every year. However, a constitutional amendment to require a balanced budget does not change Social Security in any way.

Current laws on the books that protect Social Security would not be changed by the amendment. For example, Social Security is exempt from across-the-board budget cuts. The trust fund is already excluded from deficit calculations. The amendment does not change those laws in any way.

Taking Social Security and other worthy problems off-budget under the amendment would open up a loophole to evade the intent of the proposal. It would set a precedent for other Government programs to simply by shifting enough Government programs into off-budget accounts. This would only make matters worse. I'm sure you wouldn't do this with your own check book. That's why I don't want to make an exception for the Government.

In fact, a constitutional amendment to the Constitution requiring a balanced budget is critical to the long-term health of Social Security, forcing Congress to bring the deficit to zero so future politicians will not be tempted to cover our Nation's huge debt with the Social Security surplus set aside for the baby-boomer generation.

Mr. Chairman, since I took office, I have had the courage to consistently vote against wasteful spending over 300 times to cut $175 billion. Unfortunately, most of Congress did not agree. If we do not respond to our long-term problem with a long-term solution, large Federal deficits and low private saving will lead to increasingly costly and precarious dependence on foreign capital, and less investment to modernize and expand the economy. All this will result in smaller gains in productivity and a lower standard of living for our children and grandchildren. Mr. Chairman, Congress must vote for the balanced budget amendment to save future generations from this unconscionable economic burden.

INTRODUCTION OF LEGISLATION TO CONVEY SURPLUS REAL PROPERTY BY SALE AT THE FORT ORD MILITARY COMPLEX

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1995

Mr. FARR. Mr. Speaker, today I am introducing important legislation to convey surplus real property at the former Fort Ord Army reservation, by sale to the city of Seaside, CA. This legislation would, among other things, help implement the 1993 recommendation of the Defense Base Closure and Realignment Commission. In the Commission's 1993 report to the President, the Commission made specific recommendations for parcels of property to be disposed of by the Department of the Army, while recognizing the unique needs for supporting the military personnel remaining on the Monterey Peninsula. Specifically, the Commission directed the Department to dispose of all property, including the golf courses, not required to support the Presidio of Monterey and the Naval Postgraduate School. Accordingly, in 1993, the Acting Secretary of the Army decided to sell the two Fort Ord golf courses to the city of Seaside, CA.

Unfortunately, the Defense Base Closure and Realignment Act does not permit the Commission to take into account the nonappropriated fund revenue needs which are supported by the golf course revenues. Accordingly, this legislation would address that need by allowing funds received by the Army for the sale of the golf courses to be deposited into the Army morale, welfare, and recreation account.

The sale of the two Fort Ord golf courses to the city of Seaside is in accord with the Fort Ord preferred reuse alternative prepared by the federally recognized local redevelopment authority, the Fort Ord Reuse Authority [FORA]. As such, the Seaside purchase of the two Fort Ord golf courses will implement the community redevelopment plan as endorsed by S.B. 899, the State of California legislation creating the Fort Ord Reuse Authority.

The legislation conveys approximately 477 acres, which consists of the two Fort Ord golf courses, Black Horse and Bayonet, and the surplus Hayes housing facilities which have been excessed and appropriately screened according to the Pryor process. The city of Seaside will be required to pay fair market value for the property. The legislation directs the proceeds from the sale of the golf courses to be deposited in the Department of the Army morale, welfare and recreation fund, and the proceeds from the sale of the housing into the DOD BRAC account.

In the 103d Congress I authored legislation to convey certain surplus real property at Fort Ord to the California State University, and the University of California, the centerpieces of the community revitalization strategy. The legislation I am introducing today is another step in the community development reuse plan which is now falling into place. A single local governing entity has been formed, the 21st campus of the California State University is about to open, the BLM land at Fort Ord is being cleaned up by AmeriCorps participants, and the University of California's Science, Technology, Education, Policy Center is attracting investors.

My legislation will move the process forward again by assisting the Army in divesting itself of the golf courses vis-a-vis the 1993 BRAC recommendation, at the same time it helps foster economic development in the city of Seaside, which has been adversely impacted by the closure of Fort Ord.

FIRST-TIME HOMEBUYER AFFORDABILITY ACT

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1995

Mr. ORTON. Mr. Speaker, today I am reintroducing my First-time Homebuyer Affordability Act of 1995. I would like to take this opportunity to explain the need for this legislation and to summarize its provisions.

Study after study has demonstrated that the most significant barrier to home ownership in this country is the high level of downpayment generally required to secure approval of a mortgage loan. Yet, because of our current tax laws, the $850 billion currently invested in individual retirement accounts [IRA's] is effectively precluded from being used for such downpayment purposes, either directly by a homebuyer or through a parental loan. I believe we must change our IRA tax laws to dynamically open up these funds to promote home ownership.

The First-time Homebuyer Affordability Act accomplishes this objective. It is substantially identical to legislation I introduced in both the 102d and 103d Congress. Last year's bill, H.R. 1149, was a bipartisan effort, with 28 cosponsors, about equally split between Republicans and Democrats. H.R. 1149 was formally endorsed last year by both the National Association of Home Builders and the Mortgage Bankers Association of America.

First, let me explain the need for this legislation. Current IRA statutes prohibit an IRA account holder from engaging in a number of prohibited transactions, including loans to family members and use of one's own IRA funds for personal use. If anyone uses IRA funds for a prohibited transaction, the penalties are severe. The money that is used is subjected to full Federal and State income taxes. In addition, a 10-percent premature withdrawal or distribution penalty is assessed on the amount withdrawn. Combined, an IRA account holder may be forced to pay over 50 percent of the amount withdrawn in taxes and penalties. The result is that under current law, individuals are effectively precluded from using IRA funds to make a downpayment to buy a home.

My legislation overcomes this barrier by providing a targeted exemption from prohibited transaction rules to allow individuals to access IRA accounts to make a downpayment on a first-time home purchase. By structuring the use of funds as an economic transaction entered into by a self-directed IRA account, the tax and premature withdrawal penalties are avoided—resulting in a substantial savings to the homebuyer. By eliminating barriers to the use of IRA funds, this change would have a significant impact in increasing homeownership. Finally, this approach is prosavings. By structuring use of IRA funds as an economic transaction within an IRA, the moneys used to buy a home are eventually restored to the IRA, available for continued tax-deferred reinvestment.

Specifically, my bill: One, permits individuals to borrow money from their own IRA account to make all or part of a downpayment for a first-time home purchase of a primary residence. This is similar to loans permitted from one's 401(k) account; two, permits parents to lend money within their IRA account to their children for use as a downpayment on a first-time home purchase of a primary residence, and three, permits the transactions permitted in one and two above to be structured as an equity investment; that is, a home equity participation agreement.

IRA account holders are currently permitted to invest in a Ginnie Mae mutual fund, which consists of thousands and thousands of single family mortgages—on other people's homes. However, IRA funds may not be used to pay for or finance your own home, nor for the home of a family member. In other words, your IRA account can be used for the purchase of any home in the country except your own home or the home of a family member.

This policy is unfair, anti-home-ownership, and antifamily.

Moreover, consider the purpose of IRA's. IRA's are intended to promote long-term productive investments to provide a nest egg for retirees. Historical studies have shown that one's home is generally the largest and most important asset people have. It is probably also the best investment they will ever make. Shouldn't IRA funds be available for this important purpose?

Consider, finally, that we do permit individuals to borrow from their 401(k) