficit that would be, at most, 9 percent lower than current CBO projections ($113 billion vs. $124 billion). Allowing deficit spending for total federal investment outlays would have allowed deficits larger than those that actually occurred in 28 of the last 35 years. These estimates, of course, assume no manipulation of definitions or accounting that would allow still larger deficits.

The concept of a ''capital budget'' is too poorly defined to put in the Constitution. Estimates of ''capital spending'' could vary widely. There is wide disagreement among policymakers about what should be included in a federal capital budget. There is no commonly accepted federal budget concept of this term. Therefore, any capital spending exemption included in the Constitution would be left open to a wide range of interpretations. In fact, the President's budget includes several different categories of ''capital'' and ''investment'' spending. For fiscal years 1996 and 1997, these include:

[In billions of dollars]

	Fiscal year—	
	1996	1997
Major physical capital investment	115.9	113.0
Net miscellaneous physical investment	3.1	3.1
Research and development	68.4	70.3
Education and training	43.6	42.5
Total federal investment outlays	230.9	228.9

The Balanced Budget Amendment already allows for the establishment of a capital budget—within the context of regularly balanced budgets. The amendment does not prevent the creation of separate operating and capital accounts. But extraordinary expenditures which are large enough and unusual enough to require significant new borrowing should be subject to a higher threshold of approval, such as a three-fifth majority vote. This is consistent with the recommendations of General Accounting Office, which stated in its 1992 report, Prompt Action Necessary to Avert Long-Term Damage to the Economy:

. . . [t]he creation of explicit categories for government capital and investment expenditures should not be viewed as a license to run deficits to finance those categories. . . . The choice between spending for investment and spending for consumption should be seen as setting priorities within an overall fiscal constraint, not as a reason for relaxing that constraint and permitting a larger deficit.''

Mr. CRAIG. Mr. President, again, I thank my colleague from Utah for the tremendous leadership he has displayed.

I yield the floor.

(Mr. KYL assumed the chair.)

Mr. LEAHY. Mr. President, I yield 10 minutes to the distinguished senior Senator from Massachusetts.

Mr. KENNEDY. Mr. President, there is a right way and a wrong way to balance the budget. And a constitutional amendment is the wrong way.

The choice is not whether to balance the Federal budget, but how to do it. I believe we will adopt a budget this year that is balanced by the year 2002. President Clinton has already submitted a budget to accomplish this goal. Democrats and Republicans alike in Congress are prepared to work together to enact a balanced budget.

We can balance the budget by statute, while setting appropriate spending priorities for the future. We can protect Social Security for senior citizens. We can give priority to education and assure that funds for schools will not be cut in the middle of the year. We can deal with vital issues of national defense. We can deal with the need for capital investments in highways, public transportation, and the environment.

Balancing the budget the right way is of special concern to the people of Massachusetts. A new study by the Twentieth Century Fund concludes that enactment of the balanced budget constitutional amendment would have dire consequences for the State of Massachusetts and its residents. The study finds that Massachusetts health and human services programs and educational programs receive more than three-quarters of their funds from the Federal Government. Three hundred thousand Massachusetts residents are employed in my State's health care sector alone.

This includes the work and the investment that the United States has in terms of the National Institutes of Health, since the nature of quality research really is unsurpassed in our part of the country. That whole effort would be threatened, as would many other areas of research and technology which help to move our whole economy, our national security defense, and the quality of health care forward.

That is 10.5 percent of our work force. Balancing the budget the wrong way by failing to give priority to these key programs would place at risk hundreds of thousands of Massachusetts residents and tens of thousands of jobs.

Republicans had the opportunity to address all of these concerns during the Senate's debate on the balanced budget constitutional amendment. But they refused to do so.

When the Judiciary Committee considered the proposed constitutional amendment in January, I offered an amendment to protect Social Security. My amendment separated Social Security from the rest of the Federal budget, just as Congress has done by law for most of the past 15 years. Senator REID offered the same amendment here on the Senate floor last week. But the Republican majority opposed this important protection for the Nation's senior citizens.

Senator TORRICELLI offered an amendment to permit a capital budget, just as most States and most families do, as a way of investing for the long run. Yet Republicans opposed this provision that is so important to the future of the economy.

If families were subjected to this rigid constitutional amendment, they could never make long-term purchases. They couldn't buy a home through a mortgage, borrow money to send their children to college, or buy a new car on credit.

This amendment flunks the kitchen table test. Families don't balance their budgets this way. Why should Uncle Sam?

Senator DURBIN offered an amendment to allow greater spending flexibility during recessions to protect jobs and assist laid off workers. More than 1,000 of the Nation's leading economists, including 11 Nobel Prize winners, warned that the constitutional amendment proposed by the Republicans would put a straightjacket on the economy that would make recessions worse. But Republicans ignored

the economic evidence and opposed our pro-family, pro-worker amendment.

The proposed constitutional amendment would also empower unelected judges to stop payments on Social Security checks or Medicare, or cut the defense budget. It would have allowed the President to impound funds appropriated by Congress, even though impoundment was outlawed in 1974. But Republicans opposed our amendment to eliminate this problem.

All our efforts to change the proposed constitutional amendment—to protect senior citizens, protect the national defense, protect workers in recessions—were summarily rejected by supporters of the constitutional amendment.

In my view, the most serious defect in the proposed constitutional amendment is its threat to Social Security.

Social Security is a contract with the Nation's senior citizens to guarantee at least a minimum level of security in their retirement years.

In recognition of its special status, the Greenspan Commission recommended in 1983 that Congress should place Social Security outside the Federal budget. The Commission said we need to build up a sufficient surplus in the trust funds now, in order to have enough funds to provide benefits to the current generation when they begin to retire.

Both Democrats and Republicans supported that result. In 1983, the Commission's recommendations were enacted in a law sponsored by Senator Dole and Senator MOYNIHAN. Their bill required Social Security to be placed off-budget within 10 years. A bipartisan 58 to 14 vote, including 32 Republicans and 26 Democrats approved this important legislation.

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

That said, if they were not going to meet the budget titles, we were going to eliminate the cuts in Social Security from being sequestered like other programs would be. The reason for that is, unlike other kinds of spending programs, people have paid in over their working lives into this fund and should be entitled to receive it at the time of their retirement. That is different from all of the other kinds of programs. It was recognized by the Greenspan commission for that very reason—the contract with the American people, the contract with our senior citizens—that they had paid in, and we should not undermine their sacred trust into which they paid in; unique in terms of all of the Federal budget; recognized in a bipartisan way by the Greenspan Commission; recognized in the Gramm–Rudman proposal to be excluded and not be subject to sequestration; recognized again in 1990 during the budget debate.

When there was any question about it, a vote of 98 to 2 said they will put Social Security outside of the consideration. There was a bipartisan commitment to do so. And, nonetheless, at the time we had the markup in the Judiciary Committee—and here on the Senate floor—those individuals that talk about Social Security state that Social Security recipients will have to fight it out with the rest of the inclusions in the budget.

That is not what this Congress said and the American people wanted—over 15 years, and a bipartisan effort. But that is what has been excluded. And the answer that our friends give to that question is, ''Oh, well, Social Security recipients will be further threatened if we have a demise or a threat to our economy.''

Mr. President, we can deal with the economy of the United States, which is the strongest in the world. We should not be using the Social Security trust fund as a piggy bank either for tax cuts, as was threatened in the course of last year, or other kinds of cuts. We had the opportunity to support the Reid amendment, and that was rejected and turned down.

The Gramm-Rudman-Hollings law also said that Social Security could no longer be included in the unified budget of the U.S. Government.

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

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

In 1990, some Members of Congress proposed to put Social Security back into the Federal budget. But Senator HOLLINGS and Senator Heinz rejected this unwise suggestion. They insisted that Social Security remain off budget, and the Senate approved an amendment to protect Social Security by a 98 to 2 vote.

Again in 1995, section 22 of the congressional budget resolution amended the Budget Act to strengthen even further the firewall protecting the Social Security Program.

The proposed balanced budget constitutional amendment would change all that. It would reverse 15 years of steady progress in protecting Social Security. It would turn its back on all this recent history, and expose Social Security to unwise and unacceptable cuts in the years ahead

Employees may have worked hard all their lives. Social Security has been withheld from their paychecks month after month. They are expecting the money to be available when they retire. But this constitutional amendment places the entire program at risk.

This constitutional amendment is a back-door raid on Social Security, and all of us who have worked hard to protect Social Security in recent years should reject it.

Another serious defect in the proposed constitutional amendment is its enforcement.

Thirteen of our Nation's most distinguished constitutional scholars wrote to me only yesterday expressing their deep concern about the proposed balanced budget constitutional amendment. The scholars include Harvard professor, Archibald Cox; former Attorney General, Nicholas Katzenbach; Yale professor, Burke Marshall; Stanford professor, Kathleen Sullivan; Harvard professor, Larry Tribe; and others. They stated:

> Whatever our differences about budget policy, we share the conviction that enacting the proposed balanced budget amendment would be a serious mistake. We believe that the amendment would depart unwisely and unnecessarily from our constitutional scheme.

These eminent constitutional experts further concluded that it ''would transfer power over government spending from the Congress, where the Framers deliberately reposed it, to the President and the courts.''

What happens when we find in the middle of the year that revenues are lower or expenses are higher than we thought and the budget for that year will be unbalanced?

This constitutional amendment allows unelected judges to step in and draw up a Federal budget of their own.

That was an issue that was debated in the last two Congresses. It was the decision and the determination in the last two Congresses when we debated this to limit the authority of the judges under the old Danforth amendment to permit courts only to make declaratory judgments. Do you think that has been included in this balanced budget amendment? Absolutely not.

We saw in the last Congress the amendment that was prepared by Senator Nunn and others which was virtually unanimously accepted to also exclude and limit further the power of the courts. Was that included? No. And all we can conclude is what was testified during the course of the Judiciary Committee hearings, and that is that the opportunity for the courts to interject themselves in making these budgetary decisions will be available to them unless we pass other kinds of laws, and the other laws that we might pass may very well be unconstitutional. Why leave that up in the air? These were attempts to address that issue, and they were rejected.

Judges are appointed to interpret the Constitution and the laws. They are respected legal experts. But they do not know what priority to give to Social Security or education, or defense, or the public health. They don't know whether it is better in a particular year to reduce highway funding or medical research. Congress is elected to set those priorities and make those changes, and we should not surrender

that power to the judicial branch of government.

Proponents of the amendment say that they oppose judicial activism. Yet this proposed constitutional amendment would be an invitation to judicial activism of the worst sort.

President Clinton wrote to Senator DASCHLE on January 28, reaffirming his commitment to balance the Federal budget by the year 2002. The President also emphasized his view that a constitutional amendment was unacceptable. he stated,

> We should not lock into the Constitution a form of budgeting that simply may not be appropriate at another time. . . . We must give future generations the freedom to formulate the federal budget in ways they deem most appropriate.

I urge the Senate to defeat this proposal. We are very close to balancing the budget the right way. It makes no sense to do it the wrong way, by locking the country into a constitutional straightjacket.

I ask unanimous consent that a letter addressed to me dated March 3, 1997 be printed in the RECORD.

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

MARCH 3, 1997.

DEAR SENATOR KENNEDY: The undersigned join in urging Congress to reject the proposed Balanced Budget Amendment. Whatever our disagreements about budget policy, we share the conviction that enacting the proposed Balanced Budget Amendment would be a serious mistake. We believe that the Amendment would depart unwisely and unnecessarily from our constitutional scheme in the following ways:

It would transfer power over government spending from the Congress, where the Framers deliberately reposed it, to the President and the courts. Under the Amendment as drafted, the President could assert the power or the obligation to impound funds that Congress had authorized and appropriated. And under the Amendment as drafted, the courts could be drawn into extensive litigation over fiscal forecasts and policy for which they are surely ill-equipped.

It would substitute minority rule for majority rule in fiscal legislation, by way of the proposed three-fifths voting requirements for deficit spending or increased borrowing. As James Madison warned in The Federalist No. 58, such supermajority requirements would allow a few to extract ''unreasonable indulgences'' from the many.

It would invite Congress to shift the burden of national policy objectives ''off-budget'' either to the States or to the private sector through unfunded mandates or regulatory burdens.

It would deprive Congress and the President of needed flexibility to deal with economic circumstances that are likely to change over time.

It would enact controversial socioeconomic policy into our fundamental charter, which has maintained its authority since the Founding by standing outside and above politics. The only amendment to enact such a controversial policy in the past was a failure: the 18th Amendment imposed Prohibition and the 21st repealed it.

It would use the Constitution needlessly to promote objectives that are already fully capable of being achieved through ordinary legislation. To the extent it proved unenforceable, it would undermine respect for other constitutional guarantees.

Sincerely,

Boris I. Bittker, Professor Emeritus, Yale Law School;
Archibald Cox, Professor Emeritus, Harvard Law School;
Lawrence M. Friedman, Professor, Stanford Law School;
Gerald Gunther, Professor Emeritus, Stanford Law School;
Louis Henkin, Professor Emeritus, Columbia Law School;
Nicholas Katzenbach, former Attorney General of the United States;
Burke Marshall, Professor Emeritus, Yale Law School;
Norman Redlich, Dean Emeritus, New York University Law School;
Peter M. Shane, Dean, University of Pittsburgh School of Law;
Geoffrey R. Stone, Provost, University of Chicago;
Kathleen M. Sullivan, Professor, Stanford Law School;
Laurence H. Tribe, Professor, Harvard Law School;
Harry Wellington, Dean, New York Law School.

(Institutional affiliations are listed for identification purposes only.)

Mrs. MURRAY. Mr. President, I rise today to the pending constitutional amendment. The authors of the amendment have called it the balanced budget amendment. However, our vote today is not about balancing the budget, but rather about jeopardizing the future economic stability of the United States and eliminating the carefully crafted constitutional balance of powers. The amendment simply requires the President to submit a balanced budget; it does not mandate that Congress enact a balanced budget and it establishes no guidelines on enacting a balanced budget. This is not only the most dangerous budget gimmick put before this body, but it sets a dangerous precedent for addressing important issues facing us today and in the future.

What the supporters of this amendment fail to point out is that we do not need to amend the U.S. Constitution to balance the budget. The President recently submitted to Congress a budget plan that does balance by the year 2002 and still protects our most vulnerable citizens; children, the disabled, and senior citizens. The President's proposal also continues our investment in education, environmental protection, biomedical research, and criminal justice. Instead of working on this proposal and enacting a budget for fiscal year 1998, we have spent almost a month debating an empty promise. Congress has a statutory requirement to pass a budget resolution by April 15, yet neither body has begun this process. We have spent valuable time debating an amendment that will not get us any closer to a balanced budget. I support a balanced budget; I have supported a balanced budget. What I cannot support is the misuse of the Constitution. The Constitution should only be used to expand rights and protections for citizens excluded from the original document. Our Constitution should not be used to limit the rights of our citizens or the obligations of the Federal Government.

When I first came to Congress in 1993, the deficit was close to $300 billion. I made a decision to try and secure a position on the Senate Budget Committee because I realized the most important thing I could do for the families in Washington State was to reduce the deficit. I worked with my colleagues in 1993 and passed a successful deficit reduction package. The deficit reduction proposal enacted in 1993, without one Republican vote, has cut the deficit in half. For 4 straight years in a row the deficit has declined. We reversed the trends of the 1980's and restored fiscal restraint to the Federal budget process. Enacting this landmark deficit reduction package, required tough and difficult choices. But, that is why my constituents sent me to the U.S. Senate. I am willing to make those difficult choices as long as they are fair and balanced. A constitutional amendment to balance the budget does not force us to make those tough choices. Keep in mind that this amendment does not go into effect until the States adopt it. The States will have 7 years to ratify. Seven years is a long time when you are trying to balance the budget. I supported a revision to the amendment that would have shortened from 7 to 3 years that time allowed for the States to ratify. Unfortunately, this change was rejected. We should not wait even 3 years; we should start now.

There is no one in this Chamber who will deny that our Constitution has served us well. It established the longest continuous democratic government in the world. This document and the Bill of Rights are the envy of the world. Within this document our Founding Fathers spelled out the role of each branch of government. The responsibilities of the legislative, judicial, and executive branches were all clearly spelled out and a system of checks and balances was added so as to ensure that no one branch unduly influenced the other. One of the most important responsibilities entrusted to the legislative branch was the power to tax and spend. Our Founding Fathers felt very strongly that elected representatives of the people must be responsible for deciding on spending and taxes. As a member of both the Senate Budget Committee and Appropriations Committee, I do not take this responsibility lightly. But, a vote in support of this amendment will forever alter the role of Congress and the courts in deciding on spending priorities for the Federal Government. For the first time in history, the courts could decide how we spend tax dollars and how we raise tax dollars. A group of nine unelected officials could establish budget policy that conflicts with the wishes of the people solely because they believe that receipts will not cover outlays. Every time the Federal Government wishes to spend for Social Security or for a natural disaster, the courts could simply

say that this obligation would push spending beyond receipts.

One need only look at the current difference between the Congressional Budget Office and the Office of Management and Budget. OMB has estimated that the President's budget gets to balance by the year 2002. However, CBO disputes the estimates on revenues and economic growth used by OMB. Who decides? The courts? Who decides what will be cut or what taxes raised to bring the budget into balance if Congress and the White House fail to agree? Judicial oversight of the Federal budget process violates the clear role of Congress and puts greater powers into the hands of unelected, lifetime appointed Justices on the Supreme Court.

In an effort to clarify any questions about the role of the courts, Senator KENNEDY offered an amendment that would prohibit judicial control of the budget process. This amendment was defeated and rejected by the supporters of the constitutional amendment who claimed it was not necessary. Yet many legal and constitutional scholars have made it clear that the way the current amendment is written will allow for court challenges to Federal budget policy and decisions.

In 1983, Congress enacted several measures aimed at protecting the long term financial stability of the Social Security trust fund. The intent of these measures was to build a large surplus and reserve in the trust fund that could be drawn down when the baby boomers started to retire. The 1983 legislation included tax increases, benefit reductions, and other structural reforms, all with the goal of protecting the system. Those who supported the 1983 legislation did so to protect the greater good, namely Social Security benefits for millions of current and future retirees. As a result, it is estimated that Social Security will not need to draw on these reserves until the year 2019. But, at that point, total spending will outpace receipts into the system. Under the current language in the amendment, we could not pay benefits using the surplus that we have intentionally allowed to accumulate. Regardless of any effort to maintain a surplus over the years, benefits would be in jeopardy, unless we raise payroll taxes or drastically cut spending in other areas, like Medicare, Medicaid, or education.

This is not just my opinion. Recently a report from the nonpartisan American Law Division of the Congressional Research Service determined that we would be prohibited from drawing down the surplus in the trust fund in order to pay benefits unless there was a surplus in the remaining portion of the budget. Maintaining a large enough surplus in the remaining portion of the Federal budget would require significant reductions in many other important programs like Medicare, defense, education, environmental protection, and law enforcement. Passage of this amendment violates the current contract with today's workers that if you pay into the system now, Social Security will be there when you retire. There were several attempts to correct this flaw and exclude Social Security from the balanced budget amendment, but all attempts failed as the supporters of the amendment claimed that we did not need to protect Social Security.

I have heard that voting for this amendment is the courageous vote. Nothing could be further from the truth. The courageous vote is the vote in support of a plan that actually reduces the deficit and puts us on a real path to balancing the budget by the year 2002. Today's vote is about political rhetoric, not reality. I hope that the political rhetoric is over and that we can begin the real task of balancing the budget.

Mr. DODD. Mr. President, I wanted to take this opportunity to make clear my feelings on one particular aspect of the debate over the balanced budget constitutional amendment.

My opposition to Senate Joint Resolution 1 is strongly felt and clearly stated. I simply do not believe that it is appropriate to enshrine a restrictive fiscal policy in our Nation's most sacred text. The balanced budget amendment would seriously inhibit our ability to set prudent fiscal policy and respond to cyclical patterns in economic growth. Moreover, the amendment has serious implications for our foreign policy.

I am also concerned about the balanced budget amendment's effect on Social Security. The Social Security Program is one of the longest running and most successful programs this country has ever undertaken. It has succeeded in virtually eliminating poverty among our Nation's senior citizens. I yield to no one in my commitment to preserving and protecting it.

In 1983, when Social Security was faced with changing demographics that threatened its very existence, I supported the reforms that ensured that this vital program would survive to meet the needs of future generations. Today, I am very concerned that the program is threatened by the restrictive provisions of the balanced budget constitutional amendment. If Congress is allowed to count Social Security surpluses when determining if the budget is in balance, this critical safety net for our Nation's seniors could be placed in jeopardy.

For these reasons, I support efforts to protect the Social Security trust funds. If a balanced budget amendment to the Constitution is to be enacted, certainly, it should not be one that endangers the retirement security of American families. This is why I supported the amendment offered by my colleague, Senator REID, which modified the underlying resolution to state that the Social Security trust funds could not be used to achieve balance.

But I am afraid I could not support the amendment offered by my colleague Senator DORGAN. This amendment would have also protected Social Security, but, unlike Senator REID's amendment, it was a substitute amendment, a fully crafted, alternative balanced budget amendment to the Constitution.

Mr. President, I have grave concerns about any attempt to amend the Constitution to require a balanced budget. These concerns cannot be satisfied simply by changing one or two components of the legislation, as sincere and as sensible as those changes might be. I find any balanced budget amendment highly problematic, and this is why I have voted against the alternative balanced budget amendment offered by my good friend from North Dakota.

I am a stalwart defender of Social Security, and I am committed to seeing that it protects future generations as well as it has protected previous ones. But I remain opposed to any amendment that would taint the language of the Constitution and weaken our ability to make prudent policy.

Ms. MIKULSKI. Mr. President, I rise today in opposition to the balanced budget amendment to the Constitution. Let me be very clear, I want a balanced budget, and I am committed to do everything I can to achieve this goal. However, I do not believe we must amend the Constitution in order to balance the budget.

I will oppose this amendment because it is unnecessary; because I am convinced that it threatens the viability of Social Security, and because it makes no provisions for investing in our infrastructure.

This amendment does nothing to balance the budget. We already have the tools to do that. Since President Clinton's first term in the White House and my second term in the Senate, the deficit has fallen dramatically from $290 billion in 1992 to $107 billion in 1996. This amount represents just 1.4 percent of our gross domestic product, the smallest percentage of any industrialized nation. Clearly, as the past few years have shown us, we can continue to reduce the deficit—until it is balanced—without amending the Constitution.

Many supporters of the balanced budget amendment believe that if you can balance the family budget, you can balance the Federal budget. But if each family lived by a balanced budget amendment, then mortgages, car loans, and student loans would be prohibited. In effect, a balanced budget amendment would prohibit the Federal Government from making the kind of investments for our future that our families make every day.

Investments in our infrastructure would be threatened because the balanced budget amendment makes no provisions for a capital budget.

Even State governments that require a balanced budget have a separate budget for capital projects, such as

highways, schools, et cetera. The balanced budget amendment would restrict our ability to improve our infrastructure.

To address this issue, Senator FEINSTEIN and Senator TORRICELLI each offered an amendment to provide for a capital budget for infrastructure investments. I voted for both the Feinstein and Torricelli amendments. Unfortunately, both amendments were defeated.

Recently, 11 Nobel prize-winning economists announced their opposition to the balanced budget amendment because they felt it would put the country in an economic straitjacket. They make a very compelling case. I have no doubt that the balanced budget amendment would tie the Federal Government in knots, restricting our ability to respond to emergencies and economic downturns. Even the Wall Street Journal referred to the balanced budget amendment as politically empty symbolism. I agree with them.

Finally, I believe the balanced budget amendment threatens the Social Security system. Under the balanced budget amendment, there is no protection for Social Security benefits. If the Government finds that the budget is not balanced, the Social Security trust fund could be used to make up the difference. I voted for the Reid amendment which would have exempted the Social Security trust fund from the balanced budget amendment. I regret that this amendment was defeated.

Mr. President, I will not allow the Social Security trust fund to be used to balance the budget. We have a contract with our senior citizens and I plan to honor that contract. A promise made must be a promise kept. Without protections for Social Security, I will have to vote against the balanced budget amendment.

I fully support the goal of balancing the budget but a constitutional amendment is not the way to do it. We need to continue to reduce spending to reach a balanced budget in an orderly manner that recognizes national priorities such as Social Security and the importance of making investments in our future.

Mr. President, I stand ready to continue working toward a balanced budget but tampering with the Constitution is not the way to do it.

Mr. MOYNIHAN. Mr. President, this afternoon, the Senate will vote for the third time in 2 years on a balanced budget amendment to the Constitution. Two years ago, during our first debate on this amendment, I argued that

> [T]here is nothing inherent in American democracy that suggests we amend our basic and abiding law to deal with the fugitive tendencies of a given moment.

My point was that a series of one-time events in the 1980s had given rise to our recent fiscal disorders, and that a constitutional amendment was an inappropriate and indeed unnecessary response.

Enactment of the Omnibus Budget Reconciliation Act of 1993 had, after a decade of reckless deficit spending, returned us to a path of fiscal responsibility. At the time of its enactment, OBRA 93 was estimated to bring about $500 billion in deficit reduction over 5 years. Three and one-half years later, estimates are that the total deficit reduction under the 1993 legislation will be more like $924 billion. So we are on the right track.

In fact, we are even closer to a balanced budget than one might imagine—and a balanced budget amendment to the Constitution has nothing to do with how to achieve it.

A balanced budget is easily within reach, if only we have the courage to seize the opportunity soon. In January 1996 and again in January 1997, I proposed a simple plan to balance the budget by the year 2002. In addition to recommendations that were generally in both the President's budget proposal and the budget proposals offered by the Republicans, my plan requires only two actions:

First, correct by 1.1 percentage points the overindexation of Government programs and tax laws; and

Second, postpone tax cuts.

That is all that needs to be done. It is all that ought to be done. It is not the time for tax cuts. Nor it is the time for crippling cuts in domestic discretionary spending. A correction of 1.1 percentage points, as recommended in December by the Advisory Commission to Study the Consumer Price Index appointed by the Finance Committee, or the Boskin Commission as it has come to be known, would save $1 trillion in 12 years —and it would put Social Security into actuarial balance until the year 2052.

The economics profession is behind this proposal, as is the Chairman of the Board of Governors of the Federal Reserve System, Dr. Alan Greenspan, who testified before the Finance Committee on January 30 of this year. Dr. Greenspan's own estimate of the overstatement of the cost of living by the Consumer Price Index is 0.5 to 1.5 percentage points per year, which is quite close to the estimate of the Boskin Commission. Notably, referring to the familiar argument that the decision to correct cost of living adjustment factors should not be politicized, Dr. Greenspan had the definitive response: not to act, given the overwhelming evidence that the CPI is an upwardly biased measure of inflation, is the political fix.

Let us be absolutely clear about the direction of this bias. BLS Commissioner Katharine Abraham acknowledged at a February 11 Finance Committee hearing that the CPI is ''an upper bound measure on change in the cost of living.''

So there is broad agreement in the economics community. And encouragingly, it appears we are close to agreement in Congress and the Executive Branch. Last week, Majority Leader LOTT suggested that the appointment of a panel of graybeards on the issue was in order. The President immediately said he would take the Leader's suggestion under advisement. Then on Friday, in a meeting with editors and reporters at the Washington Post, OMB Director Franklin Raines expressed support for Senator LOTT's proposal. Director Raines noted that the ''CPI is a very accurate price index, while only being an okay cost of living index.'' And now in this morning's New York Times, there is an article by Richard W. Stevenson headlined ''Clinton Wants Deal With Congress on Cost-of-Living Adjustments.'' It begins:

> President Clinton gave his aides the go-ahead today to try to forge a deal with Congress to reduce cost-of-living adjustments for Social Security and other benefit programs, White House officials said.

This is an important step forward by the Administration. Getting an accurate measure of the cost of living is the right thing to do, and it is the only way to put our fiscal affairs in order.

I should add that although this issue has reemerged only recently, the fact that the CPI overstates the cost of living is not a new understanding. I came to Washington with the Kennedy Administration 35 years ago. Upon our arrival in 1961, we had waiting for us a report by a National Bureau of Economic Research committee on ''The Price Indexes of the Federal Government.'' The committee was headed by George J. Stigler, who went on to win a Nobel Prize in economics. The report noted that:

> If a poll were taken of professional economists and statisticians, in all probability they would designate (and by a wide majority) the failure of the price indexes to take full account of quality changes as the most important defect in these indexes. And by almost as large a majority, they would believe that this failure introduces a systematic upward bias in the price indexes—that quality changes have on average been quality improvements.

Mr. President, I hope we don't allow this moment to pass us by. It is the right thing to do, and we ought to do it soon. We could have a balanced budget plan in place and forget this foolishness about amending the Constitution.

If you don't think it is foolish, ask any economist. Last month, as the Senate began this debate, more than 1,000 economists, including 11 Nobel Prize winners, signed a statement imploring Congress to reject Senate Joint Resolution 1, the balanced budget amendment to the Constitution. The economists wrote:

> We condemn the proposed ''balanced budget'' amendment to the federal Constitution. It is unsound and unnecessary.
>
> The proposed amendment mandates perverse actions in the face of recessions. In economic downturns, tax revenues fall and some outlays, such as unemployment benefits, rise. These so-called ''built-in stabilizers'' limit declines of after-tax income and purchasing power. To keep the budget balanced every year would aggravate recessions.

May I say, to paraphrase Santayana, that we may be condemned to repeat

an awful period in our history if this amendment is adopted. The historical precedent is chilling: in 1930, 1,028 economists implored President Hoover to veto the Smoot-Hawley tariff legislation. He ignored their pleas, with disastrous consequences. A 60 percent drop in trade; worldwide depression; the rise of totalitarian regimes; and in the wake of such events, the Second World War.

Now, with the list of signatories growing, the economics profession is again pleading with us to reject this constitutional amendment. If we defeat the amendment, we will preserve the sanctity of our Constitution and promote economic stability. If we adopt it and it is ratified by the states, we will return to the dark ages of economic policy, having disregarded 60 years of social learning.

As I indicated earlier, a great part of the rationale for the balanced budget amendment has been the problem of deficits and the rising national debt. Yet our problems with deficits are quite recent, having been generated in the relatively brief period of the 1980's. These deficits marked a sharp departure from the fiscal problems of earlier administrations, which were directed primarily to the problem of a persistent full employment surplus, with its accompanying downward pressure on consumer demand.

The full-employment budget concept was explained by then-OMB Director George P. Shultz in his fiscal year 1973 budget:

> . . . expenditures should not exceed the level at which the budget would be balanced under conditions of full employment.

Which is to say that in the absence of full employment, as was the case in fiscal year 1973, the Federal Government should deliberately contrive to incur a deficit equal to the difference between the revenues that would actually come in at levels of underemployment, and those that would come in at full employment. Far from being inevitable and unavoidable, there were points in the business cycle where a deficit had to be created. Otherwise surpluses would choke off recovery.

The term ''full employment surplus'' had originated earlier. The January 1962 report of the Council of Economic Advisers explained that as the recovery from the recession of 1958 got underway, economic activity grew and so did the revenues of the Federal Government. But Congress would not spend the additional revenue. As a result, the recovery stalled. This untoward event was ascribed to ''fiscal drag.''

Beginning in 1980, the Reagan White House and Office of Management and Budget set about creating a crisis by creating deficits intended to force Congress to cut certain programs. In a television address 16 days after his inauguration, President Reagan said:

> There were always those who told us that taxes couldn't be cut until spending was reduced. Well, you know we can lecture our children about extravagance until we run out of voice and breath. Or we can cut their extravagance by simply reducing their allowance.

Haynes Johnson wrote of this in ''Sleepwalking Through History: America Through the Reagan Years'' (1991). I will simply quote a footnote on page 111:

> [Stockman's] former mentor Moynihan was the first to charge that the Reagan Administration ''consciously and deliberately brought about'' higher deficits to force congressional domestic cuts. Moynihan was denounced and then proven correct, except that the cuts to achieve balanced budgets were never made and the deficits ballooned even higher.

The point is that the huge deficits and debt of the 1980's were intentional and anomalous, and therefore the balanced budget amendment is an inappropriate response. A balanced budget amendment would undo all that we have learned about economic policy over the past six decades—a lesson that can be easily seen in the fluctuations of the business cycle over the last 125 years. We had enormous volatility in economic activity prior to 1945—volatility that would be unacceptable today. For example, in 1905, output increased by 9.2 percent, to be followed 2 years later by declines of 1.6 and 5.5 percent in 1907 and 1908 respectively, and an increase of 11.7 percent in 1909. Output increased by 16.2 percent in 1916 and by 7.7 percent in 1918, to be followed by 3 consecutive years of negative growth. And then, of course there was the Great Depression. After increasing by 6.4 percent in 1929, output fell by 8.9 percent in 1930, another 7.8 percent in 1931, and then a further decline of an incredible 13.3 percent in 1932. After World War II all this changed, following a brief adjustment period, as the country converted from a wartime to peacetime economy. Since then the largest reduction in output was 2.3 percent in 1982.

In the 1970's, I asked Council of Economic Advisers Chairman Charles L. Schultze to analyze what would have happened if a balanced budget amendment had been in force in the middle of the 1975 recession. He reported back that the computers at the Council ''blew up.'' GDP—then called GNP—would have dropped another 12 percent in an economy in which output was already 5 percent below capacity. During the debate in the last Congress, this simulation was repeated by the Treasury Department and by our minority Finance Committee staff, with the same results. With a balanced budget amendment, a moderate recession in which the unemployment rate increases by 2–3 percent becomes a major contraction—may I say depression—in which unemployment soars over 10 percent and output falls by 15 percent or more. In the entire post-World War II era the unemployment rate exceeded 10 percent only for a brief 10 months during the 1981–82 recession.

Just as importantly, a balanced budget amendment would undo the progress we have already made, which I referred to earlier. Two years ago, in arguing against House Joint Resolution 1, I noted:

> As a result of the deficit reduction policies [put in place by the Omnibus Budget Reconciliation Act of 1993] we have had three straight years of deficit reduction—the first such string of declines since the administration of Harry S. Truman. Here are the numbers: FY 1992 $290.4 billion; FY 1993 $255.1 billion; FY 1994 $203.2 billion; OMB 1995 est., $192.5 billion; and CBO 1995 est. $176 billion.

As I have said, our progress has been even better than expected. Remarkably, the deficit for fiscal year 1995 was lower than projected: $163.8 billion compared to projections of $176–$192 billion. The fiscal 1996 deficit is even lower—$107.3 billion, just 1.4 percent of GDP, resulting in 4 consecutive years of deficit reduction. And, for the first time since the 1960's, we have a primary surplus—that is, excluding interest payments, revenues exceed outlays.

Adoption of a balanced budget amendment—which as I said last year would be tantamount to ''writing algebra into the Constitution''—can only jeopardize the progress we have made. We can and will complete the job of balancing the budget without this amendment. It would be disastrous for our economy, and I hope it will once again be defeated.

Mr. BINGAMAN. Mr. President, I rise today to take a few minutes of the Senate's time to comment about the balanced budget amendment on which we will be voting today.

I came to the Senate in January 1983, at a point in time when the Federal Government was making terribly unwise choices about spending and revenues. Our budget deficits were off the charts during these Reagan years, and I felt that the very foundation of sound fiscal policy was being undermined. These were the years when we needed to have more serious debate about bringing spending under control—and when we needed to at least consider a more serious response such as amending the Constitution to require balanced budgets.

We have a very different situation today. During the last 4 years, the budget deficit has declined remarkably. Tough choices are being made about spending and revenue which are bringing the deficit down to levels thought unimaginable only a few years ago. And today we nearly have unanimous bipartisan support to bring the budget into balance by 2002. The Nation's budget deficit, as a percentage of gross national product, is the smallest it has been in decades and the least of all the great industrial powers.

The difference between today and 14 years ago is that we are clearly moving strongly in the right direction, not through amendments to our Nation's most important legal document, but by debating our national priorities and making our spending better reflect those priorities.

I believe in balancing the budget, but sound fiscal management demands that such balance be achieved by responsible choices that reflect our values—

helping those in need, promoting long-term infrastructure investment, and promoting high-wage job growth in our Nation. Those who have doggedly pursued this amendment to the Constitution did not do so when the budget imbalances were growing by great leaps during the Reagan administration; a balanced budget was not their concern. But cutting taxes on those who are best off is one of their primary concerns—and it was in part the spending profligacy of the early Reagan years combined with the ill-considered and regressive Kemp-Roth tax cut that created the enormous deficits we are financing today. We are actually spending less today than the Treasury is taking in—but because of enormous interest payments which take up nearly 20 percent of our entire annual spending, our budget is still in the red.

We must be careful about confusing serious budget balancing efforts with partisan exercises that could disrupt the fiscal foundation of the country.

One of my major concerns about this amendment 2 years ago which remains today is that the House still has in place a rule requiring three-fifths supermajority vote to raise income tax rates and income tax rates alone. Under the House rule, other taxes—such as the gas tax, Social Security tax, or other excise taxes—can still be raised by a simple majority, taxes that impact far more many of the working families from New Mexico whom I represent. This House rule stands as an obstacle to efforts to use the income tax, our most progressive tax, to raise revenues for deficit reduction.

The balanced budget amendment that has been proposed does not help us resolve many of the problems that challenge our future economic health. Passing this resolution does not help us solve the challenge to Social Security that looms in our future. It is clear that we must address the problem of solvency of the Social Security trust fund, but as written this amendment could cause a train wreck at the point when Social Security disbursements become greater than Social Security receipts. At least under one interpretation of the proposed amendment, countless seniors could experience disruption in receiving their checks.

During a time of severe economic hardship and recession, the Government has traditionally helped by using fiscal policy to prime the economy and jolt it toward growth. Such a strategy would not be possible given the requirements outlined in the balanced budget amendment. In addition, national security demands, the need to increase spending to thwart aggressive moves by some future enemy, or to respond to some military crisis might also be improperly constrained by the balanced budget amendment as written. There is also no provision in the balanced budget amendment permitting Congress to develop a capital budget, a budget capable of distinguishing between spending to meet current operating expenses and spending over a series of years for major capital improvements, such as highways, buildings, or a Federal agency's computer systems. I voted for amendments that would have made improvements in the balanced budget amendment and which would have made this a more workable piece of legislation, but all of these improving amendments were defeated.

The authors of this amendment are pursuing too rigid a course—and are bent more on a theology of balanced budgets without taxes than they are on the economic health of the Nation.

Also left unaddressed in this proposed amendment is the enforcing mechanism. When the Congress fails to govern responsibly and does not produce a balanced budget as called for by the Constitution, does the Supreme Court, as the chief interpreter of the Nation's Constitution, decide what accounts will be advanced and what accounts cut in order to achieve balance? These matters are unresolved and threaten to create confusion and harm our Nation's fiscal solvency—rather than create the order and balance that the Nation needs and wants.

I will oppose the balanced budget amendment today because I believe that we should leave the question of how to achieve sound fiscal policy to a vote of a majority here in Congress. We should not try, by rule or other provision, to determine how future Congresses choose to reduce the deficit or keep the budget in balance. We should not dictate whether they cut spending or raise taxes. We should not try to predetermine for future Congresses, as this amendment would, which group of taxpayers will pay the taxes and which group will suffer the spending cuts. Because of the way that the balanced budget amendment is constructed, our decisions would be locked in permanently if this amendment were to become part of the Constitution. This is not wise, and I cannot support such an effort.

The framers of the Constitution chose to leave neutral the way in which sound fiscal policy is achieved. We are well advised to defer to their good judgment on that subject, to cease our efforts to solve this problem by changing the Constitution, and instead, to solve it as we should—by continuing to make tough choices that reflect the priorities of our Nation.

Mr. CRAIG. Mr. President, during this year's debate on the balanced budget constitutional amendment the Senate Republican Policy Committee prepared more than 20 papers to assist Republican Senators with our deliberations. Some of these papers have particular importance for the constitutional and political debate which has been going on for decades and which is going to continue.

I ask unanimous consent that several of these papers be printed in the RECORD.

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

[From the U.S. Republican Policy Committee, Feb. 25, 1997]

OVERLOOKED EFFECTS OF EXCLUDING SOCIAL SECURITY FROM BBCA

For years, leading opponents of the bipartisan balanced budget constitutional amendment (BBCA) have been hiding behind the gimmick of excluding Social Security from the calculation of a balanced budget. While it is difficult to take their proposal (S.J. Res. 12) seriously, it is imperative to realize its very serious effects.

WHAT S.J. RES. 12 WOULD DO

The actual consequences of S.J. Res. 12 would be the direct opposite of the positive economic effects provided by a real balanced budget requirement.

S.J. Res. 12, over 30 years, would start with decreasing deficits—achieve a moment of surplus (requiring enormous new taxes or spending cuts)—enter a phase of declining surpluses (to perhaps one-year's balance)—and then revert to skyrocketing deficits.

It would create $2.3 trillion in ''gimmick deficits'' between 1998 and 2018.

It would result in tax hikes and/or spending cuts of $1.935 trillion from 2002 to 2018.

That $1.935 trillion is more than eight times Clinton's largest-ever 1993 tax hike of $240 billion and almost five times the amount of CBO's estimated savings ($423 billion) of what it will take to reach balance between today and 2002. While surpluses are not bad per se, this enormous level over such short duration would produce massive fiscal strain.

It would result in less than two decades of nondeficit spending, and just one year in which the federal budget might actually balance.

It would provide no possibility for tax cut or spending increase unless a recession occurs.

It would require absolute spending cuts in five of the first six years after the amendment, and a return to huge federal deficits in little more than two decades—$700 billion from 2019–2024 and $2.474 trillion from 2019–2028, all perfectly off-budget and constitutionally legal.

S.J. Res. 12 could be worse than doing nothing because of the high probability of massive tax increases that would destroy economic growth.

WHAT S.J. RES. 12 WOULD NOT DO

S.J. Res. 12 would not provide any additional support for Social Security.

It would not protect the trust fund—it will begin running deficits just seven years after its outlays begin exceeding revenues in 2012—exactly the current estimation. The trust fund would be bankrupt just 10 years after that (2029)—also the current estimation.

The trust fund balance sheet would not change by a single dime and its solvency calendar would not be altered by a single day.

S.J. Res. 12 would not alter the fact that Social Security is a pay-as-you-go system and always has been.

It would not provide a long-term solution. By pretending there exists some hidden balance, it would forestall a real solution to Social Security's long-term imbalance.

Simultaneously, S.J. Res. 12 would damage Social Security because Social Security's existence depends on a growing economy to meet its growing commitments—something S.J. Res. 12's likely tax hikes would seriously jeopardize.

HOW IMPLAUSIBLE ARE S.J. RES. 12'S REQUIREMENTS?

Every dime of the $1.935 trillion that would be artificially added to the deficit between

2002 and 2018 would have to be payed for with tax hikes and/or spending cuts.

In the 2002–2007 period, spending literally would have to be cut in five of the six years under S.J. Res. 12, even under CBO's most recent baseline spending estimates for a balanced budget. By contrast, Congress's failed 1995 effort to balance the budget was vetoed by Clinton, and it merely slowed the rate of spending's growth.

Spending would decline in absolute terms—not just reductions in the rate of growth.

How rare are absolute spending cuts? Only nine times since 1933 have they occurred. Eight were due to severe economic contraction or postwar economies: 1935, 1937, and 1938 during the Depression, the first three years following World War II, and the first two years after the Korean War.

[From the U.S. Senate Republican Policy Committee, Jan. 29, 1997]

A GIMMICK EVEN THE PRESIDENT WON'T EMBRACE—CLINTON'S REMARKS UNDERCUT BBCA OPPONENTS

''We couldn't right now, neither the Republicans nor I and the Congress, could produce a balanced budget tomorrow that could pass with, if you said the Social Security funds cannot be counted, if you will, as part of the budget.'' —President Clinton at his January 28th press conference.

President Clinton does not support a balanced budget constitutional amendment (BBCA), but yesterday, on the record, he refused to accept the flimsy, implausible cover being used by some of its congressional opponents who are going to vote against the amendment unless Social Security is taken out of it.

The sentence from the transcript of the President's press conference that is quoted above is not the clearest example of oral expression that we have ever seen, but, clearly what the President was saying was: A balanced budget is not possible if Social Security is taken off budget and not taken into account in calculating the deficit.

Simply, Social Security is currently running a surplus and is expected to do so for the near term. Thus, if Social Security is removed from the budget calculations, the deficit will be falsely inflated by hundreds of billions of dollars. For example, if Social Security were to be omitted, the deficit would grow by an additional $465 billion during fiscal years 1998 through 2002 and by another $602 billion during fiscal years 2003–2007, for a total of $1.067 trillion over the 10-year period. This is on top of the very real deficits with which Congress has been struggling for years.

Last year, the President and the Congress each made proposals that would have cut the deficit by about $500 billion for fiscal years 1997 through 2002. $500 billion is a lot of money, but it is less than one-half of the amount that the opponents' proposal would falsely add to the deficit if Social Security is taken out of the balanced budget calculations.

It's interesting when the President, no stranger to gimmicks, is willing to expose the ruse of his friends. Recall that this president offered a budget that used ''triggers'' to precipitously cut off spending programs in its final two years in order to be able to claim to teach ''balance.'' And, he offered a budget which shifts the fastest growing portion of Medicare—Home Health Care—from Medicare to the general taxpayer in order to claim he is ''saving'' Medicare.

If the opponents of a Balanced Budget Constitutional Amendment are fiscally responsible, they will show us the tax increases and spending cuts that they propose to enact to make up for the $1.067 trillion that would artificially be added to the deficit under their proposal by taking Social Security out of the calculation. After all, those hiding behind Social Security's exclusion to cover their opposition are proposing to add to the deficit twice the amount that Congress and Clinton proposed to cut! If they do not really support an additional $1.067 trillion in new taxes and spending cuts—and we doubt that they do—what do they really support? The answer is evident: More of the same tired, liberal approach to governing—more taxes, more spending, more debt.

[From the U.S. Senate Republican Policy Committee, Feb. 24, 1997]

BBCA, SUPER-MAJORITIES, AND THE FEDERALIST—MADISON AND HAMILTON SUPPORTED SUPER-MAJORITIES

The writers of the Federalist said some hard words about super-majorities which are trotted out whenever Congress debates the Balanced Budget Constitutional Amendment (BBCA). Unfortunately, those hard words are almost always misused.

THE FEDERALIST ON SUPER-MAJORITIES

James Madison said that super-majorities transfer power from the majority to the minority and thereby ''reverse'' the ''fundamental principle of free government.'' A minority can then frustrate the purposes of the majority even when ''justice or the general good might require new laws to be passed or active measures to be pursued.'' The Federalist No. 58, at 397 (J.E. Cooke ed. 1961). Alexander Hamilton said that super-majorities may look like a remedy but are ''in reality a poison.'' They operate ''to embarrass the administration, to destroy the energy of the government, and to substitute the pleasure, caprice or artifices of an insignificant, turbulent, or corrupt junto for the regular deliberations and decisions of a respectable majority.'' The Federalist No. 22, at 140.

This is strong stuff from two of America's giants. However, both Madison and Hamilton were strong supporters of super-majority requirements, and only by using The Federalist out of context can they be made to appear otherwise.

THE CONSTITUTION ITSELF, WHICH THE FEDERALIST WAS WRITTEN TO PROMOTE, CONTAINS SUPER-MAJORITIES

The Federalist was written to explain and promote a Constitution which, in its original version, contained super-majority requirements in seven places: Article I requires votes of two-thirds to convict on impeachment (§3, cl. 6), to expel a Senator or Representative (§5, cl. 2), and to override a presidential veto (§7, cls. 2 & 3). Article II requires a two-thirds vote in the Senate to consent to treaties (§2, cl. 2) and called for special majorities if the election of the President should be referred to the House of Representatives (§1, cl. 3). Article V requires two-thirds of Congress and three-fourths of the States to amend the Constitution. Article VII required ratifications from 9 of the original 13 States before the Constitution could go into effect.

Madison (always) and Hamilton (sometimes) were in attendance at the convention when these super-majority requirements were adopted, and Madison himself was responsible for some of them. They signed the Constitution. They became its most able advocates. Snippets from Federalist No. 58 and No. 22 cannot obviate the fact that Madison and Hamilton strongly supported the Constitution with all of its super-majority requirements.

THE FEDERALIST, WHICH ITSELF SUPPORTS SUPER-MAJORITIES, MUST BE READ IN CONTEXT TO BE UNDERSTOOD

But how do we account for The Federalist's hard words on super-majorities? Quite easily, actually. The words merely need to be read in context:

What Madison was opposing in No. 58 was the suggestion that the House of Representatives should require a super-majority for a quorum and more than a majority of a quorum for a decision. Madison did not, of course, oppose all super-majority requirements for the House, but he did oppose suggestions put forward by opponents of the Constitution that additional super-majorities were desirable.

What Hamilton was opposing in No. 22 was the gridlock occasioned by the Articles of Confederation with its super-majority requirements and unit voting (each State had one vote).

Hamilton also said (in Federalist No. 75), ''All provisions which require more than the majority of any body to its resolutions have a direct tendency to embarrass the operations of the government and an indirect one to subject the sense of the majority to that of the minority.'' Id., at 507. This sounds hard enough, but it appears in a paper about the making of treaties, and Hamilton strongly supported the two-thirds vote of the Senate as ''one of the best digested and most unexceptionable parts of the plan.'' Id., at 503. What Hamilton was opposing in No. 75 was the suggestion that two-thirds of all members should be required on a vote rather than two-thirds of those members present.

Keep in mind, too, that complaints about super-majorities (especially for quorums) were a product of the times—a horse-and-buggy era when interstate travel was long, difficult, and dangerous, and many legislators shunned regular travel to the seat of a weak central government.

MADISON AND HAMILTON SUPPORTED SUPER-MAJORITIES INDEPENDENTLY

Finally, we know that both Madison and Hamilton thought super-majorities were sometimes necessary because they advocated them separately. In convention, Madison moved that a vote of two-thirds be required to expel a Senator or Representative. His motion carried 10 States to none. 2 Farrand, The Records of the Federal Convention of 1787 at 254 (1937 rev. ed.). It was also Madison who moved that if the choice of a President should fall to Congress, a quorum must consist of two-thirds. Id., at 526. Hamilton outlined his own plan for a government, but did not present it to the convention. He did, however, draw upon its principles in debate. That plan contained at least five requirements for super-majorities. 3 Farrand at 620, 623, 625, 627, 630.

Far from being opponents of super-majorities, Madison and Hamilton supported them. They supported them in the Constitution, in The Federalist, and in the convention. They supported them because some rights are ''too important to be exercised by a bare majority of a quorum.'' 2 Farrand at 254 (Madison speaking on expulsion). Spending our children's inheritance is one of these rights—a right too important to be exercised by a bare majority.

[Some of the quotations from The Federalist have been edited slightly.]

[From the U.S. Senate Republican Policy Committee, Feb. 20, 1997]

THE CONSTITUTION AND BBCA'S SUPER-MAJORITIES

Some opponents of the super-majority requirements in the Balanced Budget Constitutional Amendment (BBCA) must suffer from an irony deficiency. Only the irony-deprived could complain about BBCA's super-majorities while trying to cobble together a minority of Senators (just 34) to defeat the proposed amendment.

SUPER-MAJORITY IN THE BBCA

S.J. Res. 1 requires ''three-fifths of the whole number of each House of Congress'' to ''unbalance'' the budget (section 1) and to increase the debt limit (section 2). It requires ''a majority of the whole number of each House'' to increase revenues (section 4) and to permit a waiver because of a threat to national security (section 5).

SUPER-MAJORITIES IN THE CONSTITUTION

Framers of the original Constitution and framers of its amendments regularly called for super-majorities. Congress has used super-majority votes hundreds and hundreds of times for seven purposes in three general areas:

Area One: To Change the Laws

Super-majority votes are required sometimes to enact laws. These laws become the ''supreme law of the land.'' See Art. VI.

A two-thirds vote is required to override a presidential veto. Art. I, Sec. 7, cls, 2 & 3. Congress has overridden a veto 105 times (averaging once every Congress).

Treaties require a two-thirds vote of the Senate. Art. II, Sec. 2, cl. 2. The Senate has voted on an estimated 2,000 treaties (averaging about ten every year).

Constitutional amendments require a two-thirds vote in Congress (and ratification by three-fourths of States). Art. V. The Constitution has been amended 27 times; there were 17 votes on those successful amendments. There were another five votes on proposed amendments that cleared the Congress but were never ratified by the States.

Certain persons who ''engaged in insurrection or rebellion'' against the United States are prohibited from holding public office, but that disability may be removed by a two-thirds vote of Congress. Amend. XIV, Sec. 3. By our count, Congress legislated under this provision 191 times from 1868 through 1898 (averaging about six per year).

Area Two: To Remove from Office

There is a second category of constitutional provisions requiring a super-majority, namely those that allow Congress to remove a person from office.

Conviction on impeachment requires a two-thirds vote of the Senate. Art. I, Sec. 3, cl. 6. Seven persons (all district court judges) have been convicted by the Senate after impeachment. Seven others (including an associate justice of the Supreme Court, a Secretary of War, and President Andrew Johnson) were tried and acquitted.

Expulsion from the Senate or House requires a two-thirds vote of the body. Art. I, Sec. 5, cl. 2. Fifteen Senators and four Representatives have been expelled from Congress (the great majority for disloyalty to the Union).

(A President may be removed by a two-thirds vote of Congress for inability to discharge his duties. Amend. XXV, Sec. 4. This particular provision has never been used, however.)

Area Three: To Elect to Office

If election of the President should fall to the House or election of the Vice President should fall to the Senate, the 12th Amendment has special super-majority rules with respect to quorums and voting. (These requirements supersede Art. II, Sec. 1, cl. 3 which also contained super-majority requirements.)

After adoption of the 12th Amendment in 1804, the House has had to act once (in 1825, electing John Quincy Adams) and the Senate has had to act once (in 1837, electing Richard M. Johnson to serve with Martin Van Buren).

An Additional, Unique Super-Majority

The Constitution itself provided that it would not go into effect unless ratified by nine of the original 13 States. Art. VII.

BBCA IS CONSISTENT WITH CONSTITUTIONAL TEXT AND PRACTICE

The Framers put super-majority votes within the four walls of the Constitution, and throughout the years Congress has regularly and unremarkably operated under those super-majority requirements. In fact, the Senate acts by super-majority vote about once every month. Super-majority votes are reserved for matters of special importance; they are not daily events, but they are not rarities either. They are about as rare as a new moon.

Like the constitutional policies described above, spending our children's inheritance is a matter of special significance that should require an occasional super-majority vote.

Note on Estimate of Treaties. Counts of Senate action on treaties vary widely because of differing methods and judgments. In the original version of this paper we used an estimate of 2,500. That number was based on data in Lyn Ragsdale, Vital Statistics on the Presidency: Washington to Clinton, Tables 7–1 & 7–2 (1996) (showing 1,955 treaties, protocols, and conventions issued from 1789 through 1984 [all of which appeared to require Senate action] and 1,542 total international agreements from 1985 through 1993). After our first version of this paper was released, CRS provided us with an estimate of 1,704 treaties approved by the Senate through 1996.

OVERALL EFFECTS OF S.J. RES. 12

Years	On-budget	Off-budget	True budget	Fiscal effect
1998–2001	Declining deficit	Running Surplus	Declining deficit—$361 billion	Large cuts or taxes to offset ''double surplus'' ($361 billion from 98–01) Social Security Revenue surplus & interest income.
2002–2012	Balanced: But must run surpluses to offset SS revenue removal and interest transfer to off-budget.	Dual surplus of Social Security TF: Both revenue and interest.	Surplus of SS TF—$1.395 trillion	Enormous $1,395 trillion ''double surplus'' offset by tax hikes or spending cuts.
2013–2018	Balanced: Must run surplus to make interest payment to SS TF.	Deficit: Balanced via transfer interest payment from on-budget.	Diminishing surplus—$539.4 billion	Larger $539.4 billion ''single surplus'' transfer via tax hikes or spending cuts to offset Social Security interest surplus.
2019	Balanced: Must run surplus to make SS interest payment.	Social Security TF runs first deficit in excess of both interest and revenue receipts.	Balance for 1 year?—$2.6 billion deficit projected off-budget.	Transfer of Social Security interest payment in slightly less ($2.6 billion) than Social Security's revenue shortfall.
2020–2029	Balanced: SS interest payment diminishing.	Mounting SS deficits	Rising deficits—$3.122 trillion (2019–2029).	Diminishing Social Security interest surplus transfer as trust fund begins being consumed until exhausted in 2029. Increasing Social Security operating deficit must be absorbed. How? [1].
2030-Beyond	Balanced: No SS interest payment	Social Security trust fund bankrupt	$744 billion deficit in 2030 alone	Social Security trust fund bankrupted. Enormous deficits, though economically adverse, all off-budget and therefore legal.

[1] The federal government would be faced with at least three possible budget alternatives: (1) The federal government borrows for Social Security and that money is put on-budget. Remember: the Social Security amendment only addresses the receipts and outlays of Social Security. Once trust fund receipts are no longer sufficient to cover Social Security's obligations, the shortfall must come from somewhere. Such a scenario would require commensurate deficit reduction on-budget to cover the transfer to the off-budget trust fund. (2) An off-budget entity borrows for Social Security. The result would be substantially higher borrowing costs for the off-budget entity than if the money were borrowed by the federal government. However since this borrowing would be off-budget, the additional cost would not be constitutionally prohibited—this despite the fact that it would exacerbate the already very adverse true budget effect. (3) The federal government borrows for Social Security and that money is put off-budget. But this obvious liability of the government could be completely ignored for constitutional purposes. Again, it would accommodate substantial deficits in the true budget.

Mr. KERREY. Mr. President, I do not intend to support this constitutional amendment. During previous debates on this issue, I have said that I believe that an amendment dictating a balanced budget does not belong in our Constitution but that the path to balance belongs in our laws. I continue to believe that. And, I hope I am not being too optimistic when I say that I honestly believe we have an opportunity to set our budget on the path to balance this year through legislation and we have the chance to do so in a reasoned and bipartisan way.

I believe it is important to balance the budget as a way to promote economic growth. And any effort to achieve a balanced budget must be done fairly and equitably. But I'm not convinced that the constitutional amendment before us will ensure a budget balanced fairly or a budget that will ensure economic growth.

In particular, I do not think it is wise to require a three-fifths vote to waive this amendment in times of economic emergency. This gives entirely too much power to larger population States in the House and would hurt smaller States like my home State of Nebraska. In addition, the national security waiver provision in this amendment is too restrictive. And, I do not think it is a good idea to allow Congress to rely on estimates to determine whether or not the budget is in balance. As previous experience has shown us, when you lead with estimates, gimmicks are soon to follow.

Still, even if we were voting on some other variation of this amendment, I'm not persuaded a constitutional amendment is the best way to mend our budget woes. I still believe that if we can succeed through a statute rather than through a constitutional amendment, we should leave the Constitution alone.

All of this being said, I do not question the intentions of the authors of this amendment. Given our track record on living within our means, there are good arguments to be made for this amendment. I have long said that as 1 of the 535 Members of Congress we can, and should, get down to the work of crafting a reasoned, bipartisan balanced budget plan. But we have not managed to do so. We have not managed to muster the political will to tackle some of the tougher issues that stand in the way of a credible path to balance. We have not managed to talk in a meaningful way about how to control our entitlement spending and how to prevent that spending from consuming an ever-larger share of our

Federal budget as time goes by. Absent change, a full 70 percent of the Federal budget will be consumed by mandatory spending and interest on the debt by the year 2000 and that percentage will continue to climb. That is a scary statistic.

But I think, or at least I very much hope, that we are getting closer to having those conversations. Last year, I was part of the centrist coalition, a bipartisan group that included 11 Democrats and 11 Republicans. The coalition spent approximately 5 months putting together a balanced budget package which contained significant entitlement reform, a reasonable discretionary spending number and modest tax relief. The centrist package was offered as a substitute budget in May 1996 and received 46 votes in the Senate. As far as I am concerned, those 46 votes represent the start of a meaningful effort to balance the budget in a bipartisan, credible way.

Regardless of how today's vote turns out, I hope we will not lose the will to move forward to balance the budget. If this amendment were to pass both Houses, I would hope that we would not use that passage as an excuse to delay balancing the budget while we wait to see if the amendment is ratified. And if this amendment fails, I hope that we—particularly people like me who maintain that we can balance the budget without this amendment—will redouble our efforts to get the budget on the path to balance in this Congress.

Mr. MURKOWSKI. Mr. President, in this debate on the balanced budget amendment, I believe the Senate has lived up to its reputation as the greatest deliberative body in the world, bar none. We have spent nearly a month debating this measure and I want to especially commend the distinguished chairman of the Judiciary Committee, Senator HATCH, for his stamina and intellect in managing this measure.

Now as the time for debate draws to a close, I hope all of my colleagues will reflect on the simple principle that we are attempting to incorporate into our Constitution. It is simply that one generation of Americans has no right to mortgage future generations to finance our daily spending habits. Think about it.

There is one thing for certain, Mr. President. When the clock strikes midnight on December 31, 1999, and we enter the new century, America will have run deficits for 31 consecutive years and we will have a national debt of more than $6 trillion.

If we are ever going to reverse that endless tide of red ink, if we are going to ease the economic burdens on our children and grandchildren, then as a matter of moral responsibility, we will adopt this constitutional amendment. If we don't pass the amendment this will truly be an American tragedy.

Mr. LEVIN. Mr. President, once again the Senate is considering a constitutional amendment which some claim will lead to a balanced Federal budget. The Senate debated and defeated this amendment in the last Congress. It has been reported once again by the Senate Judiciary Committee, and has received the careful and thorough deliberation by the Senate which it deserves.

Except in unusual circumstances, balancing the budget is the responsible thing to do. That is why I have repeatedly supported balanced budgets. And, we have made significant progress in the past 4 years. We have reduced the Federal deficit for 4 years in a row, cutting the deficit by more than half from $290 billion in fiscal year 1992 to $107 billion in fiscal year 1996, from 4.7 percent of the GDP in 1992 to 1.4 percent in fiscal year 1996, the lowest in more than 20 years. In fact, for the first time in years, the real possibility of agreement to balance the budget in the next 5 years looms before us.

At the outset, let's be clear about one thing. The proposed constitutional amendment doesn't balance the budget. It tells a future Congress to pass legislation to balance the budget. Unless that future Congress agrees on legislation, the amendment will not be implemented. Why not try to pass the implementation language now before the vote on the constitutional amendment so everybody could see how it would work and if it would work? Again, without that implementation legislation, we're left with a feel good gimmick which would allow Members of Congress to claim that the deficit will be cured without actually taking the tough steps necessary to do the job. It takes Congress off the hook for 5 years or more. And then, Mr. President, there is no hook. As the distinguished past president of the American Economic Association, Professor Robert Eisner, put it in his excellent article January 22 in the Wall Street Journal, the amendment ''might as well assert that the waves of the Atlantic Ocean shall not cross a certain line''. In other words, the language kicks in in 2002, or later, and then there might be no kick.

As we have seen in the most recent Congress, the debate arises not over whether to balance the budget, but rather how to reach that balance. The issues which make agreement difficult grow out of differences in priorities. The President, in his budget last year and again this year, has shown a path to a balanced budget which also provides for adequate funding for education, environmental protection, Medicare, Medicaid, and other essential Government functions. Many of the proponents of this constitutional amendment support a large tax break, paid for by larger reductions in Medicare than the President proposes. It is in hammering out these priorities that the difficult decisions arise. The constitutional amendment before us does nothing to advance that process. In fact, since implementing legislation will not be required for 5 years at the earliest, it may indeed provide the excuse to delay those tough decisions.

We are told that if Congress is required by the Constitution to pass a law to implement a balanced budget, surely Congress will pass such a law. Well in 1979, 18 years ago, we passed a law that said, ''Congress shall balance the Federal budget.'' That law, Public Law 96–5, was the law of the land. Although the Senate passed that provision by a 96 to 2 vote and the President signed it into law, it did not happen. Saying we must balance the budget will not make it happen; unless and until we do the hard work of budgeting, it's all just a dodge, and worse, because it encourages people to say we are cured before we've taken the medicine.

Mr. President, the plain truth is whether we pass a balanced budget amendment or not, it will still take a majority of the votes of the Members of each House to make the tough choices needed to cut spending or raise taxes. Unless and until we make those choices or adopt some process to implement the constitutional amendment, in the absence of a congressional majority agreement on how to balance the budget, we will not have a balanced budget.

Every Member of this body knows that we will not get to a balanced budget without tough decisions. Adopting a constitutional amendment saying some future Congress must make the tough decisions and balance the budget not only isn't a substitute for our acting or adopting an enforcement mechanism, it will delay those actions because people might think we have acted.

If we are going to get to a balanced budget by 2002, there is a real, practical need to adopt the enforcement mechanism now. We all remember that, back in 1985, we passed the Gramm-Rudman-Hollings bill, requiring a balanced budget by 1991. Two years later, we modified that requirement to call for a balanced budget by 1993. Well, 1991 and 1993 have come and gone, and we still don't have a balanced budget. The reason is simple: the Congress never laid out an enforceable mechanism of how we were going to get there. Like the balanced budget amendment, Gramm-Rudman laid out the targets without enough provisions for how they were to be achieved.

Without any enforceable blueprint, we found ourselves pushed up against deadlines we could not meet. We got to the deadline and found ourselves confronted with a dropping stock market and the prospect of sudden budget cuts that could throw the country into a deep recession. We made the only choice we could, protecting the Nation and the economy at the cost of not meeting the budget targets.

The current congressional majority appears committed to marching down this same road again. The constitutional amendment before us, like the Gramm-Rudman law, would require us to achieve a balanced budget in a fixed period of time. It doesn't say how we are supposed to get there and stay there.

If this Congress fails to face up to the obligation of laying out a detailed enforceable plan to reach and maintain a balanced budget as required by the amendment, why should we expect future Congresses to be any more responsible? If we duck the task of outlining the enforceable mechanism and/or the cuts that will get us to a balanced budget by 2002, and keep us at balance thereafter, we can only expect that the next Congress, and the next one after that, will follow the same course. If we don't do the hard work this year, we can't expect somebody else to do it for us next year.

If we pass a constitutional amendment requiring a balanced budget amendment without an enforcement mechanism, we are going to face the same kind of choices we faced with the Gramm–Rudman law. If we don't have the will now to plot our course to reach and maintain a balanced budget, we will get to 2002 and find that we have to either abandon the goal with the increase in cynicism which would accompany it, or risk undermining the national defense or pushing the economy into a deep recession.

There is a way to avoid that fate. We can lay out an honest plan and an enforceable mechanism, telling the American people how we intend to achieve and keep a balanced budget. That would be the honest approach, the approach that the American public would respect.

Even the Wall Street Journal editorial on February 4 stated,

> The notion of amending the Constitution to outlaw budget deficits is silly on any number of counts. Politically it's empty symbolism. Legally it clutters the Constitution with dubious prose * * * The concept embodied in the proposed amendment measures nothing useful; it is at best a distraction, and at worst spreads confusion that will make the right things harder to do, not easier.

The proposed amendment is full of loopholes and ambiguities, all usable when 2002 arrives. For example: First, the implementation of the amendment depends on economic estimates that can be made overly optimistic if that is what is necessary to project a balanced budget. We have seen enough rosy scenarios in the budgets of both Republican and Democratic administrations to know how this game is likely to be played. For example, in 1981, our estimates were off by $58 billion. In 1982, our estimates were off by $73 billion. In 1983, our estimates were off by $91 billion, and on and on. In 1991, they were off by $119 billion—$119 billion in one year. You talk about a loophole. This one is big enough to drive a $119 billion deficit through. That's bigger than our current deficit.

Second, the amendment requires a balanced budget in each fiscal year. Throughout the 1980's Congress and the President artificially lowered the reported deficit and met Gramm–Rudman targets by delaying spending a few days thereby pushing it from one fiscal year to another. Under the proposed amendment, we can expect similar budgetary shell games.

Third, States with balanced budget requirements have frequently avoided them by creating independent or quasi-public agencies and placing their expenditures off-budget. We did much the same thing in the 1980's with the costs of the savings and loan bail-out. Because the amendment does not define key terms such as receipts and outlays, it is certain to lead to similar manipulations.

Fourth, the deficit could be artificially reduced by selling off valuable public assets, such as public lands. This approach might enable the Federal Government to report a smaller deficit for a few years, but would have no impact at all on the structural gap between revenues and outlays.

There are numerous technical problems with the amendment. It does not tell us what an outlay is, what a receipt is, or how the Congress will monitor and regulate the precise levels of outlays and receipts. But, perhaps most importantly, it does not tell us what will happen if outlays in fact exceed receipts.

What would happen if the amendment were ratified, and, by the end of a fiscal year, outlays were to exceed revenues, a clear violation of the amendment. What would happen? Could the courts step in and enforce the amendment?

According to the authors of the resolution, there would be no remedy, unless provided by future legislation. As Senator HATCH explained on March 7, 1986, ''[T]here is no question that Congress would have to pass implementing legislation to make it effective. In that sense, it is not self-executing. . . . It would be the obligation of Congress . . . [to] enact legislation that would cause this to come about.''

The unenforceability of the amendment should not be a problem, the authors tell us, because future Congresses would be bound to respect the provisions of the amendment and the will of the voters and to comply with it in good faith by enacting suitable implementing legislation.

But this argument has two flaws. First, the amendment, if ratified, wouldn't take effect until 2002 at the earliest. This Congress wouldn't be bound by the provisions of the amendment. The next Congress wouldn't be bound. The Congress after that wouldn't be bound. In fact, no Congress would be bound by the terms of the amendment to enact implementing legislation until 2002 at the earliest, and by then it would be too late to take the actions necessary to comply.

Second, the legislation required to implement this amendment will be extremely complex, and, even if everyone acted in good faith, there still might be no agreement. Over the last decade, we have enacted into law some 50 single-spaced pages of procedures, governing the congressional budget process and attempting to rein in uncontrolled budget deficits. These provisions set timetables for the congressional budget process. They provide the rules for debate for budget matters. They spell out points of order that may be raised to keep the budget under control. They establish the role of the Congressional Budget Office. They provide controls on legislation providing spending authority and rules for legislation providing entitlement authority. They limit the use of off-budget agencies, programs and activities. They establish regulations for the sequestrations and procedures for the rescission of appropriated funds.

Similarly detailed legislation would be required to implement and enforce the balanced budget amendment. To give just one example of the complex issues that would have to be addressed by such legislation, the resolution before us would require that outlays may not exceed receipts. However, Congress does not legislate either outlays or receipts. The appropriations and revenue measures that we enact lead to outlays and receipts, but do not dictate the exact levels of outlays or receipts in any given year.

So Congress would have to establish new mechanisms to control outlays and receipts. This raises many difficult questions, on which reasonable people could disagree. Let me read from a colloquy between myself and Senator Simon about some of these questions:

> Senator LEVIN. How would the monitoring of the flow of receipts and outlays be done to determine whether the budget for any fiscal year is on the track of being balanced? Would this require implementing legislation?
>
> Senator SIMON. There would have to be monitoring and future legislation would have to take care of the implementation of that monitoring.
>
> Senator LEVIN. What exactly is the definition of receipts and outlays? Specifically, would the receipts and outlays of Bonneville Power Administration be receipts and outlays of the United States pursuant to this constitutional amendment? Would the answer to these questions require implementing legislation?
>
> Senator SIMON. Implementing legislation will be needed on some of these peripheral questions, but the intent is clear.
>
> Senator LEVIN. In an instance in which the OMB and the CBO disagree with each other on what a level of outlays is, how will the dispute be resolved so that it can be determined whether or not outlays exceed receipts?
>
> Senator SIMON. Future legislation will have to take care of this.
>
> Senator LEVIN. Who will determine the level of receipts and whether a revenue bill is ''a bill to increase revenues?'' . . . . My question is, what happens if the revenue estimators in the Treasury Department say the bill is revenue neutral, and the Joint Committee on Taxation say the bill will result in a net increase in revenues? Whose estimate will prevail? How will the dispute be resolved?
>
> Senator SIMON. Future legislation will have to take care of this.
>
> Senator LEVIN. At what point will it be determined that outlays will in fact exceed revenues and that actions such as a tax increase, spending cuts, or tapping into a rainy

day fund will be required? August 1? September 15? Who will make that determination?

Senator SIMON. There will have to be regular monitoring and future legislation will work out the details.

Mr. President, these are difficult questions, on which reasonable people could disagree. The assumption of the authors that future Members of Congress will try, in good faith, to comply with the amendment does not mean that a majority of Members of each House of Congress will agree on the many issues involved or on whether to require sequestration of funds if outlays are determined to exceed revenues, or that they will agree on whether to exempt the national defense or Social Security payments from such sequestration.

And what if the future Congress to which we leave these questions can't agree? Would dozens of unelected judges assert jurisdiction and order spending cuts or tax increases? When the Senate during the 104th Congress considered this constitutional amendment, we adopted by a 92 to 8 vote an amendment offered by Senator Nunn which added language to section 6 making it clear that ''the judicial power of the United States shall not extend to any case or controversy arising under this article except as may be specifically authorized by legislation. . .'' This safeguard has been omitted from the version of the constitutional amendment which is before us today.

Since implementation legislation is the essential need, why not pass it now? In the 104th Congress, I offered an amendment, defeated on a 62 to 38 vote, which would have required us to pass the legislation, not pass the buck. It provided that the constitutional amendment would be submitted to the States for ratification only upon enactment of legislation specifying the means for implementing and enforcing the provisions of the constitutional amendment. There are two advantages to this approach. First, it places the responsibility on this Congress instead of leaving it to a future Congress, by delaying the sending of the amendment to the States until we act. Second, the States would be informed how the enforcement mechanism would work so they could consider that in their ratification deliberations. Since it has become clear that the majority is unwilling to amend its language in any way and is defeating all efforts to improve it, I have decided not to offer my amendment again this year.

I am also concerned that the proposed amendment would permit future Congresses to use Social Security funds for balancing the budget. I believe that we have a special obligation to protect the Social Security trust fund, and that we should not rob that fund to balance the budget. The Social Security system is a contract which we have made with our senior citizens. We should not allow a circumstance in which even unintended effects of a constitutional amendment like the one before us could lead to the failure or inability to meet our obligations under Social Security. The proponents will claim that this would never happen because the constituencies supporting that program are politically strong. But, the Constitution is permanent. Political circumstance is subject to change. We should not enshrine in the Constitution the use of Social Security funds for any purpose other than Social Security.

As the President stated in his letter of January 28, 1997:

> * * * [T]he constitutional amendment to balance the budget could pose grave risks to the Social Security system. In the event of an impasse in which the budget requirements can neither be waived nor met, disbursement of Social Security checks could cease or unelected judges could reduce benefits to comply with this constitutional mandate.

I am also deeply concerned about the supermajority requirement in section 2 of the amendment. This would require 60 percent of the whole number of each House in order to raise the debt ceiling. As we learned in the last Congress, this represents a grave risk to the ability of the Federal Government to meet its obligations. In 1995 and 1996, we saw a determined minority, especially in the House of Representatives plan and carry out an effort to hold the President hostage by refusing to agree to lift the debt ceiling unless he accepted all of the details of their budget proposal. The strategy was rejected by the American people, in part because a vote to increase the debt ceiling is simply a vote to pay the bills we owe: it is simply a vote to honor the obligations that the Federal Government has already incurred. Reasonable people may differ on whether we should limit future obligations and by how much, but I hope nobody in this body believes that we should not honor the obligations we have already incurred.

As Secretary of the Treasury Rubin put it in his testimony before the Judiciary Committee:

> The possibility of default should never be on the table. Our creditworthiness is an invaluable national asset that should not be subject to question. Default on payment of our debt would undermine our credibility with respect to meeting financial commitments, and that in turn would have adverse effects for decades to come, especially when our reputation is most important, that is, when the national economy is not healthy. Moreover, a failure to pay interest on our debt could raise the cost of borrowing not only for Government, but for private borrowers from companies to homeowners making payments on an adjustable mortgage.

Just a year ago we witnessed Secretary Rubin forced to use every innovative move within his authority to avoid just such a default while incredibly the Chairman of the House Rules Committee was calling for his impeachment for doing so.

The one road we should never take to a balanced budget is the failure to pay our lawful debts. But, this amendment would make permanent in the Constitution a shift of power to a minority in either House of Congress over the issue of whether we pay our bills for our lawful debts.

Some opponents who have addressed this amendment have emphasized the danger of putting a rigid straightjacket in the Constitution which could deepen an economic emergency. Indeed, more than a thousand distinguished economists, including eleven Nobel laureates have expressed their opposition to such a constitutional amendment for this reason. Some opponents have emphasized the danger of the inclusion of Social Security and the unwise requirement of a supermajority in order to permit the United States to pay its debts. Others have argued, as The Wall Street Journal has, that this amendment is an empty gimmick. While it is true that not all of these flaws can be true at the same time, it is also true that whether it is a dangerous straight jacket, or a dodge which won't work, it's a mistake either way.

Mr. President, if we want to achieve a balanced budget, there is one way to do it. Don't push the problem off onto future Congresses with a balanced budget amendment that doesn't even become effective until 2002 at the earliest. Keep doing the hard work as we have started. Set out a plan with real spending targets, real budget cuts laid out on a program-by-program and year-by-year basis, and real enforcement mechanisms. I believe we are on verge of a plan to reach a balanced budget in 5 years in this Congress. We have lowered the deficit for 4 consecutive years, cutting it by more than half. Let's not be delayed or diverted. Let's do the hard work. At best, this amendment is merely irrelevant to balancing the budget. At worst, it threatens damage to the economy, the Social Security system, and the confidence of the American people in their Government. Either way it's a mistake.

Mr. McCAIN. Mr. President, I rise in strong support of the balanced budget constitutional amendment. Passage of this constitutional amendment to balance the budget is the only way to provide the needed discipline to guarantee our Government's fiscal restraint.

This constitutional amendment simply requires the Federal Government's total outlays not exceed total receipts for any fiscal year. It is important to note that Congress may waive this requirement if 60 percent of each body votes to do so. The amendment can also be waived in times of war. In order to become part of the Constitution, two-thirds of the House and Senate must vote in favor of the amendment, and then it must be ratified by three-fourths of the States.

The facts are clear. History has proven that Washington is incapable of making the tough spending decisions necessary to put our fiscal house in order. Despite endless debate and support for a balanced budget, our Federal budget has not been in balance since Neil Armstrong landed on the moon 28 years ago.

For years, politicians—in Congress and in the White House—have talked incessantly about the need and their desire to balance the budget. Listen to the following quotes:

We must balance the federal budget . . . I shall recommend a balanced budget . . .

—RICHARD NIXON

JANUARY 22, 1970

With careful planning, efficient management and proper restraint on spending we can move rapidly toward a balanced budget—and we will.

—JIMMY CARTER

JANUARY 19, 1978

The path I've outlined is fair, balanced and realistic . . . aiming toward a balanced budget by the end of the decade.''

—RONALD REAGAN

JANUARY 25, 1983

If only talk meant action.

Neither the current rhetoric about balancing the budget nor the momentary good news that our annual deficits have been coming down more than was expected should trick us into believing that we are on the right path.

According to a January 1997 report by the nonpartisan Congressional Budget Office [CBO], the deficit will climb from the current $107 billion to $124 billion this year. And it will not stop there. It will increase to $188 billion in 2002 and reach $278 billion in 2007. In 10 years, without fundamental changes in our spending habits, the deficit will be over 2½ times what it was in 1996. CBO's assessment of these skyrocketing deficits is very disturbing:

The budget deficits projected for the future years are so large that they could put an end to the upward trend in living standards that the Nation has long enjoyed. Thus current U.S. budget policies cannot be sustained without risking substantial economic damage.

Talk about a risky scheme. ''Substantial economic damage''—the CBO report went further, stating that if we fail to bring our deficits to a halt, our economy will enter a period of ''accelerating decline.''

How many warnings will it take to spur us to action? Are there any words strong enough to force us to act?

The number crunchers show us that if we do not act, our children will face tax rates of 82 percent. Talk about taxation without representation. Staggering statistics show that a child born today will have to pay nearly $200,000 in taxes over his or her lifetime just to pay interest on the debt.

Have we completely forgotten Thomas Jefferson's stern warning?

We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.

Mr. President, it is clear we have dismissed the moral implications of deficit spending. We only need look at the buildup of our national debt as proof. Although it took us over 200 years to reach the $1 trillion debt mark, in less than 20 years the debt has grown more than five times. It now stands at a staggering $5.3 trillion. Do you realize to pay off this debt, every family of four would have to pay $1,156 a month for the next 5 years? That is $38 per day.

As more than 200 economists told the Congress in an open letter, in which they urged support to the balanced budget constitutional amendment:

We have lost the moral sense of fiscal responsibility that served to make formal constitutional restraints unnecessary. We cannot legislate a change in political morality; we can put formal constitutional constraints in place.

We have a moral obligation to ensure that our children and grandchildren and their grandchildren are not burdened with backbreaking debt. We are snatching away their prospects of ever achieving the American dream. I was struck by a recent report on generational accounting that showed a child born today will keep just 16 percent of their lifetime wages if we do not change the course of our Government spending. How can we believe that we are preserving liberty and freedom if we are asking our children to surrender 84 percent of their lifetime earnings to feed the Federal trough? I have seven children and three grandchildren. It is simply not fair to my children or anyone's children to pass down this legacy of debt.

Even in this time of some optimism about balancing the budget by the year 2002, there are no assurances that we will actually achieve that goal or that we will keep the budget in balance beyond 2002. One year in balance is not enough. Let us not forget that Congress and the President have been trying with little success to balance the budget for almost three decades.

Time and time again, Congress has passed statutes that were supposed to restore fiscal discipline—the 1990 budget agreement, Gramm-Rudman-Hollings I, Gramm-Rudman-Hollings II, just to name a few. Unfortunately, good intentions have not produced the desired results. Spending targets were adjusted and readjusted. Deadlines came and went. Promises of spending restraint were broken again and again. We cannot afford any more empty promises.

Opponents of this amendment will tell you we do not need this amendment to balance the budget because both the President and the Congress have agreed to work together to balance the budget by the year 2002. Our well-intentioned colleagues should not be lured into this false sense of security that ignores history.

Since 1960, we have had a balanced Federal budget only one time. Why? People in public office like to do popular things. One need only look at the budget fiasco of 1995 to realize that balancing the budget is neither popular nor easily achievable in today's political climate.

The late Senator Paul Tsongas put it best:

If you ask yourself why are these deficits always voted for, the answer is very simple * * * There are a lot of votes in deficit spending. There are no votes in fiscal discipline. What you have here is a sad case of pursuit of self as opposed to pursuit of what is in the national interest. The balanced budget amendment is simply a recognition of that human behavior.

Now, I want to talk for a moment about Social Security. I had hoped that Social Security would have been exempted from the balanced budget constitutional amendment, and I voted twice to remove Social Security from the effects of this amendment. I believe that exempting Social Security—with the caveat that it is administered honestly and we do not turn the trust fund into a slush fund for other Federal spending—would have protected the Social Security trust funds and ensured the viability of the system for our current and future retirees.

At the same time, I fully recognize that exempting Social Security from this amendment would force us to address the need for real spending reductions in other Federal programs. I believe my record on cutting Government spending is pretty clear—I have proven time and time again I am willing to make the tough votes to cut popular programs. However, I am not sure that some of my colleagues who supported the Reid and Dorgan amendments to exempt Social Security would actually be willing to rein in spending by the additional $700 billion necessary to balance the budget without including the Social Security trust funds in the calculations.

Our efforts to exempt Social Security did not prevail. Nonetheless, I will be vigilant in my fight to protect the Social Security trust fund and end this charade of using trust fund moneys to mask the deficit. I know Arizonans do not want their hard-earned dollars invested in the Social Security system to be used for studying cow flatulence, shrimp aquaculture centers, wood utilization research programs, or potato research programs, just to name a few.

Mr. President, I firmly believe that the most serious threat to Social Security at this time is deficit spending and our ever-growing national debt. As Robert Myers, the Chief Actuary of the Social Security Administration from 1947–1970, stated recently:

[T]he most serious threat to Social Security is the federal government's fiscal irresponsibility. If we continue to run federal deficits year after year, we will face two dangerous possibilities. Either we will raid the trust funds to pay for our current profligacy, or we will print money, dishonestly inflating our way out of indebtedness. Both cases would devastate the real value of the Social Security Trust Funds. Regaining control of our fiscal affairs is the most important step that we can take to protect the soundness of the Social Security Trust Funds.

Mr. President, that is exactly what the balanced budget amendment would do—it would force us to control our fiscal affairs. Passage of this amendment in the Senate is only one small step toward fiscal responsibility. This amendment still has a way to go before becoming part of our Constitution—the

most sacred and important document underpinning our Nation's history and Government. A tough vote awaits in the House, and then three-fourths of the States must ratify the amendment.

But we must move this process forward. The mere fact that this amendment has been trapped in Washington for so many years proves just how out of touch we are with those we supposedly represent. Poll after poll of the American people shows the balanced budget amendment winning approval ratings of nearly 80 percent. Yet, Washington politicians want to keep this debate inside the beltway, probably because they fear what might happen if we let the people decide.

What are the opponents of this amendment afraid of? Quite simply, they are afraid that it will pass. I can understand why they are scared. You see, many are spending addicts who have built their entire political careers spending other people's money on their own priorities. They do not want to part with their Federal credit card that has no limits and never comes due. They hide behind excuses about why a constitutional amendment requiring a balanced Federal budget will not work. They say they support a balanced budget amendment, just not this one. Or they talk about balancing the budget, but refuse to actually do it.

In short, they want to protect themselves from making tough spending decisions. They prefer the status quo.

Opponents of this amendment probably understand best the real effect of this amendment. They understand that it will be a straitjacket on spending.

However, let me be perfectly clear that nothing in the balanced budget amendment precludes Congress from continuing on our current path. We could still deficit-spend even with this amendment in effect, so long as 60 percent of each House votes in favor of doing so. Granted, this would be a tougher hurdle to clear. But why not force Congress to live up to a higher standard, to be more accountable, when the future prosperity of our country is at stake.

Finally, the games that politicians in Washington have long played will be exposed for what they really are—to use a favorite phrase of President Clinton and Vice President Gore from the election—a ''risky scheme'' that threatens to devastate Social Security, Medicare, education, and the environment.

Passage of this amendment would finally force Washington to do what needs to be done, namely, determine our long-term spending priorities; address projected deficits in important programs; shift power back to the States, local communities, and families; and provide incentives for savings and investment. Perhaps the real fear of this amendment's opponents is that President Clinton's own words would finally come to fruition—the era of big government would be over.

Mr. President, we cannot allow career politicians seeking to preserve their own interests to hold this amendment hostage any longer. In State Houses across the country, we must begin the debate about whether the Federal Government should be forced to live within its means.

I call on every American to read carefully this proposed constitutional amendment. Do not be fooled by the scare tactics of those who cannot control their hunger for Federal spending. Decide for yourself whether it will help or hurt our current state of fiscal affairs.

It is time for real Americans to closely examine all the what ifs and the excuses about why we should pass this disciplinary tool, and see if they hold water. Unfortunately, we know all too well that all of the what ifs and excuses cannot erase the facts.

In January 1995, the Bipartisan Commission on Entitlement and Tax Reform, chaired by Senators BOB KERREY and John Danforth, warned us that in the year 2012, projected spending for entitlements and interest on the national debt will consume all tax revenues collected by the Federal Government. By 2030, projected spending for Medicare, Medicaid, Social Security, and Federal employee retirement programs alone will consume all our tax revenues, leaving us nothing to educate our kids, keep our streets safe or protect our environment.

The warnings are clear. Time is wasting. Since we last voted on the balanced budget amendment in June 1996, our national debt has increased nearly $200 billion. We would be wise to remember the words of one of our great founding fathers, Thomas Jefferson:

> I place economy among the first and most important of republican virtues, and public debt as the greatest of dangers to be feared.

I hope my colleagues will pay heed to Jefferson's sage advice and support the balanced budget amendment.

Mr. KERRY. Mr. President, this has been an unusually enlightening—if a bit protracted—debate. We have had this discussion before on a number of occasions and I assume we will have it again during this Congress. It is my fervent hope that emerging from all this discussion will be a general understanding on the part of the American people that there is a discernable difference between a balanced budget amendment to the Constitution and a balanced budget itself.

Mr. President, this amendment is as fundamentally flawed this year as it was last year. As it is currently drafted, I cannot support it.

I have come to the floor previously to discuss the detrimental effects of this proposed amendment to the Constitution.

I have discussed at length the particularly odious issue of the amendment's supermajority requirement. As I have illustrated in the past, Mr. President, the most compelling arguments against this amendment as drafted come from the real experts, the Framers of the Constitution. I would contend that were they here on the floor of the Senate today, they would to a person vote against this amendment because it violates the Constitution's most basic tenet—majority rule.

I have researched this issue, Mr. President; allow me to review it briefly. In Federalist 22, Alexander Hamilton called a requirement for a quorum of more than a majority poison for a deliberative body. Poison, Mr. President, is Hamilton's word, chosen by a Founding Father of our democracy, not this Senator from Massachusetts in 1997.

Let me explore Hamilton's thought further. He elaborates pointedly that:

> The necessity of unanimity in public bodies, or something approaching toward it, has been founded upon a supposition that it would contribute to security. But its real operation is to embarrass the administration, to destroy the energy of the Government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority.

Hamilton, Mr. President, was concerned that the requirement of more than a majority would allow the minority to rule simply by not showing up. ''This situation,'' he said, ''must always savor of weakness—sometimes border on anarchy.''

Harsh words, Mr. President, but again, not mine. They were written two centuries ago but could not be more prescient and more appropriate for this debate.

Knowing his thoughts on the issue of a supermajority quorum, how do you think Hamilton would vote if he stood among us today?

And how do you think Hamilton and the rest of our Founding Fathers would feel if they knew that a collection of Members of Congress could pass a constitutional amendment which contains a provision allowing it to be waived? Mr. President, the notion that a part of our most fundamental document of law can be set aside for a time is ludicrous and anathema to the very reasons for having such a governing document at all. That's not to say that, given the wording of this constitutional amendment proposal, the capability to waive is not needed; emphatically, it is. But that necessity does not remove the strong undesirability of permitting a waiver of a provision of our fundamental governing document.

Mr. President, if that is not enough to dissuade Senators from supporting such a poorly drafted amendment to our Constitution, let me explore further what is wrong with the proposal before us. I have come to the floor previously and discussed the inherent and unprecedented problems with a process which would lead to the Congress ceding to the judiciary the power vested in it by the citizenry of this Nation to formulate a budget.

Last year when we considered this amendment, Walter Dellinger, an assistant attorney general, testified before the Judiciary Committee. Let me remind my colleagues of his analysis. He testified that:

should the measure be enforced by the Judiciary, it would produce an unprecendented restructuring of the balance of power between the branches of government. If it proves unenforceable, it would create a quite different but equally troubling hazard; by writing an empty promise into the fundamental charter of our government, it would breed cynicism about our government and diminish respect for the Constitution of the United States and for the rule of law.

The distinguished professor of law Archibald Cox concurred with this view. He states that this amendment:

would spawn disputes and charges of violation without providing either the means of resolving the disputes or remedies for the actual threatened violations, except to bring the courts * * * into a field for which they are totally unequipped by experience.

Indeed, the courts are totally unequipped by experience, Mr. President, to contend with this amendment should it be made part of our Constitution. Unelected judges would be forced to order the Government to reduce or stop paying benefits—like Social Security or Medicare—or to cut Federal spending. Perhaps the current majority in the Senate has no dispute with that. But think of it, Mr. President, unelected judges also could order Congress to increase taxes to enforce the constitutional requirement to balance the budget. And this has happened in our country, I tell my friends on the other side of the aisle, in the case of Missouri versus Jenkins.

But Mr. President, what I believe most renders this amendment as drafted unacceptable is that it would achieve the exact opposition of its ostensible intention.

I suppose the proponents believe that this amendment to the Constitution would restore and demand fiscal discipline of the Congress and the Government. But, Mr. President, deficit reduction, in and of itself, is not an economic policy. The jagged, complex, and sometimes unpredictable nexus between fiscal and monetary policy forces us to maintain comprehensive economic foresight and vision—be vigilant of budget constraints, mindful of the markets, cooperative with our chief trading partners, careful with inflation and unemployment, responsive to the needy, and watchful of the business cycle.

Those are the ingredients of the plan the Democrats enacted in 1993. That's why we reduced the deficit by two-thirds in 4 years. By 1996, the Federal deficit had shrunk to 1.4 percent of the gross domestic product from 4.7 percent in 1993. That's why inflation and interest rates and unemployment are at an all-time low. That's why the market is breaking records. That's why the current economic expansion is one of the most prolonged positive business cycles in this century. And, that's what makes the current debate on this amendment all the more ironic.

Economist after economist including Nobel laureates and Alan Greenspan will tell you that this amendment, as drafted, will wreak havoc on the Nation's economy. The amendment before us requires the budget to operate at balance or surplus, whether economic growth is strong or weak. It requires a balanced budget even if economic growth is negative. Let me take a moment and explore the consequences of that, Mr. President.

One of the greatest economic achievements of the 20th century has been the unglamorous but vital responsive economic system installed by the U.S. Government in the aftermath of the Second World War. It is obvious in periods of stagnant economic growth that revenues rise more slowly. Higher unemployment, fewer people working, fewer people paying taxes; slower growth, economic and business contraction, fewer companies paying taxes. Mr. President, this is not difficult to understand. When these unfortunate economic slowdowns occur now, we have a system which alleviates some of the pain felt by individuals and companies, and eases us back into economic growth. Federal spending increases—especially on programs like unemployment insurance—and outlays necessarily exceed revenues. That is economic sense, Mr. President.

This amendment, as it is drafted, works against economic reality and risks making recessions more frequent and turning recessions into depressions. And I make this statement not based on economic theory cooked up in an ivory tower or a think-tank downtown. I make it based on the real-life experience of this country during the dark days of the 1930's. After the stock market crashed in 1929, revenues dropped and Congress pursued an economic program which consisted of spending cuts and tax increases: the exact course which this amendment would dictate. What was the result then, Mr. President? This country experienced its most destructive depression. The spending cuts and tax increases drained purchasing power from the country and helped make the downturn deeper. This amendment will exacerbate the natural business cycle of expansion and recession.

Since the Great Depression and World War II, we have made enormous progress in reducing the rollercoaster of the boom and bust cycles and this amendment would strip us of that progress and its protections. It would remove the fiscal buffer the Federal Government has in place and leave the States and individual Americans and American companies to bear the brunt of economic downturns.

The former Director of the Congressional Budget Office, Robert Reischauer, agrees. He argues:

A balanced budget rule could make it even harder to conduct discussions of policies on their own merits, and could lead to distortions of policies simply to meet budget goals. * * * Burdens might be shifted to State and local governments or to the private sector even when the public good would be enhanced by keeping the programs at the Federal level.

Well, Mr. President, my State can't handle this. For the last two decades, Massachusetts has been a recession-prone State. In the late 1980's, the economy of New England collapsed. While we have crept out of the ruins of unemployment and business loss, we must be vigilant not to return. Back in the 1980's and early 1990's, I fought hard to alleviate the recession in Massachusetts by continuing the flow of Federal dollars into the Commonwealth and easing its credit crunch. Mr. President, Federal funds were instrumental in jump-starting economic growth in Massachusetts: My home State receives more Federal funding than 43 other States on a per capita basis and 17 percent more than the average State. Massachusetts State secretariats are highly dependent on Federal expenditures to help residents of the State overcome the negative effects of recessions: In the last fiscal year, Federal dollars provided nearly 80 percent of the funding for Massachusetts' Health and Human Services secretariat, 77 percent of the education secretariat budget, more than half of the housing and community development budget and 43 percent of the transportation and construction spending.

If an amendment to the Constitution mandates a balanced budget and my State experiences an economic downturn, it will be at the mercy of the supermajority of 65 Senators who would have to join me and Senator KENNEDY in releasing more funds, if necessary, to combat that recession and prevent it from wreaking greater havoc.

Again, Mr. President, this is not pie-in-the-sky speculation. The Commonwealth Center for Fiscal Policy predicts that ''a fiscal crisis looms for Massachusetts.'' Our fragile State economy will be tested at a time when the Federal Government continues to threaten cuts to vital transfer payments to States.

Mr. President, I oppose this amendment as it is drafted for all the constitutional and economic reasons I have outlined. Before I conclude, I must note to my colleagues that I find it enormously ironic that over the next few weeks, we will all line up to vote for one budget or another that balances by the year 2002. In fact, the President has already submitted his plan and it is, as far as I know, the first one on the table to reach balance by that date. I have not yet seen any plan from my Republican colleagues, but I am confident that when they assemble one, it, too, will balance by 2002. So, you see, Mr. President, we all agree on that. Isn't it ironic that now, of all times, the drumbeat for a constitutional amendment grows louder? Mr. President, where was that drumbeat in the 1980's, when President Reagan was running unprecedented deficits? When no balanced budget was in sight?

Let us call this exercise what it is and get back to work to restore fiscal responsibility the old-fashioned way—through hard work, not by headline grabbing. I yield the floor.

Mr. BAUCUS. Mr. President, I rise in support of the balanced budget amendment.

Amending our Constitution is not an action that anyone in this body should take lightly. I did not reach my conclusion without a great deal of thought and consideration.

It is time for Congress to pass this amendment and open it up to the scrutiny of the State legislatures, the Governors, and the citizens.

A BRIEF HISTORY

''MAX, Congress needs to get its act in gear. We need to balance the budget.'' Four years ago I heard that everywhere I went in Montana. It didn't matter if I was out on one of my workdays or at the county fairs; spending time on a dusty ranch, or in the growing cities.

The deficit had ballooned to $290 billion and it showed no signs of shrinking. The deficit was not only running up our national debt, it was eating away at the public's confidence in their Government.

Then, 4 years ago, an interesting thing happened. Congress passed, and President Clinton signed, a budget that actually cut our deficit. And now for the past 4 years we have shrunk the deficit. Last year the Congressional Budget Office estimated that the deficit was down to $107 billion.

We can all agree that these are steps in the right direction. But not is not the time to start patting ourselves on the back.

These steps toward solvency are not enough. Montanans still tell me that balancing the budget is one of their highest priorities. And it should be our top priority.

I have worked toward a balanced budget for a long time. I believe that we need to cut spending, eliminate Government waste, and to create a Tax Code which is fair to Montana families.

I have often been in pretty small company as I have worked for the first of those priorities—cutting spending. In 1984, I was joined by former Senator Kassebaum, and Senators GRASSLEY and BIDEN in sponsoring an across-the-board freeze on all Government spending. This 1-year freeze got just 33 votes. While it would have caused pain in Montana, it spread the cuts out to many programs and shared the pain. That's how this process must work if we are to get to a balanced budget.

In 1986, I was the only member of Montana's congressional delegation—and the delegation was 33 percent larger then—to vote for the Gramm-Rudman-Hollings act. That bill required Congress to meet a set of progressively lower budget targets each year. But that bill included no plan to get us to our targets.

I was just one of 31 Senators to join Senator KERREY in 1994 on a bill to cut $9 billion from a number of programs. This package included cuts to programs which benefit Montana, like the food aid programs which help our wheat farmers and the honey program. And the means testing for Medicare part B would have increased medical expenses for some Montanans. But it was fair and it represents the task before us. There are no simple cuts.

I have fought Government waste for years. I have long opposed the star wars defense system and the space station. In the 103d Congress, as chairman of the Committee on the Environment and Public Works, I cut $120 million from the Federal courthouse construction budget. Prior to that I worked with then-Senator DeConcini to cut $50 million from the CIA's National Reconnaissance Office after we caught them wasting money on a building with a fountain and a sauna. I am not a newcomer to this fight.

RATIONALE

On this floor there has been a lively, principled debate about if, when, and how easily this country should run a deficit.

I do believe that in times of crisis, such as an act of war, we should be allowed to run a deficit—temporarily. The last time there was a balanced budget or a budget surplus was fiscal year 1969. We have been running at a deficit for 28 years now—through three expansions and two recessions. To run a deficit for that long—without a clear and pressing need—is wrong.

The time to balance the budget is now.

RESERVATIONS: SOCIAL SECURITY

I also recognize that we have a commitment to Social Security that we cannot ignore. Many Montanans and Americans depend on these benefits when they retire.

We are all aware of the far-reaching budget consequences that will result when my generation, the baby boomers, reaches retirement age. The strain on the system will be unprecedented, but not insurmountable. Through careful planning we can preserve Social Security for all.

However, I fear that it would only be a matter of time before a mid-year scramble to meet budget requirements would lead some legislators to consider cutting benefits. We cannot let that happen. We must protect the Social Security system for our Nation's seniors. I will work very hard to do just that.

CONCLUSION

So I urge you all to speak to your constituents. Look deep within yourselves and examine your values. Amending our Constitution is—by design—a difficult task. Something that cannot be done on a whim.

I have thought long and hard. And I've concluded that we need to make a clean break with the past. We need to establish a new ethic of responsibility.

As I said earlier, there has been a lively and principled debate here on the Senate floor. It is now time to expand the debate. Let the people decide. I am confident that they will be as cautious and thoughtful as we have been.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I know that we are supposed to break at 12:30 unless with consent the managers get more time.

What is the time situation for the distinguished Senator from Utah and the Senator from Vermont?

The PRESIDING OFFICER. The Senator is correct. The Senator from Vermont has 2 minutes and 50 seconds remaining. The Senator from Utah has 5 minutes 40 seconds remaining.

Mr. HATCH. It is my understanding that the distinguished Senator from Texas would like to speak. I think he is on his way. As soon as he arrives, I would be happy to yield whatever time I have to him.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, how much time does the Senator from Vermont have?

The PRESIDING OFFICER. The Senator from Vermont has 2½ minutes, the Senator from Utah has 3 minutes 20 seconds.

Mr. LEAHY. I ask unanimous consent that the Senator from Utah and the Senator from Vermont be granted an additional 5 minutes each prior to breaking for the caucus lunches.

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

Mr. LEAHY. Mr. President, I yield 6 minutes to the distinguished Senator from New Jersey [Mr. TORRICELLI].

The PRESIDING OFFICER. The Chair would note that in 6 minutes the hour of 12:30 will have arrived and the Senate will then stand in recess.

Mr. LEAHY. No. Mr. President, the unanimous consent was that we go beyond that time.

The PRESIDING OFFICER. If that is the understanding, if there is no objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. TORRICELLI. I thank the Chair.

I thank the Senator from Vermont for yielding.

Mr. President, several days ago, in an unfortunate and I believe in an intemperate moment that does not characterize the distinguished majority leader, he made some regrettable comments with regard to Members of this institution who as a matter of conscience have decided they either needed to change or oppose the resolution offered by the Senator from Utah.

I will not respond in kind to Senator LOTT's comments, but I do find it necessary today to rise to address once again the question of the balanced budget amendment. The issue was raised whether those of us who have

supported a balanced budget amendment were keeping faith with our commitments to our constituents by opposing this resolution today.

I would remind Senator LOTT that not only have I supported a balanced budget amendment but last week I voted for a balanced budget amendment. It is simply not the version he preferred.

I rise also, Mr. President, because I do believe as well there is a burden that has not been met in this institution to those of us who support a balanced budget amendment. And that is the concern raised by the Treasury Department. The amendment as currently drafted would forever preclude the development of a capital budget by the U.S. Government. We have asked the majority to address how in voting for a balanced budget amendment this concern could be accommodated. We have been met by silence. We have asked to have addressed the concerns of the CRS and the Treasury Department of how we could ensure the integrity and the continuance of our obligations to those on Social Security, and it has been met by silence.

But most interestingly, last week during his otherwise unfortunate comments, we were assured by the majority leader that efforts were now being taken to reach an accommodation on Senator FEINSTEIN's concerns about the development of a capital budget, Senator JOHNSON's concerns about the protection of Social Security, and my concerns with each, including the ability of the United States to defend itself militarily and to deal with serious economic recessions. Each of us waited since Mr. LOTT's comments of last Friday for this attempt at reconciliation. I was certain, based on Senator LOTT's comments repeated again in the news on Sunday, that there was a decision to seek some accommodation that would allow all of us who believe in a balanced budget amendment to vote affirmatively today.

I regret to inform my colleagues that I have received no such communication. I know of no other Member of the Senate who has received such communication. I assume, therefore, that either Senator LOTT misspoke or, somehow, there was something disingenuous about his offer. Because my concerns remain. I have voted for a balanced budget amendment to the Constitution last week. I would vote for this, but, like Senator JOHNSON, like Senator FEINSTEIN, I have real and lasting concerns.

I want to know that if there is military aggression against the United States, we are able to respond with other than a declaration of war. I offered an amendment to accommodate those security interests. It was defeated. I remain interested, and I believed I was going to receive from Senator LOTT some communication to accommodate it.

I remain concerned that, in a serious economic recession or depression, the U.S. Government is able to respond, to provide for economic needs. I believed, in Senator LOTT's communication, he was interested in accommodating that concern. It has not happened.

And I remain concerned, like other Members of the Senate, how we can ensure the integrity of Social Security and maintain that commitment to our constituents, and how, indeed, we could provide in the future for at least the possibility of a capital budget.

Mr. President, now, only hours before the vote, I am left with this question. It seems to be relatively simple to reach some accommodation, to engage in some compromise, to reach the concerns of at least one Senator on at least one of these issues. The question, therefore, before the body is this: Did Senator LOTT really ever seek to win this fight, or is this an attempt to amend the Constitution that was never really designed to succeed? We have waited these several days to hear what compromises or new communications the majority leader wanted to share with Members of the Senate. Since none have been received, I assume none were ever intended.

I have said previously that I believe the Senator from Utah has a good amendment. I also concluded that good was not good enough in dealing with an amendment to the Constitution of the United States. The Senate can do better. National security, severe economic recessions, and the integrity of Social Security are real and lasting concerns.

My commitment to my constituents is to use my best judgment. My best judgment is that there should and can be an amendment to the Constitution of the United States to provide for a balanced budget. But we accomplish nothing, indeed, do a disservice to the United States, if we cannot accommodate the real possibility of dealing with military and economic emergencies, and the genuine concern of our constituents in dealing with the problems, potentially, of interrupting Social Security checks.

Therefore, Mr. President, with regret, I rise to inform my colleagues that what I supposed was an effort at accommodation was never tried and, therefore, inevitably failed.

I thank the Senator from Vermont for yielding time.

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

Mr. HATCH. Mr. President, I yield the remainder of my time to the distinguished Senator from Texas, who has played a significant role in this and who is one of the brightest people to ever sit in Congress with regard to budgetary matters.

Mr. LEAHY. Is it my understanding, Mr. President, at that time, then, all time would be expired?

The PRESIDING OFFICER. The Senator is correct. The Senator from Vermont has 1 second remaining.

Mr. GRAMM. How much time is there remaining?

The PRESIDING OFFICER. Seven minutes.

Mr. GRAMM. Mr. President, first let me thank our dear colleague from Utah, Senator HATCH, who has been a great and effective leader on this issue. We would not be where we are—that is, as close to the goal line as we are—without him.

Our Senate Democratic colleagues are concerned. We hear it everywhere. They are really concerned. I went back this morning and looked at every amendment they have offered to the balanced budget amendment to the Constitution of the United States and found that they are so concerned that they have offered amendments on the floor of the Senate to exempt 95 percent of the domestic budget from the balanced budget requirement. They are so concerned about balancing the budget that they think 95 percent of the things we spend money on domestically ought to be exempt. They are so concerned about Social Security that they believe we ought to continue to pile up debts.

We balanced the budget last in 1969. Since 1969, we have piled on some $4.8 trillion worth of debt. In fact, just on the debt we have incurred since 1969, the last year we balanced the budget, we paid a gross interest payment of $320 billion last year. And the Democrats are very concerned. They are concerned that if we do not keep piling up debt, we may not pay for Social Security. But, since 1969, in piling up $4.8 trillion worth of debt, we are paying more interest on that debt than we are paying for Social Security retirees today.

Our Democratic colleagues are so concerned, they remind me of someone who would be advising young parents, who have very small children, who want to be able to afford for them to go to college—who might advise those parents, saying: Don't get in the habit of balancing your budget because then you may not send your children to college.

How in the world can anybody with a straight face—and I understand politics—but how can anybody with a straight face stand on the floor of the U.S. Senate and say we are in a better position to protect Social Security today, paying $320 billion of interest payments per year on the debt piled up since 1969, than we would have been if we had never incurred that debt, when the interest payment is bigger than what we are paying into Social Security for retirees? Does logic have no meaning?

Finally, there is the argument about, well, this is not perfect. This just is not quite perfect. Let me say to my colleagues—and this is an experience I have had in working with Senator HATCH—we have been trying to find perfection here. You know, the Founding Fathers didn't find it. If those who remember the story of the miracle at Philadelphia will remember back, when Franklin stood to speak he said that he

didn't believe what they had done was perfect, but he doubted that they would do better.

I have found that every time we try to find perfection, every time we try to offer to accept this concern that our Democratic colleagues have, they end up backing away from it. There is no one so unconvincible as a person who will not be convinced.

So, I think it is important that the American people understand some basic facts about all we are going to do today, since the balanced budget amendment to the Constitution is going to fail by one vote. Two Members, who voted for this very amendment in the House and who campaigned for it, are going to cast votes to kill it today. What are we getting out of all this? Let me tell you what the lesson is to the Nation. There are 55 Republicans in the Senate, and every one of them—and I am proud to say every one of them—is going to vote for the balanced budget amendment to the Constitution of the United States. Our Democratic colleagues, in their concern for everything but deficit reduction, have offered amendments to exempt 95 percent of all domestic spending from the balanced budget. How can you balance the Federal budget when you don't count 95 percent of the domestic items that the Government spends money on?

The plain lesson here is this: Despite all we say in our campaigns, despite the fact that there are so many who want the public to listen to what they say at home and not look at what they do in Washington, the bottom line is, over and over and over again, what our Democratic colleagues have shown is that they are not for a balanced budget amendment. How can you vote to exempt 95 percent of the budget from the balanced budget amendment and be for it? You can always find an excuse to not balance the Federal budget. You can always be for it in the abstract and not in reality.

What I want America to get out of this 3-week debate that we have had is, there is a clear difference. There is a clear difference. Republicans, I am proud to say, are absolutely united, 55 out of 55, in favor of requiring, constitutionally, a balanced budget.

This is not our idea. Thomas Jefferson had come back from France where he had been Minister to France during the Constitutional Convention, and when he first saw the Constitution, he said if he could change one thing, he would limit the ability of Government to borrow money to incur debt. And we are here today, over 200 years later, trying to fix this problem in the Constitution.

Some say this is not perfect. Some say, ''Shouldn't we exempt all these programs?'' What is more important than the future of our children? A baby born in America today, if this current trend of spending continues—and it will without this amendment—will pay $187,000 of income tax during their working lifetime just to pay interest on the public debt.

When does it end? Obviously, in the minds of our Democratic colleagues, not today. We are going to pass a balanced budget amendment, but I am very concerned that we are not going to pass it until we have a financial crisis, until we are all brought to our senses that this debt binge that we are on, mortgaging the future of our children, taxing people yet unborn to pay benefits to people today, has to end. I wish it were ending today. It is a profound disappointment.

I yield the floor.

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

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, has all time expired on the pending issue?

The PRESIDING OFFICER. The Senator is correct. Under the previous order, the Senate is set to go into recess.

Mr. MURKOWSKI. I ask unanimous consent that I may speak in morning business for 5 or 6 minutes.

Mr. LEAHY. Reserving the right to object.

Mr. MURKOWSKI. Not on this subject.

Mr. LEAHY. Reserving the right to object, and I will not object, if—I want to accommodate my friend from Alaska—after that, we then recess for the party conferences. If he can include that in his unanimous consent request, I have no objection.

The PRESIDING OFFICER. Is there objection to the request as propounded? Without objection, it is so ordered.

NUCLEAR WASTE

Mr. MURKOWSKI. Mr. President, I rise to inform the Senate of recent events which relate to the nomination of Federico Peña to be Secretary of the Department of Energy. I would like to state up front, the issue is not Mr. Peña's qualifications, the issue is whether or not Secretary Peña will have the ability to work with Congress to solve the nuclear waste problem. As you know, I have been working for the past 2 years to find a solution to the Nation's nuclear waste storage problem. Currently, civilian nuclear waste is piling up in 41 States at 80 reactor sites and defense facilities around the country.

We have waited many years for a solution—we cannot wait any longer. There is a critical need right now to find a safe central storage facility to eliminate the current threat to the environment and to the American people posed by existing storage.

The administration's position has been that it would not support any nuclear waste legislation until Yucca Mountain has been found viable as a permanent repository. An event which was not scheduled to occur until late in 1998. This position completely ignored the fact that a Federal court had ruled that the Department of Energy was required to take title to the waste in January 1998.

This administration's attitude toward nuclear waste storage is improper, irresponsible, and unacceptable. The American people deserve better.

I looked forward to working with the new Energy Secretary in the post-election spirit of bipartisanship. Indeed, when Mr. Peña testified during his confirmation hearing on January 30 that he would work with Congress to find a solution for nuclear waste storage, I was encouraged.

I was hoping to open a real dialog with the administration to explore possible compromise.

However, before the committee voted on Mr. Peña, the summit between the President and congressional leaders took place on February 11. Because I was encouraged by Mr. Peña's statements at his confirmation hearing, I asked Senator LOTT to raise the nuclear waste issue at that meeting. It was already an issue which had broad bipartisan support in Congress.

I was extremely disappointed when I received a report of what happened when Senator LOTT attempted to raise the issue. The Vice President said words to the effect: ''That waste is going to stay right where it is until we have a permanent place to put it.'' He went on to say that he thought the meeting was to discuss items on which compromise was possible and nuclear waste was not such an item.

I found that to be a totally irresponsible position on the part of the Vice President. It also demonstrated a complete insensitivity to one of our most urgent environmental problems and ignored the contractual commitment. The Vice President had categorically ruled out safe, centralized interim storage. He said ''leave it where it is.''

I had planned to go ahead with a markup of the reintroduced nuclear waste bill and the Peña nomination the very next day, February 12, but I canceled that business meeting in an attempt to see if the new Secretary would have authority to work with Congress on the impending nuclear waste crisis.

Again the issue was not Mr. Peña's credentials, it was a question of would he have the power and authority as Secretary to work with Congress on the nuclear waste problem.

During the following week, I requested a meeting with White House Chief of Staff, Erskine Bowles, to discuss this matter. That meeting occurred last Tuesday.

I asked Mr. Bowles if there was any way the administration could start a dialog to find a responsible solution to our disagreement on the waste issue. Mr. Bowles said he would look into it and get back to me. The meeting was cordial and I had hoped productive.

Mr. Bowles got back to me last Wednesday morning by telephone. It

was a short conversation. I was told that there would be no discussions at all on nuclear waste until after Mr. Peña was confirmed. Let me repeat that—no discussions at all on nuclear waste until after confirmation.

This is the message from an administration which has had its head in the sand on this issue for 4 years. They have refused to discuss or take any kind of responsible position on this issue, yet they want me and the rest of the Senate to move forward on the nominee which will have responsibility over nuclear waste policy.

A nominee, who when Secretary, would have absolutely no authority to even discuss areas of compromise.

It's no wonder Secretary O'Leary waited until she was free from the administration to articulate her support for centralized interim storage. A CQ Monitor story last week reported ''O'Leary blamed * * * opposition [to interim storage] on White House officials connected with Vice President AL GORE. She said they see the issue more in political than technical terms.'' ''You'll get more clarity from someone like me outside the system,'' O'Leary said. Unfortunately, we cannot wait until the next Secretary leaves office before we hear his views on this subject.

Safe nuclear waste storage should not be a political issue. It is a scientific issue and an environmental issue—and we need a solution now. Sadly, the administration has turned a blind eye and a deaf ear.

In addition to threats to the environment and safety, 20 percent of our electric generating capacity is at risk—20 percent. Starting in January 1998, there is a substantial likelihood that American taxpayers will either be paying for or be deprived of billions of dollars a year as a result of this administration's inaction. That's right, Mr. President, estimates of the Federal Government's liability under a recent lawsuit brought by the States run between $40–$80 billion.

Inaction is not an option. Inaction is irresponsible.

Mr. President, I have not asked the administration to change its position prior to Mr. Peña's confirmation. I would like that, but I'm trying to be reasonable. I have identified areas where S. 104 can be modified to alleviate concerns. I am working with Democratic colleagues on the committee to address some of their concerns. I would like to have the same opportunity for dialog with the administration.

Contrary to some White House leaks, that dialog has not been linked to any specific Alaska issue and it has not been about Mr. Peña's qualifications. It has been largely about the administration's lack of a plan to accept the waste by 1998. Americans have paid $12 billion into the fund.

I look forward to working with a Secretary of Energy who can work with me and other Members of Congress on the nuclear waste problem. It is very hard to explore compromise if one side won't talk.

It is also hard if one of the sides ducks the issue for years, and won't take a position until it is forced to.

The Vice President says no talk and no interim storage. Period. He says ''Leave it where it is''—in 41 States. Other elements of the administration seem to want to be more cooperative.

It took a meeting with Mr. Bowles, a lot of other conversations, and a couple delays in the confirmation vote to get them to focus on this important safety and environmental issue. The national news attention has also raised visibility.

Now, they seem willing to face the issue. And they are beginning to sort out their real position. The current policy squabble inside the administration suggests it is finally facing up to this pressing issue.

I received a letter from Mr. Bowles. It signals that the administration is willing to engage in constructive dialog; it comes close to finally articulating a policy; and it contradicts the Vice President's non-policy policy of leaving the waste where it is until the final repository is built.

I am pleased to receive the letter. After 2 years, I think we finally may have a real dialog. The letter says Mr. Peña will have the portfolio to talk and work with Congress.

I ask unanimous consent that Mr. Bowles' letter be printed in the RECORD.

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

CHIEF OF STAFF TO THE PRESIDENT,
The White House, February 27, 1997.

Hon. FRANK MURKOWSKI,
Chairman, Senate Committee on Energy and Natural Resources, US Senate.

DEAR SENATOR MURKOWSKI: The Administration is committed to resolving the complex and important issue of nuclear waste storage in a timely and sensible manner, consistent with sound science and the protection of public health, safety, and the environment. The Federal government's longstanding commitment to permanent, geologic disposal should remain the basic goal of high-level radioactive waste management policy.

The Administration believes that a decision on the siting of an interim storage facility should be based on objective, science-based criteria and should be informed by the viability assessment of Yucca Mountain, expected in 1998. Therefore, as the President has stated, he would veto any legislation that would designate an interim storage facility at a specific site before the viability determination of a permanent geological repository at Yucca Mountain has been determined.

Following confirmation, Secretary Pena has the portfolio in the Administration to work cooperatively with the Committee and others in Congress on nuclear waste disposal issues within the confines of the President's policy as stated above. Secretary Pena will also be meeting with representatives of the nuclear industry and other stakeholders to discuss DOE's response to a recent court decision on the Department's contractual obligations regarding nuclear waste.

Sincerely,

ERSKINE B. BOWLES.

Mr. MURKOWSKI. Mr. President, based on Mr. Bowles involvement and the good faith commitment by the administration to treat this as a policy and not a political issue, I am announcing the Committee on Energy and Natural Resources will vote on the nomination Thursday at 9:30 a.m.

We look forward to resolving our differences with the administration and moving forward with legislation addressing the nuclear waste crisis by the end of this month.

I look forward to working with Mr. Peña to stop the irresponsible policy of piling high-level radioactive waste at 80 locations in 41 States, near our homes and schools.

Taxpayers are being exposed to billions of dollars in liability and American ratepayers are being cheated out of the $12 billion they have paid into the nuclear waste fund.

Let's get on with it.

RECESS

The PRESIDING OFFICER. Pursuant to the unanimous consent agreement, the Senate now stands in recess until the hour of 2:15 p.m.

Thereupon, at 12:48 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. There will now be 1 hour for debate under the control of the manager on the Democratic side with the first 20 minutes under the control of the Senator from West Virginia [Mr. BYRD].

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, would the Presiding Officer give me what the parliamentary situation is?

The PRESIDING OFFICER. Under the previous unanimous consent agreement, 1 hour of time is reserved at this point under the control of the manager on the Democratic side with 20 minutes allocated to the Senator from West Virginia.

Mr. LEAHY. Mr. President, while we are waiting for the Senator from West Virginia to arrive—and my understanding is there is not someone on the other side now asking to speak—I will, within the time on this side, continue some comments I made earlier this morning.

I talked about the fact that the amendments were, in almost lockstep fashion, knocked down by the proponents of the constitutional amendment. I was concerned about that because even many of the supporters of a constitutional amendment spoke in their testimony before the Judiciary Committee of the basic flaws in this amendment as worded.

When we go to amend the Constitution of the United States, the constitution of the greatest democracy in history, we have at least an obligation to our Nation, and certainly to the Constitution, the bedrock of our democracy, to do it in an understanding way, not as some kind of a slapdash, bumper-sticker, sloganeering fashion that raises more questions than it answers.

The amendment before us leaves wide open questions of Social Security and how that is going to be handled. It leaves wide open the questions of a capital budget.

Just before we recessed for the caucuses, a proponent of the balanced budget amendment spoke about Thomas Jefferson and how Thomas Jefferson said that he would have liked to have had a balanced budget amendment. Well, now, let us stop to think about this. Thomas Jefferson borrowed an amount that was equal to twice the budget of the United States for the Louisiana purchase. I mean, this would be like borrowing trillions of dollars today.

Had President Jefferson had a balanced budget amendment, certainly one like this, he would not have been able to do that. North Dakota would have had the chance to speak Spanish, not English. Our European-sponsored wars probably would have taken place on our continent. Certainly the United States would not be a country described as ''from sea to shining sea.''

These are some of the historical, as opposed to hysterical, facts in this debate.

Senator DODD offered an amendment that pointed out another serious flaw in the language of the proposed constitutional amendment. Section 5 of the proposed amendment requires the United States to be engaged in military conflict before a waiver may be obtained. Moreover, the Senate report compounded the problem by indicating that only certain kinds of military conflict may qualify. Only military conflict that involved the actual use of military force may serve as the basis for this waiver.

Senator DODD's amendment exposes the folly of this language. It would create constitutional circumstances making military spending and preparations easier only when military force is actually used and military conflict ensues. If you want to arm to deter aggression, that is suddenly no longer the preferred course. If you want to aid allies in a conflict rather than dispatching U.S. military forces, that would no longer be as viable an alternative. If you wanted to rebuild our military capabilities after conflict, you could not do it without three-fifths.

Has nobody read a history book about World War II? Does nobody know what preparations we had to undertake and the possibility that we might go into war? Has nobody read what we did to help other countries? Instead of addressing the serious and substantial concerns raised by Senator DODD's amendment, the sponsors and proponents of Senate Joint Resolution 1 simply opposed the Dodd amendment as creating a loophole in the balanced budget amendment. The proponents did not offer alternative language to address the real military and foreign policy concerns surrounding Senate Joint Resolution 1. Instead, lockstep voting, they defeated the Dodd amendment by a vote of 64–36. And then they rejected those provisions again when they rejected the Torricelli amendment.

We have probably reached a point, Mr. President, where Senators know how they are going to vote. But I hope that they will go back and read what is in this debate. We have said over and over again that if you really want a balanced budget, just balance it. Vote to do it. This morning, I asked the distinguished Republican whip, ''Where is the Republican budget?'' You know, we have had this debated on the floor of the Senate, Mr. President, when I have raised the fact that we are now paying the interest on the huge debt brought up in the last two administrations—President Reagan's and President Bush's—and the fact that if we weren't paying the interest on the debt and deficits created just in those two administrations, we would actually have a surplus in our budget today, not a deficit.

Having said that, the response was, well, now it is not the President who proposes that, it is the Congress that does that. If you want to go into facts, President Reagan got 99.99 percent of everything he ever asked for. Even though he had the veto pen, he only vetoed one spending bill—only one—as each year unprecedented deficits went up, as each year his budget showed greater deficits than had ever been seen in the history of this country, and he vetoed one spending bill. Why? Was it because it spent too much money? No. He vetoed that one bill because it spent less money than he thought it should. The only spending bill President Reagan ever vetoed was one that spent less than what he wanted.

Let us assume that it is not the President's prerogative to propose a budget. Let us assume it is not the President's plan, and let us assume it is the Congress'. Then I ask, again, my friend, the Republican whip, and others, where is the budget? ''Where's the beef?'' On April 15, we are supposed to have a budget. Republicans control the Senate and the House. They have a majority in each House. If, indeed, they really want a balanced budget—not a balanced budget gimmick, but a balanced budget—then vote one, pass one. There are 55 Republicans in the Senate. That is a majority. There is a majority of Republicans in the House of Representatives. Just bring up the budget and pass it. Pass it. Pass the actual spending bills and tax bills.

Last year, even with a majority, they didn't even pass 13 appropriations bills on time. Mr. President, the public should not hold their breath waiting for this to happen. The reason is very simple. It is one thing to pass on to the States a constitutional amendment, no matter how poorly drafted, and say, there, I voted for a balanced budget. You can put that on the bumper sticker on your car, you can put it on the tag line in your campaign, and you can use it in focus groups. Of course, it doesn't balance the budget. It doesn't do one thing. It doesn't change 1 cent of our national debt or the deficit, or 1 cent of the budget. But it sure makes you feel good, and it is a nice political gimmick. But if you cast the hard votes to actually bring the deficit down and actually balance the budget, then you are going to upset special interests from the right to the left. I know. I have voted for an awful lot of cuts to our budget. I voted for programs that brought down the deficit. I voted for programs that cut thousands and tens of thousands of Federal employees off of the rolls. I have voted to cut programs in my own State that closed offices in my State and in the State of the Presiding Officer, and every other place.

I think I have heard from everybody whose toes I stepped on in those cuts. It is a heck of a lot easier to vote for the constitutional amendment and say everybody is going to agree with you. It is more difficult to make the actual cuts.

My challenge is this, to all those who say you want a balanced budget. Fine, you have until April 15 to bring one up, and then start making the tough cuts. Mr. President, I guarantee you, we won't see the tough cuts being made, the real efforts to balance the budget. But you are going to hear, once this cockamamy flimflam of a bumper sticker constitutional amendment goes down to defeat this afternoon, you are going to hear everybody saying, ''Oh, we lost our chance to have a balanced budget.'' My response to that is: You guys are in charge, go ahead and do it.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. LEAHY. Mr. President, I yield 5 minutes to the Senator from Nevada.

Mr. REID. Mr. President, I express my appreciation to the ranking member, who has done a stalwart job in managing this joint resolution in the last week or 10 days.

Mr. President, if there were ever an example of a ''David versus Goliath,'' it is apparent in what happened this last week. All over America, ads are being run on television, radio, and in newspapers. Millions of dollars are being spent to talk about the merits of the underlying constitutional amendment for a balanced budget. These ads are full-page ads in some of the most expensive publications in the world—the Wall Street Journal, et cetera.

The people who need Social Security can't afford these ads. These people are certainly those that represent the ''David versus the Goliaths.'' Let me

read to you a couple of letters I have received in my office:

DEAR SIR: I would like to join your fight to stop Congress from turning Social Security trust funds into a slush fund to offset Government spending. I support a balanced budget, but not one to loot the Social Security that we have paid into, and our fathers, mothers, sisters, brothers, aunts, uncles, and cousins have also supported. I want to help you in your fight to protect America's trust.

MILDRED JOHNSON.

This is not a full-page ad in the Wall Street Journal, or an ad on network television or radio stations all over America, but just the sending of a letter. This is the best she could do. It was probably hard for her to pay for the stamp on the mail.

In the State of Nevada we have a Social Security recipient who receives $725 a month. These are the people who are supporting what we are trying to do. George Fry from Reno, NV:

Thank you for your concern, Senator Reid, for Social Security. I am 74. After working my whole life, I really need Social Security. I have a difficult time. My income is in the $6,000 range per year. Social Security plus SSI are $490.89 month. You are very good about helping poor old people.

He is good to send his letter with a 32-cent stamp.

Francis Salden, from Las Vegas:

Please do not let anyone take Social Security from us. We work very hard for this and sure would be lost if we wouldn't have this. My husband and I work from 7 in the morning until 11:30 at night so we would not be without this . . . Social Security.

They are not just old people who are concerned about Social Security. Young people are concerned also.

Mr. President, Social Security is an important program, one that we have to do everything we can to support and maintain. It is the most important social program in the history of the world. It is the most successful social program in the history of the world. If Senate Joint Resolution 1 passes, Social Security will be devastated.

We have heard very little talk about how Social Security wouldn't be protected. Everyone has said we want to protect Social Security. The easiest way to protect Social Security is to secure it from the confines of the underlying amendment, as we tried to do, and we got 45 votes. All we need is five other people to come and say, ''We support the amendment,'' and follow the leadership of the courageous Senator from Arizona, the senior Senator, Senator MCCAIN, and the senior Senator from Pennsylvania, Senator SPECTER, who said, ''In spite of party affiliation, we are going to vote for the amendment because it will protect Social Security.''

Mr. President, the polls in America support us. When I started this debate 4 years ago, I was a lone wolf crying in the wilderness. Now, 75 percent of the American public say we want to balance the budget but we want to exclude Social Security from doing so. That will make it hard to do. The easy way to balance the budget is to use Social Security. We want to exclude Social Security.

We have the Congressional Research Service supporting us. The Center for Budget Policy supports our position, Mr. President. We want to balance the budget, and we have voted for a balanced budget. It would be very difficult and hard to balance it if we excluded Social Security, but it will be the right way to do it.

I ask my friends from the other side of the aisle to recognize that unless we exclude Social Security, we are dooming the most successful program in the history of the world to failure.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, as I have previously emphasized, the constitutional amendment is not like a statute that we can revisit, fine tune, revise, or repeal. We have repealed only one constitutional amendment in more than 200 years of our country's history. The only constitutional amendment we have repealed was that of prohibition.

We ought to remember in this debate that we are being asked to consider an amendment to our Constitution. Before we propose to alter our fundamental charter of freedom—I might say also the blueprint for our representative democracy—we ought to step back from the political passions of the moment. We are debating a proposed constitutional amendment, not just a political slogan, a plank of a campaign platform, or partisan win or lose.

The Constitution of the United States is a good document. It is not a sacred text, but it is the best law of any that has ever been written. That is why it has survived as the supreme law of this country with very few alterations over 200 years. It has contributed to our success as a nation by binding us together rather than tearing us apart. It contains a great compromise that allowed small States and large States to join together in the spirit of mutual accommodation and respect. It embodies the protections to make real the pronouncements in our historic Declaration of Independence. It gives meaning to our inalienable rights of life, liberty, and the pursuit of happiness.

The Constitution requires due process and guarantees equal protection of the law. It protects our freedom of thought and protects our freedom to worship or not as we each choose, and our political freedoms as well. It is the basis of our fundamental rights of privacy and for limiting Government's intrusions—and burdens—into our lives.

So I oppose what I perceive to be this growing fascination in this country—and, unfortunately, the growing fascination with so many in Congress—to lay waste to our Constitution and the protections that have served us well for over 20 years. The separation of powers amendment is the power of the purse and should be supported and defended.

The most recent Republican platform endorsed six or seven constitutional amendments, of which this is only the first. In the last Congress, the Senate debated and rejected three proposed amendments. This year that number could well double, or even triple, unless we begin to exercise some discipline and restraint.

We have only amended the Constitution 17 times since the Bill of Rights. We have only amended it 17 times since the Bill of Rights because those who walked these Halls ahead of us had enough sense that the Constitution came before their political purposes, their polls, their momentary needs. They thought, ''How do we protect this Constitution, one of the shortest in the world? How do we protect it and keep it the living, breathing Constitution that it is?''

Mr. BYRD. Mr. President, will the Senator yield?

And of those 17 times, two of those amendments washed each other out.

Mr. LEAHY. They did indeed. As I referred to just before the Senator came on the floor, one of those amendments was, of course, to repeal an earlier amendment.

Mr. President, I see my friend from North Dakota and my friend from West Virginia on the floor. I will yield the floor with this.

When we started off in this Congress, each one of us swore an oath to support and defend the Constitution. That is our duty—all of us—to those who forged this great document. It is our responsibility to those who sacrificed to protect and defend our Constitution. It is our commitment to our constituents. It is the legacy to those who will succeed us just as it is showing our responsibility to those who stood up before us.

Mr. President, we talk about our children. My children will live most of their lives in this next century. I want them to have a constitution they can be proud of, not a constitution that fell, injured by momentary political passions.

I yield 5 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. CONRAD. Mr. President, I thank the Senator from Vermont. I especially thank my colleague from West Virginia for his courtesy.

Mr. President, we are going to vote in just a very few hours on one of the most critical issues facing this country. Mr. President, I believe deeply that we must balance the Federal budget. I believe we must do it because we are faced with a demographic time bomb that puts this Nation's future in jeopardy if we fail to act. Just as deeply as I feel about balancing the budget, I feel opposition to the balanced budget amendment that is before this body. I call it the so-called balanced budget amendment, because the most important question that we need to ask and answer today is, What budget is being balanced by this amendment?

When you pierce the veil, what you find is this isn't a balanced budget amendment at all. It does not balance the budget. It loots and raids every trust fund that this Government has in order to claim balance. That is what this amendment does.

Mr. President, as I have pointed out before on the floor of this body, if any private company sought to take the retirement funds of their employees and throw those into the pot to claim they had balanced the budget, they would be in violation of Federal law. Yet we are about to enshrine that principle in the Constitution of the United States? The greatest document in human history is our Constitution. It has made this country the greatest country in human history.

Mr. President, this amendment that is before us would take the Social Security trust fund surpluses—just over the next 5 years, $465 billion—and raid and loot every penny in order to claim balance. The American people are for this amendment by about 80 percent until they find out how it works. When they find out it only balances by raiding and looting trust funds, then 80 percent of them are opposed to it.

Part of our responsibility is to make certain that people know how this so-called balanced budget amendment to the Constitution works. This is what it does. It raids and loots every penny of Social Security trust fund surpluses in order to claim balance.

This chart I think discloses just how fraudulent the proposal we are about to vote on is. It shows the deficits and debt in the year 2002. If this is a balanced budget amendment, then in the year 2002, in which it is fully effected, one would expect the debt would not be increasing, that it would stop deficit spending.

That is not what it does. On a unified basis, they claim balance. That is by using every penny of every trust fund of the Federal Government. But if you look at excluding the Social Security trust funds and Postal Service funds, you will find that in the year 2002 we would have a $103 billion deficit. If you look more broadly at all of the funds, all of the trust funds, you find out that the debt would increase $110 billion in the year it is effected.

Mr. President, this is not a balanced budget amendment at all.

Second, there is no provision for a national economic emergency. We know that right now the right policy is to cut spending and balance the budget. That was exactly the wrong policy in the midst of the Great Depression. We ought to have provision for a national economic emergency.

Third and finally, we ought not to have a circumstance that would permit unelected judges to write the budget for the United States. That would be a profound mistake. The judges know nothing about the defense needs of America. They know nothing about the budget considerations for this country. The last thing we ought to have happen is to have unelected Federal judges sitting around the table writing the budget for the United States.

For those reasons, I am opposed to the balanced budget amendment that we will vote on in just a few hours. It would be a mistake for the country. It would not stand the test of time.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the distinguished Senator from West Virginia is here, and I will yield to him. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Vermont, on his time, has 12 minutes and 42 seconds, but the Senator from West Virginia, Mr. BYRD, has 20 minutes reserved time under the unanimous consent agreement.

Mr. LEAHY. If that is the conclusion of the Chair, it certainly is one I am very much in favor of. So that the Senator from West Virginia will have 20 minutes of his own time.

Mr. BYRD. Mr. President, I thank my friend from Vermont. May I say that if he has any problem with speakers whom he may have promised some time, if I can be of any help with my time, I would like him to let me know and I will yield some of it.

Mr. President, when the delegates gathered in Philadelphia in May of 1787, much was riding on their deliberations. No one can read the speeches and notes from the Constitutional Convention and miss the tenseness in the air as the men who gathered in May contemplated the sheer magnitude of their task. The situation in the states was critical. These men were charged with nothing less than breathing life into the promise of the beautiful prose crafted by Thomas Jefferson in the Declaration of Independence. They would be held accountable if they failed.

What happened in that room in Philadelphia was extraordinary. What emerged was a near perfect balance of order and liberty, and a careful equanimity between individual freedom and the need for the security of all. George Washington described the result as, ''little short of a miracle.'' Indeed, one cannot read the Constitution without marveling at the genius of its sparsely worded Articles. I have often felt that surely the spirit of the Creator himself was present in the sultry air during that season in Philadelphia.

But, the amendment which the Senate has been considering for the last 11 session days would rudely disrupt the carefully balanced powers of the three branches so assiduously planned by the Framers. It would, for the first time in our history, write a specific fiscal policy into a Constitution intended to accommodate the ages. It would subjugate every endeavor, every need, every aspiration of the people of this nation to one goal—the goal of perpetually maintaining budget balance. It would turn a system which has operated well for over 200 years because of its underlying faith in the judgment of a majority of reasonable men and women into a system that shackles that judgment to the whims and politics of a minority. And because of its unworkable rigidity, the amendment would, before long, be deliberately circumvented, thus laying the groundwork for the slow undoing of the people's reverence for their organic law.

This idea, which seems so simple on its face, has been born of mass frustration and political expediency. Ours is an age transfixed by efficiency, and the sometimes inefficient, often untidy machinations of representative democracy can seem cumbersome. Ours is an age, too, which deifies certainty—an age which has great faith in our ability to quantify everything, to predict all contingencies, to deal with all eventualities in advance. In fact, much of the law which we write today seems to reflect an almost compulsive urge to anticipate, regulate, and control every human activity.

It is ironic that many who support this amendment also rail against the large hand of government control in the private sector. What is this amendment but a strange hyperextension of that same urge to try to predict and control every budget eventuality with some sort of legal restriction which will keep us in budget balance in perpetuity? Especially in the case of the budget process, our laws have already become so complicated that few in Washington truly understand them. Why would we want to compound that complexity by the addition of a constitutional amendment and all of the rigidity and danger that it poses? The answer is simply that the people are frustrated, and this amendment can serve as political cover for a time. So we all decry debt and bemoan deficits and claim that we need the amendment for discipline. It is the magic formula. It is the ultimate fix for our budget problems.

The distinguished chairman of the Judiciary Committee has, since the start of this debate, kept the budget documents for the past 28 years upon his desk. It is true that we have run large deficits during many of those years. But, let us not forget that the heavy spending that this nation undertook during the cold war certainly contributed to those unbalanced budgets.

Yes, we ran deficits, but I was here, and I can tell you that there was no significant feeling in this chamber that that money was not well spent. This body reflected a strong consensus in the nation as a whole that we needed to spend whatever it took to assure our survival as a nation, and to prevail over the Soviet Empire in the cold war. Starting in 1962 and continuing until 1982, the annual average percentage for defense spending of the entire discretionary spending pie was 60.6 percent. From FY 1983 to FY 1992, defense spending exceeded domestic spending by an annual average of 68 percent for the whole period. The rationale provided by then President Reagan was

that we would spend the Russians into the ground. Their economy was no match for ours and the Evil Empire would implode.

It was a successful strategy. The Soviets were unable to match our defense investments and beggared their economy to such an extent that it was a major contributing factor to the shattering of the Soviet empire.

Was that money well spent? Did we invest wisely? You bet we did! It was one of the best investments ever made by the United States over time. Yet, it could never have been done under this amendment.

We got something invaluable for that budgetary debt. We protected our way of life and our freedoms against a foreign menace. And not only did we protect our way of life, we performed a service for millions of people around the globe by breaking the backs of the Soviets. Those annual budgets were based on an assessment of the best interests of our national needs at the time by a majority in the Congress working with the Executive. And that is exactly as the Framers envisioned.

Throughout this debate, I have heard debt and deficits portrayed as ''immoral''. What folly that is! While most would say that gambling debts are bad, or immoral, would anyone claim that borrowing to send a child to college or to provide a home for one's family is an evil or immoral thing? Indeed it can be immoral not to borrow. And by denying future leaders the budgetary freedom to borrow for investments for future generations, are we not depriving those future citizens of the birthright of realizing their full potential? By subjugating every other objective and every national endeavor, everything, from protecting an ally, to building up to fight a war, to conquering an epidemic, to feeding the starving, to investing in public infrastructure, to educating our children, to challenging foreign competition in the international playing field, to protecting our economy in the event of a recession, everything will be held hostage to the all supreme god, the golden calf, of balancing the budget each and every year. Is that what the American people want?

Has anyone been noticing the recent economic surge of China? Its growth rate is now around 10 percent a year. Its economy now ranks third in the world. And China has increased its military budget by 50 percent in real terms between 1988 and 1993. Surely China is fast becoming an economic power to be reckoned with. Are my colleagues completely sure that, even in the military arena, future challenges will not arise that may require us to again mount a long, steady buildup of fresh dollars for defense? We need the tools to react. We cannot anticipate every future contingency.

Yes, it is true that presently, our debt is too high. In part, we are still grappling with the residue of debt from the cold war buildup and the savings and loan crisis. In cooperation with President Clinton, over the past several years the deficit has been coming down. We have heard the concern of the people. Our system is working in exactly the way the Framers intended. We have had the latitude to meet our challenges. We have all the constitutional power we need right now to balance the budget. We need nothing more. Adoption of this amendment will only close down our future options and invite the ingenuity of circumvention. Let no one be confused. If this amendment were ever to become part of our sacred Constitution, all of our collective energies, henceforth, would be devoted to overcoming each of the obstacles it will have erected. A thousand flowers would bloom—all of them sowing the poisonous seeds of disrespect for our law and further mistrust of Government.

Balancing the budget is, indeed, a very difficult task. It is difficult because it means inflicting pain. It means making decisions that are not popular, and it means hurting some people because of cuts to programs that matter in their lives. But we were sent here to use our judgment and to make the hard decisions. All that we have to do now is don the ''velvet cloak of responsibility.'' We need to begin by telling the people the truth about what it will take to achieve yearly budget balance. If this is to be our goal, taxes will have to be raised and popular programs will have to be cut, because there is no other way.

Already, our lack of courage and candor has resulted in mistrust by our constituents. But, surely the answer to our political dilemma is not to make our Constitution a scapegoat. Let us not make this Constitution a scapegoat. Let us never go down the ridiculous road of saying to the people, ''it's not my fault, the Constitution made me do it.'' That is the ultimate cop-out. The easiest thing in the world for politicians and for bureaucrats to do is to hide behind the regulations or, in this case, behind a constitutional amendment. One of the few things that continues to unite us and to command our collective reverence is our Constitution. I would hope that we would always be unwilling to risk that precious commodity, just so politicians can more conveniently duck the accountability for difficult decisions.

Public policy is often controversial, but it can only be crafted by human judgment. No process—no amendment to the Constitution, no law that can ever be devised can ever substitute for it. The dream of a somehow automatic government, completely objective and insulated from the perils of flawed human judgement, may be in vogue today because it fits neatly with our traditional fear of government, especially big government. But, automatic, mechanistic, formula approaches to governing are really the antithesis of what the Framers had in mind.

Theirs was a vision of well-motivated men, kept in check by carefully balanced powers and accountability to the public, but left unfettered enough to deal with the changes and challenges of the ages. The proponents of this amendment claim that we must have this amendment or there will be no discipline to force budget balance. Consider the paucity of that argument! Remember that word, accountability. The people have all the tools they need to discipline us, simply by exercising their rights at the ballot box come election day. I believe that we can meet our responsibilities to bring this budget to balance without resorting to this ruinous encumbrance of our Constitution. But, we must all step up to our responsibilities, be accountable to our people, and put aside partisanship if we are to succeed. If we do that, then this amendment will at last be relegated to the ash heap of bad ideas where it most assuredly belongs.

I have fought this fight a half dozen times in the Senate since 1986. Frankly, I am weary. There is so much at stake. But, each time that I fight this amendment anew, I thank God that there are those members who are willing to risk political popularity for the dictates of their own consciences.

And they have no one to answer to but their constituents. When they take the oath of office to be United States Senator, they do not surrender their independence. They do not surrender their independence. They do not surrender their consciences to anybody in this Chamber or in this Government. And they are accountable only to the people of their States.

They have not taken the easiest course. They have chosen, rather, to go against the prevailing political winds in order to do the right thing. There can be no other motivation for such courage, but a deep and abiding love for this magnificent country of ours.

The 5th century Athenian statesman, Pericles, delivered a funeral oration to commemorate the soldiers who gave their lives at the battle of Salamis. Upon that occasion he said, ''It was for such a country, then, that these men, nobly resolving not to have it taken from them, fell fighting and every one of their survivors may well be willing to suffer in its behalf.'' I thank God for a continuing supply of these noble men and women in our own time, ''willing to suffer'' on behalf of our country and its Constitution. Because of their courage, the ''miracle at Philadelphia'' may be preserved for yet a while longer.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, what is the time situation?

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Vermont has 12 minutes, 40 seconds remaining.

Mr. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator from West Virginia has yielded back 1½ minutes.

Mr. BYRD. I thank the Chair.

Mr. LEAHY. Mr. President, the Senator from West Virginia has stood stalwartly like the giant rock maple trees of Vermont, those trees, which have such great strength but are also the source of Vermont's sweetest product, maple syrup. I say this because we know of the kindness and gentleness toward his colleagues of the distinguished Senator from West Virginia, but we know that like the rock maple trees of Vermont, he does not bend to the attacks on the Constitution.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. LEAHY. Of course.

Mr. BYRD. I thank my friend from Vermont whose heart is as stout as the Irish oak and as pure as the Lakes of Killarney.

Mr. LEAHY. I didn't think in 22 years I would be at a loss for words on the floor of the Senate, but that came as close, let me tell you.

Mr. President, we will come very soon to a vote. The distinguished Senator from West Virginia does deserve enormous credit for standing up each time for the Constitution. Really, that is what I am urging Senators to do. There is no question in my mind that if we took a public opinion poll, the popular thing, the easy thing would be to vote for this constitutional amendment, and we can say, then, as soon as the States ratify it, it is somebody else's problem.

If we don't stand up and do the things we need to do to protect the Constitution, if we don't stand up and do the things we need to do to bring down the deficit, if we don't stand up and cast the tough and unpopular votes, well, then, somebody can go to court and let the courts straighten it out.

Mr. President, when I first announced for the U.S. Senate in this week—this very week—in 1974, I was a 33-year-old prosecutor in the only State in the Union that had never elected a member of my party. I told the people of Vermont, ''You may not always agree with me on every single thing I will do, but I will make you one pledge: I will hold your interests and the interests of the country foremost. I will follow my best judgment. I will follow my conscience. I will not allow myself to be swayed by passing polls and fancies, and I will always try to do right.''

I have cast more votes in the U.S. Senate than any Senator in Vermont's history. I have cast more votes in the U.S. Senate, by far, than any Senator in Vermont's history. If I went back through those thousands of votes, I bet I could find a vote or two or three or four that might come as close. Some come to mind, because some of these votes were votes, if I could have cast it on a balance, I would have cast 51 percent one way, 49 percent the other, they were that close.

I remember the wise advice of the majority leader when I first came here, Senator Mansfield of Montana, who said, ''Don't worry if maybe you have some difficulty on a very close vote. Do what you think is right, and if later you determine maybe you made a mistake, the issue will come up again.'' It usually does.

So if I go back to the thousands of votes, I could find one of those 51 to 49 votes, but this is not one of those 51 to 49 votes. On this vote, I have no question in my mind what is the right vote. It is not the popular vote, but it is the right vote, and that is the vote I will cast against this amendment, because we have amended the Constitution only 17 times since the Bill of Rights, and two of those amendments crossed each other out: One was for prohibition; one was to end prohibition. All the other amendments have stayed there, because the men and women who came before us carefully considered what was best for the country, what was best for our Constitution, and even though during this time the temptation, the siren song of constitutional amendments has been heard through the Halls of the House and the Senate hundreds and hundreds of times, the siren song has been heard by those campaigning, by those elected and by those defeated, but the siren song was resisted. We are a better country for it.

This is not a time to try to manipulate the Constitution of the United States of America. This is not a time to put into the Constitution an amendment so flawed, an amendment that leaves more questions unanswered than questions answered, an amendment that may look good on a bumper sticker but stinks like a dead mackerel on the shores of the Constitution. This is not an amendment this Senate should send to the States.

Rather, what we should do, Republicans and Democrats alike, is join together and pass real budgets, pass those budgets that allow the United States to continue to have the world's strongest economy, an economy that is the envy of every other country, and an economy, incidentally, which has a smaller deficit as part of its gross domestic product than any of the rest of the industrialized world, an economy which is unmatched in recorded history, and realize that there are things that we should spend for.

Thomas Jefferson borrowed an amount, I think, equal to about twice what the whole budget of the United States was to make the Louisiana purchase. Is there anybody here who would like to see what this country would be like had we not made that Louisiana purchase, had we not had that westward expansion? If we had not been able to go out to our Western States, why, there are some Senators even currently in this Chamber today who might not have States to represent had we not had the Louisiana purchase.

I ask Senators to think back to when the Constitution was put together. Small States and large States were given an equal voice in this body so that they could maintain their identity. What a great compromise that was, what that did to allow this country to hold together—an advantage, obviously, to my own State of Vermont. But under this constitutional amendment, on matters of spending, on matters of crises, on matters of natural disasters, we would no longer have that parity. We would be left at the whim of the minority, not of the majority.

So, Mr. President, on this vote, I am sure in my heart and soul I am voting the right way, the right way for the State of Vermont. But I must say to my fellow Vermonters, even more important, it is the right way for our country and our Constitution.

I was raised in a household brought to revere the Constitution. I have taken an oath to support it in each of my terms in the U.S. Senate, in each of my terms as a prosecuting attorney. I remember each and every time I took that oath because I stopped and thought of what I was swearing allegiance to. It is what sets us apart from all other countries on Earth. It is why we have a Constitution that every one of us should stop and read and reread periodically. It is why, if we have a matter where we want to bring down the deficits, then do it the honest, old-fashioned way, vote to bring it down, vote the hard choices, vote against the special interest groups on the right or left, vote for what is best for the country, but do not pass the responsibility off to our Constitution, to future generations, to the courts to do what we are elected to do, what we are paid to do, and, more important, what we are sworn to do for this country.

This is something that should unite Democrats and Republicans. When this debate is over and after this vote has gone by, I hope that before we go to more bumper-sticker kinds of debates, that we go to the issues where we can join. Certainly the financial status of this country is one.

Mr. President, earlier today, I was summarizing the debate that the Senate has had on this proposed 28th amendment to the Constitution of the United States. I would like to continue that discussion to complete the RECORD on this historic debate.

REID, FEINSTEIN AND DORGAN AMENDMENTS

Senator REID offered a perfecting amendment to exclude the Social Security trust fund from Senate Joint Resolution 1. Senators FEINSTEIN and DORGAN also offered substitute constitutional amendments that would have excluded the Social Security trust fund from the balanced budget mandates. The Reid, Feinstein and Dorgan amendments all focused on removing any threat to Social Security by this proposed constitutional amendment.

The Social Security Program is America's contract with its senior citizens. Were the underlying resolution to become the basis for a constitutionally-mandated budget balancing act, Social Security would be rendered just another Government program and have its place on the chopping block with everything else.

Since 1983, Congress has acted to protect Social Security from overall budget cuts. The Social Security Amendments of 1983 required Social Security to be placed off budget within 10 years. That protective legislation passed the Senate 58 to 14 with a strong bipartisan majority. In fact, Congress accelerated this process. Rather than wait 10 years, the Balanced Budget and Emergency Deficit Control Act of 1985, commonly known as Gramm-Rudman-Hollings, placed Social Security off budget beginning in 1986. This means that the congressional budget resolution in 1985 was the last time that Social Security was included in the Federal budgets that Congress approves each year.

Gramm-Rudman-Hollings permitted across-the-board spending cuts—sequestration—when budgetary goals are not achieved. By its actions placing Social Security off budget, Congress explicitly and intentionally exempted Social Security from the sequestration process. Gramm-Rudman-Hollings—with its protections for Social Security—passed the Senate 61 to 31 with a strong bipartisan majority.

The Budget Enforcement Act of 1990 reinforced earlier protections by placing Social Security even more clearly off budget. This bill, too, passed the Senate 54 to 45 with the bipartisan support of 35 Democrats and 19 Republicans.

The proposed constitutional amendment turns its back on these many years of bipartisan progress in protecting Social Security from the ebb and flow of efforts to eliminate the deficit. I believe that our senior citizens deserve better.

When the Government overestimates revenues for an upcoming year, or underestimates expenses, or something changes in the course of the year to influence either, the budget goes out of balance and, under Senate Joint Resolution 1, the Government is out of money. The amendment's mandates would make continued expenditures into constitutional violations of law. If this proposed constitutional amendment were enshrined in the Constitution, it could force the Federal Government to stop making payments for any number of obligations, possibly including payment of Social Security checks, until the budget imbalance could be corrected.

Treasury Secretary Rubin warned the Judiciary Committee of this great risk, when he testified:

> [T]he amendment poses immense enforcement problems that might well lead to the involvement of the courts in budget decisions, unprecedented impoundment powers for the President or the temporary cessation of all federal payments. Any of these options could disrupt Social Security and Medicare payments.

Further, if the President and Congress reached a budget impasse under the proposed constitutional amendment, Secretary Rubin cautioned:

> Some proponents have suggested that under these circumstances, the President would stop issuing checks, including those for Social Security benefits. Alternatively, judges might become deeply involved in determining whether Social Security or Medicare checks would be stopped.

This would be a disaster for senior citizens on fixed incomes who live on Social Security and Medicare from check to check. When they miss a check, they will not have the funds to pay the rent or meet the mortgage, buy groceries, pay their utility bills, heat their homes, pay for medical care or needed pharmaceutical drugs, or meet other expenses.

That is the dilemma that the Social Security system would face if Social Security is not protected under this proposed constitutional amendment. In his recent letter to Senator DASCHLE, the President stated:

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

The 1983 bipartisan Social Security Commission headed by Alan Greenspan recommended converting the Social Security system from a pure pay-as-you-go program to one that builds up surpluses to pay for the future retirement of the baby boom generation. The Greenspan Commission recommended taking Social Security off budget in order to meet this goal without subjecting the program to the vicissitudes of Federal budgeting for other programs. Congress concurred with the Greenspan Commission's recommendations in passing the Social Security Amendments of 1983.

Just as families save for their retirements, the Social Security Program currently is building up surpluses while baby boomers are still working in order to be able to afford their retirements in the next century. This proposed constitutional amendment would encourage, even necessitate, Congress, the President, and the courts using Social Security as a way to comply with the amendment. When the trust fund begins to shrink after the year 2020, this proposed constitutional amendment would add pressure on the Government to cut Social Security rather than risk constitutional violation. Instead, we ought to be working on ways to honor our commitments and ensure the long-term solvency of Social Security.

A recent analysis from the Center for Budget and Policy Priorities is telling. It says:

> The Leadership version [of S.J. Res. 1] would be virtually certain to precipitate a massive crisis in Social Security about 20 years from now, even if legislation has been passed in the meantime putting Social Security in long-term actuarial balance. To help pay the benefits of the baby boom generation, the nation would face an excruciating choice at that time between much deeper cuts in Social Security benefits than were needed to make Social Security solvent and a much larger increase in payroll taxes than would otherwise be required. There would be only one other alternative—to finance Social Security deficits in those years not by drawing down the Social Security surplus but by raising other taxes substantially or slashing the rest of government severely. As a result, the government might fail to provide adequately for other basic services, potentially including the national defense.

Congress can balance the budget while protecting Social Security, but the sponsors of the underlying resolution tabled the Reid, Feinstein and Dorgan amendments. I do want to acknowledge Senator MCCAIN and Senator SPECTER for voting their conscience on the Reid and Dorgan amendments to protect Social Security. I respect their decisions to buck their party's no-amendments strategy on this point. Their votes not to table these amendments were, I believe, the only times Republicans voted to do anything other than march lock-step with their leadership in support of the original language of Senate Joint Resolution 1.

TORRICELLI AND FEINSTEIN AMENDMENTS

Before he announced his determination how he would vote on the underlying resolution Senator TORRICELLI offered an amendment that highlighted another serious flaw in Senate Joint Resolution 1. The underling resolution prohibits capital budgeting.

As Senator TORRICELLI so forcefully pointed out during the Judiciary Committee deliberations on Senate Joint Resolution 1, we as a nation are suffering from a capital investment crisis. In 1965, more than 6 percent of our Federal expenditures were invested in infrastructure such as roads, bridges, ports, and mass transit systems. By 1992, that share of capital investment had fallen by more than half to about 3 percent of our Federal budget and this year it will approach barely 2 percent.

At the same time as our infrastructure funding has been shrinking, our Nation's needs have continued to grow. The result is that we are becoming a nation in disrepair. For instance, more than a quarter of a million miles of roads need repair and more than 25 percent of our bridges have exceeded their lifespan.

This failure to maintain adequate infrastructure is hurting our competitiveness in the global economy. We are competing against other countries with the foresight to repair their roads and bridges, modernize their transit systems, maintain their ports, build new schools, and make the investments in telecommunications infrastructure that are the keys to success in today's global competition. The United States is dead last among the G–7 nations in public infrastructure investment as a percentage of gross domestic product.

We must reverse this trend and make the long-term investments needed to support a strong economy. We must be able to invest in education if we are to

give our children their best chance to compete and win in the coming century.

Sections 1 and 7 of the underlying resolution prohibit capital budgeting. All expenditures, whether the equivalent of operating expenses or capital investments, are tallied the same for purposes of this proposed constitutional amendment. The sponsors and proponents of this measure refuse to permit any exception and future Congresses will be forever barred from solving our infrastructure crisis by creating a capital budget for long-term investments.

Senate committee hearings in 1995 established an extensive record in support of maintaining a separate capital budget. Herbert Stein, of the American Enterprise Institute and former economic adviser to President Nixon; Edward V. Regan, of the Jerome Levy Economics Institute and former New York State controller; and Dr. Fred Bergsten, on behalf of the bipartisan Competitiveness Policy Council and former Assistant Secretary of the Treasury during the Carter administration; differed on the wisdom of enacting a constitutional amendment on the budget but all agreed on one thing: If such an amendment were to be considered it should separate capital investments for any annual balance requirement.

Nonetheless, when the majority had the opportunity to consider amendments that would have allowed for a separate budget for capital investments, it rejected them. This was a principal thrust of the Torricelli substitute and an important aspect of the Feinstein substitute. They were flatly rejected by the majority and their no amendments approach to consideration of the underlying resolution. Both of these amendments were tabled with all Republican members who voted, voting against capital budgeting.

This inflexibility is one of the principal objections of the more than 1,000 economists who oppose Senate Joint Resolution 1. It is also one of the reasons President Clinton opposes this constitutional amendment on budgeting. As the President so clearly stated:

> We must give future generations the freedom to formulate the federal budget in ways they deem most appropriate. For example, some believe that the federal government should do what many state governments do: adopt a balanced operating budget and a separate capital budget. Under this constitutional balanced budget proposal, the government would be precluded from doing so.

During the Judiciary Committee's January 17 hearing, Robert Greenstein of the Center on Budget and Policy Priorities explained:

> What families do when they balance their budget is families say that all of their income, including money they borrow, equals all the cash they pay out. Families borrow money when they purchase a house through a mortgage, when they buy a car, and especially when they send a child to college. If families had to operate on the basis that this amendment does, they would have to pay for all of college education out of the current year's income, all of the entire cost of a home, not the down payment, the whole thing, out of the current year's income. Nobody operates that way.

The actions of Thomas Jefferson as President, as opposed to his oft-quoted ruminations about the evils of public debt, are also instructive but ignored by the majority. In 1804, President Jefferson had the United States borrow $15 million, in 1804 dollars, by selling bonds to finance the Louisiana Purchase. That amount approximates more than $225 billion in 1993 dollars and exceeds every Federal budget deficit except for the final 2 years of the Bush administration.

Was President Jefferson wrong to invest in the Louisiana Territory that provided this country with 15 States? Of course not. But had the provisions of Senate Joint Resolution 1 been included in the Constitution, our Nation's westward expansion might well have ended at the Mississippi River.

Under the underlying resolution, the failure to permit a capital budget would have severe consequences by discouraging long-term investment and ignoring our infrastructure crisis. Just as a budget deficit unfairly harms future generations so, too, does the failure to differentiate capital investments from operating and consumption expenditures. The inevitable result will be less investment in our country's future, pressure to operate through inefficient leasing practices and gimmickry.

The majority ignores the fact that 42 States, most cities, and businesses exclude from their balanced budget requirements capital, enterprise, or trust funds that are financed primarily by borrowing rather than by current revenue. Moreover, most States with balanced budget requirements use capital funds that finance major capitol projects by issuing long-term debt.

The Nation's leading economists agree that a capital budget is an essential part of the State experience with balanced budget requirements and that the omission of a capital budget in this proposed constitutional amendment is a major flaw. These economists note:

> Unlike many state constitutions, which permit borrowing to finance capital expenditures, the proposed federal amendment makes no distinction between capital investments and current outlays. . . . The amendment would prevent federal borrowing to finance expenditures for infrastructure, education, research and development, environmental protection, and other investments vital to the nation's future well-being.

Having defeated all attempts to allow for capital budgeting within the underlying resolution over the last several weeks, the weekend papers are again hinting that the Republican leadership is rethinking its strategy and may be willing to reconsider whether capital budgeting can be incorporated into the underlying resolution. These vacillations by the majority illustrate why this matter is not appropriate for a constitutional amendment. The Constitution cannot be made to say and require one fiscal policy one week and the opposite the next. That is not the stuff of the Constitution. These are matters of public interest that can be addressed by policy and statutes that serve the times and the needs of the American people.

BOXER AMENDMENT

Senator BOXER offered an amendment to Senate Joint Resolution 1 that again pointed out a serious and substantial flaw with this proposed constitutional amendment. The Boxer amendment would have permitted Congress to response to emergencies and natural disasters by a majority vote.

The proposed constitutional amendment can no more prevent a recession than it can an earthquake, but it will restrict our ability to deal with the effects of both. A natural disaster, such as a large-scale flood, earthquake, or fire, could require the Federal Government to expend large sums to assist the victims and begin to rebuild the ravaged area. We need only look to the devastation suffered in Arkansas and Mississippi over the last few days to be reminded of nature's power.

The proposed constitutional amendment would make these kinds of sudden emergency expenditures impossible because they would cause an unauthorized increase in the deficit. Humanitarian efforts could and would be held hostage while the requisite supermajorities were rounded up in each House of Congress. A minority in either House could block such efforts altogether or extort other paybacks.

In recent years, the Federal Government has been called on to give critical aid to supplement State and local efforts to protect the public health and safety in response to major disasters and emergencies. Much of this aid has been paid for by supplemental appropriations because of the unexpected nature of major disasters and emergencies.

From fiscal years 1989 to 1996 Congress had to appropriate supplemental major disaster and emergency relief in every year but one. For example, in 1992, Congress passed an emergency supplemental appropriation over $4 billion to help victims of the Los Angeles riots, the Chicago floods, and Hurricane Andrew. In 1993, Congress passed an emergency supplemental appropriation of $2 billion to help victims of the Midwest floods. In 1994, Congress passed an emergency supplemental appropriation of more than $4 billion to help victims of the Los Angeles earthquake.

Relief for major disasters and emergencies must be flexible. Usually, a swift response from the Federal Government is needed to aid local relief efforts. Disaster and emergency relief by constitutional mandate is a prescription for gridlock, not swift action. When your State is hit by a major disaster or emergency, do you want critical Federal assistance to hang on the whims of 41 Senators or 175 Representatives?

Our Founders rejected requirements of supermajorities. We should look to their sound reasons for rejecting supermajority requirements before we impose on our most vulnerable and neediest citizens a three-fifths supermajority requirement to provide them Federal relief from major disasters and emergencies.

Alexander Hamilton painted an alarming picture in ''Federalist Paper No. 22'' of the consequences of the poison of supermajority requirements. Hamilton said that supermajority requirements serve ''to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority.''

These supermajority requirements are a recipe for increased gridlock, not more efficient action. As Hamilton noted long ago: ''Hence, tedious delays; continual negotiation and intrigue; contemptible compromises of the public good.'' Such supermajority requirements reflect a basic distrust not just of Congress, but of the electorate itself. I reject that notion.

I fear that a supermajority requirement will lead to some in Congress playing politics with critical relief from disasters and emergencies. Even with today's simple majority requirement for supplemental appropriations for disaster and emergency relief, we see the potential for partisan politics.

In the last Congress a multibillion-dollar disaster aid package for California was caught in the budget wars between President Clinton and House Republicans. The House Republican leadership delayed action on a request from the President for supplemental appropriations for emergency relief for victims of the California floods and Los Angeles earthquake. Fortunately, public outcry forced the House Republicans to relent. That political gamesmanship happened with only a simple majority requirement for supplemental appropriations for disaster and emergency relief. Think what would happen if Congress had to clear a supermajority hurdle to pass disaster and emergency relief.

Again, instead of addressing the serious and substantial concerns raised by the Boxer amendment, the sponsors and proponents of Senate Joint Resolution 1 simply opposed its consideration as creating a loophole in the underlying resolution. They did not offer alternative language to address the emergency and natural disaster concerns surrounding Senate Joint Resolution 1. Instead, with lock-step voting, they tabled the Boxer amendment by a vote of 60 to 40.

FEINGOLD AMENDMENT

Senator FEINGOLD offered several amendments to Senate Joint Resolution 1, including one that would have permitted the use of a ''rainy day'' fund. Simply put, the Feingold amendment would have allowed the use of an accumulated surplus for necessary expenditures during any fiscal year.

Section 6 of the underlying resolution states: ''The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.'' [Emphasis added].

What happens when these estimates of outlays and receipts fail to come true during the fiscal year? As is ususally the case each year, Congress is wrong on its economic forecasts. For example, in June 1995 the Congress adopted a budget resolution that anticipated a deficit of $170 billion in the 1996 fiscal year. In August 1995, the Congressional Budget Office anticipated a deficit of $189 billion for the 1996 fiscal year. But the deficit for the 1996 fiscal year was actually $107 billion.

To respond to the usual budget forecast corrections, several of the majority's witinesses during Judiciary Committee hearings recommended that Senate Joint Resolution 1 be amended to allow the Federal Government to establish a rainy day fund or stabilization fund. This fund would adjust to budget shortfalls or overruns during the fiscal year.

For example, James C. Miller III, former Director of the Office of Management and Budget during the Reagan administration, testified:

> I would urge you to consider incorporating a ''rainy day fund.'' Thus, if one year revenues fell short (or outlays ran over), you could dip into this fund without violating the balanced budget requirement.

If the experience in the States is instructive, then a rainy day fund is a necessity for any balanced budget requirement. According to the American Legislative Exchange Council, 45 States have budget stabilization funds or rainy day funds to respond to unanticipated shortfalls in revenue or overruns in outlays.

The majority, however, ignores the advice of its own witnesses and the experience in the States, and prohibits the use of a rainy day fund under this proposed constitutional amendment. Instead of adopting the Feingold amendment, the majority simply marched forward lock-step in their no-amendments strategy and tabled the Feingold amendment by a vote of 60 to 40.

KENNEDY AMENDMENT

Finally, Senator KENNEDY offered an amendment to Senate Joint Resolution 1 that revealed perhaps its most serious flaw. The Kennedy amendment was a sincere effort to confront the matters of enforcement of the underlying resolution, which would have limited the enforcement of the proposed constitutional amendment to Congress.

As James Madison wrote in The Federalist No. 48, ''the legislative department alone has access to the pockets of the people.'' Our Constitution now gives Congress the primary authority, and responsibility, with regard to the raising and expenditure of outlays. The proposed amendment would dramatically alter the allocation of powers set forth in article I, sections 7, 8, and 9.

It risks casting the Federal and State courts in the role of Federal budget czars deciding in myriad cases whether the Federal budget is impermissibly out of balance, and where it is, forbidding spending and ordering what remedies it deems appropriate for the constitutional violations occasioned by circumstances in which outlays exceeding revenues in any year without supermajority approval of the Congress.

Although the proponents of the proposed constitutional amendment have left it silent with regard to the role of the courts in its interpretation, implementation, and enforcement, that silence is deafening.

Section 1 of the amendment contains a flat prohibition on total outlays exceeding total receipts in any fiscal year, except as expressly authorized by a supermajority in each House of Congress. Having embedded this mandate in the Constitution, this proposed constitutional amendment invites the courts to become actively involved in determining when this constitutional command is being violated and how such violations are to be remedied.

In the memorable words of Chief Justice Marshall: ''It is, emphatically, the province and duty of the judicial department, to say what the law is.'' *Marbury* v. *Madison*, 5 U.S., 1 Cranch, 137, 176 (1803). Since that historic decision, the Supreme Court has had the preeminent role in articulating the scope and meaning of our Constitution. The majority report concedes the fundamental obligation of the courts to say what the law is.

If the proposed constitutional amendment on budgeting were ratified, the fulfillment of this role by the Supreme Court, and other courts, could require them to address complex budgetary issues that courts are ill-suited to resolve. As de Tocqueville wrote more than 148 years ago: ''Scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question.'' If the proposed constitutional amendment were ratified, several of its provisions would give rise to cases and controversies that the courts would be called upon to resolve.

Supporters of the proposed constitutional amendment, in fact, desire judicial involvement and enforcement of its terms. The representative from the U.S. Chamber of Commerce testified before the Judiciary Committee:

> [T]here is a legitimate and necessary role for the courts in ensuring compliance with the amendment. Congress could potentially circumvent balanced budget amendment requirements through unrealistic revenue estimates, emergency designations, off-budget accounts, unfunded mandates, and other gimmickry. It is our view that the need to proscribe judicial policy making can be reconciled with a constructive role for the courts in maintaining the integrity of the balanced budget requirement.

In response to questions, the representative of the National Taxpayers Union, another advocate for the proposed constitutional amendment on budgeting in spite of its potential to lead to tax increases in order to achieve balance, observed:

We oppose denying judicial review authority, and believe that it would be more difficult to enforce the provisions of S.J. Res. 1 if Congress were to add such language to the Balanced Budget Amendment.

The representative of the Family Research Council opposed adding express language on the role of the courts, noting that they ''would not object to language that would prevent judges from raising taxes'' and observed:

Under our system of government, each branch has certain limited means to require legal compliance by one of the other branches. The use of this legal authority is somewhat dependent on the political will of each branch to exercise their proper authority. Each branch of government will have its prerogatives to enforce the amendment, subject to appropriate checks and balances.

Similarly, in 1995, in response to questions from me, the U.S. Chamber of Commerce noted: ''The BBA would be policed by the same balance of powers that the Framers so carefully crafted in the Constitution. Thus, excesses by the Congress would be controlled by both the executive and judicial branches.''

The former Government attorneys who support the proposed constitutional amendment and have been called to testify before the Judiciary Committee over the last several years on the problem of defining the judicial role have been unanimous about only one thing: Court involvement is not prohibited by the amendment.

Stuart M. Gerson, a former Acting Attorney General, and William Barr, the official he replaced at the end of the Bush administration, differed in what they regarded as the principal dangers posed by judicial intervention and in how they would seek to reduce the risks of courts involvement, but they did not say and could not say that the courts would not be involved in interpreting, implementing, and enforcing the proposed constitutional amendment were it to be ratified.

Mr. Gerson testified he thought judicial intervention would be ''limited in scope'' but conceded that our constitutional law ''does not remove the courts from the picture entirely where there is manifest abuse or disregard of unequivocal legal pronouncements.'' He noted, in his written statement, that ''there is a category of case—that involving whether objective statutory terms have been satisfied—which always has been cognizable and will remain so under the Balanced Budget Amendment,'' and, in his oral presentation, that ''in those few cases where a cognizable departure from the specific terms of the amendment can be shown, courts, indeed must intervene.''

He went on, in response to questioning from Senator TORRICELLI, to concede that standing for certain individuals and Members of Congress is possible under this amendment:

So, the answer to your question is that I think that the standing of individuals and members of Congress is very limited. I do concede—that there is a category of cases as to which I would not deny jurisdiction to the courts to make certain that the Constitution was being enforced.

When asked by Senator TORRICELLI, as an example, whether the Senate sponsors of the proposed constitutional amendment on budgeting would have standing before a Federal court to bring a suit to compel compliance with its terms, Mr. Gerson said:

In fact, I think that situation is the most likely situation in which Congressional standing, which has never before been recognized, might be recognized and I say so in my prepared testimony. . . . That is the one situation that even Judge Bork in the D.C. Circuit recognized might allow Congressional standing.

The other witness who testified before the Judiciary Committee on questions of law and judicial review was Alan B. Morrison of the Public Citizen Litigation Group. He observed:

[I]n the absence of a clear statement of the contrary in the Amendment itself, it is likely that parties who claimed that, for example, the requirements for revenue increases in Section 4 had not been satisfied, could show sufficient injury to meet the case or controversy requirement in Article III of the Constitution. The same is true for those objecting to a Presidential impoundment.

Mr. Morrison thus concluded his testimony:

Senator, you will note that Section 1 of S.J. Res. 1 is not put in terms of the Congress shall enact and the President shall sign into law. It's put in absolute terms—total outlays for any fiscal year shall not exceed.

It seems to me that is a very unusual kind of constitutional command and that despite what the courts have done in other cases, no person sitting at this table or any place else in this country can accurately predict what the courts will do, which is the reason why I say it is so important that the Congress, in the first instance, assume responsibility, take it on, of saying what they want about judicial review and that would be enforced in the courts.

Written testimony was received by the Judiciary Committee from Dawn E. Johnsen, Acting Assistant Attorney General at the Department of Justice. In that statement, the current head of the Office of Legal Counsel indicated that ''primary concern of the Department of Justice is how a balanced budget amendment would be enforced—an issue that none of the proposed amendments thus far has adequately addressed.'' The statement continues:

If a balanced budget amendment were to be enforced by the courts, it could restructure the balance of power between the branches of government and could empower unelected judges to raise taxes or cut spending—fundamental policy decisions that judges are ill-equipped to make.

The Department of Justice testimony also referred to prior statements by a former Solicitor General for President Nixon and Federal judge, Robert H. Bork, and another former Solicitor General for President Reagan and Harvard law professor, Charles Fried. Both men have observed that judicial self-restraint, based on doctrines of standing and political questions, did not overcome the possibilities of significant litigation over interpretation, implementation, and enforcement of the proposed constitutional amendment on budgeting.

The Department of Justice has not varied much from that of Robert H. Bork, 10 years ago:

In the end, there is a range of views about the extent to which courts would involve themselves in issues arising under the balanced budget amendment. Former Solicitor General Bork believes that there ''would likely be hundreds, if not thousands, of lawsuits around the country'' challenging various aspects of the amendment. Similarly, Professor Archibald Cox of Harvard Law School believes that ''there is a substantial chance, even a strong probability, that * * * federal courts all over the country would be drawn into its interpretation and enforcement,'' and former Solicitor General Charles Fried has testified that ''the amendment would surely precipitate us into subtle and intricate legal questions, and the litigation that would ensue would be gruesome, intrusive, and not at all edifying.'' Other commentators, such as former Attorney General William Barr, believe that the political question and standing doctrines likely would persuade courts to intervene in relatively few situations, but that ''w]here the judicial power can properly be invoked, it will most likely be reserved to address serious and clear cut violations''.

Former Attorney General Barr may well be right that courts would be reluctant to get involved in most balanced budget cases. However, none of the commentators, included General Barr himself, believes that the amendment would bar courts from at least occasional intrusion into the budget process. Accordingly, whether we would face an ''avalanche'' of litigation or fewer cases alleging ''serious and clear cut violations,'' a broad consensus exists that the amendment creates the potential for the involvement of courts in questions that are inappropriate for judicial resolution.

The proponents and sponsors do nothing to resolve this problem. They concede that the text of the proposed constitutional amendment on budgeting is silent with respect to judicial review, contending that silence ''strikes the right balance.''

Mr. Morrison is correct to challenged the Congress to say what it intends and what it means in the text of the proposed constitutional amendment itself. Instead, the majority is leaving to the courts themselves the determination of the challenges arising under the proposed amendment and its implementation and what they will hear and determine. They are to be guided by the vagaries of general, judicially-created doctrines of justiciability.

The sponsors and proponents also suggest that Congress may revisit this issue later through implementing legislation. Not only would such subsequent implementing legislation require agreement in both Houses and signature by the President or a supermajority override of a presidential veto, but even if ultimately enacted, it may not be able to restrict constitutionally-derived judicial power and responsibility

and may itself be overridden by the commands of article III and this proposed 28th amendment. Former Solicitor General Charles Fried has testified that a subsequent legislative effort to limit judicial power, ''itself might very well be unconstitutional.''

Further, as Mr. Barr pointed out in 1995, the State courts are not limited by the Federal requirement of ''case or controversy'' and its attendant justiciability doctrines:

> Before moving on, I should point out for the Committee one area that I believe does hold some potential for mischief and that Congress may wish to address. That is the area of state court review. The constraints of Article III do not, of course, apply to state courts, which are courts of general jurisdiction. State courts are not bound by the ''case or controversy'' requirement or the other justiciability principles, even when deciding issues of federal law, including the interpretation of the Federal Constitution. Asarco, Inc., 490 U.S. at 617. Accordingly, it is possible that a state court could entertain a challenge to a federal statute under the Balanced Budget Amendment despite the fact that the plaintiff would not satisfy the requirements for standing in federal court.

Although Mr. Gerson's written statement included the same point, almost verbatim, the proposed constitutional amendment and majority report are conveniently silent on this significant dimension of the judicial review problem. Nowhere do the proponents of this constitutional amendment confront the problem of uncontrolled judicial review by State court that has been articulated by their own witnesses on judicial review, who conclude that ''the State court in such a circumstance would have the authority to render a binding legal judgment.''

The proponents' dilemma may mirror that admitted by Mr. Barr at the 1995 hearings: Having acknowledged the concern that courts might order taxes raised as in *Missouri* v. *Jenkins*, Mr. Barr was asked by Senator BIDEN whether the proposed constitutional amendment ought not be revised to include an express limitation on court power and their authority to order certain types of remedies, Mr. Barr responded:

> If I were a Senator, I would put it in the amendment. But if I felt that would mean the amendment would not pass because it would generate these arguments, oh, gee, this is sort of like Eastern Europe, then I would without hesitation support the amendment as written * * *

The proponents are refusing to confront the possibility of State court involvement and the possibility that courts in different States might reach inconsistent determinations or order contradictory remedies because it is difficult, its discussion might offend, and its solution might cost them a vote or two.

This is no way to amend the Constitution. Such ambiguity and conscious disregard of potential problems disserves the process, the proposed amendment, the American people and, possibly, the generations to come who will suffer under its unintended consequences.

In court challenges in which a constitutional violation were found by the court to exist, the question of appropriate remedy will loom large. Indeed, it is the possibility of judicially-imposed remedies to ensure compliance with the proposed constitutional amendment's command for balance each fiscal year that has raised the most concern historically as Congress considers this matter.

In 1994, Senator Danforth of Missouri successfully modified the proposed constitutional amendment on budgeting. He sought to restrict judicial involvement to issuing declaratory judgments unless Congress specifically authorized another form of relief through implementing legislation and his amendment was accepted by the floor manager.

In 1995, the Senate likewise modified the proposed constitutional amendment when the floor manager adopted an amendment proffered by Senator Nunn of Georgia on judicial review. The Nunn amendment called for restricting the judicial power of the United States to matters specifically authorized by implementing legislation.

Neither the Danforth nor the Nunn language nor anything like them was included in Senate Joint Resolution 1. Indeed, in spite of these past attempts to limit judicial remedial authority in the proposed constitutional amendment and the only successful floor modifications to its text since 1993, the proponents now reject all such efforts. Instead, the proponents choose to remain silent on the many important issues surrounding judicial involvement in the interpretation, implementation and enforcement of the proposed constitutional amendment.

They try to dismiss *Missouri* v. *Jenkins*, 496 U.S. 33 (1990), and the dangers it portends for this proposed constitutional amendment. In that case, the U.S. Supreme Court upheld the power of a Federal District Court Judge in Kansas City, MO, to order tax increases in order to improve the public schools. The Supreme Court upheld a district court order that a local school district levy taxes to raise funds to comply with the Court's order to remedy unconstitutional school segregation.

This case has spawned concern about what is sometimes referred to as judicial taxation and the Judiciary Committee has held hearings on the issue and on suggested legislation in the area in the last several years. Senator Danforth cited this case in the course of offering his amendment in 1994:

> So after the case of Missouri versus Jenkins, decided by the Supreme Court, it is clear that under certain circumstances, the Federal courts have assumed the power to impose taxes. And my concern was that Missouri versus Jenkins could be the model for some future action by the Federal courts.

The authority of the Federal courts to remedy constitutional violations is broad, as was demonstrated in *Missouri* v. *Jenkins*, 495 U.S. 33 (1990). In suits where a constitutional violation of the proposed budgeting amendment were found, courts would be left to make similar remedial decisions.

In light of the deliberate omission of limiting language like that previously included by Senator Danforth and Senator Nunn, the underlying proposal is more likely to be construed to authorize courts to enjoin spending, order taxes or issue a negative injunction maintaining the status. That will appear to be the intention of Congress. The absence of any limitations on the power of the judiciary to review and remedy violations supports the interpretation that Senate Joint Resolution 1 is intended to authorize the courts to engage in judicial review without the limitations those amendment included.

In the Federalist No. 78, Alexander Hamilton described the judiciary as ''the least dangerous branch'' because it ''has no influence over either the sword or the purse, no direction either of the strength or the wealth of the society.'' He then qualified his description, quoting Montesquieu as warning ''that 'there is no liberty, if the power of judging be not separated from the legislative and executive powers.''

Adopting this proposed constitutional amendment would create precisely the peril warned against by Hamilton, because it would invite unelected judges to decide funding policy questions and exercise powers heretofore largely reserved to the legislative and executive branches. It would be a mistake of historic proportions.

This is a constitutional amendment that is being proposed. In other settings in which constitutional rights are being vindicated, when legislation enacted by Congress did not provide an effective remedy, the courts have created judicial ones. See, e.g., *Bivens* v. *Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971); *Davis* v. *Passman*, 442 U.S. 228 (1979); *Carlson* v. *Green*, 446 U.S. 14 (1980). Thus, if Congress were to adopt enforcement legislation that failed to provide an effective remedy for violations, the courts might proceed on their own authority as required to fulfil their constitutional duties.

In addition, the underlying resolution would allow the President vast authority to deal with implementation, and possibly even to impound, funds obligated by Congress. The circumstances that would prevail after ratification of the proposed constitutional amendment on budgeting will not have previously existed. The President will have a lot to do with determining how the President's constitutional duties under article II, section 3, to ''take care that the Laws be faithfully executed,'' and article II, section 7, to ''preserve, protect and defend the Constitution'' will be fulfilled.

Section 1 of the proposed constitutional amendment commands that ''[t]otal 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.'' In any fiscal year in which it becomes apparent that in the absence of congressional action, ''total outlays'' will exceed ''total receipts,'' the President would determine how best to proceed and might well proceed as if required by the Constitution and the oath of office it prescribes to act to prevent the unauthorized deficit.

This common sense reading of the proposed constitutional amendment is shared by a broad range of highly regarded legal scholars. Then Assistant Attorney General (now Solicitor General) Walter Dellinger testified in 1995 before the Judiciary Committee that the proposed constitutional amendment would authorize the President to impound funds to insure that outlays do not exceed receipts.

Similarly, Harvard University Law School Professor Charles Fried, who served as Solicitor General during the Reagan administration, testified that in a year when actual revenues fell below projections and a bigger-then-authorized deficit occurred, section 1 ''would offer a President ample warrant to impound appropriated funds.''

Others who share this view include former Attorney General Nicholas deB. Katzenbach, Stanford University Law School Professor Kathleen Sullivan, Yale University Law School Professor Burke Marshall, and Harvard University Law School Professor Laurence H. Tribe.

This year the Secretary of the Treasury reinforced this prospect when he noted in his testimony before the Committee:

> Some proponents have suggested that under these circumstances, the President would stop issuing checks, including those for Social Security benefits. . . . The President might also impound funds of his choosing. . . . All of these potential outcomes are extremely undesirable.

The impoundment power that would be conferred on the President by the proposed constitutional amendment is far broader than any the presidential line-item veto authority temporarily granted the President last year. As Assistant Attorney General Dellinger testified in 1995, the impoundment authority implied within the proposed constitutional amendment might allow a President to order across-the-board cuts in all Federal programs, target specific programs for abolition, or target expenditures intended for particular States or regions for impoundment. He testified that he would advise the President that he not only had the right but the constitutional obligation to prevent the violation of a constitutional mandate against budgetary imbalance.

The text of the proposed constitutional amendment does not address these matters. The majority report says that is not the intent of the Committee to grant the President any impoundment authority and suggests that ''up to the end of the fiscal year, the President has nothing to impound because Congress in the amendment has the power to ratify or to specify the amount of deficit spending that may occur in that fiscal year.'' The majority report, thus, assumes there can never be an unauthorized deficit, because Congress always has a theoretical possibility of stepping in before the last minute ending the fiscal year and ratify whatever deficit has occurred. Under this construction, the proposed constitutional amendment is a cruel joke.

Moreover nothing in the proposed constitutional amendment prevents the Executive from acting to implement its terms. A President may not be willing to withhold based on a theoretical possibility of what the President knows or has reason to believe will not occur. Moreover a President may choose not to risk having all of the expenditures undertaken by the Federal Government for a portion of a fiscal year declared to have been expended in violation of the Constitution. It is more likely that a President, sworn to preserve, protect, and defend the Constitution, would not view the Executive as powerless to prevent such a result.

Key House sponsors of the proposed constitutional amendment circulated materials on the role of the Executive that add context to the majority report's isolated declaration of intent and are consistent with this view of continuing involvement by the Executive in the implementation of the proscriptions contained within the proposed constitutional amendment. Representatives SCHAEFER and STENHOLM acknowledge that the proposed constitutional amendment is intended to create ''an ongoing obligation to monitor outlays and receipts'' and to require the President ''at the point at which the Government 'runs out of money,' to stop issuing checks.''

We also have experience to instruct us. This Administration's senior advisers have testified both in 1995 and in 1997 that their advice, against the backdrop of the proposed constitutional amendment on budgeting having been ratified and an emerging deficit, would be to terminate or delay expenditures.

James C. Miller III, former OMB Director under President Reagan, echoed that advice. He revealed legal advice from the Office of Legal Counsel of the Department of Justice that without congressional mandated spending priorities, the President could apply across-the-board reductions in outlays. Finally, he furnished a legal memorandum on presidential authority to forestall default on the public debt that was coauthored by a former Assistant Attorney General and head of the Office of Legal Counsel during the Reagan administration that asserts ''the President has inherent constitutional authority to choose which nondeferrable obligations to pay in the absence of a statute specifying a priority.''

A memorandum to the Attorney General dated October 21, 1995, that is now publicly available, reinforces these lines of reasoning:

> Although this Office has consistently taken the position that as a general matter the President does not possess inherent authority to impound funds, we have carved out an exception to the general rule for the situation in which the President faces a debt ceiling and does not have any other feasible method of raising funds. We have said that in such a situation, because the President would be faced with conflicting statutory demands, to comply with the direction to spend yet not exceed the debt limit, he would be justified in refusing to spend obligated funds. See Memorandum from William H. Rehnquist, Assistant Attorney General, Re: Presidential Authority to Impound Funds Appropriated for Assistance to Federally Impacted Schools (December 1, 1969). We believe that the President's power to reconcile conflicting laws according to his best judgment could be derived from his ultimate power as Chief Executive ''to take care that the Laws be faithfully executed.''

The OLC Memorandum concludes:

> Finally, at some point, after all other options have been considered, consideration should be given to a program of deferral of obligations and expenditures by the President. Such a program would provoke considerable public controversy, perhaps a constitutional confrontation with Congress, and most certainly would be subjected to legal challenge. On the last point, although we have not had an opportunity to arrive at a definitive conclusion, we believe a strong argument can be made both on statutory grounds and on the basis of his inherent authority, that the President would have the power to engage in such a program.

Similar analysis and reliance on inherent Executive authority could be expected to arise should the proposed constitutional amendment be ratified and the President faced with circumstances in which the legislative and executive branches are in gridlock over budgetary or spending matters or it appears to the President that the prediction for a balance between expenditures and revenues in any fiscal year is tilting toward deficit.

The proponents alternatively comment that Congress could specify in implementing legislation how it wanted the President to proceed in a budgetary or debt limit crisis. Reliance of subsequent implementing legislation is risky, at best. Such legislation would be subject to Presidential veto and the need for a supermajority override in both Houses. Moreover, such legislation would have to be comprehensive enough to foresee and control all possible future contingencies to be effective.

Further, the President's obligation to faithfully execute the laws is independent of Congress's. That duty is not ''limited to the enforcement of acts of Congress * * * according to their express terms, * * * it include[s] the rights, duties and obligations growing out of the Constitution itself, * * * and all the protection implied by the nature of the government under the

Constitution[.]'' In re *Neagle,* 135 U.S. 1, 64 (1890). If an unconstitutional deficit were occurring, Congress could not constitutionally stop the President from seeking to prevent it.

Finally, any reliance on the 159-year old case of *Kendall* v. *United States ex rel. Stokes,* 37 U.S. (12 Pet.) 542 (1838), would be misplaced. That case can as easily be read to support presidential impoundment authority under the proposed constitutional amendment on budgeting. In that case, Congress had ordered the Postmaster General to pay the claimant whatever sum an outside arbitrator determined was the appropriate settlement. When the Postmaster General paid a smaller amount, the Supreme Court held that the Postmaster General could be ordered to comply with the congressional directive. The Court ruled that the President, and those under his supervision, did not possess inherent authority to impound funds that Congress had ordered to be spent: ''To contend that the obligation imposed on the President to see the laws faithfully executed, implies a power to forbid their execution, is a novel construction of the Constitution and entirely inadmissible.'' Id. at 611.

If the proposed constitutional amendment were ratified and became a part of the Constitution, the President's obligation to execute the laws would arguably have a constitutional fulcrum from which to leverage. The President could argue that when the constitutional duty to ensure fiscal year balance came into conflict with a statutory obligation to expend authorized, appropriated, or obligated funds, the constitutional responsibility had to be given priority as predicated on superior authority.

The proposed constitutional amendment's mandate to ensure budget balance for each fiscal year specifies no role or limitation on the power of the President. The majority report concedes that implementation and enforcement will necessarily involve the Executive Branch beyond the President's obligation pursuant to section 3 to have transmitted to the Congress a proposed budget prior to each fiscal year in which total outlays do not exceed total revenues.

The majority report noted:

> Both the President and Members of Congress swear an oath to uphold the Constitution, including any amendments thereto. Honoring this pledge requires respecting the provisions of the proposed amendment. Flagrant disregard of the proposed amendment's clear and simple provisions would constitute nothing less than a betrayal of public trust. In their campaigns for reelection, elected officials who flout their responsibilities under this amendment will find that the political process will provide the ultimate enforcement mechanism.

If this proposed constitutional amendment were to become the supreme law of the land, some future President may well choose to enforce its terms, in the absence of binding limitations in implementing authority, to make greater use of Executive Branch discretion and authority than this Congress has taken the time to consider.

This fundamental shift in the allocation of power and authority among the Federal branches is neither wise nor necessary. It risks despotism at the very times when despots are most likely to arise and in which our fundamental guarantees of liberty and individual freedoms has been the checks and balances that the branches of our Federal Government exert over each other.

In spite of these acknowledged problems with the underlying resolution, the sponsors and proponents voted lock-step to table the Kennedy amendment without any effort to cure any of the serious constitutional flaws that it highlighted.

We cannot legislate political courage and responsibility. No amendment to the Constitution can supply the people's representatives with these essential attributes. Indeed, the majority report concludes that the ultimate enforcement mechanism that can lead to balancing the budget is the electorate's power to vote. That power already exists. Moreover, the underlying resolution would undercut rather than enhance our democratic principles of majority rule and separation of powers and would ultimately lead to a loss of political accountability to the electorate.

Political courage has been an essential ingredient that has helped us achieve remarkable deficit reduction over the past 4 years—recent history that the majority report seeks to ignore. We have succeeded in reducing the deficit every year of the past four. We have cut the deficit by more than 60 percent in that time while pursuing sound economic and strong fiscal policies.

Now we need to stay the course and work in a bipartisan way to make further progress. We should now be focusing our attention and energies on the strenuous tasks of building a working consensus on budget priorities and achieving agreement on how to balance the budget.

This crusade for an illusionary quick-fix by constitutional amendment only makes that job more difficult. The time and resources devoted to reconsidering a constitutional amendment on the budget merely serve as a distraction from the real task at hand.

Let us not be distracted from the true means to deficit reduction: Let us proceed to consider and adopt a budget and deficit reduction package consistent with the progress made since 1993. As Treasury Secretary Robert Rubin testified before the Committee on January 17, ''politically, historically, and economically, the forces are in place to balance the budget. We are not far apart. Now we need to get the job done.''

Let us not sacrifice the Constitution or our Nation's fiscal policies to a siren song but turn to the work needed to continue reducing the deficit without sacrificing our Nation's commitments to seniors, veterans, education, the environment, public infrastructure and our fundamental constitutional principles. There is no need for a constitutional amendment to achieve our goals.

The questions raised during the debate on Senate Joint Resolution 1 will not go away and cannot be ignored. They point to a series of fatal flaws in proposing to conduct our Nation's economic and budgetary functions by means of a simply-sounding constitutional declaration. A recent editorial in the Burlington Free Press said it more succinctly: ''amending the Constitution to require a balanced budget would be like using a sledgehammer to nail a picket in a fence.''

Two years ago Senator Mark Hatfield's decisive vote against a constitutional amendment on budgeting was a contemporary profile in courage. Senator Hatfield had wisdom gained from his years as a public servant and personal fortitude and integrity that sustained him through very difficult times before and after that vote. Here was a man and a representative who was put to the test and not only survived but emerged as a powerful example for us all.

On February 8, 1995, Senator Hatfield came to this Senate floor to explain how he would vote. He said:

> As I explain my thoughts on the balanced budget amendment, I want to make it very clear that I believe the deficit must be reduced and that a balanced budget is worth achieving. It is possible that I will be the lone Republican to vote against the balanced budget amendment, but I say now to my colleagues that I share my party's goals, but happen to disagree on the means.
>
> The debate on the balanced budget amendment is not about reducing the budget deficit, it is about amending the Constitution of the United States with a procedural gimmick. This amendment that is before Members now puts new Senate and House rules regarding voting procedures into the Constitution. It does not balance the budget and gives no indication of how this might be done. Furthermore, it will not force Congress to budget responsibility. If indeed this is an amendment requiring a balanced budget, then how can we allow Congress to essentially suspend the Constitution with a three-fifths vote? This was a dangerous idea last year, and it is a dangerous idea this year as well. What other constitutional requirements would we like to waive with a three-fifths vote? Freedom of religion? Free speech? What other civil liberties shall we waive? A balanced budget amendment would allow the Congress to ignore the requirement for a balanced budget and to ignore the Constitution. This idea of Congress suspending a constitutional requirement cuts against the separation of powers principle so crucial to the foundation of the Constitution.
>
> A balanced budget can come only through leadership and compromise. This compromise must come from each one of us. But, most importantly, it must come from those we represent—those who do not want their taxes raised any more than we want to raise them—those who do not want their benefits cut any more than we want to cut them. In the end there is no easy answer, and there never will be. Regardless of the procedural restraint in place, where there is political

will to create a balanced budget we will create one, where there is will to avoid one, we will avoid it* * * .

As I stated during the debate on a balanced budget amendment last year, a vote for this balanced budget amendment is not a vote for a balanced budget, it is a vote for a fig leaf.

If I am skeptical about the ability of a gimmick to fix our budget, I am not skeptical about the ability of the people to demand and keep demanding that we respond to the budget challenge with real action. Real action is not a vote for an amendment to the Constitution which calls for a balanced budget by the year 2002. Real action is rolling up our sleeves and getting our fiscal house in order. Real action is working together, in a bipartisan fashion, to create a balanced budget, not to simply promise one. Real action means ending some programs—programs with popular appeal and vocal constituencies. Balancing the budget will result in an impact on each and every one of us—do we have the will to do that?

Bipartisan negotiation, leadership, and compromise have been the cornerstones upon which we have built all effective decisions on tough issues since the formation of our Government. Compromises are difficult to reach, but they are not impossible to reach. We have just received the President's budget. The ensuing debate on the budget will provide the chance for the Congress to work together to balance the Federal programs of this budget. I hope the Congress does not miss this opportunity to debate the real issue of balancing the budget. Voting for a balanced budget amendment is easy, working to balance the budget will not be.

The Congress should not promise to the people that it will balance the Federal budget through a procedural gimmick. If the Congress has the political will to balance the budget, it should simply use the power that it already has to do so. There is no substitute for political will and there never will be.

In May 1995, not long after his historic vote and after he had retained his chairmanship of the Appropriations Committee after being attacked by fellow Republicans for his vote of conscience and in defense of the Constitution, Senator Hatfield had occasion to repeat the following observations about balancing the Federal budget:

I believe that a balanced budget can come only through leadership and compromise. This compromise must come from each one of us. More importantly, it must come from those we represent. In the end, there is no easy answer. If there is a political will to create a balanced budget, we will create one, and if there is will to avoid one, we will avoid it.

I am deeply disappointed to learn that the Republican National Committee has been running attack advertisements in newspapers and on the radio over the past few days regarding the final vote on this proposed constitutional amendment. These attack ads are aimed at blackmailing specific Members of Congress to ignore their consciences and vote for this flawed constitutional amendment. It is wrong to play politics with the Constitution of the United States. It is wrong to try to punish any Member in this body who may choose to vote his or her conscience on this matter of constitutional proportion with its serious consequences to our system of checks and balances. I am disgusted by it.

We should all remember the courageous example of Senator Mark Hatfield, and vote our own conscience and use our own best judgment on this matter of constitutional amendment. I commend the Senators who are not blindly voting for a poll-tested bumper sticker, but who instead are exercising their best judgment and voting to defeat a seriously flawed proposed amendment to the Constitution of the United States. These Senators are those acting with courage.

By our Senate oath of office we each commit to ''support and defend the Constitution of the United States.'' We owe to our constituents our best judgment on matters of this importance. We owe to our children and future generations the protections of separation of powers and checks and balances from our Constitution that have served us so well without diminution for political expediency.

Mr. President, how much time remains to the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has approximately 3 minutes remaining.

Mr. LEAHY. Then what is the situation?

The PRESIDING OFFICER. Under the previous order, the Senator from Utah will control 1 hour of debate.

Mr. LEAHY. Mr. President, I have stated my disagreement with those who will vote for this. But I also know that many on both sides of the aisle are moved by their conscience in the way they will vote. I hope no one will seek to punish them. I hope they do not seek to punish Members of this body who vote his or her conscience on this matter—I was concerned to see some of the so-called independent expenditure ads over the weekend that seek to do just that—whether they have been Senators on either side of the aisle who express different views today than they might have expressed another time. I assume they have reasons for doing it.

I have tried throughout this debate for several weeks now to state my reasons. My reasons are based, as my reasons are for all votes, on what is best for the country, what is best for Vermont, what is best for the Constitution.

None of us owns a seat in this body. Each of us just passes through. Someday I will be gone, just as every other Member now serving in the U.S. Senate will be gone. But when I leave I want to be able to say to my children and my children's children, I did the best I could, and I did those things that prepared you for the future. My children will live most of their lives in the next century.

As I have said many, many times on this floor, I worry just not for those of us who are here at the twilight of this century, but those who live in the next century and the centuries after, because I expect that this Nation, having gone through all the terrible things that it has in its 200 years, and coming back stronger every single time, will be here long after each of us is a dusty memory. I yield the floor and turn back to my good friend from Utah.

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour of debate under the control of the Senator from Utah.

Mr. HATCH. Mr. President, contrary to Senators REID, DORGAN and CONRAD'S contention, exempting Social Security would severely impair the program. Let me say once again, an exemption would open up a loophole in the amendment and siphon-off revenues from the trust funds. Placing the trust funds off-budget will harm the Social Security Program.

In essence, we would have two budgets, one based on sound principles of solvency, and the other, the Social Security budget, which is not. One budget will be required to be in balance unless a supermajority votes to allow a deficit, the other—the Social Security budget—would be raided and bloated with unrelated pork projects. This will mean the end of Social Security as we know it, turning it into the least secure of all Government accounts.

Congress could pass legislation to fund any number of programs off-budget, through the Social Security trust funds. The budget could be balanced simply by shifting programs into the Social Security trust funds.

The immediate effect of the loophole is that the trust funds would grow—as projected—but only until 2002, the date the BBA requires that the budget be balanced. Thereafter, however, the trust funds would stop growing as all annual surplus funds would be reallocated to pay for programs that have been redesignated as Social Security. So instead of growing, from 2002 to 2019, the year the trust funds are estimated to stop growing, the system will become stagnant in 2002. The result of the loophole will be the depletion of the trust fund years early. Exemption of the trust funds from the BBA, ironically, will hasten the system's difficulties.

Congress has generally been increasing the web of services provided by Social Security. Consider what will happen when politicians are faced with the choice between the pressures of budget integrity and the procrastinating appeal of a Social Security loophole.

The only other possible use for Social Security surpluses would be for the Government to pay down our staggering national debt. If projects aren't redesignated, Social Security as discussed earlier, thereby consuming accumulated Social Security surpluses, surplus proceeds would be used in the only possible manner that would avoid section 1's prohibition on outlays exceeding receipts: to make debt repayments. This sounds wonderful, but in fact creates a dangerous mechanism for

the Congress to continue deficit spending. By paying down the debt, the Congress would provide itself a debt cushion—that is, a gap between the statutorily limited debt ceiling and the actual paid down debt. Congress could therefore use this gap to deficit spend, from Social Security, while avoiding the three-fifths vote required in section 2 of the BBA to raise the debt ceiling. This is because the accumulated Social Security surpluses would maintain the gap between the actual debt and the debt ceiling. Such a spending device completely frustrates the purposes for which I have introduced the balanced budget amendment.

Also, let us not forget about the troubling future for Social Security. The Social Security Board of Trustees estimates that by the year 2070, Social Security is expected to run an annual $7 trillion deficit. If we include Social Security in our balanced budget calculations, we will be able to prepare for and budget these massive shortfalls. Under the Feinstein proposal, we will not be including this deficit in our budgetary planning. As a result, under any proposal to exempt Social Security from Senate Joint Resolution 1, in order to raise revenue and increase the debt ceiling sufficient to cover the expected Social Security shortfalls in the next century, we will have to dramatically increase taxes or cut spending in other important programs, or face an annual three-fifths vote fiscal crisis to avoid financial default by raising the already staggering $5.5 trillion debt ceiling.

FICA taxes have grown significantly over time. There is no reason why this increase would not be accelerated under this loophole. Nor is there any reason why new Social Security taxes could not be added, such as a Social Security income tax or a Social Security value added tax. As this process continues, the loophole created by this exemption could easily swallow both the spending and the taxing protections of the BBA.

By allowing Congress to redesignate other spending as Social Security, this loophole would make it easy to balance the budget on paper without changing anything except accounting methods.

According to Wall Street analyst David Malpass, who recently testified before the Judiciary Committee,

> Financial markets would react negatively to a budget concept that ignores Social Security.

By passing a balanced budget amendment that excludes Social Security, Congress would game the system, saying, in effect, that it does not intend to balance the consolidated unitary Federal budget. For Malpass and other market analysts, this would be a decidedly negative signal for financial markets, leading to higher interest rates.

This probable gamesmanship is exactly what must be avoided. The way to avoid it is to reject this risky exemption gimmick. The best way to protect retirees and future generations is to adopt a clean strong balanced budget amendment, free of loopholes. It is the best way to save our financial situation and protect Social Security.

I yield 1 minute to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

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

I want to congratulate my colleague from Utah on all the great work he has done during this very, very important debate on the balanced budget amendment.

Mr. President, if recent history is any indication, we know that promises are never going to balance the budget, good intentions are never going to balance the budget, renewed commitments are never going to balance the budget, and pledges of cooperation are never going to balance the budget. Left on its own, we know that Congress itself will never balance the Federal budget.

In the 1 minute that I spend delivering this statement, the national debt will increase by more than $500,000. In the past 24 hours, it has grown by over $721 million. Over the last three decades, the national debt has mushroomed to more than $5.3 trillion. The question you have to ask is, where will it stop? At what point do we say enough?

What will it take to convince Washington that we are strangling the financial future of our children and our grandchildren with the noose that is being knotted by our very own hands? Mr. President, after all the promises, intentions, commitments, and pledges have failed, our last best hope rests with passage of the balanced budget amendment. In the name of America's children, I urge my colleagues to vote yes.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my colleague and yield 1 minute to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Utah for his fine work and debate here on the floor on the balanced budget amendment. I am going to vote for the balanced budget amendment because I am going to keep my campaign promise that I made during the election. It is not a campaign promise that I made lightly.

I have voted for this very same proposal as a Member of the 105th Congress as a Member of the House of Representatives. I have served in a State that has a balanced budget requirement. I have been the owner of a business that has had to balance its budget. I have been a part of a family that has had to balance its budget.

I think it is important for the future of our children and our grandchildren that we balance the budget. The only way I see us ever eliminating deficit spending is to pass a requirement in the Constitution that says that we have to balance the budget. For 28 years, we have heard from both Republicans and Democrats on the importance of balancing the budget. That is why I am casting my vote for a balanced budget amendment today.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my colleague and yield 1 minute to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I, too, want to urge all my colleagues to vote for the balanced budget constitutional amendment. As the only accountant in the U.S. Senate, I have been interested in the various accounting issues that have been brought up as part of this discussion. I am very disappointed that while accounting techniques are needed to know exactly where we stand and what to do, there have been a lot of sham techniques that have been brought up so that some of the people would have a hook on which to add a no vote—and that is all that they are.

We need to have good accounting. We need to protect Social Security. There is no one in this body who does not want us to take care of Social Security. The way to do that is through a balanced budget constitutional amendment. We owe it to our kids and to our grandkids. We owe it to our parents and our grandparents. We have to make sure that we have a balanced budget to keep this country going forward, with or without that amendment. I have heard promises here, but I am not so sure about promises anymore that we would balance the budget, and it is critical that we balance the budget. I will be counting on everyone to help on that. I ask for support of the balanced budget constitutional amendment.

Mr. HATCH. Mr. President, the balanced budget amendment is necessary to limit the Federal Government's power to mortgage America's future. It can protect the liberties of the American people for six primary reasons:

No. 1, our families: Passing the balanced budget amendment will improve the economic health and stability of all American families.

No. 2, our children's future: Passing the balanced budget amendment is a very clear-cut vote for our children's economic freedom, instead of their enslavement, which is what we have been doing to them.

No. 3, retirement security: It will protect Social Security, and it will stabilize the economy, which will benefit both current and future retirees.

No. 4, economic strength: The stabilizing effect the balanced budget amendment will have on the economy is clear.

No. 5, integrity: It will bring immediate credibility to our current budget negotiations, and it will restore a measure of integrity to our Government.

No. 6, the last reason is this stack of 28 unbalanced budgets. The last 28 years of our country's life have had unbalanced budgets. We need a constitutional amendment to stop this pile from growing.

Some have stated that all we need is the will to balance the budget. Well, these 28 budgets are a testament to the fact that our will just won't do it. It is that simple and that clear.

I have to tell you, one of my favorite quotes is this: ''A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largess from the Public Treasury. From that moment on, the majority always votes for the candidates promising the most benefits to the Public Treasury, with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship.''

The average age of the world's greatest civilizations has been 200 years. Ours is just a little bit over 200 years, and we are following that pattern of mortgaging our future, of voting largess for ourselves and the Public Treasury, and of not being able to put fiscal sanity into our house to make it a house of order. All we have is, it seems to me, the same old timeworn, wornout approaches toward the budget that we have heard for all of these 28 years. It is time to do something about it.

I yield a minute to the distinguished Senator from Idaho.

(Mr. ENZI assumed the chair.)

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

Mr. President, I rise today to express my complete and unreserved support for Senate Joint Resolution 1, the balanced budget constitutional amendment.

I think it is notable that the balanced budget constitutional amendment has been designated Senate Joint Resolution 1 for the second consecutive Congress. Bringing the budget into balance should be one of the Nation's highest priorities, and this designation demonstrates the Senate leadership's recognition of that fact. It also demonstrates the knowledge that, no matter what we do to balance the budget now, we simply cannot guarantee a balanced budget to future generations unless the Constitution requires one. A requirement to balance the budget, not just in statute but in the very document which defines our Nation, will truly make the Federal Government accountable—accountable to the American taxpayer of today and to the generations who will inherit this Nation tomorrow.

Mr. President, future generations are what this debate is all about. An entire generation of Americans has grown up without ever having seen a balanced budget. My children are nearly the age I was the last time the U.S. budget did not run a deficit. In the interim, we have seen deficit spending become the norm, and, as a result, the debt has ballooned to $5.3 trillion or roughly $20,000 for every man, woman, and child in this Nation. If we take the time to look beyond the immediate future, to a time when our children—and for some of my colleagues, their grandchildren—stand where we stand today, as parents and taxpayers, we will see a vision which should frighten us. Unless something is done, and done soon, interest on the debt will consume a larger portion of the budget than all the domestic discretionary programs combined.

Some opponents of the balanced budget constitutional amendment have said all we need to do is stop deficit spending. This is true, and in a perfect world it would also be an easy goal to achieve. But we all realize we do not live in a perfect world. We live in a nation populated by more than 260 million people, many with dramatically different expectations of what, if anything, their Federal Government should do for them. And they elect us to represent those interests. Unfortunately, for the last 28 fiscal years too many have tried to please all of those interests at the same time, all too rarely asking, ''What will be the result down the road?''

Mr. President, as I have mentioned, we are now living that result. The debt has spiraled out of control and a balanced budget has become a highly desired goal rather than a regular, expected occurrence. While we are slowly getting closer to achieving that goal, we must not stop there. Even if we balance the budget by 2002, a timeframe to which even President Clinton has now agreed, what happens next? What happens when the names of the 105th Congress become mere memories in our Nation's history? Who will ensure that balanced budgets will continue 5, 10, 20, even 50 years down the road?

While I would like to believe that balancing the budget in 2002 will result in all future budgets being balanced, I simply cannot. Balancing a budget is hard, as many of us who must balance our own personal budgets well know. Future leaders will be sorely tempted to deficit spend in order to meet the desires of the people. And much like a generation ago, they will find it easy to appease everyone. They will find it easy to say, ''We'll balance it next year.'' The result may well be another 28 years of unbalanced budgets and increasing debt. To quote the Spanish philosopher George Santayana, ''Those who cannot remember the past are condemned to repeat it.'' Without a balanced budget constitutional amendment, we leave future generations to the mercy of whether or not their leaders will remember the past.

Mr. President, over the Presidents' Day work period, I had the opportunity to speak with numerous Idahoans. They are good people who are very concerned about the future of the United States. During my week in the State, they overwhelmingly expressed to me that passage of the balanced budget constitutional amendment was one of their biggest concerns.

The people of Idaho know how serious the issue of balancing the budget is, because, like most Americans, they have lived under a State balanced budget requirement for years. It has forced tough decisions and, in some cases, prevented Idaho from doing some things the people wanted to do. But, it has worked. More importantly, for all the difficult decisions it has required, Idaho has kept it. They have shown they are willing to make tough decisions in order to keep the budget balanced. In the process, Idaho has also made sure that its more important resource, its children, are protected. A recent report released by the Children's Defense Fund notes that Idaho is below the national average for the percentage of children living in poverty, below the national average for the number of uninsured children, and above the national average in child support enforcement. You see it is possible to balance the budget and have the government do those things which the people expect it to do. As a nation, we would be wise to heed Idaho's example.

As I mentioned before, the people of my home State have shown they can and will live within a limited budget—on both a personal and governmental level. The members of the Idaho State Legislature stand for election every 2 years and must reflect the attitudes of the citizens of their communities. As in the past, they have passed a memorial asking Congress to approve the balanced budget constitutional amendment and send it to them for ratification. Their words bear repeating as we consider action on this significant step to restore the confidence of our people:

Whereas, the annual federal budget has not been balanced since 1969, and the federal public debt is now more than five trillion dollars, or twenty thousand dollars for every man, woman, and child in America; and

Whereas, continued deficit spending demonstrates an unwillingness or inability of both the federal executive and legislative branches to spend no more than available revenues; and

Whereas, fiscal irresponsibility at the federal level is lowering our standard of living, destroying jobs, and endangering economic opportunity now and for the next generation; and

Whereas, the federal government's unlimited ability to borrow raises questions about the fundamental principles and responsibilities of government, with potentially profound consequences for the nation and its people, making it an appropriate subject for limitation by the Constitution of the United States; and

Whereas, the Constitution of the United States vests the ultimate responsibility to approve or disapprove constitutional amendments with the people, as represented by their elected state legislatures; and the opposition by a small minority repeatedly has thwarted the will of the people that a Balanced Budget Amendment to the Constitution should be submitted to the states for ratification.

Now, therefore be it resolved, by the members of the First Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Congress of the United States expeditiously pass, and propose to the

legislatures of the several states for ratification, an amendment to the Constitution of the United States requiring, in the absence of a national emergency, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

The call for fiscal responsibility is nothing new, it has been sounded for years. President Andrew Jackson said, ''Once the budget is balanced and the debts paid off, our population will be relieved from a considerable portion of its present burdens and will find not only new motives to patriotic affection, but additional means for the display of individual enterprise.''

More recently, the American people heard the following words: ''We must act now to protect future generations from government's desire to spend its citizens' money and tax them into servitude when the bills come due. Let us make it unconstitutional for the Federal Government to spend more money than the Federal Government takes in.''

This sound advice came from President Reagan on the event of his second inauguration. His words were true then, and they are even more so now. For since he made that call for a balanced budget amendment to the Constitution, we have had a dozen more years of unbalanced budgets, a dozen more years of deficits, a dozen more years of telling our children and grandchildren that they will have to discover a way to do what we did not have the courage to do.

Mr. President, when I was mayor of Boise, I not only had to balance my own personal budget, but I also had to ensure that the city's budget remained balanced as well. It was a responsibility that required tough decisions, both on my part and on the part of the good people of Boise. Together, we had great expectations for our city. We wanted to build new parks, hire more police officers, build a new fire station, and do numerous other things to make the city an even better place to live. At the same time, however, we had to face the fact that we could not have all our wants, we would have to focus on our needs.

So what did we do? We prioritized and lived within our means. And in the process we built some wonderful parks, we modernized our firefighting equipment, and we lowered the crime rate. I would add, Mr. President, that we did all this and either held the line or decreased the property tax levy the final 2 years I was in office. As a result of our efforts, we were voted one of the most livable cities in the Nation by a national magazine, which called Boise, ''A great place to raise a family.''

Mr. President, we did all this, and balanced our budget, because we had to do so. It forced us to be frugal, but more importantly, it required us to find better and more efficient ways to meet our goals. And we still met our goals. We managed to do more with less. You see, a balanced budget does not mean we deny ourselves the ability to do those things which need to be done. It simply means we must do those things as efficiently as possible, and not waste time and resources trying to do things which are not truly important.

Mr. President, before concluding my remarks today, I would like to address the concerns which have been raised about Social Security. During my tenure in the Senate, I have supported several efforts to assist Social Security recipients. It is based on my support for the Social Security system, and those who depend on the system now and in the future, that I opposed the maneuvers to add ''specific exemption'' language to the balanced budget constitutional amendment. Doing so, I believe would have proven to be detrimental to the long-term security of the Social Security Program.

First, because Social Security is defined in statute, its definition may be changed by statute. A Social Security exemption to the balanced budget constitutional amendment would then create an inviting target, far too inviting in my view, to those who do not want to truly balance the budget. The Congress, potentially, would be able to change the definition of Social Security so as to include economic stimulus programs, health care programs, or any other program which caught the fancy of the majority of the Congress. These areas could then be funded by draining the Social Security trust fund while the budget, technically, remained balanced. The net result would be a rapid depletion of the trust fund which would endanger benefits for future retirees.

Second, I think we must look at what a Social Security exemption would not do. Contrary to what some have claimed, it would not provide any more protection for the trust fund than now exists. It would not prevent the trust fund from running a deficit beginning in 2019, just as it is currently on pace to do. In fact, it would not extend the solvency of the trust fund by a single day—Social Security would still be bankrupt by 2029. The Social Security exemption would not do one thing to save the Social Security trust fund. Only balancing the budget—and I believe only a constitutional amendment will guarantee a balanced budget—and reducing the debt, will ensure that we are able to pay off the Government securities in which the law requires the Social Security surplus to be placed.

Mr. President, the balanced budget constitutional amendment is designed to make the Federal Government do something it has not done in nearly 30 years—take responsibility for its actions now, rather than passing the buck to our children and grandchildren. In the end, it is that simple. Are we going to continue to mortgage our children's and grandchildren's future for the sake of political expediency, or are we going to accept our responsibility to make the difficult decisions which come with balancing the budget?

I believe there is only one way to answer that question. We must act now. It is time for the Federal Government to cut up its credit cards, prioritize the real needs, ignore the ''wants'' list, learn to do more with less, and balance its budget. It will not be easy and it will not be pretty, but it must happen—and we cannot guarantee it will happen without a constitutional amendment. After 28 years of unbalanced budgets, we owe future generations the promise that they will not be forced to live with the results of our mistakes. Passing the balanced budget constitutional amendment is our downpayment on that promise.

Mr. President, in the 1,697 votes I have cast as a U.S. Senator, the vote today at 5:15 is the most critical. How critical? The last time this Nation had a balanced budget, I was 17 years old. Today, I have a son who is 16. He will be 17 this year. It has been a generation since we have had a balanced budget. I wish that when I was a 17-year-old, there had been a law that said you are going to have a balanced budget.

In the State of Idaho, we have a balanced budget requirement in the Constitution, and what's the upshot of that? After a century, our books are balanced in Idaho. We have 28 years of unbalanced books here in the United States. It is time for a balanced budget amendment. I cast my vote today not only as a Senator, but as a father trying to do the right thing for my kids.

I yield the floor.

Mr. HATCH. Mr. President, I yield 1 minute to the Senator from Tennessee.

(Mr. KEMPTHORNE assumed the chair.)

Mr. THOMPSON. Mr. President, our generation inherited the freest, strongest, most prosperous country in the history of civilization. Within one generation, we are changing that. When historians look back and ask the question, ''When did the decline of the United States begin,'' they will point to our generation, because we are the first generation to spend the fortune of our grandchildren and great-grandchildren.

But we are told that we don't need to worry about it because we are in the process of balancing the budget, as evidenced by the President's latest so-called ''balanced budget.'' But when the analysis comes out, we see that we are looking at another $69 billion in deficit, and this so-called ''balanced budget'' is supposed to make all the cuts. But 98 percent of the cuts are in the last 2 years—after the President leaves office. We know that this is a sham. We know that even if, for a nanosecond, we did balance the budget in the year 2002, it would not account for the baby boomers who are going to be retiring in 2010. Can't we look forward for our Nation's future?

I support the balanced budget amendment and urge immediate passage.

Mr. HATCH. Mr. President, I yield 1 minute to the Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I thank the distinguished Senator from Utah. I rise in strong support today of the balanced budget amendment to the Constitution. I have three sons. My twin boys, today, are celebrating a birthday. They are 23 years old. I have an 18-year-old.

In 1984, when I first ran for political office—the Arkansas State Legislature—I was asked, ''Why would you get into politics?'' I had three reasons: Jeremy, Tim, and Josh. I didn't know whether I could make a difference, but I was gravely concerned about the direction our Nation was going in and, particularly, the way our Nation was growing in deficits, chronic deficits, and a massive national debt. I wanted to be able to look them in the eyes and say, ''I did what I could to give you a nation as good and as prosperous and with as much opportunity as I have had.''

Well, in less than 2 hours from this moment, I will have an opportunity to cast a vote. We may not succeed in this balanced budget amendment, but I will have a clear conscience, and I will be able to look my sons in the eyes and say that I did what I could to bring a fiscal sanity to our Nation again.

I thank the Chair and yield the floor.

Mr. HATCH. Mr. President, I thank my colleagues for their words here today. We are talking about trying to save our country. Frankly, after 58 of the last 66 years of unbalanced budgets, I think it is time we do something about it.

I yield 1 minute to our distinguished friend, the Senator from Michigan.

Mr. ABRAHAM. I thank the Chair. Mr. President, I rise in support of the amendment. As I have said on the floor numerous times during the debate, families of this country are hurt to the extent that we don't balance the budget. Interest rates are higher. That means that loans, whether it is for a new car or house, a student, or anyone else, are affected directly by this failure in Washington to balance the budget.

Most importantly, children are hurt. We have a newborn baby in our family. He was born 5 months ago. The day he was born, he inherited a responsibility to pay $187,000 in Federal taxes just to pay his share of the interest on this national debt. That isn't just unfair for my son, it is unfair for all the children in this country.

Passage of this amendment has to happen. It has to happen now in order to end the red ink and set us on the right course for fiscal integrity in the future.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Alabama.

Mr. SESSIONS. I thank the Senator from Utah. I appreciate the leadership he has given to this effort. I think that this issue is very, very important to our Nation. I think, fundamentally, it is one of integrity. It is integrity in spending. We have to deal with those issues day after day. How do we get an unbalanced budget? What happens? Senators and Congressmen get together and each have their own priorities. Each believes deeply that some project ought to be funded, and they cannot agree on which ones should be funded and which ones should not. So, they get together, they fund them all, and they pass on the debt to our children.

Some say we don't need a balanced budget—that we should not amend the Constitution. We have a series of 33 out of 34 years where we have failed to balance the budget. We have a systemic problem, and we need a systemic solution. This amendment will bring integrity to the finances of the United States. I think it is absolutely crucial that we pass it. I can't believe anything more important will come before this body than this amendment, and I am in support of it.

Mr. HATCH. Mr. President, I yield a minute to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, today I will vote to pass the balanced budget amendment. This is a vote for a stronger America, for responsible Government, and for our children.

In 1982, I approached the constitutional amendment with a certain degree of skepticism. My vote against the amendment at that time reflected my belief that Congress could and would correctly eliminate our budget shortfall. Since that time, however, we have come to a point of national financial crisis. In 1982, we had a Federal debt of less than $1 trillion. This year, we have more than $5 trillion in Federal debt. This debt is crippling our Government's ability to solve our difficult problems.

Like many, I wish there was a way to make Congress and the administration balance the budget without amending the Constitution. But we have tried, over and over and over, and we have failed. These measures have always fallen short.

We must have in Washington what we take for granted in Montpelier, VT, and State capitals across the country—a balanced budget.

This Congress must be remembered as the one that made life better in America.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I thank the distinguished Senator for yielding to me.

The question has been asked many times during the day: Do you have the votes? There are 55 Republican Senators who have given their word that they would vote for a balanced budget constitutional amendment. There are a number of Democrats who have campaigned for this balanced budget amendment. If they keep their word, we will pass this constitutional amendment.

What is to be gained as a result of doing this? The benefits are to our constituents. We believe that $125 a month could be the benefit derived from a constitutional amendment through lower interest rates, more affordable mortgage loans, more affordable student loans, cheaper automobile loans, and so forth.

Mr. President, if we were to pass this constitutional amendment, we would finally put some kind of outside restraint on the ability of Congress to spend the taxpayers' dollars. We need to do that. We have failed 28 years in a row. It is time to get it done.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Nebraska.

Mr. HAGEL. Mr. President, this is about leadership. The balanced budget amendment to the Constitution is about the future of this country. It is about bold leadership. It is about stepping up to the challenges that face our Nation and what kind of country we are going to leave to our children and to our grandchildren.

This is about doing the right thing. This is not about esoteric, theoretical, and academic issues. This is not about deferring more of the same that we have deferred for almost 50 years in this country. This is about stepping up to the real challenges that affect real people that will have a lasting impact on this country. If we do not provide the bold, dynamic leadership that this country requires, then we will pay a heavy price in the future for our inaction. Our children and our grandchildren will pay a very high price. They will pay a price that will restrict their opportunities, restrict their future, and restrict the future of our Nation and the good this country can do for the rest of the world and for our people over the next 25 to 50 years.

For those reasons, I strongly support this constitutional amendment to balance the budget.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Alabama.

Mr. SHELBY. Mr. President, thank you.

Mr. President, as we debate the balanced budget amendment, we would be wise to listen to the words of one of our Founding Fathers, Thomas Jefferson. Mr. Jefferson once wrote that ''the question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.''

Mr. President, I agree with Thomas Jefferson: It is morally wrong for one

generation to burden a future generation with its debts. Yet, that is exactly what has happened during the past 27 years in America. The Federal budget has not been balanced since 1969, and as a result, our national debt has grown to more than $5 trillion. In fact, a child born in America today begins life with a $20 thousand share of the national debt. During his or her lifetime, that child can expect to pay $187 thousand in taxes just to cover the interest payments on this debt—debt he had nothing to do with creating, but debt which will substantially limit his opportunities in life.

Mr. President, just look at the strain current interest payments are putting on our national resources. Interest payments consume about 15 percent of the Federal budget, and they are now the third largest item in the budget—only Social Security and defense are larger. Last year, we spent a record $241 billion on interest payments to service the national debt. That is more than double the amount of money the Government spent on education, training, crime, and transportation combined.

Mr. President, we cannot afford to continue wasting the taxpayers money in this fashion. This must stop, and the balanced budget amendment will help stop it by ending deficit spending and the growing interest payments on the national debt.

However, the opponents of a balanced budget amendment have put forth many false arguments to try to confuse the issue. I want to address several of these arguments one by one.

The most deceptive argument opponents of a balanced budget amendment use is that this amendment will hurt the Social Security system, unless Social Security is specifically exempted from the amendment. Mr. President, nothing could be farther from the truth. If the Social Security system is left as the only area of the budget which does not have to come into balance, then future Congresses will have a tremendous incentive to take the FICA revenues, which currently fund the Social Security system, and use them to help fund all other areas of the budget which must be balanced. That would leave the Social Security system in serious financial trouble.

Second, exempting Social Security from the balanced budget amendment would further threaten Social Security by allowing Congress to move programs out of the area of the budget which must be balanced and into the exempt Social Security system. This would be a heavy drain on the money originally collected for Social Security.

Finally, the whole point of the balanced budget amendment is to put an end to deficit spending. But, as the Social Security trustees tell us, there are massive deficits projected in the system in just a few short years. Therefore, while the rest of the budget is balanced, the Government will still be borrowing huge sums of money to pay its liabilities in the Social Security system. Moving Social Security off-budget is just another sham put forth by those who do not want to face the reality that we must stop piling debt on our children and grandchildren.

The truth is the balanced budget amendment will protect Social Security by reducing its biggest threat—massive interest payments. If left unchecked, these payments will dramatically reduce the money available for Social Security benefits. A balanced budget amendment will keep interest payments from increasing and will allow more money to be spent on meaningful programs, including Social Security.

Another argument put forth by opponents of a balanced budget amendment is that it will transfer power over the purse strings to the judicial branch of government. This is a serious concern, but one which is misplaced. One of the reasons why the courts will not become unduly involved in the budgetary process is the doctrine of ''standing'' contained in article III of the Constitution. The doctrine of standing requires that a plaintiff has a direct and specific, personal stake or injury. A ''generalized'' public grievance, such as a taxpayer adversely affected by macroeconomic decisions, will not be recognized. Moreover, the courts will owe deference to Congress under both the ''political question'' doctrine and section 6 of the amendment itself which gives Congress the enforcement authority.

Another objection to the balanced budget amendment is that it does not provide for a capital budget. The argument here is that just as most families need to borrow money for large purchases, such as a home, the Federal Government should also have the ability to borrow money for capital investments. Those who hold that view, point out that if families had to live under the same circumstances imposed on the federal Government by a balanced budget amendment, no one would be able to purchase a home.

Mr. President, comparing the Federal Government to the typical family purchasing a home is a very misleading comparison. The Federal Government has an annual budget of more than $1.6 trillion and the ability to increase its income at will by raising taxes. There is virtually no project conceivable which the Federal Government could not afford to finance without incurring debt. Just consider that we built the entire interstate highway system on a pay-as-you-go basis. The price of a home can easily be three times as much as the annual income of a family, which is why they need to borrow money to purchase it. By comparison, if the Federal Government wanted to undertake a project three times the amount of its annual income, the project would need to cost $4.8 trillion in 1 year. That is simply ludicrous. The truth is that with the amount of resources at the disposal of the Federal Government, there is simply no need for a separate capital budget.

The final objection I will address is that the balanced budget amendment will hamper the Government's ability to stimulate to the economy during a recession. Mr. President, the truth is that the Federal Government does not have a very good track record when it comes to trying to stimulate our economy. Bruce Bartlett of the National Center for Policy Analysis, points out that since November of 1948, there have been seven recessions, followed by ''anti-recession'' legislation. In each instance, the recession the legislation was designed to end was over by the time the legislation was finally passed. In fact, Bartlett concluded that ''Without exception, stimulus programs have failed to moderate the recessions at which they were aimed, and have often sowed the seeds of the next recession.''

Part of the reason for this is that Government jobs are very expensive to create. President Carter's budget director testified before the Joint Economic Committee in 1980 that public works jobs cost between $70,000 and $198,000 per job per year. The truth is, Mr. President, Congress should not be in the business of trying to micro-manage our economy. If Congress cannot even balance its own books, why do opponents of the balanced budget amendment believe Congress can manage the entire economy?

Mr. President, the decision before us is a simple one. It is a choice of fiscal responsibility or fiscal foolishness. It is a choice of protecting our children's financial future or destroying it. It is a choice of allowing the 50 States to have a say in this matter or denying them that freedom. In the end, Mr. President, it is a question, as Thomas Jefferson said, between right and wrong, and I urge my colleagues to do the right thing and vote for the balanced budget amendment to the Constitution.

Mr. President, the decision before us today is the most important one that this Senate will make in the 105th Congress. Let there be no doubt about it. Since the last balanced budget in 1969, deficit spending has become a permanent way of life in Washington. The result, as we all know, is a $5.3 trillion national debt. This debt is costing the taxpayers of America a quarter of a trillion dollars each year in interest payments alone. The reality is that without a balanced budget amendment, deficit spending will continue as usual and our children and our grandchildren will be left to pay the bill.

Mr. President, now that the debate is over and all of the smoke has cleared, we are faced with a simple choice between fiscal responsibility or fiscal foolishness, a choice of protecting our children's financial future or destroying it, a choice of allowing 50 States to have a say in the matter or denying them that freedom.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the economic arguments for this constitutional amendment were eloquently stated—lower interest rates, more jobs, and a higher standard of living for Americans in the future.

I want to emphasize that the moral arguments favor this constitutional amendment. Mr. President, it is simply morally wrong for us, year after year after year, to consume the services of government and to send the bills to our children and to our grandchildren, who have not had a voice in this body. We must be responsible enough to see to it that what we want from government today we pay for today. The fact is that we will not do it without a constitutional amendment, as evidenced by the heavy stack of unbalanced budgets in front of the leader of the debate on this issue.

This balanced budget is for our children and our grandchildren.

Mr. HATCH. Mr. President, I yield 1 minute to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Thank you, Mr. President. I thank my friend and colleague, Senator HATCH, who has put so much effort into this issue.

Mr. President, as the Senate prepares for the final vote on the balanced budget constitutional amendment, I again offer my support for the passage of this critical piece of legislation.

Over the course of the last several weeks, I have listened to many of my colleagues as they have come to the floor to debate the merits or the detriments of the amendment. I have listened to many of my constituents during my travels through Colorado, most recently at town meetings in Colorado Springs, Trinidad, Longmont, Greeley, and Golden. I also have reviewed mail that has come into my office here in Washington, DC, addressing this important issue. And I must say I am greatly pleased by the large number of people who support the balanced budget constitutional amendment.

As I've indicated, I have been conducting a series of town meetings in my home State of Colorado. When the discussion turns to balancing the budget, the majority of Coloradans realize that we can only begin to address this issue with constitutional authority. I have also received numerous letters from special interest groups located here in Washington, DC, asking me to vote against the will of the American people and against the amendment. Well, I am not going to do that. I support the balanced budget constitutional amendment and have supported it since becoming a Member of Congress back in 1987.

I believe this amendment is in the best interest of the future of this country, and I become frustrated to hear some of the arguments against this amendment, such as in the letters I receive from special interest groups. For instance, opponents claim that the amendment would limit the Federal Government's ability to address short-term economic crises or threats to our national security. Well, we have heard this argument on numerous occasions over the past few weeks, as well as over the years. Many of my colleagues have addressed this issue, and in fact, we have even voted on several amendments relative to these concerns.

Section 1 and section 5 of the amendment, as it is currently written and was reported by the Committee on the Judiciary, provide Congress with the ability to waive the requirements of the amendment, so I do not find this argument against the amendment to be particularly compelling.

Another often repeated argument against the amendment claims that Congress can balance the budget on its own without passing the balanced budget constitutional amendment. Well, folks, I have been a member of this institution for 10 years now, and I have yet to see a balanced budget or one that even approaches balance. In fact, there has not been a balanced budget since 1969. Congress has even passed deficit-reduction legislation on numerous occasions in an effort to achieve a balanced budget, and we still cannot get to a balanced budget.

This constitutional amendment will make the Federal Government accountable to the Constitution when formulating a budget, and by doing so, this amendment will force the Federal Government to behave in a fiscally responsible manner just as more than half of the States are already required to do.

Again, opponents argue that a balanced budget constitutional amendment will only lead to devastating cuts to many federally funded programs. Well, I certainly do not argue that this amendment will not force Congress and the administration to make some tough choices. Tough choices need to be made in order to balance the budget. But what is the alternative?

Because of our inability to balance the budget, we continually run a deficit each year. Our country currently has a national debt of over $5.3 trillion—and it is growing—and each and every year the Federal Government pays interest on this debt. In fiscal year 1996, this Government spent $344 billion on interest costs, roughly 15 percent of the entire Federal budget for that year. Let me repeat this. The Federal Government spent $344 billion on interest costs last year, and of this $344 billion, not $1 of it went to education, law enforcement, highways, or even healthcare. At 15 percent of the Federal budget, interest costs are our third largest expenditure, and it continues to grow.

What does this mean? It means that our national debt is strangling the rest of the budget. My friend and colleague, Senator HATCH, has been on this floor each and every day of this debate arguing in favor of this amendment, and I believe he best put this whole issue of interest payments in perspective. If my colleagues will indulge me, I would like to reiterate some of my colleague's comments from a couple of weeks ago because I think they need to be continuously repeated in order to drive home the importance of balancing the budget and ending the escalation of our national debt.

As my friend from Utah stated once before, the Federal Government spent more money last year on net interest payments than it did for the combined budgets of the Department of Commerce, the Department of Agriculture, the Department of Education, the Department of Energy, the Department of Justice, the Department of the Interior, the Department of Housing and Urban Development, the Department of Labor, the Department of State, and the Department of Transportation. Our inability to balance the budget over the years has contributed to an enormous debt which requires more money to service annually than we are able to put toward the combined budgets of ten departments within the Federal Government.

If we do not get a handle on the budget, we will continue to add to our national debt. In the long-term this debt, and the costs that accrue in interest, will endanger the funding for those programs that truly need, deserve, and require Federal funding. Of course, as this problem continues to escalate, it will be our children and our children's children who will be forced to deal with this problem. It will be they who will be hurt by low levels of funding—all because we did not seize the opportunity to pass the balanced budget constitutional amendment.

And yet, there are still those who oppose the balanced budget constitutional amendment—who think that Congress can balance the budget on its own. Well, we have not done so in the last 28 years, and without this amendment I see no possible way that we can do so. If we were able to pass a budget plan this year which would balance the budget by the year 2002, without the constitutional requirement there is nothing to stop future Congresses and future administrations from implementing unbalanced budgets.

And each year we fail to balance the budget, we run a deficit. These deficits will continue to add to the debt, increasing it and the size of the interest payments on the debt we leave to our children. It is estimated that in the year 2002 the interest payments will be $412 billion. It will continue to increase thereafter unless we find the fortitude to control our spending.

You know, as legislators we should realize that our constituents expect certain things of us and of the Federal Government, and they rightly should. They trust us when we pledge our support for legislation such as this, and

they have a right to expect our support when the time comes to vote. All of us meet with constituents and constituency groups, and barely a day goes by that we do not hear someone asking for our support for funding for certain programs or to work to increase funding for others. However, the fact of the matter is that money is scarce, and if we continue to run deficits and add to the national debt, it is going to become increasingly difficult to fund programs at the level they need and deserve.

This body is going to vote on the balanced budget constitutional amendment, and it makes me angry to think it may fail to pass—once again by possibly only one vote. It makes me angry because this legislation and all of the same debates will continue to come up in future Congresses until one Congress has the good sense and courage to pass this measure and send it on to the States where it rightly belongs for ratification. As Members of the United States Congress, we often think that we know best on every single issue. Well, this is an issue we should send to the States and the American people, to finally provide them with the opportunity to debate the merits of this amendment and allow them to have the final decision.

Mr. President, for 3 weeks we have seen every chart, we have viewed every graph, we have heard every point of view, and in some cases we have looked for every hole in which to hide in an effort to scuttle the balanced budget amendment.

In my view, the American people are not buying any more excuses, nor should they. The American people know that their elected leaders, just like the wage earner in their household, cannot spend themselves into prosperity. Regardless of our own personal and varying views in this Chamber, one inescapable question remains. That question is: Do we trust the people of this Nation? By not passing this amendment we are telling them that we do not trust them, that we don't trust them to do the right thing in making decisions that will affect our lives. We, from our lofty perch in the U.S. Senate, will relieve them of the decision by not letting them discuss the balanced budget amendment in their State legislatures and in their hometowns. No one knows if the necessary 38 States would actually ratify the balanced budget amendment. But to not even allow the citizens of our home State the opportunity to review it, I find rather arrogant on our part. Let's not insult our constituents with that denial. They do not take this issue lightly any more than we do. But they also know that eight balanced budgets out of 66 years simply isn't good enough for America.

Let's pass this important bill and give this Nation a chance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Georgia.

Mr. COVERDELL. Mr. President, any time a contemporary generation is engaged in the business of consuming the resources of generations yet to come, they are in the business of abrogating the freedom of generations yet to come. This democracy was formed in a war for economic freedom and independence. As you look to the children yet to come, we are in the business of robbing them of the choices and the freedoms we have known as American people. The balanced budget amendment to the Constitution is an act that must be engaged in in order to preserve the freedoms that we have known as Americans for all those generations yet to come.

My mother and father kept 80 percent of their wages to raise their family. My sister will keep 46 percent, and her children will keep 16 percent. They will not be free as we know it.

We need to pass the balanced budget amendment to the Constitution.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 or 2 minutes to the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I thank the Senator for yielding and compliment him on his leadership on this very important issue.

Here we are having the same debate on the same issue and the same reversal of positions by Senators who have previously supported this amendment—the same excuses and the same problems. We don't have a balanced budget amendment. Two years ago the opponents of the balanced budget amendment said a constitutional amendment isn't necessary in order to achieve a balanced budget; that, in fact, the constitutional amendment is only an enforcement mechanism, but it isn't the balanced budget plan itself. They admonished Republicans by saying, ''Show us your plan. Show us your plan.'' The President, in the State of the Union Address in February, expressed the same sentiment. He said, ''Rewriting the Constitution isn't necessary to balance the budget. All we need is your vote and my signature.'' Exactly, Mr. President. Republicans delivered a balanced budget plan last year statutorily. We delivered a plan. We delivered it to the President of the United States. The President demonstrated with the swift stroke of the pen the need for a balanced budget amendment because he vetoed that legislation.

History has proven that a force greater than politics is necessary in this institution in order to achieve a balanced budget. History has proven the repeated failures of statutory attempts to balance the budget. The last time we had a balanced budget was in 1969. We have only had a balanced budget five times since 1950. In fact, we have debated this amendment, in the last two decades, in 1982, 1986, 1990, 1992, 1994, 1995, 1996, and now here in 1997. And guess what? We don't have a statutory balanced budget. The fact is the opponents of the balanced budget amendment understand that you can't have a constitutional amendment without achieving a balanced budget.

Mr. KYL. Mr. President, it now appears that the balanced budget amendment will pass or fail by a single vote. If the amendment is defeated, I would venture that there is a greater chance that UFO's will land on Earth tomorrow than there is that the Federal Government will actually balance its books by the year 2002. It is unlikely that Congress and the President will ever balance the budget without a constitutional requirement to do so.

Two years ago, President Clinton vetoed a balanced budget—the first balanced budget to pass Congress in 26 years. Not one Senate Democrat voted for the plan. And of course, since it would have taken 67 votes in the Senate to override the President's veto, the balanced budget never became law.

President Clinton now says he has changed his mind—that he is for a balanced budget, but once again his support is conditional: we have to wait until after he leaves office to make 98.5 percent of the savings required to get there. Until then, it is business as usual. The President would create six new entitlement programs, costing at least $60 billion over the next 5 years. He would have us increase total Federal outlays by $827 billion over that period. We can do all this, yet somehow the deficit magically disappears in 2002.

I am reminded of the old Peanuts cartoon when Lucy promises time and again to hold the football still for Charlie Brown, only to pull it away at the last minute. Every Republican Senator will vote for this amendment. A few Democrats will vote for it, too. An overwhelming majority of the American people want us to pass it. Yet President Clinton and most Senate Democrats ask us to trust them—they do not need a constitutional amendment to balance the budget.

How do we know that, in 3 or 4 years, when it finally comes time to get serious about deficit reduction under the Clinton budget, they will not yank away their support for a balanced budget again?

Mr. President, we must pass the balanced budget amendment.

Mr. HATCH. I thank my colleague.

I yield 1 minute to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, the last time we had a balanced budget in this country, as my colleague from Maine has pointed out, was 1969. I happened to be at that time a senior in college. I turned 50 this year. It has been a long time. A lot of things have happened

since 1969. The one thing that has not happened is for this Congress and the President to balance the budget.

It is, frankly, time that we stopped spending our children's money. It is time we stopped spending our grandchildren's money and great-grandchildren's money. We need to balance the budget. Within the next 2 hours, I intend to cast a ''yea'' vote for a balanced budget amendment to the Constitution.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair. I thank the Senator from Utah.

I will quote Ronald Reagan, who said in 1985:

> Almost 50 years of deficit spending has finally brought us to a time of reckoning. We have come to a turning point, a moment for the hard decisions. If not us, who? If not now, when? Let us make it unconstitutional for the Federal Government to spend more than the Federal Government takes in.

A very simple notion. Ronald Reagan, our President, said this in 1985. It is 1997, and we have not yet taken the action the American people have asked us to take, to make it unconstitutional to mortgage the futures of our children and grandchildren. That is the vote today. The Republicans are going to keep their promise. We will be back again until we win this fight so that when we leave this place, we will know we have done our duty to protect the future of this great country that so many people have died to defend.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my colleague from Texas.

I yield 1 minute to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I thank the Chair.

I think this is a very significant day. We had a very blessed event over the weekend at my house. We had our fifth grandchild. And when little Mollie Elizabeth Inhofe was born, I say to Senator THURMOND, she inherited a $20,000 personal debt. I remember it was only a year before when little Jase, our fourth grandchild, was born. He inherited a $19,000 debt. So it is going up every year.

When I look over, I see Senator HAGEL from Nebraska. You do not have to go back just to the Reagan administration. If you go back long before that, one of our very fine Senators, Carl Curtis, had an idea that he would balance the budget by getting the States to preratify it. It was an ingenious idea, and it did not work, even though in the State legislature, I was the first State legislator to get it preratified.

So we have something we are faced with today that we have been fighting for 20 or 25 years. This is our opportunity to do it. If we do not do it now, I do not think we will be able to do it in the near future. This is a moral issue, Mr. President, we have to meet.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my colleague for his excellent statement.

I yield 1 minute to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. I thank the Chair. I appreciate that.

I am honored to be able to address this body today once again on the importance of a balanced budget amendment to the Constitution.

Balancing the budget is simply no longer an option. The future of our children literally hangs in the balance. Every day we spend debating this issue, we add billions of dollars to the deficit. We have to give ourselves the tools to be able to assure that we can stay in balance.

This is an astounding fact, but in the February issue of Nation's Business they state that unless Government spending policies are altered, the average—the average—net tax burden on Americans born between 1960 and 1993 will soar from the current 34 percent to 85 percent of their lifetime incomes. That is 85 percent lifetime income going to taxes. It is thoroughly reprehensible to allow our children to be taxed at this rate simply because we do not have the courage to do what is right.

How can we do this to our children? It is imperative that we pass a balanced budget amendment to the Constitution for the kids.

I thank the Chair. I yield back my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield a couple of minutes to the distinguished Senator from Idaho, who has led the fight for this amendment in the House, along with Congressman STENHOLM and, of course, played a pivotal role in leading the fight for it each time we brought it up in the Senate as long as he has been here, Senator CRAIG.

The PRESIDING OFFICER. The senior Senator from Idaho is recognized.

Mr. CRAIG. I thank the Chair. I thank the senior Senator from Utah for his tremendous leadership on this issue and the hours of debate he has conducted in the Chamber in behalf of the passage of a balanced budget amendment to our Constitution.

Mr. President, I feel compelled to rise one more time to discuss how the Social Security trust funds would be treated under the balanced budget amendment, Senate Joint Resolution 1.

Unfortunately, day after day, we hear reference made to what the Congressional Research Service supposedly said about this subject.

It is about time to put these issues to rest, once and for all.

Therefore, Congressman CHARLIE STENHOLM and I submitted several more questions to CRS.

We asked CRS to compare, in several areas, the impact of two different kinds of balanced budget amendments: One that excluded Social Security from budget calculations, as several amendments to Senate Joint Resolution 1 would have; and one that counts all Federal spending in the budget, as does Senate Joint Resolution 1 as reported.

I ask unanimous consent that a table summarizing the results of this memo be printed in the RECORD.

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

SUMMARY OF CRS MEMO TO SENATOR CRAIG AND CONGRESSMAN STENHOLM, FEBRUARY 26, 1997

CRS Analyzed five Balanced Budget Amendment proposals: S.J. Res. 1/H.J. Res. 1 (consensus bipartisan) which requires government-wide budget calculations; S.J. Res. 12/H.J. Res. 50 (Dorgan/Pomeroy) and the Reid Amendment, which would exclude Social Security from budget calculations. CRS conclusions:

EFFECTS OF BBA PROVISIONS ON SOCIAL SECURITY

	S.J. Res. 1/ H.J. Res. 1	S.J. Res. 12/ H.J. Res. 50/Reid
Change the current method of investing Social Security surpluses in Treasury securities?	No	No
Allow the drawdown (as planned in the 1983 law) of Social Security trust funds to pay for promised benefits?	Yes	Yes
Repeal current statutory ''firewalls'' protecting Social Security balances?	No	No
Protect Social Security by requiring a 3/5 vote to change the law and deplete Social Security balances?	Yes	No

Mr. CRAIG. There are compelling reasons for not excluding Social Security from budget calculations. Some Senators may feel there are good reasons for that exclusion. Some Senators may feel there are good reasons to vote against Senate Joint Resolution 1.

But this table and the CRS memo it summarizes convincingly show that several of the reasons offered for voting against Senate Joint Resolution 1 simply do not stand up.

In three key respects, S.J.Res. 1 and the amendments to exclude Social Security, such as the Reid and Dorgan amendments, would operate identically.

First, neither approach would change the way Social Security surpluses are invested in Treasury bonds. Some have called that raiding the trust funds. But the Social Security Act required that from the start, because Treasury bonds are the safest investment in the world.

If the Social Security trust funds are being raided today, and if that so-called raiding continued under Senate Joint Resolution 1, then it would also continue under the Dorgan, Reid, and Feinstein amendments.

Those amendments don't change the law in this area.

So there's no reason here to vote for those amendments and against Senate Joint Resolution 1.

Second, consistent with its two previous memos, this new CRS memo confirms again that the following is equally true for both approaches: The Treasury will redeem Treasury bonds held by the Social Security trust funds; the Treasury will repay cash borrowed from the trust funds; and the trust funds will pay out benefits as promised.

I want to emphasize the consistency of CRS here.

The February 5 CRS memo was misunderstood and misrepresented. Some continue to make the misstatements today.

CRS clarified that misunderstanding in a February 12 memo. But the misstatements continue.

This newer CRS memo makes it clear that, if there were a problem drawing upon Social Security surpluses in the future under Senate Joint Resolution 1—and there is not—then the same problem would exist under the Reid and Dorgan amendments.

So there's no reason here to vote for those amendments and against Senate Joint Resolution 1.

Third, neither version would overturn the current law that protects the balances of the Social Security trust funds.

Under the Budget Enforcement Act of 1990, there are points of order—a 60-vote point of order in the Senate—against any legislation that would change trust fund outlays or receipts in a way that would erode the balances in the trust funds.

So there's no reason here to vote for those amendments and against Senate Joint Resolution 1.

Fourth, in a fourth key area, one version, Senate Joint Resolution 1, would take the current, statutory process of protecting the Social Security balances, and elevate it into the Constitution.

Senate Joint Resolution 1 prohibits any change that would increase deficits or reduce surpluses—including those in the Social Security trust fund balances.

The Dorgan, Feinstein, and Reid amendments, by contrast, would allow the Social Security trust funds to run unlimited deficits.

Whether you have been for or against amendments excluding Social Security from the budget calculations, those amendments did not pass.

Now, if you really care about Social Security, you will still vote for Senate Joint Resolution 1 on final passage.

Under the status quo, we will add another $3 trillion to the national debt over the next 10 years.

Does anyone think that adding nearly another $3 trillion to the debt is good for Social Security?

The debt is the threat to Social Security. The debt is the threat to our children and their standard of living.

Passing the balanced budget amendment, Senate Joint Resolution 1, is the answer.

I ask unanimous consent that the following be included in the RECORD: A copy of the CRS memo we recently received and bipartisan materials we distributed analyzing the various CRS memos.

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

CLUBB—CONGRESSIONAL LEADERS UNITED FOR A BALANCED BUDGET

CRS—THE REST OF THE STORY

Social Security Trust Funds and the BBA

The Congressional Research Service has prepared a memo in response to questions from Rep. Stenholm and Sen. Craig, comparing several key operations of the Social Security trust funds under two different kinds of balanced budget amendment to the Constitution.

The February 26 CRS memo compared S.J. Res. 1 (and it companion, H.J. Res. 1) on the one hand, with S.J. Res. 12 (and its companion H.J. Res. 50, as well as the Reid amendment #8). S.J. Res. 1 requires a balanced ''unified'' budget (i.e., total federal outlays would not exceed total receipts), while S.J. Res. 12 would exclude Social Security from budget calculations.

The CRS memo confirms that the treatment of the Social Security trust funds would be identical in several key ways under both versions.

Neither version would change the current law requirement that trust fund surpluses must be invested in U.S. Treasury securities. Under either version (as well as under current law), that requirement could be changed by amending the Social Security Act.

Neither version would affect the legal obligation of the Treasury to repay these borrowings to the trust funds when the appropriate time came to draw down trust fund surpluses and make promised benefit payments. (This would occur when Social Security is projected to start running annual deficits in 2019, while it still retains an accumulated surplus.) This is the issue raised in connection with the much-discussed and disputed CRS memo of February 5.

Neither version would change or overturn provisions in the Budget Enforcement Act of 1990 that protect the balances in the trust funds. The BEA includes points of order—including a 60-vote point of order in the Senate—against any legislation that would change trust fund outlays on receipts in a way that would erode trust fund balances.

The CRS memo pointed out one difference in the impact of the different amendments:

S.J. Res. 1 essentially would elevate the BEA protections to constitutional status, by requiring a 3/5 vote to approve any change that would increase deficits or reduce surpluses, including those in the Social Security trust fund balances.

The February 26 CRS memo should put some issues to rest, once and for all

Whatever preference one may have on any other basis, the ''drawdown'' issue is not a reason to prefer S.J. Res. 12, nor a reason to vote against S.J. Res. 1.

The February 5 CRS memo was incorrectly cited as saying that, beginning in 2019, S.J. Res. 1 would make it harder to draw down accumulated trust fund surpluses in order to pay promised Social Security benefits. No matter how that memo is interpreted, CRS has now made it crystal-clear: Both S.J. Res. 1 and S.J. Res. 12 (Dorgan-Reid) would have exactly the same impact on Social Security drawdowns and benefit payments.

Whatever preference one may have on any other basis, the issue of the Treasury borrowing the Social Security surpluses is not a reason to prefer S.J. Res. 12, nor a reason to vote against S.J. Res. 1.

This process has been variously characterized as ''raiding the trust funds'' versus ''investing Social Security surpluses in the safest investment in the world''. But either way, one thing is clear: Neither S.J. Res. 1 nor S.J. Res. 12 would change in any way the process of investing trust fund surpluses in Treasury securities.

The DEBT is the threat to Social Security—and to other priorities and to our future standard of living. Under current trends, over the years 2002–2007 (the first 6 years in which the Balanced Budget Amendment would be effective), the amount of federal debt held by the public will increase by $1.47 trillion. No one can argue that another $1.47 trillion in debt is good for Social Security.

Reasonable persons can disagree over which version, overall, offers the better protection for Social Security. But the only way to ensure any protection for Social Security is for Congress to pass a strong, effective Balanced Budget Amendment and send it to the states for ratification.

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, February 26, 1997.

From: David Koitz, Specialist in Social Legislation, Education and Public Welfare Division, and Johnny H. Killian, Senior Specialist in American Constitutional Law, American Law Division.

Subject: Treatment of Social Security under the Balanced Budget Amendment.

This memorandum is in response to four specific questions you and Representative Charles Stenholm raised with regard to five pending legislative measures to adopt a constitutional amendment requiring a balanced federal budget. These measures include H.J. Res. 1 and S.J. Res. 1, both of which prescribe a ''unified'' balanced federal budget that would count all receipts and outlays of the federal government. H.J. Res. 50 and S.J. Res. 12, and an amendment to S.J. Res. 1 by Senator Reid, offered on February 24, 1997, would not count the receipts and outlays of the Social Security trust funds for purposes of satisfying the requirements of the balanced budget amendment. Your questions and our responses follow.

Question #1. What differences, if any, would the different amendments mentioned above have on the ability of the Social Security trust funds to invest annual surpluses in Treasury bills?

Answer: The five measures all include the same language requiring approval of ''three-fifths of the whole number of each House'' to increase the portion of the federal debt held by the public. However, none of the bills places a limit on raising the government's gross federal debt, which includes both debt held by the public and debt held in government accounts such as the Social Security trust funds, or on the portion of the debt held in government accounts. Therefore, there would be no restrictions beyond those of current law that would explicitly limit the investment of surplus Social Security income in the Social Security trust funds.

Current law (P.L. 104–121) does place an explicit limit of $5.5 trillion on the government's gross debt, and this potentially could constrain the Secretary of the Treasury from purchasing additional federal securities for the trust funds with surplus Social Security income if the amount of outstanding gross federal debt bumps against this ceiling. Whether this explicit limit on gross federal debt would be continued, raised, or abolished in the event of passage of any of the pending measures to create a constitutional limitation on publicly-held debt is a matter of conjecture.

Question #2: What differences, if any, would the amendments have on the obligation of

the federal government to redeem the Treasury bills held by the Social Security trust funds?

Answer: Section 201 of Title II of the Social Security Act provides for a drawdown of the Social Security trust funds to pay for benefits and administrative expenses of the program. None of the five bills explicitly hinders the operations of this section of law.

Question #3: What differences, if any, would the different amendments mentioned above have on the ability of the federal government to increase the limit on the debt held by the public in order to borrow money to redeem Treasury bills held by the Social Security trust funds if the receipts of the federal government other than Social Security revenues are not sufficient to cover the outlays of the government other than Social Security and redeem Treasury bills held by the Social Security Administration.

Answer: The five measures all include the same language requiring approval of ''three-fifths of the whole number of each House'' to increase the portion of the federal debt held by the public. Hence, if it were necessary to borrow money from the public over and above this limit in order to cover non-Social Security outlays and make good, as well, on government securities held by the Social Security trust funds, all five measures set forth an identical prohibition.

As with any debt ceiling limitation set by law, if the government's income were less than its outlays and the Treasury Department had reached a legal limit on borrowing set forth by one or another of the proposed constitutional amendments, the operations of the federal government as a whole would be jeopardized. How any single program or function of the government would be affected is a matter of conjecture. Although there appears to be some flexibility under current law with respect to continuing certain essential services in the event of a debt ceiling impasse, there is nothing in the five pending measures or in current law that would prioritize expenditures to be made from the Treasury in that event. Whether the enactment of any one of these five proposed constitutional amendments would best facilitate attaining the necessary three-fifths approval of both Houses to increase the publicly-held portion of the debt or the passage of tax increases or spending reductions (or both) to obtain the resources to make good on the liquidation of Social Security trust fund securities also is a matter of conjecture.

Question #4: What differences, if any, would the different amendments mentioned above have on the ability of Congress to enact legislation increasing outlays from the Social Security trust funds or reducing revenues into the trust funds without obtaining a vote of three-fifths of the whole number of both Houses as required under the amendment.

Answer: H.J. Res. 1 and S.J. Res. 1 would require a vote of three-fifths of the whole number of both Houses to enact legislation to reduce federal receipts or increase federal outlays, including Social Security receipts and outlays, in any year (in the absence of offsetting measures). These limitations would not apply under H.J. Res. 50, S.J. Res. 12, and the amendment by Senator Reid since the definition of total receipts and total outlays under these measures would exclude the receipts and outlays of the Social Security trust funds.

However, none of the five measures would preclude the operation of the so-called Social Security ''firewall'' rules enacted in Budget Enforcement Act of 1990 that permit points of order to be raised against measures that would erode the balances of the Social Security trust funds. Presumably, they would act as an impediment, as they do today, to legislation that would reduce Social Security receipts or increase expenditures (without offsetting measures). Although in the House a simple majority may override any objection raised against such measures, it takes three-fifths approval of the whole Senate to do so.

Mr. CRAIG. Mr. President, last week several Senators and Representatives held a bipartisan, bicameral press event on the Capitol Grounds. Among other things, we received a letter, signed by more than 250 economists, endorsing the balanced budget amendment to the Constitution. The letter was put together by the American Legislative Exchange Council, the largest bipartisan individual association of State legislators in the country.

These economists, from both sides of the political aisle, have signed an open letter to Congress, asking us to approve the balanced budget amendment. Both Republicans and Democrats, conservatives and liberals, they have based their support of the balanced budget amendment upon sound reasoning and a concern that America's future will be crippled if Federal deficits are allowed to continue. Among the signatories are James Buchanan, a Nobel laureate in economics, as well as William E. Simon, who served as Secretary of the Treasury from 1974 to 1977.

The balanced budget amendment is not a partisan issue—it is an economic and moral issue. We need to recognize that through deficit spending we are selfishly spending on ourselves today the earnings that will be confiscated from future generations without their consent or knowledge.

The balanced budget amendment to the Constitution imposes procedural constraints on the making of budgetary choices. It doesn't take away the power of the Congress to spend or tax. The amendment requires only that the Congress and the Executive spend no more than what they collect on taxes.

The effects of the balanced budget amendment would be real as well as symbolic. Elected politicians would be forced to act responsibly and make fiscal choices within meaningfully constructed boundaries. Congress would be faced with important decisions regarding the financial fate of programs sooner rather than later. In its simplest terms, the balanced budget amendment amounts to little more than honesty in budgeting.

It is time to acknowledge that mere statutes that claim to control Federal spending or deficits have failed. It is time to adopt constitutional control through a balanced budget amendment.

I ask unanimous consent to print in the RECORD the letter that was signed by over 250 economists who believe that Congress must place constitutional restraints on spending.

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

AMERICAN LEGISLATIVE EXCHANGE COUNCIL,
Washington, DC.

An Open Letter to Congress from U.S. Economists.

It is time to acknowledge that mere statutes that purport to control federal spending or deficits have failed. It is time to adopt constitutional control through a Balanced Budget Amendment. In supporting such an amendment, Congress can control the federal government's spending proclivities by setting up control machinery external to its own internal operations, machinery that will not be so easily neglected and abandoned.

Why do we need the Balanced Budget Amendment now, when no such constitutional provision existed for two centuries? The answer is clear. Up until resent decades, the principle that government should balance is budget in peacetime was a part of our effective constitution, even if not formally written down. Before the Keynesian-inspired shift in thinking about fiscal matters, it was universally considered immoral to incur debts, except in periods of emergency (wars or major depressions). We have lost the moral sense of fiscal responsibility that served to make formal constitutional constraints unnecessary. While we can't legislate a change in political morality; we can put formal constitutional constraints into place.

The effects of the Balanced Budget Amendment would be both real and symbolic. Elected politicians would be required to make fiscal choices within meaningfully-constructed boundaries; they would be required to weigh predicted benefits against predicted tax costs. They would be forced to behave ''responsibly,'' as this word is understood by the citizenry, and knowledge of this fact would do much to restore the confidence of citizens in governmental processes. Important decisions (such as the fate of entitlement programs facing financial insolvency) would be faced sooner rather than later.

It is important to recognize that the Balanced Budget Amendment imposes procedural constraints on the making of budgetary choices. It does not take away the power of the Congress to spend or tax. The amendment requires only that the Congress and the Executive spend no more than what they collect in taxes. In its simplest terms, such an amendment amounts to little more than ''honesty in budgeting.'' If we as people want a certain program, we—not future generations—should pay for it.

Of course, we always pay for what we spend through government, as anywhere else. But those who pay for the government spending that is financed by borrowing are taxpayers in future years, those who must pay taxes to meet the ever-mounting interest obligations that are already far too large an item in the federal budget. The immorality of the intergenerational transfer that deficit financing represents cries out for correction.

Opponents of the BBA often suggest that Congress and the Executive must maintain the budgetary flexibility to respond to emergency needs for expanding rates of spending. This prospect is fully recognized, and the Balanced Budget Amendment includes a provision that allows for approval of debt or deficits by a super-majority vote of those elected to each house of Congress.

Opponents also make the case that the BBA in no way accounts for needed capital spending which is more appropriately funded through debt finance. In the ideal non-politicized world that BBA opponents imagine, it may be correct to include a capital budgeting provision. But just as politics intruded to destroy the Keynesians' vision of using deficits and surpluses to rationally counter the business cycle, so too politics would intrude

here. In this case, we can well imagine all sorts of creative accounting and politicking to make non-capital expenditures be labeled as such.

The past four decades demonstrate that debt finance is simply a way to fund short-term, not long-term benefits. Since the early 1960s, while deficits have risen tremendously, long-term federal investments (excluding defense) have remained at about 6 percent of GNP. But short-term federal benefits have risen from about 6 percent of GNP to more than double that. Politicians have used the trillions in deficit financing over the past decades to finance short-term benefits, not long-term.

When all is said and done, there is no rational argument against the Balanced Budget Amendment. Simple observation of the fiscal record of recent decades tells us that the procedures through which fiscal choices are made are not working. The problem is not one that involves the wrong political leaders or the wrong parties. The problem is one where those whom we elect are required to function under the wrong set of rules, the wrong procedures. It is high time to get our fiscal house in order.

We can only imagine the increase in investor and business confidence, both domestic and foreign, that enactment of a Balanced Budget Amendment would produce. Perhaps even more importantly, we could all regain confidence in ourselves, as a free people under responsible constitutional government.

(Signed by 253 economists.)

Mr. CRAIG. Mr. President, recently, the citizens of Idaho, through their elected representatives in the State legislature, called upon the Members of the U.S. Congress to pass a constitutional amendment requiring a balanced budget. This is further proof that Idahoans are acutely aware of the devastating impact 28 deficits in a row and 36 unbalanced budgets in 37 years have had on our country.

If asked, the overwhelming majority of Idahoans would say it is not right to saddle every child born today with nearly $200,000 in additional taxes just to pay interest on the national debt.

Most Idahoans would say it is not right to rob future generations of the opportunity to participate in a vibrant, growing economy. They understand the implications of the Congressional Budget Office's words, that without changes in current tax and spend policies, the Federal ''debt would exceed levels the economy could reasonably support.''

Most Idahoans can see the debt is the threat to Social Security and that no program, no matter how important, can survive the squeeze of increasing interest payments on the debt—$344 billion in fiscal year 1996.

Idahoans have known for years that balancing the budget would have an immediate positive impact on American families. In 1982 I was encouraged by Idahoans to vote for BBA. If the BBA would have passed then, the national income would be at least 5 percent higher today, according to a study by the Federal Reserve Bank of New York.

Idahoans understand passing the BBA would put more than $1,500 a year into the pockets of American families—per DRI-McGraw-Hill, and others.

The citizens of Idaho are hard working, wise, and astute in their understanding of the need for the BBA. They know you don't need to be clairvoyant to see what the future holds if our current course of fiscal irresponsibility is maintained.

Mr. President, I would ask unanimous consent that a copy of Idaho Senate Joint Memorial No. 102 be printed in the RECORD at the end of my statement.

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

(See Exhibit 1.)

Mr. CRAIG. Idaho is not the only State in the Union with wise citizens who have requested Congress send them a balanced budget amendment to the Constitution. Yesterday, along with a bipartisan group of Senators and Representatives, I accepted a letter delivered by the bipartisan American Legislative Exchange Council in which nearly 600 State legislators from across the country urge Congress to approve a Federal BBA.

These State representatives have eloquently articulated the momentous nature of, and need for, the BBA. They state that we ''will be faced with many historic opportunities to advance the American dream of freedom, opportunity and prosperity. But none will be as significant as enacting and sending to the states for ratification a Constitutional Balanced Budget Amendment.''

Mr. President, I would ask unanimous consent that a copy of the American Legislative Exchange Council's Open Letter from State Legislators to Congress be printed in the RECORD at the end of my statement.

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

(See Exhibit 2.)

Mr. CRAIG. As is pointed out in this letter, congressional passage is just the first step—next, during ratification, in State capitols and coffee shops, the American people would begin one of the greatest debates ever, one of the greatest civics lessons ever, on the size and scope of their Federal Government.

Mr. President, 70 to 80 percent of Americans are calling on the Congress to pass the BBA and provide them with the opportunity to, once and for all, put our fiscal house in order. It is unconscionable for us to ignore that call.

The wisdom of our Founding Fathers is evident in the construction of our Constitution. They reached a delicate balance by creating a document strong enough to ultimately hold the States, with all their competing interests, together, yet with a mechanism allowing the flexibility necessary for future generations to deal with the unforeseen circumstances they knew would develop.

The Constitution of the United States vests the ultimate responsibility to approve or disapprove constitutional amendments with the people, as represented by their elected State legislatures. Mr. President, it is time that Congress tap into the wisdom displayed by Idahoans, the Nation's State legislators, and our country's Founding Fathers by passing Senate Joint Resolution 1 and sending the balanced budget amendment to the Constitution to the States for ratification.

[Exhibit 1]

LEGISLATURE OF THE STATE OF IDAHO, SENATE JOINT MEMORIAL NO. 102

Whereas, the annual federal budget has not been balanced since 1969, and the federal public debt is now more than five trillion dollars, or twenty thousand dollars for every man, woman and child in America; and

Whereas, continued deficit spending demonstrates an unwillingness or inability of both the federal executive and legislative branches to spend no more than available revenues; and

Whereas, fiscal irresponsibility at the federal level is lowering our standard of living, destroying jobs, and endangering economic opportunity now and for the next generation; and

Whereas, the federal government's unlimited ability to borrow raises questions about fundamental principles and responsibilities of government, with potentially profound consequences for the nation and its people, making it an appropriate subject for limitation by the Constitution of the United States; and

Whereas, the Constitution of the United States vests the ultimate responsibility to approve or disapprove constitutional amendments with the people, as represented by their elected state legislatures; and opposition by a small minority repeatedly has thwarted the will of the people that a Balanced Budget Amendment to the Constitution should be submitted to the states for ratification; now, therefore, be it

Resolved by the members of the First Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, That the Congress of the United States expeditiously pass, and propose to the legislatures of the several states for ratification, an amendment to the Constitution of the United States requiring, in the absence of a national emergency, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and be it further

Resolved, That the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, the congressional delegation representing the state of Idaho in the Congress of the United States, and to the Secretary of State and the presiding officers of both houses of the Legislatures of each of the other states in the Union.

[Exhibit 2]

OPEN LETTER FROM STATE LEGISLATORS TO CONGRESS

DEAR MEMBER OF CONGRESS: As members of the American Legislative Exchange Council (ALEC) we would like to take this opportunity to welcome the 105th Congress. It is both an exciting and challenging time to be an elected official in this great nation.

During the next few years, you will be faced with many historic opportunities to advance the American dream of freedom, opportunity and prosperity. But none will be as significant as enacting and sending to the states for ratification a Constitutional Balanced Budget Amendment.

As state legislators who must balance our state budgets each year, we understand the

difficult choices you will face. Unfortunately, as the past 29 years have shown, it has been impossible for past Congresses to withstand the political pressure of special interests and make the tough choices necessary to balance the budget. Clearly, the federal budget process is broken and needs fixing. As the experience in the states shows, balanced budget amendments work, and a federal Balanced Budget Amendment is the only way to guarantee the fiscal integrity of this nation and a solvent future for our children and grandchildren. Therefore, we call on you to exercise the courage and fiscal responsibility to stand up to the special interests who are willing to place their interests ahead of the nation's future.

We hope that the 105th Congress will make the Balanced Budget Amendment its first priority. The nation cannot afford to wait. The federal government cannot continue to borrow from future generations to pay for current consumption. If deficit spending is not curbed now, when it can be done sensibly and gradually, it will have to be done under desperate circumstances. The only way to ensure that programs like Social Security and Medicare are there for us and our children is to set a course of fiscal responsibility today.

As you may know, ALEC is the nation's largest bipartisan, individual membership association of state legislators, with nearly 3,000 members. ALEC is dedicated to the Jeffersonian principles of individual liberty, limited government and the free enterprise system. We believe that reducing the devastating $5 trillion national debt is central to these principles and critical to the strength of the nation's economy.

The historic opportunity to provide a brighter, more prosperous future lies in your hands. We in the states are up to the challenge and ready to ratify the Balanced Budget Amendment. This is not about whether you are a Democrat or Republican or a liberal or conservative—this is about what you must do for the future of this great nation. It is up to you to make the right choice for this country, the fiscally responsible choice—pass a Balanced Budget Amendment.

(Signed by 572 State Legislators.)

Mr. CRAIG. Mr. President, years ago, we changed our Constitution to assure that never again in this Nation would we have human bondage. We changed our Constitution to allow women to vote. Today, we are asking this Senate to allow the American people to once again change the Constitution to step away from fiscal bondage or the risk of a bankrupt Government, to take off the backs of our children and grandchildren the burdensome, overpowering debt that we are causing them to accumulate.

Yes, it is time once again that we ask the American people to change their Constitution to require us to balance the budget, to bring fiscal sanity to our Government, and to ensure the stability of this country, its economy, and the American dream for future generations.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 1 minute to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I thank my friend from Utah, Mr. President.

Mr. President, the old words come back to haunt us almost during these times of debate, especially over the issue of a balanced budget. I quote the words of Thomas Jefferson when he was speaking to the Framers of the Constitution. He expressed these words of his concerns regarding debt:

> We, Congress, should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves.

Why is it so hard to understand that the Federal Government should balance the budget when State governments and county governments and city governments do? Why is it that we cannot accumulate or mandate to carry reserves in each line for a rainy day? That is not too hard to understand, and that is what we are talking about here, responsibility and the integrity of Government to function.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I now yield 2 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. I thank the Chair.

Let me, too, thank the leaders who have been in the Chamber for some time.

Again we are asked to vote on a balanced budget amendment. This is the most important and vital action that any of us will take this year if we are to be financially and fiscally responsible. This is more than just a balanced budget. This is more than just arithmetic. It is more than numbers. It has to do with character. It has to do with our willingness to face up to the realization that you cannot keep spending more than you take in.

It has to do with debt. We now have a debt of $5.5 trillion, which we have put on our credit card for young people to pay. Our card is maxed out. It has to do with interest payments. Probably, next year, the largest item on the budget will be interest on the national debt—$270 billion a year in interest.

It has to do with priorities in the Government. We have not had to choose what we think is most important for Government. We have simply said, ''Let's do it and put it on the tab.'' That is not responsible for any of us.

It has to do with smaller Government. There is a relationship between how much money you spend and how much Government you have. I can tell you, the folks in my State would like to have less central Government, less activity. It has to do with savings for families, if we can reduce the interest payments on their cars and on their kid's college.

It is the right thing to do. I am proud of the 55 Republicans who will vote ''aye'' and 11 Democrats who will join them to vote ''aye'' on this issue. I am proud of the fact that Members of this institution have talked the talk, and now are ready to walk the walk. That is important for us to do.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I now yield 1½ minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I, too, would like to pay tribute to our Republican leadership in this great battle, this epic battle where we try to achieve some financial stability for future generations, more especially the Senator from Utah, Senator HATCH.

There were some comments that were made by a scholar over 200 years ago about the fall of the Greek Republic. It was prefaced by this statement:

> When historians look back upon great civilizations, they invariably identify a time when society chose growth or decay.

Such is the time today in this body. And this scholar said this about the fall of the Greek Republic:

> The average age of the world's greatest civilizations has been 200 years. These nations have progressed through the following sequence: From bondage to spiritual faith, from spiritual faith to great courage, from courage to liberty, from liberty to abundance, from abundance to complacency, from complacency to apathy, from apathy to dependency, from dependency back again into bondage.

And then he made this prediction, which I think applies to the vote that will be forthcoming:

> A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largess from the Public Treasury. From that moment on, the majority always votes for the candidates promising the most benefits, with the result that a democracy always collapses over a loose fiscal policy, always followed by a dictatorship.

I think those are sobering thoughts. Can our American system meet the challenges of future generations? We will have that vote this afternoon. The voters did not vote for a majority to continue down that path that was followed by the Greek Republic. That is why we need the balanced budget amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I yield 2 minutes to the Senator from South Carolina.

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

Mr. THURMOND. Mr. President, I thank and commend the able Senator from Utah for his outstanding leadership in this matter. Why do we need a constitutional amendment? We have not balanced this budget but one time in 36 years, eight times in 64 years. The Congress has failed to perform its duty. Therefore, we need a constitutional amendment that will make the Congress balance its budget. That is the only way I know to do it. A constitutional amendment will demand—demand—that the Congress balance the budget.

Several years ago, when I was chairman of the Judiciary Committee, I authored a similar amendment and got it

through the committee and passed it through the Senate and sent it to the House. And who killed it? The Speaker of the House, Mr. O'Neill, and the Democratic leader of the House, Mr. Wright, led the movement to kill it. The Democrats don't seem to want it—certainly a majority of Democrats.

There are some good Democrats, and I ask them to join us, pass this constitutional amendment, and protect the people of the United States. We cannot keep on going like this. We are going in debt, debt, debt. The only way to stop it is to pass a constitutional amendment to make the Congress balance the budget.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I now yield 1 minute to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I support the constitutional amendment. I know you have a hard time seeing me over the big stack of budgets which have not been balanced. I support this amendment because I think Congress needs the discipline, the discipline itself to live within its means.

The Commonwealth of Pennsylvania, the city of Philadelphia, the ARLEN SPECTER household, all have to live within their means. If I don't, I end up in a bankruptcy court. Regrettably, the history of our Government has been that we have spent more than we have taken in and have run up deficits, and that is why the discipline is necessary.

I think it is very useful to have the pendency of the balanced budget amendment, which has led many to say, ''Well, we don't need the amendment. We can balance the budget without the amendment.'' And if that provides an incentive to balance the budget without the amendment, that is all to the good.

But even if we do balance the budget, and, so far, the signs are not very promising based upon what the President has submitted, it is fine. But the discipline is necessary in the long run, and that is why I support this amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I now yield 1 minute to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I rise today to lend my voice to the chorus of support for adding a balanced budget amendment to the Constitution.

For a generation, this Government has spent billions more than it has received, all the while talking, always talking, about the urgent need to balance the Federal budget. History has borne out the facts: No matter how well-intentioned the debate, Congress has failed for the past 28 years to balance the budget.

Since coming to the Senate 12 years ago, I have listened to those who oppose a balanced budget tell the American people that all we need is courage to get our fiscal house in order. Yet, year after year, Congress runs up billions upon billions on the public credit card that must be paid for by future generations. What right do we have to ask our children and grandchildren to pay for today's excesses?

Mr. President, the time for talk has passed. Now is the time for action.

Like most Americans, I am outraged that interest on the debt has become the third largest item in the Federal budget. According to the President's budget for fiscal year 1998, the U.S. Government will spend $250 billion in net interest costs, which makes up nearly 15 percent of the total budget. That means, we spend four times more on interest than we do on education, training, and employment combined. We spend 10 times more on interest than we spend on the administration of justice.

We are the greatest Nation on earth, and yet we spend more retiring debt than we do on educating our children? This is madness and it must stop.

Mr. President, it does not have to be this bad. If we pass a balanced budget we can give families relief by reducing interest rates on borrowing for items like home mortgages and school loans. A typical family would save $1,500 per year in interest payments. Think of how that money could be put to better use: saving for a college education, investing in a secure retirement, or maybe enjoying a long anticipated vacation.

Sadly, the path to a balanced budget is now being blocked by determined and enthusiastic partisan gamesmanship. Opponents of a balanced budget have decided to play on the fears of seniors. In words which recall last year's shameless mediscare campaign, the balanced budget amendment is attacked and misrepresented—all while the national debt whirs wildly out of control.

Mr. President, I will spend exactly one sentence answering this Social Security red herring. The best way to ensure the solvency of the Social Security Program is to balance the budget now. Clever legislative shell games will not add a single day to the life of Social Security, only a balanced budget will do that.

So the decision is ours. Do we want to balance the budget or not. And if not now, when? Our children want to know.

Mr. President, I urge my colleagues to support the balanced budget amendment.

Mr. President, the American people are rightfully skeptical that this Congress will balance the budget, not only in 7 years but for every year thereafter. Why are they skeptical? For a generation, for a generation we have failed our children and grandchildren by piling up a mountain of debt to the tune of over $5 trillion. So the American people are saying, ''If you need some assistance in doing the job, why don't you mandate—so that you have no discretion—mandate that we have a balanced budget in the future?'' It is the only way to protect our country. It is the only way to have a country fit to live in for our children and their children.

We all know what has happened. The debt is the third largest item in the Federal budget. We are spending more on retiring the debt than we are on educating our children. It is time to call it to a halt, to get our fiscal affairs in order.

Mr. President, a constitutional amendment to require us to do the job each year, for the future, is the only way to achieve this goal.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I yield 1 minute to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, when the Federal Government spends more than it collects in tax revenue, then it must borrow the difference. And when it keeps borrowing, that adds to the debt.

When we have run up, as we currently have, a $5 trillion national debt, what we are really saying is that is a bill we are passing on to our children and our grandchildren to pay. Currently, for a family of four, the national debt amounts to $80,000, namely $20,000 for every individual in that family, all four individuals.

As has been mentioned, the interest on the debt is now the third largest item in the Federal budget. This means that money we are spending on interest on the debt is not available for Head Start or health care or better education or improving our parks or all the things we want.

So, Mr. President, this amendment, balanced budget amendment, which we are voting on will not solve all our problems, but it will be a big step forward, and I hope it passes.

Ms. SNOWE. I yield 1 minute to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. Mr. President, I thank the Senator from Maine for yielding. I take this opportunity to thank Senator HATCH for his tremendous leadership, day after day, on the floor of the Senate, leading the battle on behalf of the American people and for the future generations of America who are going to have to pay the price if we don't get this done. If we lose this vote today by one vote, which is what the predictions are, and projections, then the headline tomorrow should be: ''It Was Business as Usual in Washington Again. The American People Lost.''

Mr. President, 80 percent of the American people want the budget balanced. If you think, in 1969, the last

time we had a balanced budget, the year after that the debt was $369 billion, and the people said then, ''We don't need an amendment, all we need to do is get the job done, have the courage to do it.'' The debt is now $5.3 trillion.

The President says we do not need an amendment; we just have to have the courage to do it. He submits a budget to us out of balance which will add half a trillion dollars to the debt in the next 5 years, $70 billion out of balance in the last year. It is business as usual in Washington.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Oklahoma.

Mr. INHOFE. Madam President, I now yield to the junior Senator from Maine for 1 minute.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I rise to urge Senate approval of the balanced budget constitutional amendment. Some have argued that a constitutional amendment is not needed to ensure a balanced budget, but history clearly demonstrates that, despite good intentions, we will not get the job done absent the constitutional requirement.

Every President during the past two decades has pledged to balance the budget. In 1970, President Nixon said that he would recommend a balanced budget by 1971. President Ford pledged to achieve a balanced budget in 1976. In 1978, President Carter pledged to move rapidly toward a balanced budget. In 1983, President Reagan talked of achieving a balanced budget by the end of the decade. The list goes on and on.

The simple fact is that the road to our huge national debt has been paved with good intentions. The old saying that ''we have met the enemy and it is us'' has never been more applicable.

I know the pressures on Washington to spend money, even borrowed money. By and large, each Congress sets out to be fiscally responsible, but our national debt still grows. The truth is that experience has taught us that even in good times, we need the discipline of a constitutional amendment.

Thank you, Madam President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I now yield 2 minutes to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I thank the Senator from Oklahoma very much. Let me say to all the Senators on our side who are here, I am very proud to be here with you, and I am exceptionally proud that every single Republican Senator is going to vote for this constitutional amendment. I think the American people ought to make note of that.

I also call to your attention, in case you wonder why we are losing this amendment today—if we do—that 72 sitting Senators, 72 out of the 100 who sit, have voted for this constitutional amendment, or one just like it. Now, isn't it intriguing that at one time or another, 72 could vote for it, but today only 66 will find their way clear to vote for it?

It seems to me games are being played with the American people, without any question. If 72 voted for it before, I say to Senator COCHRAN, how come only 66 today? Are we better off? Are we more apt to get a real balanced budget today? Has our President sent us some budget that should renew our faith and our hope that we will do it ourselves?

The budget the President sent us starts with a deficit of $106 billion, and our accounting department tells us, when we are finished with 5 years of cuts under his budget, the deficit is still $70 billion. What a dramatic budget. It should renew our hope and our faith that we can do it and that Presidents can lead us, right? Wrong. It means that we ought to have a constitutional amendment, there is no question about it. We won't do it.

For a nation that was born in tax revolutions where we said, ''No taxation without representation,'' I close this debate by saying, why should we tie the hands of our children and leave them a legacy of debt when they cannot be represented because we refuse to pay our own bills? That is why we need a constitutional amendment. We should not burden our children with a legacy that says no prosperity, no growth, a life of taxation to pay our bills, because 72 Senators heretofore have voted for a constitutional amendment like this.

But games are being played so that today, it will lose, once again.

I close with, isn't it a curious turn of events that it loses by one vote each time? Perhaps those watching this debate might wonder, how does that happen? Well, I tell you how it happens. Members of the Senate on that side of the aisle tell their voters one thing, and when it gets right down to voting, either a President or their own leaders talk just enough of them out of it to make us lose by one vote. We ought to be proud we are not on that team.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I now yield 2 minutes to the senior Senator from Florida, Senator GRAHAM.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Madam President, I want to express my disappointment that we are apparently on a path which will lead to yet another defeat of a balanced budget amendment. This could be seen as a lack of commitment to balance the budget.

My hope is that it will be seen instead as a message that a significant minority in Congress does not think a balanced budget amendment is necessary to achieve a balanced budget.

That without the discipline of a balanced budget amendment, the President and Congress will redouble our efforts to get to balance in 2002 and to remain in balance in future years.

I agree with critics who say we can balance the budget by 2002 without a constitutional amendment. That same statement could have been made at virtually any time since our last balanced budget in 1969. We have not done so.

CBO projections indicate that without changes in our current budget policies, the deficit will rise to $280 billion by 2007, nearly reaching the levels we experienced during the late 1980's and early 1990's.

The President's budget as submitted for the next 5 years and analyzed by CBO, projects that the deficit will jump from our 1996 level of $107 billion to $145 billion in 1998. The deficit will stay near that level until 2001.

This trend line is not a reassuring trumpet blast of commitment to a balanced budget. I hope that my colleagues are correct in saying we can keep the budget balanced without a constitutional amendment.

We are about to be put to the test.

Most States have a constitutional requirement for a balanced budget.

As Governor, I operated under a balanced budget. I can say with experience that it has served my State well. It would also serve our Nation well.

There are numerous State legislatures asking that we in Congress submit a balanced budget amendment to them.

In the short time that State legislatures have been in session this year, 4 have passed resolutions asking Congress to approve a balanced budget amendment; another 21 States have introduced resolutions asking for a balanced budget amendment to the Constitution.

We owe the States an opportunity to decide whether we should amend the constitution to put an end to the growing Federal debt that this country has been building.

And although we have made tremendous progress over the past 4 years, we still have a large and expanding annual deficit.

Our national debt is expected to reach $5.4 trillion at the end of this fiscal year.

One concern that many of my colleagues have expressed is their concern for how Social Security would fare under a balanced budget amendment.

My personal feeling is that establishing the principal of a balanced budget during normal periods, such as most of the years since 1982, would strengthen the Social Security system.

If we had passed a balanced budget amendment in 1982, the first year in recent history that one was considered and defeated, we would have $2.9 trillion less in debt held by the public than we do today.

The interest on this portion of the Federal debt alone totaled $190 billion in 1996. Last year, that amount was more than enough to pay for all Medicare expenses. Instead this money was dissipated on interest payments.

That same $190 billion in interest payments on the additional debt accrued since 1982 could have paid for over half of all the money the Federal Government spent last year on Social Security retirement benefits.

Let us look at Social Security from another angle—in 1982 the total interest on the Federal debt was $85 billion. In that year, all Social Security benefits were $156 billion.

The interest payment equaled about half of the Social Security benefits for that year.

In 1996, the total interest in the Federal debt was $241 billion and Social Security retirement benefits were $350 billion.

The interest payment in 1996 equaled about three-quarters of the entire outlay for Social Security retirement benefits.

Yearly interest payments are growing faster than yearly Social Security payments. This trend is not good and we must put an end to it now.

Passing the balanced budget amendment now is critical to the future health of our Social Security system.

Let me ask you—would our country be better off spending tax dollars to service the Federal debt or for needed programs like Social Security?

I believe the money would be better spent on Social Security.

The budget deficit has become a permanent fixture in our Nation's fiscal policy.

While there are those who say Congress can, without a constitutional amendment, balance the budget, history has shown this not to be the case.

A disturbing example of the lack of resolve to balance the budget occurred last Thursday evening when we extended the aviation tax to September 30—ignoring losses of $5 billion in Federal revenue for the aviation trust fund because of lapses in the aviation tax during 10 of the last 14 months.

Five billion dollars lost for American aviation safety.

We extended the tax to September 30 knowing that a report on whether the current tax should be replaced by a user fee system is not due to Congress until October 1997.

We voted to terminate the ticket tax on September 30, raising the strong possibility of another lapse at the end of this fiscal year with the excuse that we should wait for the report. Why did we do this?

We did it for budget scoring purposes.

By allowing the tax to expire on September 30 before reinstating it, our Budget rules will claim to create almost $6 billion in ''new'' revenue every year after September 30, 1997, for a total of over $30 billion between then and September 30, 2002.

It is for this kind of creative accounting that we send people to jail in the private sector.

Some 40 percent of the revenue increases in the President's budget from 1997 to 2002 come from this scoring gimmick.

The President and the Congress must be strong in their resolve to achieve balance through tough decisions rather than through creating fictional new revenue or spending cuts.

This archaic and destructive maneuver is exactly what undercuts public confidence in our ability to balance the budget with real numbers and rational policies.

With failures like this in mind, and after witnessing numerous attempts by Congress to enact legislation to force itself to tighten its fiscal belt, my conclusion is that we must pass an amendment to constitutionally mandate a balanced budget. It is imperative that we not lose this opportunity.

Madam President, the failure to pass a balanced budget amendment today would be a grave mistake.

For too many years we have delayed the hard decision until tomorrow.

Well, Madam President, tomorrow has come. It is our generation's duty to ensure that we pay our national bills rather than asking our children and grandchildren to do so.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I thank the Senator from Florida for his valiant fight on his side of the aisle to help make this a reality. We really appreciate him and honor him today.

I yield 1 minute to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, first, I commend the distinguished Senator from Utah for his great leadership on the floor of the Senate in support of this resolution to require a balanced budget.

Let me just say, we have heard Senators come to the floor and point out that this puts in jeopardy the Social Security beneficiaries of America. We have heard others claim that this amendment forces us to consider investments in capital spending the same as operating expenses, as a matter of budget policy. We have heard one thing after another used as excuses for voting against this resolution.

But let me say, I am for protecting Social Security beneficiaries. I am for doing whatever we need to do to help ensure that those who depend on Social Security can be confident that they are going to get the benefits to which they are entitled, whether this resolution passes or not. And for budget policy, you just have to look at the plain language of this resolution. It says:

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

We are not giving away the power to decide budget policy and mechanics and whether you have a capital budget or another kind of a budget. The point is, this is national policy, if this passes, that we will live within our means. It is just as simple as that and just as nonscary as that.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I call on the distinguished chairman of the Appropriations Committee, my friend and colleague from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I believe we need to have this balanced budget amendment adopted by the Senate. As I see what is happening now in terms of the controllable expenditures of the United States, I see that next year we will spend about as much money for interest on the national debt as we will to maintain our defenses.

There is pressure on us across the whole spectrum for control of expenses. We need a Coast Guard. We need the National Park Service. We need the FBI. Think of all of the controllable expenses in the departments that we fund. Every year we have to say cut more, cut more. Why? Because the interest continues to mount on the national debt, until we get it in balance.

So, if for no other reason than that, I believe the Senate should pass this amendment so that we can get a handle on the interest we must pay on the national debt. It continues to go up because the deficit continues to go up. That must be controlled, Madam President. I am proud to join my friend, Judiciary Chairman HATCH of Utah, in supporting this amendment.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I yield to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Madam President, thank you very much.

I want to thank my colleague, the Senator from Utah, for his outstanding leadership on this issue. He has brought to the floor of the U.S. Senate the budgets from 28 years of unbalanced budgets. They represent about, oh, I would say, close to 8 or 9 feet of a stack of papers that has really impaired the capacity of this Nation to move forward.

But I would like to mention another problem with that barricade of paper. Whenever you can just displace the cost of doing government to the next generation, you are not forced to make the innovations and improvements that you need to make.

Most of us have noted that, in the recent years, the most dynamic and workable solutions to our problems have come from the States. It is because they operate with balanced budgets. They cannot just spend money they do not have and pass the bill to the next generation.

Necessity being the mother of invention, the discipline of a balanced budget improves the quality of Government we get. It not only makes sure that we have liberties which would otherwise

be forfeited if we grow bigger and bigger Government, but it also improves the quality of what Government does by saying we have to constantly look at what we are doing. We have to innovate and create instead of appropriate just to get better service with limited resources.

So the quality of our life now, the quality of Government we receive, and the integrity of the next generation is at stake. We must pass a balanced budget amendment to the Constitution to add discipline to our system which would drive creativity and improvement in what we do.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 1 minute to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I thank the Senator for yielding.

Madam President, what message does it send to the American people when we vote ''no'' on the balanced budget amendment?

First, it says that Congress prefers its own judgment over the judgment of the people. This is not a vote to enact the balanced budget amendment. This is a vote to send it to the people to see if they want a balanced budget amendment. Why should we put our judgment ahead of the people?

Second, it is an exercise in political power that says that political power is more important than the desires of the people. Clearly, 80 percent of the American people have said they want fiscal responsibility and believe it can only be achieved through a balanced budget amendment.

Third, it continues a system that allows us to vote public benefits to the very people who keep us in office while placing the burden of paying for those benefits on people who cannot vote for us. Therefore, it gives us the natural inclination to vote for those benefits and pass on the obligations to people in the future.

Finally, we avoid the moral tradition of sacrificing for posterity. Instead, we ask posterity to sacrifice for us. That is wrong.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, in the last hour we have had 37 Senators for the balanced budget amendment who have spoken here on the floor. I think that sends about as powerful a message as we can. But I would like to end with our remaining time going to the distinguished chairman of the Budget Committee who deals with these matters all the time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time do I have?

The PRESIDING OFFICER. One and one-half minutes.

Mr. DOMENICI. I thank my good friend from Utah for yielding the wrapup minutes to me.

Frequently we use a word to describe what we are all for—that is ''freedom.'' I would like to suggest that the constitutional amendment is about freedom, because to the extent that Government grows and grows, freedom diminishes and diminishes. To the extent we tax and tax, the freedom of our people diminishes.

It has been said that all significant achievement occurs because a man or a woman is free. That is why America is so great. That is why we have achieved so much.

So it seems to me that today we have a very historic vote. I honestly believe those who have twisted the last arm and got this where we will lose by one vote once again are those who are frightened about the concept of less Government rather than more. They are the ones who want more Government rather than less or at least they want the opportunity to have more Government rather than less. For they see Government as the achiever rather than individuals who maintain more of their freedom if they are taxed less and if Government is smaller.

So to me, it is a very interesting philosophical debate. Those who will vote for it say we trust—we trust—people, we trust families, we trust States, we trust individuals, and we trust decisionmakers at the home level. The others are saying, we are not sure of that. We want to reserve the option to continue to incur debt and let Government grow and grow. I believe it is clear. I wish we would win today. I am sorry we will not. I think I understand why. I hope the American people do. I yield the floor.

The PRESIDING OFFICER. There now will be 30 minutes under the control of the Democratic leader or his designee.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished minority leader.

PRIVILEGE OF THE FLOOR

Mr. DASCHLE. Madam President, I ask unanimous consent that Michael Carrasco, of the Judiciary Committee staff, be permitted privileges of the floor during the duration of the debate on Senate Joint Resolution 1.

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

Mr. DASCHLE. Madam President, I want to begin by complimenting the distinguished ranking member of the Judiciary Committee, the Senator from Vermont, for his extraordinary leadership on this debate over the last several weeks. His effort on the floor is appreciated by all of the Members of our caucus. While I am not surprised at his demonstration of leadership and his work on this legislation, as he has demonstrated on so many occasions, we are deeply indebted to him.

I must also express my gratitude to the senior Senator from West Virginia, Senator BYRD, and Senator DORGAN, Senator REID, and many others who have done so much to represent our concerns time and time again over the course of the last 4 weeks of debate on this particular issue.

I had hoped, Madam President, that the next time Congress voted on a balanced budget amendment to the Constitution, I could support it. Instead, we are faced with the same deeply flawed amendment that was rejected last year.

This did not have to be. We had scores of opportunities to fix it, to protect Social Security, to provide for the possibility of a capital budget, to build into this amendment the flexibility to protect our Nation in times of war, disaster, or regional or national economic emergency. But every one of those opportunities—every one—was rejected along party lines. I have been astonished during the debate to hear some of my colleagues say they will vote for this amendment even though, in their words, it is not perfect.

In fact, one of my colleagues came up to me recently to say, ''We shouldn't let the perfect be the enemy of the good when we legislate.'' Well, that is often true in other matters. But when it comes to the Constitution of the United States of America, Madam President, we should demand perfection. This is not a campaign position paper we are talking about changing. It is the most inspired, the most important political document in the history of this country.

People have died to defend our Constitution. Every Senator here has taken an oath to protect it. We may rarely achieve perfection. After all, we are human. But when we are dealing with the Constitution of the United States of America, we should never knowingly settle for anything less—not now, not ever. No, this amendment is far from perfect. Under this amendment, we now know that Congress would be required—not just permitted, but required—to raid the Social Security trust funds to run the Government. That isn't my opinion; that is the conclusion of the nonpartisan Congressional Research Service and the Office of Management and Budget.

Social Security is now running huge surpluses because of the 1983 bipartisan agreement that rescued the program. We all look back with a great deal of satisfaction at that particular vote and the actions taken, on a bipartisan basis, by the Congress at that time. The heart of that agreement was a plan to set aside funds for the baby boomers' retirement that we know are going to be needed. This year, that surplus is $78 billion. By the year 2002, it will reach $104 billion. By 2019, when many of the baby boomers start to retire, the Social Security trust funds will have built up a $3 trillion surplus, which will be desperately needed to pay those retirees, including this Senator.

But if we pass this version of the balanced budget amendment, none of those funds will be available to pay those Social Security benefits—not $1. Social Security could be paid only

from taxes raised in the same year, not from surpluses built up years before. That means when the baby boomers retire, Congress would have to raise taxes dramatically or slash Social Security benefits deeply, or both, to accommodate the circumstances that we will be facing at that time.

Madam President, this isn't conjecture; this is the analysis given to us by virtually every credible budgetary source to whom we have gone for counsel and advice on this important matter. So what was our response? Well, our response was to offer amendments to resolve that problem. Our amendments said if we are going to build up that trust fund to $3 trillion and know full well that we are going to have to draw down that trust fund at some point in the future, let's take every precaution to ensure that it will be there. We offered amendments to protect it.

Now, our Republican colleagues defeated every single amendment as it was brought up in committee and on the floor. Again, our Republican colleagues argued that this is not something we should really worry about. Misusing the Social Security trust funds to pay for other Government programs is not just bad accounting, it's bad faith. Combining the Social Security trust funds with the rest of the budget doesn't pay off the deficit; it just masks its size. It allows us to claim that the budget is balanced when we know really it isn't. When they claim we have a balanced budget in the year 2002, we are going to increase our debt by $130 billion.

Madam President, this isn't the way we ought to legislate. This isn't simply a question of making perfect the amendment. It becomes clear that this amendment is not perfect in any fundamental way when one analyzes how it would work.

In my view, this amendment, as it is presented right now, is duplicitous. Social Security has never been a day late or a dollar short. It is the most successful social program in the history of our country. For millions of older Americans, it is the difference between living in dignity and living in fear and poverty. A balanced budget amendment should not force us to break that historic contract. It should be honest in how it accounts for and uses the Social Security trust funds.

While misuse of the Social Security trust funds is my gravest concern, I am also deeply troubled that this amendment would limit, for all perpetuity, how Congress can treat large-scale capital investments. Let there be no misunderstanding here. If this amendment passes, any proposal to create a capital budget would be declared unconstitutional. If a project could not be paid for in one year, it could not be undertaken. Capital investments, such as roads, bridges, and water projects strengthen our economy for the future. It seems to me that it would be profoundly unwise for us to pass an amendment that forbids even consideration of a capital budget. It would threaten the very economic competitiveness that we all say we desire. Again, we offered amendments to correct this flaw, to allow for the possibility of a capital budget, and, again, they were defeated—every single one along party lines—in committee and on the floor.

The majority leader suggested a willingness to provide for a capital budget, only after it was clear that he didn't have the votes without it. While I welcome such sudden openness, we have not yet seen any solid proposals from the other side in this regard.

Madam President, I just ask the question: If virtually every State recognizes the importance of distinguishing between a capital budget, long-term investments, and operating costs, why is it that we don't see the need to do so as well? If every family and every business were required to pay off every mortgage and investment every year, I question whether any of them could sustain that kind of requirement or that kind of an economic procedure. Yet, that is exactly what we are suggesting must be our course of action, for all perpetuity, for the Federal Government. We can't even consider the possibility of a capital budget under the amendment as it is drafted right now.

Another serious flaw with this amendment has to do with our national security. Section 5 of this amendment jeopardizes our ability to prepare for situations that we know will require intervention, such as in the Persian Gulf. For Congress to waive this amendment, the United States ''must be engaged in military conflict.'' Let me restate that. For us to be eligible for the exception under this constitutional amendment, we already have to be fighting a war in order to tap resources that may be required to fight that effort. In Desert Shield, we needed to build up before the conflict. We stipulated that the conflict was imminent. As a result, we were able to be prepared when the conflict came in Desert Storm. To say that there has to be a conflict before we can provide legislative support, in my view, is extraordinarily poorly worded and ill-founded.

None of us, today, would want to look the men and the women we sent to the Persian Gulf in the eye and say that we want you to go fight first, and we will support you later. We want you to go put your lives on the line and, at some point after you start fighting, we will get around to providing you with the necessary resources.

Madam President, that is exactly what this amendment says. I hope that everybody will think very carefully about whether or not we want to commit to section 5 of this constitutional amendment. No, this amendment isn't perfect, and it is not as good as it could have been, and it is clearly not good enough to include in the Constitution of the United States of America. So I, with many of my colleagues, am left with the inescapable conclusion that we must vote against it.

At the same time, I think it is imperative that we redouble our efforts to actually balance the budget, rather than just talk about it. Madam President, in the last couple of days, I have been dismayed at some of the remarks made by some on the other side with regard to the budget process. I thought we had an understanding that we were going to work toward a budget agreement that would allow us to meet our deadlines by April 15.

Instead, now we are playing politics on the other side with a budget agreement, telling the President to come forth with a second budget agreement, prior to the time those who are complaining have even come with a first one.

I hope we can quit playing political games with the budget process and get in that room and do what we are supposed to do in the Budget Committee to balance the budget. Let's start working through this budget process tomorrow. Let's start meeting the deadlines set into law. The committee hasn't met in 2 weeks. I think it is high time to demonstrate some real leadership here. When it comes to the budget process, that ought to start with a date certain for a markup on the budget itself.

We have come a long way. We have a record now that we can look back on with some pride, having reduced the deficit from $290 billion in 1993 to $107 billion this year. We need to go the rest of the way, and we can do so only if we continue to reduce spending as successfully and aggressively in the next 5 years as we have in the recent past.

I am troubled, frankly, not only with the fact that we have not seen any proposal on the part of Republican Members with regard to a budget itself, but by the tax proposal being proposed now by the majority leader. It would create a deficit of over $1 trillion in the next 20 years to pay for new tax breaks that overwhelmingly benefit those who don't need them at all. If these new tax breaks were to pass, they would cost $500 billion over the first 10 years and $750 billion over the next 10 years, at a time when we ought to be reducing the deficit, reducing the debt, and coming together in a bipartisan way to resolve our differences.

It must be difficult for South Dakotans to understand how some of those who argue that we need to pass a constitutional amendment to balance the budget can turn around and offer tax breaks that add more than $1 trillion to the deficit.

I might remind my colleagues that, even if we balance the budget, we have a $5.5 trillion accumulated debt that we have not yet paid down. Eliminating the deficit is only the first step. We still have the debt. If Senators continue to complicate our situation by offering tax measures that contribute massively to the deficit we are facing

over the next few years, it is hard to believe that they are really serious about fiscal responsibility.

My expectation today is that this amendment will fail. But if I am wrong, if somehow it passes, then I am confident that it will fail when it is sent to the States for ratification. As Americans learn more about the consequences of this ill-considered proposal, I hope that Congress will ultimately resolve to work through the many deficiencies in this amendment, and correct it in ways that we have suggested time and again on the Senate floor.

David Ramsey was a member of the Continental Congress that adopted our Declaration of Independence. He said, ''The adoption of the Constitution was a triumph of virtue and good sense over the vices and follies of human nature.''

It was, in fact, that rarest of events, the triumph of the perfect over merely the good. For 208 years, Congress has defended that triumph of the perfect over the good when it comes to the Constitution. It is our solemn responsibility now to uphold that standard.

When it comes to the Constitution, we should settle for nothing less than perfection.

Madam President, I yield 5 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I appreciate the comments of the Senator from South Dakota.

Madam President, for those who want to know where this Constitution was written, it was written in a small room in Constitutional Hall called the Assembly Room. Fifty-five white men wrote the Constitution over 200 years ago. George Washington's chair is still at the front of the room because he presided over the writing of the Constitution. His chair is still there if you want to go see where George Washington sat as they drafted the framework for our form of government. George Washington was the fellow who was reported to have said, ''I cannot tell a lie'' about cutting down the cherry tree.

I was thinking about his chair when I saw it in this room, and about the cherry tree, and lies, and about political wafflers when we get involved in a discussion of this type. This is a very, very important discussion.

In the debate in the last couple of hours, one would think it is about balancing the budget. It is not that. It is about altering the Constitution of the United States. It is now 4:32. If, by some magic, we could by 4:35 amend the Constitution just like that, at 5 o'clock nothing would have changed with respect to this Government's deficit or debt.

This is about altering the Constitution. The question is, shall we do it? And, if so, how shall we do it?

We voted on a constitutional amendment last week to balance the Federal budget. I offered it. It got 41 votes. Almost all—except two—on that side of the aisle voted against it. Had they voted for it, we would have had a constitutional amendment to balance the budget passed by this Chamber. It was identical to the one they offered, with one exception: It said you can't count the over $1 trillion in Social Security trust funds to pretend you have balanced the budget.

Based on all the crowing that I hear, one would think, if a constitutional amendment to balance the budget is passed, the budget will be balanced. Of course, that is not the case. The budget will be balanced when you make individual spending and taxing decisions to balance the budget.

In 1993, I cast a vote on the floor of the U.S. Senate for a deficit reduction package. It was a hard vote. The politically easy vote was to say, ''I am gone. I am on vacation. Count me as no because I do not want the baggage that comes with having to vote to reduce the budget deficit.''

We passed that by one vote. And we didn't get one vote from that side of the aisle—not a bit of help, not a bit of help from the people who now stand on this floor and crow about how much they want to balance the Federal budget. And the budget deficit came down 60 percent.

We paid an enormous price for casting that vote. It was a price I was willing to pay. I am glad I cast the vote. And that is the way you reduce the budget deficit.

How do you eliminate the budget deficit? Well, amending the Constitution, if you do it the right way, will help. And I am willing to do that. We had a vote on it last week. I offered the substitute that would have amended the Constitution the right way. But I refused to alter the Constitution in a way that will allow the Federal debt to keep increasing when they say it is in balance.

I have asked repeatedly, and there is no answer to it, why do the managers of this constitutional amendment pretend to the American people that if they pass it and then pass a budget that accomplishes it—when they pass this budget and then claim the budget is in balance—why will the Federal debt keep increasing? Why, in the very year that they claim the budget is in balance, will they be required to increase the Federal debt limit by $130 billion, in that year alone? Why? Why, if the budget is balanced, will the Federal debt keep increasing?

I have asked that a dozen times, and no one has answered it. Why has no one answered it? Because it is a fiction. This constitutional amendment, the way it is crafted, is a fiction. It misuses over $1 trillion in Social Security trust funds to pretend they are balancing the budget, and, in fact, it is not balanced. In fact, the Federal debt will keep increasing. That is why they can't answer the question.

It is one more chapter in a book of fiction. But this is a chapter of fiction that they intend to put in the Constitution of the United States.

In North Dakota they want a balanced budget. I have voted for balanced budgets. But in North Dakota they understand the virtue of, if you are going to do something, doing it the right way. There is the right way and the wrong way. The proposal here is the wrong way.

This is a country that seems obsessed sometimes with instant gratification and quick fixes.

Madam President, I ask for 30 more seconds.

Mr. DASCHLE. Madam President, I yield such time as he may consume to the Senator from North Dakota.

Mr. DORGAN. There is a mentality that would have us believe sometimes that instant gratification is paramount—quick fixes, fast foods, Minute Rice, instant coffee, instant pudding, Jiffy Lube. Hook the budget to the Constitution and pretend you have balanced the budget, but have the Federal debt keep increasing. It fits right in with the whole genre of quick and easy fix—no trouble at all.

The American people know better. There is the right way to do things and the honest way to do things. Yes, we ought to balance the budget. And when we have taxing and spending decisions on the floor of the Senate to do that, join us and help us to it.

I am amazed that those who come here speaking the loudest about this issue will come on one of the largest spending bills that will come before this body, the defense appropriations bill, and say, ''No, we are not spending enough. We want to add $10 billion more, and we insist that you spend it.''

I am amazed that those who come to this floor and talk about balancing the budget are also the ones who come and say, ''And, by the way, we want $500 billion in tax breaks.'' They propose plans suggesting $30,000-a-year tax breaks for those that have $250,000 a year in income. Why? I guess they think we can afford it. Do you know that every dollar of tax break will be borrowed and will add to the Federal debt in that plan? These are the people who are now suggesting we alter the Constitution the wrong way in order to pretend that we have balanced the budget.

Madam President, we ought to balance the budget. Yes. Last week I even offered a constitutional amendment to do so drafted the right way, drafted in a way that it will not misuse the Social Security trust funds. But we ought not, no matter what the price—any of us—ought not stand up and say, ''Well, it doesn't matter. We are just amending the Constitution of the United States. It may not be perfect. Yes, it may cause some problems for Social Security. But let's do it anyway.''

The 55 people who wrote the Constitution of the United States provided for a way that it might be amended. But they always assumed, I suspect, that we would do the very best we

could to make sure this document is perfect, or is as near perfect a document for the governance of this country as is possible.

This is the greatest democracy on the face of this Earth. I get a little tired of people talking about how awful this place is. Most people around the globe want to come here because they understand the torch for freedom and the beacon of hope in this country still burn brightly for all the rest of the world. It is a remarkable place. And when we alter the Constitution—and I am prepared to do so—let us make certain we do it the right way.

I appreciate very much the Senator from South Dakota yielding.

Mr. DASCHLE. Madam President, I yield the remainder of my time to the ranking member, the senior Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I want to thank the distinguished Democratic leader for yielding me a few minutes of time as we finish up the debate on this important constitutional question.

By our Senate oath of office we each commit to ''support and defend the Constitution of the United States.'' That is our paramount duty and a responsibility that I certainly cherish in this opportunity to represent the people of Vermont here today.

A constitutional amendment on the budget poses dangers to Vermont and threatens the constitutional principles that have sustained our democratic form of Federal Government over the past 200 years. Separation of powers, checks and balances, and majority rule are not constitutional guarantees to be altered without serious deliberation.

The real question this year is not whether to reduce the deficit, but by how much and what cuts to make in order to bring the budget into balance. That is the hard work that lies before us.

As President Clinton declared in his State of the Union Addresses: All we need to balance the budget is for Congress to pass a bill and for his signature. We do not need to change the Constitution of the United States.

The time and resources devoted to reconsidering a constitutional amendment on the budget merely serve as a distraction from the real task at hand. Let us not be distracted, again, from the true means to deficit reduction: Hard work, hard choices, and bipartisan cooperation with the President.

Political courage has been an essential ingredient that has helped us reach the level of deficit reduction that has been achieved over the past 4 years. We cannot legislate political courage. We must summon that ingredient from ourselves.

In addition to being unnecessary, there are six key reasons why adoption of this proposed 28th amendment to the U.S. Constitution would, in the words of Treasury Secretary Rubin, ''be a terrible, terrible mistake.''

RISKS TO THE ECONOMY

First, this amendment could be economically ruinous.

During recessions, deficits rise because tax receipts decline while various Government payments, like unemployment insurance, increase. By contrast, the amendment would require disastrous raises in taxes or cuts in countercyclical spending during a recession or depression.

As Treasury Secretary Rubin testified: ''a balanced budget amendment could turn slowdowns into recessions, and recessions into more severe recessions or even depressions.''

Our economic policy—especially as we attempt to compete and adjust in an increasingly global economy—must be flexible enough to allow each generation of Americans and each Congress and President to deal with changing economic conditions as they see fit in serving the best interests of the Nation and our citizens. Yet, this proposal would impose an inflexible prescription on all future generations of Americans in perpetuity.

IT INCREASES THE RISKS OF GOVERNMENT SHUTDOWN AND DEFAULT

Second, this constitutional amendment would vastly raise the stakes and risks to taxpayers and all citizens of a Government shutdown and default. We now have the experience of a year ago to gauge just how great these risks would be to our economy.

Under the supermajority requirements in the proposed amendment, a minority of Members, either from a particular region or sharing a political philosophy, could force the U.S. Government into default unless they got their way—just like a handful of House Members in 1995 tried to force President Clinton to accept their balanced budget plan by refusing to vote to raise the debt limit.

This proposed constitutional amendment would prevent the Treasury from taking the same measures it did during the 1995 budget crisis to avoid a default. Without that flexibility, the Government also would be unable to ensure on-time Social Security checks or Medicare and veterans benefits.

AN INVITATION TO CONSTITUTIONAL CRISIS

Third, this proposed constitutional amendment risks seriously undercutting the protection of our constitutional separation of powers.

No one has yet convincingly explained how the proposed amendment will work and what roles the President and the courts are to play in its implementation and enforcement. Constitutionalizing the budget and economic policy would inevitably throw the Nation's fiscal policy into the courts, the last place issues of taxing and spending should be decided under our system.

The effect could be to toss important issues of spending priorities and funding levels to the President or to thousands of lawyers, filing hundreds of lawsuits in dozens of Federal and State courts. If approved, the amendment would let Congress off the hook by kicking massive responsibility for how tax dollars are spent to the President or to unelected judges.

IT ERODES THE FUNDAMENTAL PRINCIPLE OF MAJORITY RULE

Fourth, this proposed constitutional amendment undermines the fundamental principle of majority rule by imposing a three-fifths supermajority vote to adopt certain budgets and to raise the debt limit.

Our founders rejected such supermajority voting requirements on matters within Congress' purview. Alexander Hamilton described supermajority requirements as a ''poison'' that serves ''to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority.'' These supermajority requirements are a recipe for increased gridlock, not more efficient action.

The amendment's supermajority requirements would permit minority factions to extort pork barrel projects or extreme legislation as their price for avoiding a Government shutdown and default. Do we really want to allow 40 percent plus one of the Members in either the House or the Senate to hold the budget hostage to their demands?

IT IS A PIG IN A POKE

There is much truth to the axiom that the ''devil is in the details.'' This proposed constitutional amendment uses such general terms that even its sponsors and proponents concede that implementing legislation will be necessary to clarify how it will work.

What will this implementing legislation say? We will not find out until we see this implementing legislation. The questions raised that still lack satisfactory answers are many: What programs will be off-budget? What role will the courts and the President have in executing and enforcing the amendment? What will be considered compliance with the amendment? How much of a deficit may be financed and carried over to the next year? Many other questions still await answers going to core matters that are critical to our understanding of what this amendment means.

Congress should not be asked to amend the Constitution by signing what amounts to a blank check. Nor should any State be asked to ratify a pig in a poke.

In the interests of fair disclosure, Congress should first determine the substance of any implementing legislation, as it did in connection with the 18th amendment, the other attempt to draft a substantive behavioral policy in the Constitution.

IT FAILS TO PROTECT BASIC COMMITMENTS TO OUR CITIZENS

Sixth, this proposed constitutional amendment fails to live up to the commitments we have made to our citizens. It uses the annual surplus in the Social Security trust fund to mask the

true size of the Federal budget deficit for years to come. This is wrong.

In addition to using the Social Security trust funds, this proposed constitutional amendment could short-change our seniors who depend on Medicare, our veterans who depend on service benefits, and our children who depend on nutrition programs. We have made commitments to our seniors, our veterans, and our children. But this amendment fails to honor our commitments. This is unacceptable.

CONCLUSION

We Vermonters pride ourselves on being able to apply Yankee common sense in sorting the sensible from the fanciful, and this proposed constitutional amendment lacks common sense, Yankee or otherwise.

One of the newspapers in my State observed: ''Amending the Constitution to require a balanced Federal budget would be like using a sledgehammer to nail a picket in a fence. The picket might stand, but at great risk to the fence.''

Even the short span of 2 years since the last debate on this amendment has brought forward changed fiscal and budget circumstances and new insights into the implications of amending the Constitution in this way.

Let us not proceed with a view to short-run popularity, but with a clear vision of our responsibilities to our constituents and the Nation in accordance with our venerable and venerated Constitution.

Madam President, for the last 4 weeks, I have been saying over and over again to Senators, think about what we are doing. This country, which has a Constitution the envy of all other democracies on Earth, has amended that Constitution only 17 times since the Bill of Rights. In that 17 times, one of those amendments was to repeal an earlier mistake, the amendment on prohibition.

Madam President, during that time, we have had civil wars, invasions of our Nation, the War of 1812, terrible world wars, Korean war, Vietnam war, depressions, recessions, earthquakes, natural calamities, expansion of our Nation. With all these changes, most of which were far, far greater than anything we see today, we resisted the temptation to amend the Constitution. We resisted the temptation to tinker with our Constitution, and we always came out a stronger nation.

We hear talk about Thomas Jefferson. Thomas Jefferson borrowed twice the budget of the United States for the Louisiana Purchase. Can you imagine what this country would be like had he not had the foresight to do that? Or can you imagine what this country would be like had he had the same constitutional amendment and not been able to borrow the money for the Louisiana Purchase? Where would this Nation be?

I hear one Senator come in the Chamber and talk about Senators who appear to change their position. I would point out that I heard no criticism from him of the three Senators who had opposed this constitutional amendment and now support it.

I hear a Senator come in the Chamber and say we need this to balance the budget, and yet that same Senator has done nothing to bring out of his own committee a budget, even though the law requires him to do so, within the next month.

Madam President, we do not need a bumper-sticker, sloganeering constitutional amendment to balance the budget. We can just have enough courage to face up to the special interest groups of the left and the right and balance the budget ourselves. That is what we need.

So many of those who are hollering for this sound like the lion in ''The Wizard of Oz.'' They are seeking courage. If we do not have the courage to do what is right, then we do not belong here. But I am afraid that some who want this are simply looking for something that will reflect the passing poll of the moment. The Constitution of the United States is not a passing poll of the moment. The Constitution of the United States is the bedrock of this Nation. It is why we have the strongest democracy in the world. It is why, incidentally, we have the strongest economy in the world.

Instead of running down our economy, instead of running down our Constitution, instead of adding something that looks good on a public opinion poll but does not look good on the test of time, we ought to do what is right: bring down the deficit by the hard votes, not by tinkering with our Constitution. Let us not slap this bumper sticker on the greatest Constitution ever written. It is beneath the Senate. It is beneath the House of Representatives. But, more importantly, it does great disservice to the finest Constitution democracy has ever had.

Madam President, am I correct that the time of the Democratic leader has expired?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I thank the Chair.

The PRESIDING OFFICER. There will now be 30 minutes under the control of the majority leader or his designee.

The Chair recognizes the distinguished majority leader.

Mr. LOTT. Madam President, I yield myself such time as I may consume of my 30 minutes, but I do want to reserve the closing 5 minutes for the distinguished chairman of the Judiciary Committee. So after 25 minutes, if I am still going, I hope the Chair will give me that notification.

I should like to begin, Madam President, by expressing my appreciation to all the Members of the Senate. We have been debating this issue now for a month or more. It has been a good debate. Every Senator has had an opportunity to express himself or herself, and I think the debate for the most part has been good—troublesome to me sometimes and discouraging in some of the things I have heard said, but still the Senate has worked its will in terms of having the time that we needed to debate this very important issue and to offer amendments.

I thank particularly the chairman of the Judiciary Committee, Senator HATCH of Utah, for the great work he has done, for the long hours, in fact—yes, hours—he has spent in this Chamber speaking in response to comments from other Senators, commenting on the amendments that have been offered. He has done an outstanding job. If for no other reason, I hope we would pass this amendment because of the great work and the commitment he has to this effort and to this constitutional amendment. I thank him for his great work.

Also, Senator CRAIG of Idaho, Senator CRAIG THOMAS of Wyoming, Senator BRYAN of Nevada, a Democrat who has been involved, and 10 other Democrats who have been committed to this constitutional amendment requiring a balanced budget, who have had the courage of their convictions to stand up and support this constitutional amendment and make speeches in behalf of it.

Senator COVERDELL has done an outstanding job in working with the people from all over this country, through the land, who are interested in supporting this amendment. Senator SNOWE has done a great job in helping make sure that we had Senators who were aware of the time who would come to the floor and make their statements. Many others have done a great job. I wish to recognize the work they have done because a lot of time, a lot of thought, a lot of great speeches have been made as we have come to the conclusion of this debate on the constitutional amendment for a balanced budget.

Thomas Jefferson has been mentioned a lot here in the debate. As a matter of fact, as I just came from the majority leader's office, I was thinking about the fact that it was in that very room—yes, that very room—that the House of Representatives met in 1801 and took 36 ballots—36 ballots, would you believe it—to elect Thomas Jefferson of the United States over Aaron Burr. How close they came to making a mistake.

I think that this, too, is of such historic significance. We should not make a mistake here today and not pass this amendment. We should vote for it. And the impact would be monumental—perhaps not as monumental as electing Thomas Jefferson, but certainly would have impact on the future of all Americans for years and years to come. It is historic.

I am very proud that we have kept our word to the American people that we would fight for this amendment, that we would bring it to a conclusion, and that we would try to get it added to the Constitution so that we would

have the guarantee, the additional leverage, the backbone that is needed to have in fact a balanced budget. So we have kept that commitment, and all Americans will have a brighter, more prosperous future when we pass a constitutional amendment requiring a balanced budget.

I noted the comments earlier today that 55 people wrote the Constitution. Well, 55 Republican Senators, every Republican Senator, will vote for this amendment today, and a minimum of 11 Democrats. It is bipartisan. We do know that this needs to be done. We need to get that additional vote that would give us the 67, and I think maybe that is still possible before all is said and done on this constitutional amendment.

Just yesterday, we had additional proof of the need for this constitutional amendment. Six Presidents, over 1,400 Members of Congress, and approaching 1,000 Senators over the years have made an effort to get a balanced budget agreement, but through 28 years and all these Congressmen and Senators—and I want to make sure I have the exact number on the Senators. I think that number is high. We have had well over 1,500 Congressmen and Senators who said we should have a balanced budget, but we have not had one. We have not achieved one in 28 years—good intentions by men and women, but it has not happened. It looks like we will not have it for at least a couple of more years, at the most not until the year 2002. And, yet, in the President's budget that was sent to us, we find deficits do not go down, they go up by over $25 billion in the next fiscal year.

We find that, instead of having tax relief for working Americans, you have a net tax increase in the President's budget. And, worst of all, 98 percent of his so-called budget savings, or spending restraints, would come in the last 2 years, after the year 2000, after the turn of the century, after this President is gone—proof positive, once again, that there is not yet a sufficient commitment by the President to get a balanced budget agreement. Without this constitutional amendment, I still have my doubts as to when it will happen.

Now, the Senator from North Dakota commented earlier about how he had voted for a budget that reduced the deficit. Look, if everybody will agree just to raise taxes and keep raising taxes, I guess you could reduce the deficit. Of course, at some point there is a point of no return. When I hear from my own son, who calls me and says, ''Dad, look, I am working hard, I have 55 people working for me, but 50 percent of everything I make is going to taxes, why is that? What are you going to do about it?'' You know, that has an impact on me. The solution to balancing the budget is not to raise more taxes, as happened in 1993; it is to control spending for the interests of our children and for all Americans.

Social Security—when all else fails, bring up Social Security. I have heard it for years. I have been worried about it over the years, and I have cast some votes that made it clear that I do not want Social Security to be threatened or abused in any way. This amendment will not do that. In fact, the only thing that we could do that would threaten Social Security is that we not get a balanced budget. That is how we would get in trouble with Social Security.

By the way, if it is so critical, if it is, in fact, something that should not be included in the budget, why does the President, year after year, including this year, include Social Security in his budget? This is absolutely a diversion, and it is unfair to the seniors in this country that we try to scare them by indicating in any way that this would affect Social Security. The reverse is true. I will take my stand and stake my defense of Social Security against anybody's record in this body.

Americans support this constitutional amendment. That is why you hear all these diversions. That is why you hear, ''Well, but for this,'' ''Yes, but,'' ''Maybe, but I cannot do it unless you do that.'' The American people are overwhelmingly for this.

Senator COCHRAN, my colleague from Mississippi, and I are for it and our constituents are for it; in my State, over 80 percent. So it is relatively easy for us. But we are also for it because we believe increasing debt is the wrong thing to do.

Let me just read some of the excuses we have heard over the years. The truth of the matter is there are a few Democrats who do not want a constitutional amendment for a balanced budget. They just do not want it. But they have said: ''Well, I would be for it except we want a Republican Congress to show their plan first,'' or, ''We want to wait until after Republicans have passed a budget plan,'' or, ''Only if you exempt Social Security,'' or, ''Yes, you must exempt emergency spending, you must exempt veterans, you must exempt housing.'' How about an amendment by Senator WELLSTONE to exempt all education, health, and welfare; exempt all college aid and training? They would exempt all law enforcement, exempt the Tennessee Valley Authority, and highways, bridges, dams, roads, buildings, ice skating warming huts, and pork. They would exempt 77 percent of the nondefense, noninterest budget, if you went through that. And the list goes on, one excuse after another.

Anybody who is looking for an excuse not to be for a balanced budget, looking for an excuse not to be for a balanced budget amendment, they can find it, they can find something to hide behind. But the American people, I believe, see through that. They have watched for years. They know that it has not been happening. They are worried about the interest on the national debt. They are worried about the future of the economy in our country. They know this should be done.

I do think that a constitutional amendment requiring a balanced budget is an amendment that is worthy of going into the Constitution. Surely, Thomas Jefferson objected, back in the beginning of our great country, and would object now, to the debt we are building up—trillions of dollars. If we do not get a balanced budget—in fact, even if we do get a balanced budget agreement—the debt will probably still go up by close to $1 trillion. When will it end?

It brings to my mind the statement we have heard before, ''If not now, when? If not us, who?

If we are not prepared to step up and pass this constitutional amendment now, we are admitting, based on what we have seen from the President's budget proposal this year, it is not going to happen any time soon. The deficits annually will begin to build up and to build up again, and so will the debt.

We are stealing from the future of our children. They are the ones who are going to pay the price for this, and I feel very strongly that, if we put this in the Constitution with the protections that are there so that if we do have economic problems or if we have a national emergency, there is a way to get out. There is the three-fifths vote—60 votes. We get 60 votes around here quite often.

We want to make it tough. If you make it so easy that you can just have a vote and it will all just be wiped aside, you know Congress will do that. Congress has proven time and time again they will do that.

In the past, we have tried to pass statutes that would guarantee that we get a balanced budget, and it has not happened, because what has happened? We come along and we say we are going to exempt all these various and sundry things. Or, if it really gets tough, like we did with the Gramm–Rudman-Hollings, we just move the date. We just pass another statute. As long as it is just a bill, as long as there is a way to avoid the tough decision, I fear the Congress will take advantage of that.

We have proven here in this body, in the past 6 months, we can work together. We can be bipartisan. We can be civil to each other. And, when we work in a bipartisan way, when we put our minds to it, we can produce results.

Last year, there we were passing these issues, many of them that had been in the making for years, like telecommunications and welfare reform, health insurance reform. We did not pass them by narrow margins. We passed them by wide margins. Once we made up our mind we would, we did it in a bipartisan way. That is one of the lessons I learned. I am glad this is bipartisan. But I note also we must get one more of the 34 Democrats in order to pass this constitutional amendment.

A second lesson I have learned recently is good intentions just have not worked. It is not enough. You need this additional leverage.

So, I urge my colleagues here today, be proud of what we have done. Make sure we are going to live up to the commitments that we have made to the American people. Join the American people. I want us all to have the courage of our convictions and be prepared to vote yes or vote no, if that is what we think is right. But I do think we also should take some lessons from our constituents. They have it figured out. They support a constitutional amendment for a balanced budget overwhelmingly. Why can we not get it through this institution?

I believe the House will take this issue up in the next month or so, and I believe they will pass it. Some people have their doubts about that, but I still have confidence they will. And when they do, we will take another look at considering this issue if, in fact, it does not pass this afternoon. But this is an issue that will not go away.

In fact, if you look at the Constitution, the last amendment that was added to the Constitution was actually pending for, I think, 200 years; the 27th amendment to the Constitution. It was language for years and years. Finally the State of Michigan ratified it and it became the 27th amendment. I hope we do not have to wait that long for this amendment, but we are going to pass this amendment and, if we do or we do not, I am going to work with the distinguished chairman of the Budget Committee. We are going to try to find a way to get a balanced budget agreement. But I believe that this additional requirement in the Constitution will guarantee that we will do that job.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank the majority leader for his leadership on this particular issue. He has been a leader on this issue ever since I have been working on it, I have to say, both in the House and in the Senate. I am proud of him.

Look, we have heard from the minority and the minority leader that the perfect balanced budget amendment would exempt all capital expenses, however defined; Social Security, however defined; military responses or buildup, however understood, crime control; times of economic downturn; national disaster or emergency; education; nutrition programs, and so forth and so on. Gee, what is left under this proposal, under the minority leader's proposal? It is pretty apparent they don't want a balanced budget amendment. They do not want a fiscal mechanism that will make it more difficult for them to increase taxes, to pay for more expensive programs or to increase the debt to pay for more expensive programs. What's left? Just interest expenses? Well, that's a perfect balanced budget amendment if you want to keep spending.

It was admitted today that if we had a ''capital budget exemption,'' we would have a ''balanced budget'' today. I guess that's so. That's perfect. If you want to keep spending and borrowing, that's perfect. In other words, if you want to keep the status quo, that is the way to do it: Just hide everything in a loophole, and then you can say you ''balanced'' the budget. No, we don't need this kind of perfection. What we need is a real-world solution, one that will make a difference.

I have to say, I am doggone tired of the demagoguery on Social Security. You would think these people here on the other side against this amendment are the only ones who care about Social Security. Let me tell you something, I care about it. I watched what it did for my folks. I know exactly what it does, and I don't want to ever see it hurt, and neither does anybody else who is voting for this amendment, and that is the vast majority of people in this body.

You are doggone right we like Social Security, and we are tired of the demagoguery. Every time they are losing, they try to bring up a Social Security amendment to hide behind, because they don't want to cast the right vote, and they know it, we know it, and, ladies and gentleman out there in the country, you know it, too. I am tired of it. It is not right for them to continually hide behind these phony issues. Can you imagine having Social Security cast aside outside of the balanced budget amendment and its protections, standing there all alone so that anything could be called Social Security? Once that game starts, forget Social Security.

These people who are arguing that are the foes of Social Security. If they really cared for Social Security, by gosh, they would be passing this balanced budget amendment and getting spending under control. It is about time to get rid of the demagoguery, and I am tired of it.

Let me also say, I was quite upset today to hear in the closing remarks the minority leader come out here again and start using a distortion of the Congressional Research Service. I was asked outside, ''Have you lost confidence in the Congressional Research Service?'' by one of the leaders in the media. Of course we have not, because they made it clear that the interpretation was not as the minority leader has been saying. As a matter of fact, we made that clear on the floor. There should not even have been a question about it.

The CRS memorandum dated February 5 that my colleague was alluding to did not conclude in any way whatever that the balanced budget amendment would harm Social Security. All the CRS memorandum concluded was that assuming the Social Security surplus survived to the year 2019, the year Social Security would start running annual deficits, this previous accumulated surplus could be used to help pay for future deficits, but only if it is offset by revenues or budget cuts. Of course, we could also vote to suspend the balanced budget rule for a year if that was truly necessary. That is a considerably different position from what has been demagoged throughout this debate.

Despite what my friend asserted, under the balanced budget amendment, assets of the Federal Treasury could be drawn upon to ensure payments to beneficiaries when the system starts running annual deficits. Senators DOMENICI, MACK, and I also received a letter from the CRS supporting my provision. The nonpartisan Concord Coalition, founded by the late Paul Tsongas, a Democrat, and Warren Rudman, a Republican, has also addressed this issue. In a memorandum dated February 18, 1997, the coalition concluded that the Senators' position that if the balanced budget amendment does not exempt Social Security it will somehow nullify the trust fund surpluses and prevent payment of benefits to retired baby boomers is nonsense.

Let me quote further. This is what the Concord Coalition says:

> What the BBA would do is to raise national savings and thus make Social Security, along with a myriad other claims on tomorrow's economy, more affordable. It would be ironic, indeed, if concern about funding Social Security, whether real or pretended, turns out to be an issue that sinks the balanced budget amendment. Let's be clear, the balanced budget amendment would in no way honor the status of the Social Security trust funds.

The real issue here is, how are we going to fund the Social Security trust funds when the system becomes insolvent around the year 2019, 2029 for sure? The answer depends on the national debt. It is the size of the national debt that threatens the Social Security program, and, I might add, we are adding to that national debt one more unbalanced budget, and that is the one for fiscal year 1998. That is it. This is the President's budget on top of these 28 other unbalanced budgets that we have been pointing out throughout this debate.

Only if we pass the balanced budget amendment will we preserve Social Security, and that is the truth in this debate, and I am tired of the demagoguery.

Just think about this national debt. Forty-six days ago, when the Judiciary Committee began the debate on the balanced budget amendment in the 105th Congress, I used a debt clock ticking off thousands of dollars each second to illustrate the magnitude of our country's growing debt. As we have debated Senate Joint Resolution 1 for the past 46 days, that clock has continued to run, and our national debt has increased in that period of time, that 46 days, $25 billion, while these folks are talking about ''we just have to have the will to do it.'' Tell me where the will is in the last 29 years, including next year's budget. That is the President's budget. It is unbalanced, by the way.

Madam President, I don't know about other States, but in Utah, 25 billion

bucks is a lot of money. In fact, with that money, we could send every man, woman, and child in Utah to the University of Utah, pay their tuition, room, board, and books.

To give you the magnitude of that debt, let me give you an idea of how much money we are talking about. With $5.3 trillion, which is our national debt today, you could paper Washington, DC, with 100 dollar bills corner to corner with enough left over to give a block grant to every State of about $6.3 billion. You could also purchase every new automobile ever sold in the United States and still have enough left over to purchase every airline ticket ever sold for travel in the United States.

The U.S. Bureau of Printing and Engraving and U.S. Mint would need 37½ years at its current rate of printing to print and coin enough money to equal $5 trillion.

Madam President, $5 trillion stacked in pennies would reach all the way to the planet Jupiter. Give me a break, will you?

All disposable personal income in the United States does not approach $5 trillion—all disposable income.

If all the home equity in the United States was applied to the national debt, there would still be a half trillion dollars of debt left over. That is what a mess this is, and we have these people saying, ''Let's just do it and the President will sign it.''

Give me a break. Here is the President's budget right there, on top of the other 28 other unbalanced budgets.

Madam President, $5 trillion would consume all the wages and salaries earned by every American for 18 months.

Unfortunately, without the constitutional discipline offered by Senate Joint Resolution 1, the downward deficit spiral is likely to continue. The point is underscored by CBO's most recent projection that in the year 2002, total Federal debt will exceed $6.8 trillion. Come on, it's time to wake up. I wonder what some people are thinking, I really do.

Well, I don't mean to demean the Senator from Vermont who has had to make almost every argument against it today by himself. He did have two or three others come over.

Mr. LEAHY. If the Senator would yield, it would be OK if I win, though. I will not lie.

Mr. HATCH. He said we won 14 or so votes, it is time for him to win one.

The PRESIDING OFFICER. The majority leader has 5 minutes remaining.

Mr. LOTT. I yield the remainder of my time to the Senator from Utah.

Mr. HATCH. I thank my colleague.

I heard this language, by one of the Members of the Senate, that we are just interested in a quick and easy fix, like instant rice, like Jiffy Lube, like instant coffee. A quick and easy fix, my foot. We do not believe that the only way to solve problems is by increasing taxes every time, which is exactly what happened here when this President took over. That is not the way to do it.

This stack of books is a wall standing between us and fiscal responsibility and balanced budgets. The bricks in this towering wall are the unbalanced budget submissions for the last 28 years, 28 years of strapping debt on to the backs of our children, a towering wall of overspending the hard-earned money of the American people, a towering wall that demonstrates that the score for special interests is 28, the American people zero.

Some people say, all we need is the will. Well, this towering wall represents 28 straight years of the failure of will and the failure of responsibility—now, 29. It is higher than I am, and that is two stacks, not one. Before we are through, if we do not do something about a balanced budget amendment, these will go all the way to this ceiling. The President's actions, evidenced by his budget submission and his allies' work in defeating the balanced budget amendment here in the Senate, suggests that we are just putting another brick on this wall.

Frankly, I believe we will never get past this wall without a constitutional requirement to balance the budget.

Mr. NICKLES. Will the Senator yield?

Mr. HATCH. Yes.

Mr. NICKLES. You just placed the President's budget for this year on top. Am I correct in saying that last year the deficit was $107 billion, forecasted for 1997 to be $116 billion, and then in 1998, under the President's budget—this is by the Congressional Budget Office——

Mr. HATCH. His budget.

Mr. NICKLES. It goes to $145 billion, and then in 1999 to $142 billion, and the year 2000 to $135 billion? Isn't that the report that we just had from the Congressional Budget Office? We have 4 years of deficit increases under the President's proposal?

Mr. HATCH. That is correct. In the last 2 years we are going to cut 98.5 percent in order to get to a balanced budget by the year 2002. Anybody believes that, boy, do I have something to sell for you.

Mr. NICKLES. Will the Senator yield further?

Mr. HATCH. Yes.

Mr. NICKLES. Isn't it correct that under the President's budget, actually the deficit next year, according to the Congressional Budget Office, will be $24 or $25 billion more than if we did not pass a budget? In other words, his budget actually increases the deficit for the next 4 years in relationship to present law?

Mr. HATCH. If we did just what we are doing now, the Senator is right, we would be a lot better off than the President's next 5-year budget. He is saying that is a balanced budget. I do not believe we will get all the way to a balanced budget and stay there without a constitutional requirement. I think this stack of books proves it. Every time somebody says, ''Let's just do it''—I have heard that for 21 straight years now, ever since I came to the Senate. I will tell you something; we are not just doing it.

To all those who say we can balance the budget without the constitutional requirement, I say to Democrats and the President that this towering wall of irresponsibility is limiting our young people's future. I am convinced we cannot do it without putting a fiscal mechanism in to cause us to stand up and vote to do what is right. It is a wall of irresponsibility that is limiting our young people's future. We must do something about it now.

Mr. President, you fought against the balanced budget amendment. I have to say, this big wall here is going to cause us pain through the rest of our lives unless we pass a balanced budget amendment. I am saying to the President right now, and to our colleagues on the other side, let us tear down this wall of unbalanced budgets and let us do what is right. If we will, everybody will benefit from it.

Mr. LOTT. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 66, nays 34, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—66

Abraham	Faircloth	McCain
Allard	Frist	McConnell
Ashcroft	Gorton	Moseley-Braun
Baucus	Graham	Murkowski
Bennett	Gramm	Nickles
Biden	Grams	Robb
Bond	Grassley	Roberts
Breaux	Gregg	Roth
Brownback	Hagel	Santorum
Bryan	Harkin	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith, Bob
Chafee	Hutchinson	Smith, Gordon H.
Cleland	Hutchison	Snowe
Coats	Inhofe	Specter
Cochran	Jeffords	Stevens
Collins	Kempthorne	Thomas
Coverdell	Kohl	Thompson
Craig	Kyl	Thurmond
D'Amato	Landrieu	Warner
DeWine	Lott	
Domenici	Lugar	
Enzi	Mack	

NAYS—34

Akaka	Dodd	Hollings
Bingaman	Dorgan	Inouye
Boxer	Durbin	Johnson
Bumpers	Feingold	Kennedy
Byrd	Feinstein	Kerrey
Conrad	Ford	Kerry
Daschle	Glenn	Lautenberg

Leahy	Murray	Torricelli
Levin	Reed	Wellstone
Lieberman	Reid	Wyden
Mikulski	Rockefeller	
Moynihan	Sarbanes	

The PRESIDING OFFICER (Mr. BROWNBACK). The galleries are advised that expressions of approval or disapproval are not permitted in the Senate Chamber.

On this vote, the yeas are 66, the nays are 34. Two-thirds of the Senators voting, a quorum being present, not having voted in the affirmative, the joint resolution is rejected.

The joint resolution (S.J. Res. 1) was rejected.

Mr. DASCHLE. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I am disappointed with the Senate vote. I am disappointed for the American people, especially younger Americans, and our children and grandchildren. They were the ones who lost in this defeat. I hope our younger voters will take notice of who was on their side and who was not, the next time they vote.

The sad reality is that the bridge to the 21st century is likely to be washed out in a flood of debt. I hope I am wrong and that we will now work to enact a real plan to get to a balanced budget. I hope that those who have killed the balanced budget amendment this time will actually work to balance the budget. But I must admit, I am not too hopeful that we will get to balance and stay there without the force of a constitutional requirement to do so. This year we will add another budget to this mounting stack of fiscal irresponsibility.

When we began this Congress, less than 2 months ago there, were 68 Senators who had either previously voted for this amendment—the exact same amendment, or who had promised during their recent campaign to support it. I believed that we could count on them to keep their promises. Yet, only moments ago, only 66 votes were cast in favor of fiscal discipline. Those two missing votes are the difference between passing the balanced budget amendment and adding still more failed budgets to this pile of 28 straight years of deficits.

As disappointed as I am, however, I am also very proud of my colleagues who stood up and were willing to vote to protect our children and grandchildren from worsening the crushing burden of debt that has already been loaded on their backs. Senate Joint Resolution 1 began this Congress with 62 cosponsors, Mr. President. That is an all-time high. We have now had two consecutive Congresses in which the Senate missed approving the balanced budget amendment by a single vote. There can be no doubt that support for this much-needed measure is growing.

I am particularly proud of, and grateful to, the 11 courageous Democrats who did the right thing and voted for fiscal responsibility and accountability in spite of President Clinton's opposition. Among them, Senators BRYAN, GRAHAM, ROBB, MOSELEY-BRAUN, KOHL, BREAUX, and BAUCUS deserve special recognition as they are all original cosponsors of the balanced budget amendment. Let me also recognize Senator BIDEN, the former ranking member of the Judiciary Committee who also voted for the amendment, and Senators HARKIN, LANDRIEU, and CLELAND.

As you can see, Mr. President, the balanced budget amendment is a bipartisan effort. The 11 courageous Democrats joined with all 55 Republicans in the Senate to support what we understand is necessary if the budget is to truly be brought into balance. Unfortunately for the American people, the 34 Democrats who voted against the balanced budget amendment were just enough to defeat it.

Two years ago I stood here after a very similar vote and promised that we would not give up the fight for our children's future. This year we returned stronger than ever. And so I make the same promise again, we will be back! We will be back and we will continue to gain strength until we enact the balanced budget amendment and finally, after decades of excuses, broken promises, and more deficits, we will balance the budget.

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

Let me first thank our majority leader for his pivotal role. Senators CRAIG, THURMOND, and DOMENICI of course, have my admiration and thanks. I am also especially grateful to Senators NICKLES, COVERDELL, MACK, GRASSLEY, GRAMM, SNOWE, ABRAHAM, and THOMAS. Last, but certainly not least, I would like to thank our new Republican colleagues: Senators ENZI, HAGEL, HUTCHINSON, ALLARD, COLLINS, SESSIONS, BROWNBACK, and ROBERTS. The energetic support of the newest Members of the Senate bodes well for the future prospects of the balanced budget amendment.

Let me also thank Senator LEAHY, the new ranking member on the Judiciary Committee and the minority floor manager during this debate, for his cooperation and courtesy.

Finally, I would like to single out some of the staff members who worked so long and hard on this matter: Damon Tobias with Senator CRAIG; Bill Hoagland, Austin Smythe, and Jim Capretta of Senator DOMENICI's Budget Committee staff; Tom Geier with Senator SNOWE; Bryan Reardon with Senator ABRAHAM; Mitch Bainwol with Senator MACK; Doug Badger and Hazen Marshall of Senator NICKLES's majority whip office; Kyle McSlarrow and Carl Parks with Senator COVERDELL; Andy Vermilye with Senator BRYAN; Russ Sullivan, Mike McGinn and Barbara Ramey with Senator GRAHAM; and Rob Brazil with Senator ROBB; and last but certainly not least, David Hoppe, Alison Carroll and Keith Hennessy in the majority leader's office. Let me also thank Bruce Cohen and Ed Pagano of Senator LEAHY's Judiciary Committee staff.

Last, Mr. President, I would like to thank the very special people who have worked with me on this issue: Manus Cooney, Sharon Prost, Shawn Bentley, Larry Block, Paul Larkin, Steve Tepp, Paul Joklik, Troy Dow, Eric Sampson, Jennifer Carrico, Allison Vinson, and Irosha Ratnasekera. Many staffers have worked long and hard in the most dedicated fashion, I thank them all for their devotion to duty and to our country.

Mr. LEAHY. Mr. President, I want to acknowledge the distinguished manager of the resolution and chairman of the Judiciary Committee. The Senator from Utah is a tough opponent and one who I know is committed to and sincerely believes in this proposed amendment to the Constitution. He has certainly done everything that he could and spared no effort to persuade the Senate to pass this proposal.

As the ranking Democrat on the Judiciary Committee, I look forward to working with him on important legislation and nominations through the remainder of this Congress.

I want to thank the distinguished Democratic leader, Senator DASCHLE for his leadership on this issue. He helped set the tone of the debate early on, when he articulated the standard that we should apply when considering a proposal to amend the Constitution.

I want to thank the distinguished senior Senator from West Virginia. We all owe a debt of gratitude to Senator BYRD. I said in my opening statement at our first Judiciary Committee hearing on January 17 that we would be privileged to have Senator ROBERT C. BYRD with us during this floor debate to instruct all of us on these historic matters. Senator BYRD did not disappoint. Indeed, his challenge to the proponents to explicate their proposal and their failure to do so provided the fulcrum on which this debate has turned.

I want to commend those Members who had the courage to look behind the title of the proposal and help us focus on its dangers and vagaries. In particular, I thank all those who came forward with such thoughtful amendments. Senators KENNEDY, FEINSTEIN, FEINGOLD, DURBIN, and TORRICELLI from the Judiciary Committee, and Senators BOXER, WELLSTONE, REID, BUMPERS, and DORGAN each offered amendments that raised important issues and added greatly to the debate.

I want to thank Senators LAUTENBERG, SARBANES, CONRAD, and GLENN for their contributions and their full participation in this historic debate.

I commend those cosponsors of the resolution who nonetheless offered

amendments, spoke in favor of various amendments, or voted not to table the amendments that were offered. I hope that they will continue to think about the problems that have been raised with the proposed constitutional amendment.

I want to thank the organizations that have provided invaluable information and insights into this debate. In particular, I would like to thank Charles Loveless and Edwin S. Jayne, of the legislation department at AFSCME, who spearheaded the Coalition on Budget Integrity, and Robert Greenstein and Ellen Nissenbaum, of the Center on Budget and Policy Priorities, who spearheaded the Center's research on this proposed constitutional amendment. I also thank Eugene Lehrmann for his important testimony on behalf of the American Association for Retired Persons. I commend the 150 organizations that made up the Coalition on Budget Priorities for the hard work of each of their representatives and all of their volunteers.

I also commend Professors Robert Eisner of Northwestern University, Robert M. Solow of MIT, and James Tobin of Yale University and the 1,060 economists from around the country who came forward with a joint statement to condemn the proposed constitutional amendment.

Finally, I thank the Senate staff for its dedication and professionalism during the debate on this proposed constitutional amendment: Larry Sein and Jonathan Adelstein from Senator DASCHLE's staff; James English and Peter Kiefhaber from Senator BYRD's staff; Caroline Chambers and Jeremy Bates from Senator DORGAN's staff; Michael Myers and Melody Barnes from Senator KENNEDY's staff; Kevin Cronin from Senator FEINSTEIN's staff; Sumner Slichter and Michael O'Leary from Senator FEINGOLD's staff; Tom Faletti from Senator DURBIN's staff; Eric Shuffler from Senator TORRICELLI's staff; JIM RYAN FROM SENATOR REID's staff; Bill Dauster and Jodi Grant from Senator LAUTENBERG's staff; and Julie Kehrli and Carlos Angulo from Senator SARBANES' staff. From Senator HATCH's staff, I would like to thank Manus Cooney, Sharon Prost, Shawn Bentley, Paul Larkin, Larry Block, Steve Tepp, and Troy Dow. I was assisted, in particular, by Ed Pagano and Michael Carrasco.

As in so much that I do, my counsel Bruce Cohen was indispensable.

This effort would not have been successful, however, without the attention and efforts of hundreds and thousands of concerned Americans who want to balance the budget while preserving the Constitution and the guarantees that it provides. Their calls and letters made the difference. This is their victory.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 5 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Monday, March 3, the Federal debt stood at $5,358,956,534,107.64.

Five years ago, March 3, 1992, the Federal debt stood at $3,830,561,000,000.

Ten years ago, March 3, 1987, the Federal debt stood at $2,260,323,000,000.

Fifteen years ago, March 3, 1982, the Federal debt stood at $1,051,000,000,000.

Twenty-five years ago, March 3, 1972, the Federal debt stood at $424,645,000,000 which reflects a debt increase of nearly $5 trillion ($4,934,311,534,107.64) during the past 25 years.

TRIBUTE TO WILLIAM G. DAUSTER

Mr. HOLLINGS. Mr. President, I rise today to pay tribute to a most valued staff member of the Senate Budget Committee who will leave the committee this Friday to join Senator KENNEDY at the Labor and Human Resources Committee as general counsel and deputy staff director.

I am speaking of Mr. William G. Dauster, known to every Democratic Senator who ever had a question on the budget, an amendment to the budget resolution, or a budget point of order, simply as, ''Bill.''

You could see Bill Dauster on the Senate floor, late at night, at the side of Budget Committee Chairmen Chiles or Sasser, or Ranking Minority Member Jim Exon. He was the best right hand and the finest counsel these Senators could seek.

As the longest serving member on the Budget Committee, I have known Bill since he first walked in the door almost 11 years ago after working in private practice as a litigator with the New York City law firm of Cravath, Swaine & Moore. Bill Dauster served on the committee, first as chief counsel from December 1986 to November 1994, and then rose to the position of Democratic staff director and chief counsel.

I saw Bill grow into one of the most respected and expert voices on the budget. His advice and guidance made him an invaluable resource to all Democratic Senators. I think he taught a few lessons to some of our colleagues on the other side of the aisle as well. But they respected him, too.

Bill Dauster took on more thankless tasks than any reasonable man could ask for, including some of the most arcane issues and twists and turns of budget process imaginable. And he did it with enormous dedication, consummate patience, an abundance of affability, and a large dose of excellent humor. Bill doesn't take himself seriously. He takes the issues seriously.

Bill Dauster leaves behind him a string of accomplishments of which few can boast, and of which many would envy. He has participated in Congress' reception of 11 Presidential budget submissions and 11 years of budget hearings.

He had a strong hand in drafting 8 budget resolutions, the Budget Enforcement Act of 1990, the 1987 revision of Gramm-Rudman-Hollings, at least a few amendments to the balanced budget amendment, and amendments exposing the weaknesses of entitlement caps.

During that time, Bill also wrote 3 editions of a budget process law book, 3 budget law review articles, numerous speeches, and more than 20 op-ed pieces that have appeared in the Los Angeles Times, the Washington Monthly, Roll Call, the Hill and the Sunday Journal newspapers of suburban Washington, DC. He can be justifiably proud of all of them. Bill's keen wit, nimble mind, and ability to turn a phrase are as evident and legendary as his extensive library and e-mail list. The Budget Committee may have afforded Bill a wealth of opportunities, but this body is the richer for it.

Bill's résumé, however, does not do justice to the enormous contributions he has made, not just to the budget process, but to our fellow citizens as well. He personifies a true servant, not only of this great institution, but of the people we serve.

Blessed with enormous intellectual skills, Bill has also exhibited great compassion for the less fortunate among us, especially America's children and the disabled. Bill has toiled tirelessly on their behalf. And his source of inspiration has always been his family—his wonderful wife Ellen Weintraub and their three children, Matthew, Natanya, and Emma—to whom Bill is devoted.

I certainly don't want to make this sound like a eulogy, since Bill will be just down the hallway from the Budget Committee. And I trust Senator KENNEDY will still let us call or visit with Bill to benefit from his counsel. So this is not farewell, but merely thank you, Bill, for a challenge well met and a job well done.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S.J. Res. 19. Joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1280. A communication from the Secretary of Defense, transmitting the report of a retirement; to the Committee on Armed Services.

EC–1281. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, a report relative to manpower; to the Committee on Armed Services.

EC–1282. A communication from the Deputy Under Secretary of Defense (International and Commercial Programs), transmitting, pursuant to law, the report on the Dual Use Technology Program; to the Committee on Armed Services.

EC–1283. A communication from the Director of Defense Procurement, Under Secretary of Defense, transmitting, pursuant to law, a rule entitled ''Earned Value Management Systems'' received on March 3, 1997; to the Committee on Armed Services.

EC–1284. A communication from the Director of the Defense Finance and Accounting Service, transmitting, pursuant to law, a report relative to Department of Defense Education Activity; to the Committee on Armed Services.

EC–1285. A communication from the Director of the Office of the Secretary of Defense (Administration and Management), transmitting, pursuant to law, a rule entitled ''Champus Program for Persons with Disabilities'' (RIN0720-AA32) received on March 3, 1997; to the Committee on Armed Services.

EC–1286. A communication from the Acting Secretary of Energy, transmitting, pursuant to law, a report on the Defense Nuclear Facilities Safety Board for calendar year 1996; to the Committee on Armed Services.

EC–1287. A communication from the Acting Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report relative to offshore platforms; to the Committee on Commerce, Science, and Transportation.

EC–1288. A communication from the Acting Director of the Office of Surface Mining (Reclamation and Enforcement), Department of the Interior, transmitting, pursuant to law, a rule entitled ''Ohio Regulatory Program'' (RIN0H239FOR) received on February 27, 1997; to the Committee on Energy and Natural Resources.

EC–1289. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–1290. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to damaged and threatened national natural landmarks for fiscal year 1996; to the Committee on Energy and Natural Resources.

EC–1291. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the Central Utah Project; to the Committee on Energy and Natural Resources.

EC–1292. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1293. A communication from the National Endowment for Democracy, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1294. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1295. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1296. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1297. A communication from the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1298. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1299. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1300. A communication from the Vice President and General Counsel of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1301. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1302. A communication from the Principal Deputy Assistant Secretary of Defense for Public Affairs, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1303. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1304. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1305. A communication from the Executive Director of the Assassination Records Review Board, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1306. A communication from the Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1307. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1308. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1309. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report entitled ''International Narcotics Control Strategy'' received on February 28, 1997; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, United States Code, section 12203:

To be brigadier general

Col. Thomas P. Wittman, 2806.

The following-named officers for appointment in the Reserve of the United States Marine Corps to the grade indicated under title 10, United States Code, section 12203:

To be brigadier general

Col. Jack A. Davis, 8721.
Col. Francis E. Quinlan, 3009.

The following-named officer for appointment in the U.S. Air Force to the grade indicated under title 10, United States Code, section 634:

To be major general

Brig. Gen. Steven R. Polk, 6022.

The following-named officers for promotion in the U.S. Marine Corps to the grade indicated under title 10, United States Code, section 624:

To be major general

Brig. Gen. Joseph T. Anderson, 6299.
Brig. Gen. Raymond P. Ayres, 5986.
Brig. Gen. Emil R. Bedard, 9035.
Brig. Gen. Charles F. Bolden, Jr., 5603.
Brig. Gen. Earl B. Hailston, 8306.
Brig. Gen. Bruce B. Knutson, Jr., 7136.
Brig. Gen. Gary S. McKissock, 8973.
Brig. Gen. William L. Nyland, 8595.
Brig. Gen. Ronald G. Richard, 8683.

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Lawrence P. Farrell, Jr., 7344.

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Joseph E. Hurd, 5386.

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David L. Vesely, 0433.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I

report favorably 11 nomination lists in the Air Force, Army, Marine Corps, and Navy which were printed in full in the CONGRESSIONAL RECORDS of January 7, 22, 30, February 5, 6, and 11, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators:

In the Navy there is 1 promotion to the grade of captain (Bruce G. Lalonde) (Reference No. 60)

In the Navy there are 4 promotions to the grade of captain and below (list begins with Thomas J. Campbell) (Reference No. 62)

In the Navy there are 6 promotions to the grade of commander and below (list begins with Timothy F. Archer) (Reference No. 63)

In the Navy there are 5 promotions to the grade of commander and below (list begins with Donald L. Beem) (Reference No. 64)

In the Naval Reserve there is 1 appointment to the grade of captain (Larry L. Blakesley) (Reference No. 165)

In the Army Reserve there are 157 appointments to the grade of Colonel (list begins with Timothy Albertson) (Reference No. 179)

In the Army Reserve there are 679 appointments to the grade of colonel (list begins with Steven R. Abt) (Reference No. 180)

In the Air Force there is 1 appointment to the grade of Lieutenant colonel (Walter J. James) (Reference No. 193)

In the Air Force Reserve there is 1 appointment to the grade of colonel (Alberto B. Zambrano) (Reference No. 198)

In the Air Force Reserve there are 200 appointments to the grade of colonel (list begins with Guy E. Acheson) (Reference No. 199)

In the Marine Corps there are 563 appointments to the grade of major and below (list begins with Neita A. Armstrong) (Reference No. 203)

Total—1,634.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 7, 22, 30, February 5, 6, and 11, 1997, at the end of the Senate proceedings.)

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Princeton Nathan Lyman, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Secretary of State.

Pete Peterson, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of Vietnam.

Nominee: Douglas B. Peterson.

Post: Ambassador to Vietnam.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: $100, 7/95, Max Cleland; $100, 10/95, Brian Moran; $250, 8/96, Frank Baker; $200, 10/96, Max Cleland; $500, 10/96, John Kerry; $500, 10/96, John Bryon.

Spouse: Charlotta Ann Peterson (deceased).

3. Children and spouses: Michael and Susan Peterson, none; Paula and Ricky Blackburn, none; Douglas Neal Peterson (deceased).

4. Parents: Mary and Albert Peterson (deceased).

5. Grandparents: Minnie and John Underwood (deceased), Bertha and Gus Peterson (deceased).

6. Brothers and spouses: Albert (deceased) and Jean Peterson, no contact since 1989; Theodore and Donna Peterson, no contact since 1989; Clark and Louise Peterson, no contact since 1989.

7. Sisters and spouses: Minnie (deceased) and Chuck Newton, no contact since 1989; Margery and Jack Carlson, none; Alice (deceased) and Chuck Arnold, no contact since 1989; Carol and Max Baker, no contact since 1989; Mary (deceased) and Earl Brown, no contact since 1989; Janet and Wayne Semot, no contact since 1989.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably one nomination list in the Foreign Service which were printed in full in the CONGRESSIONAL RECORD of January 21, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The following-named Career Members of the Senior Foreign Service of the Agency for International Development for promotion in the Senior Foreign Service to the classes indicated:

Career Member of the Senior Foreign Service of the United States of America, Class of Career Minister:

Terrence J. Brown, of Virginia
Kelly C. Kammerer, of the District of Columbia
Linda E. Morse, of Virginia

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Rose Marie Depp, of Maryland
Gregory F. Huger, of the District of Columbia
George Jones, of Colorado
Linda N. Lion, of Virginia
Carlos E. Pascual, of the District of Columbia
Eric R. Zallman, of Florida

The following-named Career Members of the Foreign Service of the Agency for International Development for promotion into the Senior Foreign Service:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Harry F. Birnholz, of New York
Paul A. Bisek, of Illinois
Douglas A. Chiriboga, of Virginia
Paul R. Deuster, of Virginia
William J. Garvelink, of Virginia
Viviann Gary, of Washington
Gene V. George, of New York
Richard H. Goldman, of Florida
Richard J. Goughnour, of Florida
Frederick J. Guymont, of Florida
John Van D. Lewis, of the District of Columbia
John R. Martin, of Illinois
Louis Mundy III, of Florida
Everett B. Orr, of Florida
Karen M. Poe, of Virginia
Thomas Lee Rishoi, of Florida
Terrence P. Tiffany, of Oregon

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 21, 1997, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Ms. MIKULSKI:

S. 390. A bill to amend the Older Americans Act of 1965 to provide for Federal-State performance partnerships, to consolidate all nutrition programs under the Act in the Department of Health and Human Services, to extend authorizations of appropriations for programs under the Act through fiscal year 2000, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DORGAN (for himself, Mr. CONRAD, Mr. JOHNSON, Mr. DASCHLE, Mr. BAUCUS, and Mr. BURNS):

S. 391. A bill to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and for other purposes; to the Committee on Indian Affairs.

By Mr. LOTT:

S.J. Res. 22. A joint resolution to express the sense of the Congress concerning the application by the Attorney General for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 presidential election campaign; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Ms. COLLINS (for herself, Mr. WYDEN, and Mrs. HUTCHISON):

S. Res. 60. A resolution to commend students who have participated in the William Randolph Hearst Foundation Senate Youth Program between 1962 and 1997; to the Committee on the Judiciary.

By Mr. GLENN:

S. Res. 61. A resolution funding the Committee on Governmental Affairs for conducting a special investigation of Federal election campaign fundraising and expenditure practices; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI:

S. 390. A bill to amend the Older Americans Act of 1965 to provide for Federal-State performance partnerships, to consolidate all nutrition programs under the act in the Department of Health and Human Services, to extend authorizations of appropriations for programs under the act through fiscal year 2000, and for other purposes; to the Committee on Labor and Human Resources.

THE OLDER AMERICANS ACT AMENDMENTS OF 1997

• Ms. MIKULSKI. Mr. President, I introduce the Older Americans Act amendments of 1997. The Older Americans Act expired in 1995 and we have

not been able to reach consensus on reauthorizing it since then. I am introducing last year's administration bill. This bill may not be perfect. But, I want to get the debate started. The act is critical to meeting the day-to-day needs of America's seniors. This bill serves as a starting point for our deliberations.

The Older Americans Act has been the major vehicle for organizing and delivering social services to the elderly since it was passed in 1965. It has supported a broad array of service programs through a network of 57 State agencies and 670 local area agencies on aging. As a result of this act, our seniors have benefited from millions of contacts and referrals for services. They have benefited from millions of rides and meals provided through the transportation and nutrition programs. They have benefited from the elder abuse program. And, they have benefited from the jobs program. These examples show how coordinated service programs help keep our seniors in their own homes and communities as viable members of society.

The bill I put forth today focuses on increasing flexibility to States, area agencies on aging, and providers. This flexibility will allow them to be innovative in designing and implementing programs and services for the elderly. It takes into account the distinct interest of all partners. It strives to balance those interest between all partners. It focuses on streamlining and enhancing effectiveness of programs for our seniors. It sets the stage for performance partnerships and innovative ways of providing services. It ensures that performance measures mandated under the Government Performance and Results Act [GPRA] are in place so that we can see the results of these programs. It retains the programs for native Americans.

These are some of the things this bill will do. But, it is time for us to take action. It is time for us to address the issues at hand. It is time for us to pass a bill ensuring that the needed services and programs are available to our seniors.●

By Mr. DORGAN (for himself, Mr. CONRAD, Mr. JOHNSON, Mr. DASCHLE, Mr. BAUCUS, and Mr. BURNS):

S. 391. A bill to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and for other purposes; to the Committee on Indian Affairs.

THE MISSISSIPPI SIOUX TRIBES JUDGMENT FUND DISTRIBUTION ACT OF 1997

● Mr. DORGAN. Mr. President, I introduce legislation which will equitably resolve a longstanding problem involving a judgment fund distribution to Sioux tribes in the Dakotas and Montana. Specifically, the bill would distribute the accrued interest on funds awarded by the Indian Claims Commission in 1967 to the Mississippi Sioux Tribes. I am pleased to be joined by Senators CONRAD, JOHNSON, DASCHLE, BAUCUS, and BURNS in introducing this measure.

In 1972, Congress enacted legislation which authorized the Secretary of the Interior to distribute 75 percent of a $5,900,000 judgment award to the Spirit Lake Sioux Tribe of North Dakota, the Sisseton and Wahpeton Sioux Tribe of North and South Dakota, and the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana. The remaining 25 percent was to be distributed to individuals who could trace their lineal ancestry to a member of the aboriginal Sisseton and Wahpeton Sioux Tribe.

The three Sioux tribes received their respective shares of the judgment award by the mid-1970's. To date, though, the funds allocated to the lineal descendants have not been distributed. This has resulted in a situation in which the accrued interest on the original principal of approximately $1.5 million has now grown to more than $13 million.

Today, if the 1,969 lineal descendants identified by the Department of the Interior receive their per capita payments, they will be paid more than 18 times what the 11,829 enrolled tribal members received in the 1970's.

In 1987, the three Sioux tribes filed suit in Federal court to challenge the constitutionality of the lineal descendancy provisions of the 1972 act. This litigation is currently in its second appeal. In 1992, Congress enacted legislation which authorized the Attorney General to settle the case on any terms agreed to by the parties involved. I support this approach because I believe that it is long overdue that this matter be resolved. However, the Department of Justice has refused to proceed with any settlement negotiations and has taken the position that the 1992 law did not authorize the Department to settle the case on any terms other than those laid out in the original 1972 Act. While I view this interpretation as flying in the face of Congressional intent, the Department has been unwilling to change its position or actively seek a resolution of this matter outside of the courts.

The legislation I am introducing with my colleagues on behalf of the three Sioux tribes represents a reasonable solution to this protracted matter and a substantial compromise on behalf of the tribes. In the past, the tribes have sought to repeal the lineal descendancy provisions of the 1972 Act altogether, and, in 1986, a bill was reported by the Senate Committee on Indian Affairs which would have achieved this goal.

In contrast to the 1986 measure, the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1997 would retain the undistributed principal for the lineal descendants and distribute the accrued interest to the three Sioux tribes. The distributed funds would have to be deposited into a trust fund administered by the tribal governing body. There would be no per capita payments of these funds, which would have to be used by the tribes for economic development, resource development, or for other programs that collectively benefit tribal members, such as educational and social welfare programs. In addition, the legislation contains an audit requirement by the Secretary of the Interior to ensure that the funds are properly managed.

I believe that this legislation takes a fundamentally fair approach to resolving a matter which will otherwise remain mired in legal disputes for years. It keeps the commitment that the Federal Government made to provide compensation to lineal descendants while ensuring that most of the remaining undistributed funds go to the tribes. It was, after all, the tribes who were wronged and who should be compensated for their losses.

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

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

S. 391

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 ''Mississippi Sioux Tribes Judgment Fund Distribution Act of 1997''.

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) COVERED INDIAN TRIBE.—The term ''covered Indian tribe'' means an Indian tribe listed in section 4(a).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) TRIBAL GOVERNING BODY.—The term ''tribal governing body'' means the duly elected governing body of a covered Indian tribe.

SEC. 3. DISTRIBUTION TO, AND USE OF CERTAIN FUNDS BY, THE SISSETON AND WAHPETON TRIBES OF SIOUX INDIANS.

Notwithstanding any other provision of law, including Public Law 92–555 (25 U.S.C. 1300d et seq.), any funds made available by appropriations under chapter II of Public Law 90–352 (82 Stat. 239) to the Sisseton and Wahpeton Tribes of Sioux Indians to pay a judgment in favor of the Tribes in Indian Claims Commission dockets numbered 142 and 359, including interest, after payment of attorney fees and other expenses, that, as of the date of enactment of this Act, have not been distributed, shall be distributed and used in accordance with this Act.

SEC. 4. DISTRIBUTION OF FUNDS TO TRIBES.

(a) IN GENERAL.—Subject to section 5, as soon as practicable after the date that is 1 year after the date of enactment of this Act, the Secretary shall distribute an aggregate amount, equal to the funds described in section 3 reduced by $1,469,831.50, as follows:

(1) 28.9276 percent of such amount shall be distributed to the tribal governing body of the Spirit Lake Sioux Tribe of North Dakota.

(2) 57.3145 percent of such amount shall be distributed to the tribal governing body of the Sisseton and Wahpeton Sioux Tribe of South Dakota.

(3) 13.7579 percent of such amount shall be distributed to the tribal governing body of

the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana, as designated under subsection (b).

(b) TRIBAL GOVERNING BODY OF ASSINIBOINE AND SIOUX TRIBES OF FORT PECK RESERVATION.—For purposes of making distributions of funds pursuant to this Act, the Sisseton and Wahpeton Sioux Council of the Assiniboine and Sioux Tribes shall act as the governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

SEC. 5. ESTABLISHMENT OF TRIBAL TRUST FUNDS.

(a) IN GENERAL.—As a condition to receiving funds distributed under section 4, each tribal governing body referred to in section 4(a) shall establish a trust fund for the benefit of the covered Indian tribe under the jurisdiction of that tribal governing body, consisting of—

(1) amounts deposited into the trust fund; and

(2) any interest that accrues from investments made from amounts deposited into the trust fund.

(b) TRUSTEE.—Each tribal governing body that establishes a trust fund under this section shall—

(1) serve as the trustee of the trust fund; and

(2) administer the trust fund in accordance with section 6.

SEC. 6. USE OF DISTRIBUTED FUNDS.

(a) PROHIBITION.—No funds distributed to a covered Indian tribe under section 4 may be used to make per capita payments to members of the covered Indian tribe.

(b) PURPOSES.—The funds distributed under section 4 may be used by a tribal governing body referred to in section 4(a) only for the purpose of making investments or expenditures that the tribal governing body determines to be reasonably related to—

(1) economic development that is beneficial to the covered Indian tribe;

(2) the development of resources of the covered Indian tribe; or

(3) the development of a program that is beneficial to members of the covered Indian tribe, including educational and social welfare programs.

(c) AUDITS.—

(1) IN GENERAL.—The Secretary shall conduct an annual audit to determine whether each tribal governing body referred to in section 4(a) is managing the trust fund established by the tribal governing body under section 5 in accordance with the requirements of this section.

(2) ACTION BY THE SECRETARY.—

(A) IN GENERAL.—If, on the basis of an audit conducted under paragraph (1), the Secretary determines that a covered Indian tribe is not managing the trust fund established by the tribal governing body under section 5 in accordance with the requirements of this section, the Secretary shall require the covered Indian tribe to take remedial action to achieve compliance.

(B) APPOINTMENT OF INDEPENDENT TRUSTEE.—If, after a reasonable period of time specified by the Secretary, a covered Indian tribe does not take remedial action under subparagraph (A), the Secretary, in consultation with the tribal governing body of the covered Indian tribe, shall appoint an independent trustee to manage the trust fund established by the tribal governing body under section 5.

SEC. 7. EFFECT OF PAYMENTS TO COVERED INDIAN TRIBES ON BENEFITS.

(a) IN GENERAL.—A payment made to a covered Indian tribe or an individual under this Act shall not—

(1) for purposes of determining the eligibility for a Federal service or program of a covered Indian tribe, household, or individual, be treated as income or resources; or

(2) otherwise result in the reduction or denial of any service or program to which, pursuant to Federal law (including the Social Security Act (42 U.S.C. 301 et seq.)), the covered Indian tribe, household, or individual would otherwise be entitled.

(b) TAX TREATMENT.—A payment made to a covered Indian tribe or individual under this Act shall not be subject to any Federal or State income tax.

SEC. 8. DISTRIBUTION OF FUNDS TO LINEAL DESCENDANTS.

Not later than 1 year after the date of enactment of this Act, of the funds described in section 3, the Secretary shall, in the manner prescribed in section 202(c) of Public Law 92–555 (25 U.S.C. 1300d–4(c)), distribute an amount equal to $1,469,831.50 to the lineal descendants of the Sisseton and Wahpeton Tribes of Sioux Indians.●

ADDITIONAL COSPONSORS

S. 182

At the request of Mr. BYRD, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 182, a bill to make available for obligation such sums as are necessary to pay the Federal share of completion of construction of the Appalachian development highway system, and for other purposes.

S. 295

At the request of Mr. JEFFORDS, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 295, a bill to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

S. 323

At the request of Mr. SHELBY, the names of the Senator from Kansas [Mr. ROBERTS] and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 323, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 362

At the request of Mr. LEAHY, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 362, a bill to deter and punish serious gang and violent crime, promote accountability in the juvenile justice system, prevent juvenile and youth crime, and for other purposes.

S. 368

At the request of Mr. BOND, the names of the Senator from West Virginia [Mr. BYRD] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 368, a bill to prohibit the use of Federal funds for human cloning research.

S. 381

At the request of Mr. ROCKEFELLER, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 381, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for Medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

SENATE RESOLUTION 19

At the request of Mr. MOYNIHAN, the names of the Senator from New York [Mr. D'AMATO], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Wisconsin [Mr. KOHL], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Iowa [Mr. HARKIN], the Senator from Indiana [Mr. LUGAR], the Senator from Michigan [Mr. LEVIN], the Senator from Florida [Mr. MACK], the Senator from Oregon [Mr. WYDEN], the Senator from Indiana [Mr. COATS], the Senator from Hawaii [Mr. INOUYE], the Senator from Arizona [Mr. MCCAIN], and the Senator from Rhode Island [Mr. REED] were added as cosponsors of Senate Resolution 19, a resolution expressing the sense of the Senate regarding United States opposition to the prison sentence of Tibetan ethnomusicologist Ngawang Choephel by the Government of the People's Republic of China.

SENATE RESOLUTION 57

At the request of Mr. DORGAN, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of Senate Resolution 57, a resolution to support the commemoration of the bicentennial of the Lewis and Clark Expedition.

SENATE RESOLUTION 60—RELATIVE TO THE WILLIAM RANDOLPH HEARST FOUNDATION SENATE YOUTH PROGRAM

Ms. COLLINS (for herself, Mr. WYDEN, and Mrs. HUTCHISON of Texas) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 60

Whereas the continued success of our Nation's constitutional democracy is dependent upon our Nation's youth striving toward higher goals;

Whereas a student's intelligence, determination, perseverance and continued interest in the workings of our Nation's political processes must be nurtured and encouraged;

Whereas the pursuit of higher education, and participation and interest in the political processes, remain priorities of young citizens around our Nation; and

Whereas the United States Senate and the William Randolph Hearst Foundation Senate Youth Program have provided high school juniors and seniors who are leaders in education and student government, as well as in their communities, with the opportunity to travel to their Nation's capital and witness the political process, supported solely by private funds with no expense to the Federal Government since the program's inception in 1962: Now, therefore, be it

Resolved, That the Senate hereby congratulate, honor, and pay tribute to the 3,600 exemplary students who have been selected, on their merit, to participate in the William Randolph Hearst Foundation Senate Youth Program between 1962 and 1997.

Ms. COLLINS. Mr. President, along with Senator HUTCHISON and Senator WYDEN, I am pleased to submit this resolution to commemorate the 35th anniversary of the William Randolph Hearst U.S. Senate Youth Program. As the first graduate of the program to become a U.S. Senator, I can honestly say that the week I spent in Washington in 1971, as one of two delegates from Maine, profoundly influenced my life and career.

Even though my family has a long and proud tradition of public service—my great grandfather, my grandfather and my father all served in the State legislature, and both of my parents served as mayor of Caribou, ME—it was a week I spent in Washington with the Senate Youth Program that caused me to seriously consider a career in the public sector.

For the past 35 years, the Senate Youth Program has selected two of the brightest and most active students in each of the 50 States, the District of Columbia, and the Department of Defense schools abroad to spend a week learning about our Nation's government first-hand. Over the years, 3,600 such students have participated in the program and gone on to serve our Nation in various capacities, including public service.

Monday morning, I had the pleasure of addressing this year's delegates and was impressed with their enthusiasm, knowledge, and the high caliber of the questions they posed. I was delighted to see how the program has maintained—perhaps even surpassed—the high standards for which it is so well known.

The continued generosity of the William Randolph Hearst Foundation enables students to come to the District of Columbia and see a side of government that few Americans see in their lifetime. Each year the delegates meet with top members of the legislative, executive, and judicial branches.

I remember how fascinated I was as a delegate to listen to Senators BYRD and THURMOND speak to us about the history of the Senate and the issues of the day.

But the highlight of my week was the time I spent talking with my home State Senator, Margaret Chase Smith. I went to Senator Smith's office hoping to shake her hand; instead, she took me into her private office and spent 2 hours talking with me about the importance of public service and the difference one person can make. When I left her office, I remember feeling so proud that she was my Senator and that I could do anything I set my mind to.

So, today it is my pleasure to sponsor this resolution paying tribute to the 3,600 delegates who have participated in the Senate Youth Program over the past 35 years, some of whom we may see here in the Congress, the Supreme Court, or even the White House in years to come. I urge my colleagues to join me in supporting this measure.

SENATE RESOLUTION 61—RELATIVE TO FUNDING FOR THE COMMITTEE ON GOVERNMENTAL AFFAIRS.

Mr. GLENN submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 61

Resolved,

SECTION 1. SCOPE OF HEARINGS.

(a) IN GENERAL.—The Committee on Governmental Affairs (hereafter referred to as the ''Committee'') shall conduct a Special Investigation into illegal or improper fundraising and spending practices in the 1996 Federal election campaigns, including the following:

(1) Foreign contributions and the effect of those contributions on the United States political system.

(2) Conflicts of interest involving Federal office holders and employees, and the misuse of Government offices.

(3) Failure by Federal employees to maintain and observe legal limitations relating to fundraising and official business.

(4) The independence of the Presidential campaigns from the political activities pursued for their benefit by outside individuals or groups.

(5) The misuse of charitable and tax exempt organizations in connection with political or fundraising activities.

(6) Amounts given to or spent by a political party for the purpose of influencing Federal elections generally that are not subject to the limitations or reporting requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (commonly referred to as 'soft money') and the effect of soft money on the United States political system.

(7) Promises or grants of special access in return for political contributions or favors.

(8) The effect of independent expenditures (whether by corporations, labor unions, or otherwise) upon the current Federal campaign finance system, and the question as to whether such expenditures are truly independent.

(9) Contributions to and expenditures by entities for the benefit or in the interest of Federal officers.

(10) Practices described in paragraphs (1) through (9) that occurred in previous Federal election campaigns to the extent that those practices are similar or analogous.

(b) RULE OF CONSTRUCTION.—Nothing in this resolution shall be construed to limit the authority of the Committee on Governmental Affairs under the Senate Rules or section 13(d) of S. Res. 54, adopted February 13, 1997.

SEC. 2. INVESTIGATIONS PROCEDURES.

(a) ADDITIONAL PROCEDURES.—The procedures under this section shall apply to the Special Investigation in addition to the procedures under the Senate and Committee Rules.

(b) IN GENERAL.—The Committee shall ensure that the majority and minority—

(1) have contemporaneous access to all documentary evidence received by the Committee and the right to be given adequate advance notice of, to be present at, and to participate equally in all depositions and investigatory interviews;

(2) have equal opportunity to obtain and present relevant testimonial and documentary evidence on the subjects of the Committee's inquiry; and

(3) are treated equally and without discrimination in the discharge of the Committee's administrative responsibilities, including—

(A) equal and contemporaneous access to computer hardware and software, communication equipment and services, and other office equipment, including nonstandard items;

(B) equal and contemporaneous consideration and approval of all travel associated with official committee business; and

(C) the assignment of office space of equal quality.

(c) DETAILEES.—The Committee shall ensure that any detailee engaged in activities for the investigation is jointly directed and jointly tasked by the majority and minority, unless the Committee agreed to reimburse the full cost of such detailee to the detailee's employer, and the employer has approved the arrangement.

(d) INVESTIGATORY TOPICS AND HEARINGS.—

(1) PRIORITIES.—Priority of investigatory topics and hearings shall be established based upon relevance to illustrating the need for reform of current campaign finance laws, with illustrations taken, wherever possible, from practices of both major political parties.

(2) TASK FORCES.—The Chairman and Ranking Member shall establish joint investigative task forces to plan and structure such hearings, including the selection of witnesses, so as to present a comprehensive explanation and illustration of current fundraising and expenditure practices by the two major political parties and their candidates for Federal offices, including practices alleged to be illegal, improper, or otherwise designed to evade Federal regulation.

SEC. 3. REPORTS.

(a) IN GENERAL.—Except as provided under subsection (b), the Committee shall make a final report to the Senate of the results of the investigation it conducts pursuant to this resolution, together with its findings and any recommendations, at the earliest practicable date, but not later than December 31, 1997. Either subsequent to or prior to the final Committee report, the Chairman and the Ranking Member of the Committee may introduce a continued funding resolution for the Special Investigation (which shall be placed on the calendar on the date of introduction) or the Committee may report to the Senate a continued funding resolution. The Majority Leader may turn to such resolution at any time after 10 calendar days that the resolution is placed on the calendar.

(b) EXTENSION.—On or before December 31, 1997, the Committee may extend the investigation by and final report of the Committee from December 31, 1997 to March 31, 1998. An extension under this subsection may be made only by a unanimous vote of the Committee.

SEC. 4. EXPENSES.

(a) IN GENERAL.—The expenses for the Special Investigation shall not exceed $1,800,000 for the investigation, which shall be made available, for the payment of salaries and all other expenses of the Special Investigation, from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations.

(b) LIMITATION ON SOURCE OF FUNDING.—No funds may be expended on the Special Investigation described under section 1, except funds made available under this resolution or a continued funding resolution described under section 3.

SEC. 5. CONSIDERATION OF CAMPAIGN FINANCE REFORM LEGISLATION.

Not later than May 1, 1997, the Senate shall proceed to consideration of S. 25 which shall remain the pending order of business until final disposition.

Mr. GLENN. Mr. President, I rise to submit a Senate resolution funding the Committee on Governmental Affairs for a special investigation of Federal election campaign fundraising and expenditure practices.

Mr. President, this resolution is in response to the growing need for a fair, bipartisan investigation of the disturbing pattern of campaign fundraising at both the Presidential and congressional level in recent elections, as well as the need for campaign finance reform.

The resolution incorporates the investigatory scope agreed upon by a vote of the Governmental Affairs Committee at its meeting on January 30, 1997. It also incorporates procedures to help ensure that the investigation will be bipartisan. This is critical to the success of the investigation, if success is defined in terms of forward movement of reform of our campaign fundraising practices. And reform can only occur if the public realizes the truth about campaign fundraising—that the abuses do not lie only on one side.

Indeed, an unbalanced, partisan investigation that suggested that all the problems lie solely or even mainly with one party would be destructive to forging a consensus, and would lead to more political games, possibly including an attempt to pass reform legislation crafted not so much to fix the system as to give one party a fundraising advantage over the other.

As the Ranking Democrat on Governmental Affairs, I have urged the Chairman and the other Republican members of the committee to follow standard Senate practice and enter into an agreement that the investigation will be conducted in a bipartisan manner with a balanced agenda, a clear statement of mission and legislative purpose, a fair set of rules of procedure, a timeframe for completion of the investigation with provision for extension if necessary, and a reasonable amount of money.

Unfortunately and most disappointedly, agreement has eluded us thus far, despite many hours of discussion.

Much attention has been lavished in the press on the difference between the proposed funding of this investigation by the Republican side—originally $6.5 million, subsequently reduced to $5.7 million after receipt of assurances that 10 FBI personnel would be detailed to the committee—and the Democratic side—an initial outlay of $1.8 million with provision for additional funds to be considered if necessary. But the length of the investigation and the fairness of the investigation are or equal importance.

Length is important because an investigation that includes congressional fundraising as one of its foci should not extend significantly into an election year.

Fairness is important if there is to be any credibility to the investigation.

There has been, in my view, a certain amount of disinformation that has been disseminated about the position of the Democratic side regarding this investigation. I will have much to say about that at a later time. For now, I believe it is important for the public to know precisely what Democrats have been proposing for this investigation. This resolution incorporates these proposals.

The resolution calls for a fair, bipartisan, adequately funded, potentially yearlong investigation into both Presidential and congressional fundraising practices, and requires that the McCain-Feingold bill be brought to the floor for consideration no later than May 1, 1997.

I believe this is a reasonable proposal and I urge its passage.

NOTICE OF HEARING

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Thursday, March 6, 1997, 10 a.m., in DS–106 of the Senate Dirksen Building. the subject of the hearing is health care quality and consumer protection.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr HATCH. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, March 4, 1997 at 9 a.m. in SDG–50 to receive testimony on the school breakfast and school lunch programs.

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

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, March 4, 1997, at 10 a.m. in open session, to receive testimony on the defense authorization request for fiscal year 1998 and the future years defense program.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on March 4, 1997, at 10 a.m. on product liability reform.

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

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Tuesday, March 4, 1997, beginning at 10:30 a.m. in room SD–215.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 4, 1997, at 4:45 pm to hold a business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 5, 1997 at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON SECURITIES

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, March 4, 1997, to conduct an oversight hearing on the SEC and FASB derivatives accounting rules and their impact on competitiveness and investor information.

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

SUBCOMMITTEE ON SUPERFUND, WASTE CONTROL, AND RISK ASSESSMENT

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Waste Control, and Risk Assessment be granted permission to conduct a hearing Tuesday, March 4, at 9:30 a.m., Hearing Room SD–406 on liability and resource issues associated with the cleanup and redevelopment of abandoned or underutilized industrial and commercial properties, and how legislation currently pending before the committee might affect these redevelopment efforts.

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

ADDITIONAL STATEMENTS

THE DEATH OF ALBERT SHANKER

• Mr. SPECTER. Mr. President, the untimely death of Mr. Albert Shanker is a moment of great sadness for this Nation and for me personally. He lost his 3-year struggle with cancer Saturday evening on February 22, 1997. Since 1974, Mr. Shanker served as the president of the American Federation of Teachers. Prior to his election to that post, he was president of New York City's United Federation of Teachers, transforming it into one of the Nation's greatest unions. He was the first

teacher to become a member of the AFL–CIO Executive Council and at his death, chaired the education committee and was chairman of the general board of its department for professional employees.

Mr. Shanker was well known not only in this country, but also internationally and was the founding president of Education International, an organization with some 20 million teachers from democratic countries around the world. He also established American Federation of Teacher projects assisting teacher unions in South Africa, Chile, Poland, and Russia.

Mr. Shanker was a driving force in the education reform movement and was well known for his column ''Where We Stand'' in the Sunday New York Times. He was also a leader in promoting civil and human rights. Several times over the last few months, as I prepared for Education hearings, I requested his participation, and even though his health kept him from appearing in person, his presence was always there—through his statements which he prepared and which were read by his designee.

This Nation has lost a great leader, a great friend of education, and a great man. I send my regrets and my sympathy to his wife Edith and his children Adam, Jennie, Michael, and Carl.●

RELEASE OF FUNDING FOR INTERNATIONAL FAMILY PLANNING AID

● Mr. DODD. Mr. President, I wish to speak briefly today about the President's resolution requesting the release of fiscal year 1997 international family planning funding by March 1, 1997, on which the Senate recently deliberated. I am pleased that the President signed House Joint Resolution 36 on February 28, 1997, and that funding for family planning is now available to those overseas who so desperately need such services.

I supported the President's resolution because I believe we must try to limit overpopulation. The world's population increases by 100 million each year. Overpopulation threatens to exert tremendous social, ecological, medical, and economic hardship on much of the world. Family planning is one of the most effective ways to combat overpopulation and its detrimental results.

I also supported the President's resolution because family planning is one of the best weapons we have to save the lives of women and their children in developing countries. The longer we delay the funding for family planning, the harder it is to save those lives.

Let me explain: Family planning enables women to space their births, preserving their health and improving the odds that their children will be born healthy. Delaying the release of family planning funding results in less healthy mothers and children and increased rates of maternal and infant mortality.

Mr. President, I served in the Peace Corps in the Dominican Republic, a developing country. For families living under the conditions that exist in many developing nations, family planning is critical. Without it, mothers have great difficulty spacing their births or limiting the number of children they bear. As a result, they suffer the tremendous physical stress of repeated childbirth, often without the aid of physicians, and sometimes die from the great burden they have placed on their bodies.

But mothers are not the only ones who suffer in these cases. Their children suffer too. When women have children too close together, the length of time they can nurse each child is cut short. Mothers' milk is the most nourishing food for children during their early years, providing essential nutrients that are often hard to find elsewhere in the food supply available to families in developing nations. Furthermore, children in such families find themselves competing for food with many other siblings, instead of only the few siblings they might have if their mothers had access to family planning. As a result, they suffer from higher incidents of malnutrition.

And family planning programs have the added benefit of slowing the spread of AIDS by increasing access to appropriate contraceptives.

Mr. President, the agreement between Congress and the President last year was that fiscal year 1997 international family planning funding could be released by March 1, 1997, if the administration certified that a delay in the release of funds until July 1, 1997 would harm overseas family planning programs and their beneficiaries. Indeed, the administration has issued such findings and documented its case well. Its findings show that a delay in funding would result in serious shortage of contraceptives in at least 60 countries, including 50 million condoms, 500,000 IUD's, and 4.8 million cycles of birth control pills. Additionally, the delay would result in the closure of 17 of 95 overseas programs and higher numbers of maternal and infant deaths.

Some, Mr. President, have attempted to circumvent last year's agreement by saying that family planning aid increases the number of abortions. On the contrary, by allowing women to prevent pregnancy, family planning reduces the need for and number of abortions. The administration's findings speak to this issue, showing that a delay in funding would result in increased incidents of unintended pregnancies and more abortions and that family planning helps decrease the number of abortions worldwide. Furthermore, UNICEF reported in 1996 that 600,000 women die annually of pregnancy-related causes; 75,000 of those deaths are due to self-induced, unsafe abortion.

Mr. President, it is clear that international family planning aid helps protect the health and lives of women and children around the world. As we aim to improve the socioeconomic conditions in developing countries, let us recognize that family planning is a help, not a hindrance, that must be sustained.●

ANOTHER CALL FOR AN INDEPENDENT COUNSEL

● Mr. CRAIG. Mr. President, I have addressed the Senate already on the need for an independent counsel to investigate the growing scandal concerning fundraising. Along those same lines, I recommend to all my colleagues a thoughtful editorial from the Washington Post entitled ''The Fund-Raising Fiasco: The Democrats' Problem . . .''.

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

THE FUND-RAISING FIASCO: THE DEMOCRATS' PROBLEM . . .

The Democrats' new chairman, Roy Romer of Colorado, did right on Friday to acknowledge error and pledge a new, reformed style of fund-raising behavior on behalf of his party. But it seemed to us that something much more active, intense and deliberate had gotten the Clinton White House into its present troubles than the alleged mere failure of ''screening'' that the president likes to talk about (and lay off on the Democratic National Committee). The people whose money has had to be returned (to the tune of $3 million, as of today) did not, from all the evidence, simply slip through the net in some random, inexplicable way. They were not a byproduct of any simple breakdown of screening procedures. The more important of them, in the first place (Mr. Trie, Mr. Huang), who brought others into the fold, have connections dating from Arkansas days with Mr. Clinton. The Clinton White House brought them into national Democratic Party politics, not the other way around.

Again, the nature of many of the favor- and respectability-seeking money givers suggests that the word must have gotten around that you could gain marketable, perhaps personally extremely useful photo-op access to the president for a sufficient number of bucks. Is there some other way to account for the fact that, even at a time when the administration had barricaded off a hunk of Pennsylvania Avenue to protect the first family from criminal assault, it was ushering into the president's presence a stream of folks that sometimes seemed to resemble an international ''Ten Most Wanted'' list? Let us remind you of a few of the more memorable visitors.

Russ Barakat, the south Florida Democratic Party official. Five days after his coffee session at the White House in April 1995, Mr. Barakat was indicted on criminal charges and ultimately convicted for tax evasion. A Florida newspaper was full of stories about Mr. Barakat's problems with the law before the executive mansion get-together, but he was asked in for coffee anyway.

Wang Jun, the Chinese businessman and head of a military-owned arms company. While part of the U.S. government was out investigating Wang Jun for allegedly smuggling arms into this country, he was with Mr. Clinton at a White House coffee, courtesy of Mr. Trie.

Eric Wynn, whose $100,000 bail was revoked this past week because he failed to tell authorities about his five arrests since being

sentenced for theft and tax offenses a while back. He was at the White House for coffee two days after a company partially controlled by him gave $25,000 to the Democratic National Committee. At the time Mr. Wynn hooked up with the president, he bore the distinction of having been a twice-convicted felon. But that was only the beginning. Mr. Wynn-who was seeking a presidential pardon for himself—turned up last year at four other DNC fund-raisers involving the president including one in which he, his attorney (a close presidential friend from Arkansas) and Mr. Clinton reportedly had a brief private chat. Whatever about? The president, said White House press secretary Michael McCurry, ''recalls no substantive private meeting with Mr. Wynn and is certain he never entertained any discussion of Mr. Wynn's legal situation.''

Jorge Cabrera of Miami, DNC donor who was jailed on drug charges in the 1980s. Mr. Cabrera turned up at a White House Christmas party, only to get caught a short time later with more than 5,000 pounds of cocaine, for which he is now serving 19 years in jail.

Chong Lo. Convicted of tax evasion in the 1980s under the name of Esther Chu, Chong Lo was another visitor for coffee with Mr. Clinton. She has since been arrested again on 14 charges of falsifying mortgage applications—to which she has pled not guilty.

Roger Tamraz. While Interpol was looking for Mr. Tamraz all over the world under a 1989 international arrest warrant on conspiracy and embezzlement charges, the fugitive from Lebannon was here in Washington at the White House sipping coffee with the president.

Here in another indicator, in our view, that something beyond a mere screening mishap befell the White House in these fund-raising transactions. It is the sheer number of times that some of the fund-raisers visited the White House. We daresay there are department bigwigs in the administration who haven't been there nearly as often.

So what was actually going on during these recurrent White House sessions? At this stage, little is known about the purposes of their visits, who the visitors saw each time, what they did when they got there, or who authorized their entry to the White House. More should be known. Ponder just a few of the numbers we find so startling: Mr. Huang visited the White House 78 times in 15 months (most of the money he raised in 1996 was returned, having been deemed inappropriate or from unlawful foreign sources); Thai businesswoman and major Democratic party donor Pauline Kanchanalak has been at the White House at least 26 times since the president took office; businessman and contributor Johnny Chung reportedly visited the White House at least 49 times. This wasn't a question of screening or failing to screen. These were people apparently well known to their White House hosts, people who had business to do at 1600 Pennsylvania Avenue and went right in.

Then there are the sleepovers. The White House has disclosed that 900-plus individuals have spent a night at the White House since the Clintons moved in. The acknowledgment of this fact and the publication of the list rather sharply change the impression the White House earlier gave a more casual, friends and family kind of hospitality. More than a third of the sleepovers were financial benefactors of Mr. Clinton or the DNC. ''They were my friends and I was proud to have them here,'' the president explained, but as the White House deputy communications director delicately corrected him, some weren't friends yet'' but ''were people the president and the first lady wanted to spend more time with.'' As Charles Krauthammer observed on the opposite page the other day, the word for people who aren't friends yet is usually ''strangers.''

Much more needs to be known about these sojourns—especially the number of visits and their dates in relation to events that preceded and followed. This is especially relevant where the visitors weren't strangers at all, as a matter of fact, but persons involved in the other, related legal matters concerning the Clinton administration.

Our conclusion about all this is threefold. It is that first, a great deal more needs to be disclosed about all these transactions; second, it will be disclosed, as it has been to date, reluctantly and in response to various events and pressures; and third, (see below) the odds are not great for a good and fair-minded congressional inquiry into the subject. For the moment that leaves Janet Reno in charge.●

PROPOSED ENCRYPTION LEGISLATION

● Mr. KERREY. Mr. President, I rise to express my concern over bills introduced last Thursday, February 27, 1997 by the Senators from Vermont and Montana. These bills, the Encrypted Communications Privacy Act of 1997 and the Promotion of Commerce On-Line in the Digital Era Act of 1997, deal with the complex and controversial issue of encryption and the export of encryption products. I too am concerned over our Nation's policy regarding encryption, but I believe rash action on this issue at this time by Congress would be inappropriate.

I agree with both Senator BURNS and LEAHY that digital communications, the internet, and the global information infrastructure are already revolutionizing the way we live and work. I also believe there is a need to ensure the security of private, commercial, and Government messages and information sent over global communication links and stored in computer databases. The information revolution is underway and technology is progressing at exponential rates.

Nevertheless, Mr. President, our Nation still has needs that must be addressed. The same digital information, communication links, and computer memory that allows for great advances in personal convenience and entertainment, in commercial productivity and competitiveness, and in Government services and efficiencies can also be abused by individuals with other designs and intentions. Our society has entrusted its elected leaders and public servants to protect its citizens from such activities. Therefore, I think it is imperative that we study thoroughly how this proposed legislation will affect our Government's ability to fulfill its responsibilities. The National security and the ability to effectively enforce our extraterritorial laws is at stake.

The executive branch is the part of our Government responsible for implementing and enforcing the laws of this Nation. For the past several years the administration has been involved in a dialog with industry leaders in an attempt to promote the use of encryption and expand exports while also protecting the legitimate needs of our Government to gain access with properly executed search warrants to communications. This is not done for nefarious intentions, as some have claimed. The negotiations took place because our Government is charged with fulfilling its responsibility to protect the lives and livelihood of all its citizens.

But our concern for access to encrypted data extends beyond our shores. Our Nation faces threats from nations, groups, and individuals overseas. The United States' ability to counter and thwart these threats will likely be hampered if encryption products are allowed to be exported worldwide with unlimited strength or without key recovery provisions.

Mr. President, the administration has also been negotiating with other OECD nations regarding encryption policy. We are not the only nation which realizes the benefits and possible abuses of encryption products. Other nations are also considering how to ensure that their government needs and responsibilities are addressed in their encryption export and import policies. I do not believe our relations with other nations will be furthered if the administration's negotiations are undercut by unnecessary and potentially damaging congressional action. Further, the interests of our Nation's technology industry will not be advanced if other nations shut their borders to American encryption products.

Today, many established software and hardware firms are successfully marketing encryption products with key recovery features here and abroad. The President has put forward a plan which in good faith attempts to balance our Nation's interests in commerce, security, and law enforcement. While other firms say the administration policy is untenable, these American companies are producing and selling advanced encryption products worldwide which meet both the needs of private commerce and industry, and the requirements of our Government. This suggests to me that the administration's policy not only can work, it is working. I believe Congress should let the administration's negotiations and policies on encryption go forward, to succeed or fail on their own merits. Mr. President, caution and careful study are in order.●

TRIBUTE TO THE NEW HAMPSHIRE PEARL HARBOR SURVIVORS ASSOCIATION ON THEIR 25TH ANNIVERSARY

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the New Hampshire Pearl Harbor Survivors Association. Those brave men stood tall in perhaps one of the most tragic moments in American history. Against overwhelming odds, these great Americans fought to defend the United States. Their heroic actions were an inspiration to the people of the

United States and help propel our Nation to victory in World War II.

Mr. President, I wish to honor the New Hampshire Pearl Harbor Survivors on the occasion of their 25th anniversary. They are our American heros and we applaud them for defending our country. I also wish to commend these brave men for touring New Hampshire schools and talking to our young Americans in an effort to keep Pearl Harbor memories and history alive. Those who fought in the war and were victims of the Pearl Harbor attack deserve a special place in our history books.

My father was a Navy pilot who died in a war-related incident during World War II. I have a special place in my heart for these courageous men.

When United States Army and Navy commanders in the Pacific area had received a final war warning on the 27th of November 1941, Hawaii was not mentioned and American authorities thought that the Philippines or Malaysia would be the possible target. Any potential attack on Pearl Harbor was therefore interpreted as a form of sabotage and no effective security patrol was established. Antiaircraft batteries around the harbor consequently had no ready ammunition and USAAF aircraft on the ground were easy targets as they were unarmed and grouped together on airfields for easier protection against saboteurs.

On Saturday, December 6, 1941, many Army and Navy personnel were on the usual weekend shore leave when the destroyer *Ward* radioed that it had sunk a submarine early Sunday morning. The information, though, was delayed in reaching the high command and consequently the harbor gate had not been closed.

At 7:55 a.m., on December 7, 1941 the first Japanese bombers attacked United States airfields and the fleet. Virtually the entire U.S. fleet of 94 vessels, including 8 battleships, was concentrated at Pearl Harbor and the disposition of troops, airplanes, and antiaircraft guns made effective defense almost impossible. When the last attack had ended about 2 hours later, the Japanese won a significant tactical victory since they had been practically unopposed. Within 2 hours, 2,403 American servicemen and civilians were killed and 1,178 wounded. When the news of the attack reached the people of the United States, our country went into shock. Japanese capabilities had been underestimated and information about the fast-moving developments had been relayed too slow to the commanders in Hawaii.

Pearl Harbor is a very poignant chapter in our history. We must seek to remember the grave sacrifice so many Americans made there. As a veteran, I am very proud to honor the outstanding patriotism of the New Hampshire Pearl Harbor Survivors on their 25th anniversary.●

REPUBLIC OF LITHUANIA DAY

● Mr. SARBANES. Mr. President, I am honored to join again with nearly 1 million Lithuanian Americans in commemorating the 79th anniversary of the proclamation of an independent Lithuania, especially at a time when the Lithuanian people are rebuilding their democracy.

After more than seven centuries of struggle, the Lithuanians have finally succeeded in reestablishing an independent republic. While their hopes were realized once before in this century, their freedom was abruptly revoked in 1940, after 22 years of democratic governance.

Throughout this long and difficult period, the people of Lithuania and the other Baltic nations never wavered from their beliefs in democratic values and their desires for liberty and freedom. In keeping with such a strong commitment, their independence after so many years is not only something to celebrate, it is an incentive for us all to rededicate ourselves to the democratic principles commemorated by this anniversary.

Since 1990, when Lithuania rejoined the international community of democratic nations, the country has recognized the importance of meaningful political and economic reforms. Most significantly, Lithuania recently experienced another peaceful transfer of civilian rule, demonstrating the increasing stability of its democracy.

Lithuania's commitment to continue along the path of economic reforms also promises greater prosperity in the years to come. A number of indicators suggest the possibility of a brighter future for the Lithuanian economy, despite the difficult period of transition that has resulted from the collapse of the Soviet Union. Gross domestic product is expected to rise this year, and continue to do so the next. Inflation is expected to decline. Industrial production is also on the rise.

In addition, Lithuania has reached out to its neighbors, both those in the Baltic region and those further to the west. The Baltic Economic Cooperation Agreement and Lithuania's decision to join the Council of Europe are examples of this young democracy's determination to remain economically and politically engaged with the rest of the world.

At this time of year, our thoughts also turn to those Lithuanians who suffered under the brutality of the Nazi and Soviet occupations. Many risked and lost their lives for the rights and freedoms that Lithuanians today are privileged to enjoy. Their steadfast determination and courage eventually prevailed, providing hope for all peoples who dream someday to be free.

The writer Vincent Boris has observed that Lithuanian ''statehood was reestablished within a continuum of nationhood.'' Indeed, the Lithuanian people have drawn their strength from a very real sense that nationhood can never be oppressed. That sense of nationhood has been most evident here in the United States, where we have witnessed the unyielding dedication of Lithuanian Americans to the freedom of their native land. Their perseverance encouraged many of us to stand in this body over the last several decades and proclaim our support for a Lithuanian republic.

We in Maryland, and our Nation, are particularly fortunate to have such an active Lithuanian-American community. Its longstanding traditions of self-help and voluntarism and its dedication to the democratic ideals that have prevailed in Lithuania have truly enriched the history of this country. In areas ranging from business, to academia, to the arts, Lithuanian-Americans consistently make significant contributions across the Nation.

Mr. President, recently, Lithuanians gathered in their capital, Vilnius, to commemorate this anniversary. I am proud that we in the United States have continued to stand with them on this occasion, both in years when there was much to celebrate and in years when there were only memories and dreams of a better future. It is my sincere hope that we can celebrate this anniversary with the same optimism that we do this year for many years to come.●

WHAT AL SHANKER TAUGHT US

● Mr. HOLLINGS. Mr. President, I rise today in recognition of a great man and a very good friend, Al Shanker. His contributions to education and society at large are too great to enumerate so I respectfully ask that E.D. Hirsch, Jr.'s column from the Washington Post be printed in the RECORD.

The column follows:

WHAT AL SHANKER TAUGHT US

In the course of the past two decades, Albert Shanker made himself the most important figure in American education. In the wake of his untimely death on Feb. 22, the movement toward rigorous academic standards in public schools must still go on. But his death leaves a void, and the standards movement will have less force and focus than it had before.

No other high official in education spoke home truths so consistently, or with more clarity, or to greater effect. No one contributed more to the change in attitude among teachers and the general public toward universally high academic standards. If a single person could be said to be responsible for the shift in sentiment that prompted the President to call, in his State of the Union address, for national educational standards in the public school—a proposal that would have been unthinkable a few years back—it would be Al Shanker.

We teachers, like the rest of humankind, are creatures of habit and tradition who follow the ideas we were taught. Our leaders are inclined to preserve their popularity by telling us what we are comforted to hear. Al Shanker was different. His loyalty was to the wellbeing of public education as a whole. Only a rare and great leader risks the disfavor of his followers and brings them to a new understanding of uncomfortable new realities.

Long before his colleagues, Shanker had the insight to perceive and the courage to

acknowledge some harsh truths about our public schools. He led teachers to recognize that public support for public education could no longer be taken for granted, that schools would need to set much higher standards of achievement for all and that students would need to face serious consequences for not attaining them—a stern message that went against the dominant sentiments of students, teachers and parents alike.

Still, teachers adored him. They knew that he spoke with conviction and good will. They respected and loved him for being so brainy and honest, so much himself. ''Let Al be Al'' was the resigned decision of his union's executive committee after he had written some particularly forthright and discomforting numbers of ''Where We Stand''—the weekly essay through which he promulgated his ideas. Sometimes the ''We'' was an editorial ''We'', in later years maybe a royal ''We.''

Among the educational leaders I have known, Shanker was the most intellectually brilliant and tough-minded. He had talent for clarity and trenchancy. But those gifts would have counted for little had they not been joined to high patriotism, a sense of responsibility, unflinching honesty, imagination and courage. His brains alone would have made him a distinguished CEO of a big organization that represented hundreds of thousands of teachers. But his courage, honesty, and imagination make him prophetic. If we are lucky enough to follow in the direction he set, history will view him as a pivotal figure in American educational renewal.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through February 28, 1997. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1997 concurrent resolution on the budget House Joint Resolution 178, show that current level spending is above the budget resolution by $16.9 billion in budget authority and by $12.6 billion in outlays. Current level is $20.5 billion above the revenue floor in 1997 and $101.9 billion above the revenue floor over the 5 years 1997–2001. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $219.6 billion, $7.6 billion below the maximum deficit amount for 1997 of $227.3 billion.

Since my last report, dated January 22, 1997, the Congress has cleared, and the President has signed, the Airport and Airway Trust Fund Reinstatment Act of 1997, Public Law 105–2. This action changed the current level of revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 3, 1997.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1997 shows the effects of Congressional action on the 1997 budget and is current through February 28, 1997. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1997 Concurrent Resolution on the Budget (H. Con. Res. 178). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated January 21, 1997, the Congress has cleared, and the President has signed, the Airport and Airway Trust Fund Reinstatement Act of 1997 (H.R. 668). This action changed revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1997, 105TH CONGRESS, 1ST SESSION AS OF CLOSE OF BUSINESS FEB. 28, 1997

[In billions of dollars]

	Budget resolution H. Con. Res. 178	Current level	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,314.9	1,331.8	16.9
Outlays	1,311.3	1,323.9	12.6
Revenues:			
1997	1,083.7	1,104.3	20.5
1997–2001	5,913.3	6,015.2	101.9
Deficit	227.3	219.6	−7.6
Debt Subject to Limit	5,432.7	5,262.6	−170.1
OFF-BUDGET			
Social Security Outlays:			
1997	310.4	310.4	0
1997–2001	2,061.3	2,061.3	0
Social Security Revenues:			
1997	385.0	384.7	−0.3
1997–2001	2,121.0	2,120.3	−0.7

Note: Current level numbers are the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 105TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997[1]

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions			
Revenues	.....	.....	1,101,532
Permanents and other spending legislation	843,324	801,465	.....
Appropriation legislation	753,927	788,263	.....
Offsetting receipts	−271,843	−271,843	.....
Total previously enacted	1,325,408	1,317,885	1,101,532
Enacted This Session			
Airport and Airway Trust Fund Reinstatement Act of 1997 (H.R. 668)	.....	.....	2,730
Entitlements and Mandatories			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	6,428	6,015	.....
Totals			
Total Current Level	1,331,836	1,323,900	1,104,262
Total Budget Resolution	1,314,935	1,311,321	1,083,728
Amount remaining:			
Under Budget Resolution	.....	.....	.....
Over Budget Resolution	16,901	12,579	20,534

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 105TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997[1]—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Addendum			
Emergencies:			
Funding that has been designated as an emergency requirement by the President and the Congress	1,806	1,228	.....
Funding that has been designated as an emergency requirement only by the Congress and is not available for obligation until requested by the President	323	305	.....
Total emergencies	2,129	1,533	.....
Total current level including emergencies	1,333,965	1,325,433	1,104,262

[1] As of close of business Feb. 28, 1997.●

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, after final consultation with the Democratic leader, we hope to enter into a unanimous-consent agreement with regard to the consideration of the nomination of Ms. Barshefsky to be the U.S. Trade Representative. We expect to take that up tomorrow, probably beginning at 1 o'clock, on the amendments that are applicable to that nomination.

I want to notify all Members that this is the last vote of the day.

Mr. President, if no Senator seeks recognition at this point, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Maine is recognized for 5 minutes.

(The remarks of Ms. COLLINS pertaining to the submission of Senate Resolution 61, are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

The PRESIDING OFFICER. Who seeks recognition?

Mr. LOTT. Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MEASURE PLACED ON THE CALENDAR—SENATE JOINT RESOLUTION 19

Mr. LOTT. Mr. President, I understand there is a joint resolution due for its second reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 19) to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997.

Mr. LOTT. Mr. President, I object to further proceedings on this joint resolution at this time.

The PRESIDING OFFICER. The joint resolution will be placed directly on the calendar.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that at 1 p.m. on Wednesday, March 5, the majority leader may turn to the consideration of Senate Joint Resolution 5, the waiver resolution with respect to the Barshefksy nomination. I further ask that there be one amendment in order to the resolution, to be offered by Senator HOLLINGS, regarding trade agreement negotiations which shall be considered under a 3-hour time limit equally divided in the usual form; further, no other amendments or motions be in order other than a motion to table the amendment. I further ask that there be an additional hour equally divided between the chairman and the ranking member of the Finance Committee for debate on the resolution, and, upon the disposition of the Hollings' amendment and the expiration or yielding back of any debate time, the resolution be read a third time and the Senate proceed to vote on passage of Senate Joint Resolution 5, as amended, if amended, without any intervening action or debate.

I further ask consent that upon the disposition of Senate Joint Resolution 5, if it passes, the Senate proceed to executive session to consider the nomination of Charlene Barshefsky to be the U.S. Trade Representative, the Senate proceed to a vote on the confirmation of the nomination, and, following that vote, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

MEASURE READ THE FIRST TIME—SENATE JOINT RESOLUTION 22

Mr. LOTT. Mr. President, I send a joint resolution to the desk and ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 22) to express the sense of the Congress concerning the application by the Attorney General for the appointment of an independent counsel to investigate allegations of the illegal fundraising in the 1996 Presidential election campaign.

Mr. LOTT. Mr. President, I ask for the second reading of the resolution, and I object to my own request at this time.

The PRESIDING OFFICER. The objection is heard.

ORDERS FOR WEDNESDAY, MARCH 5, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Wednesday, March 5. I ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and that there be a period of morning business until the hour of 1 p.m. with Senators to speak for up to 5 minutes each, except for the following: Senator BROWNBACK for 30 minutes and Senator GRAMM of Florida for 15 minutes.

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

PROGRAM

Mr. LOTT. For the information of all Senators, following morning business tomorrow, the Senate will consider Senate Joint Resolution 5, which is the waiver resolution of the Barshefsky nomination. Under the order, there will be 3 hours of debate on one amendment and 1 hour of debate on the resolution. Following the disposition of the amendment and the resolution, the Senate will proceed to a vote on the Barshefsky nomination. Senators can therefore expect several rollcall votes, probably at least two or three, tomorrow, in Wednesday's session. I thank my colleagues for their cooperation as we have worked for a couple of weeks to get this agreement.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order following the introduction of legislation by Senator GLENN and remarks by Senator SANTORUM.

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

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. I thank the Chair.

PUBLIC FAITH IN GOVERNMENT

Mr. SANTORUM. Mr. President, I rise to make a couple of comments about the action that just took place here on the Senate floor with respect to the balanced budget amendment and to express, obviously, my disappointment as someone who supported the balanced budget amendment, my disappointment that we did not succeed in passing what I believe is a vitally important measure for this country's future. We will have another day where we will be back here and try again, whether it is this year or next year or in the next session of Congress, to fight that fight again. In a sense, the battle is not lost; it only continues.

I am a little more concerned about another battle which I fear has at least as lasting consequences as not passing this constitutional amendment, and that is something that is important to all of us here and to all Americans. As important as our Constitution is the public's faith in our institutions, our governmental institutions and the people who serve in them.

One of the real concerns I have—in fact, I have been traveling around my State of Pennsylvania talking at a lot of high schools and expressing there my concerns that a lot of young people choose not to vote. In fact, in the last election, of 18 to 24-year-olds, I believe only a third even bothered to turn out to vote. That is a low since 18-year-olds were given a right to vote. Not only that, but the last election was the low point in turnout for the general electorate. I think it was under 50 percent in the last Presidential election.

A lot of people have postulated as to what is going on with the American public, that we seem to become either disinterested or cynical about the electoral process and our Government in general. I think, unfortunately, what has happened in this debate over the last 2 weeks has added to that cynicism, has added to the mistrust that many Americans feel toward their institutions and toward the people who serve in those institutions.

I speak, of course, about the people who campaigned promising the electors of their State that they would vote a certain way on what many people consider the most important issue we will vote on here in this Congress. It is a seminal issue. It sort of divides you between the politics of the old and the politics of the new, in my opinion. You had at least 12 Members in this most recent election who campaigned, and campaigned vigorously, stating that they were going to support the balanced budget amendment to the Constitution in the same form they had supported it in the House of Representatives. And yet not more than 3 or 4 months after their election, they have changed their minds.

Yes, the Constitution is important. Yes, amending the Constitution, in my opinion, is important. But public confidence in us is as important, for if the public does not see us as legitimate, if the public does not see its institutions and the people who run them as trustworthy, then the Constitution is not nearly as strong a document—in fact, some would suggest it is even a worthless document—because democracy cannot exist without the public faith in what we are about and the legitimacy of our Government.

So I think this debate is sad for, yes, the reason we did not pass the balanced budget amendment. That is very sad. But I think the greater long-term

threat to our country is public cynicism over this institution and all of our democratic institutions.

That was harmed and, in some places, it was devastated in the past few weeks. That is something we will have a hard time with when fighting the battle again. It makes the battle to come back much harder. It is not as if we can bring this up again as we can a balanced budget amendment to the Constitution. It now is something young and old people will be looking at, what happened here, and saying, does politics really matter? Why bother to vote; they do not mean what they say anyway.

I commend the Members; some of them had very tough votes in bucking their President and their leaders, for standing up and doing the right thing, doing what they said they would do. When it comes down to it, in this institution—and I suspect in every workplace in America—the bottom line comes down to you have nothing here except your word. You have nothing except your word. With respect to me and my relationship to my constituents in Pennsylvania, I find that to be a solemn vow. My word means something. And if my word is no good, then they have every right to question me and question the institution in which I serve.

So I think we did have a defeat today. We had a defeat not for the constitutional amendment. Yes, we had that defeat. We had a defeat for our institution. We had a defeat for our democracy. We had a defeat for the process that legitimizes everything we do here. And that truly is a sad thing. It is a sad day for the Senate. It is even a sadder day for this country.

I would just suggest as some anecdote to the people who feel disenfranchised as a result of what happened here that most of the people in this Senate did do what they said they were going to do, on both sides of the aisle. Most of the Members of this Senate stood up and told the public the truth when it, frankly, may have not been easy to tell the truth. And from that, I think, we should take some solace, that, in fact, most Members do stand up and say what they mean. And I hope that we can learn from this lesson, all of us learn from this lesson, the importance of having the public's faith in who we are, what we say and what we do. It matters.

We have a lot of people in this town now who seem to be pushing the edge on a lot of activities. And you see the public just does not seem—I get this question all the time—to care about all these shenanigans that go on around here. I agree. I think there are so many shenanigans going on around here they discount them at the time. They think they are all bad, and why is he any different than anyone else.

Wow, that is a dangerous sentiment in this country. That is a sentiment that gets you in trouble. We should be outraged when people do things that are illegal, when people do things that are unethical. We should be outraged when our public officials, whom we hold up to represent us, do not meet the standards that we ourselves meet, and we should think differently about them because they do not meet those standards.

It is a sad day, but I hope that we again have learned the lesson that it is important for us to be men and women of our word. And that goes beyond any bill, any amendment, any issue that we deal with in this body. Once we understand that lesson, I think we will be a greater body and a greater country as a result.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. I thank the Chair.

(The remarks of Mr. GLENN pertaining to the submission of S. Res. 61 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

ADJOURNMENT UNTIL TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 12 noon, Wednesday, March 5, 1997.

Thereupon, the Senate, at 6:04 p.m., adjourned until Wednesday, March 5, 1997, at 12 noon.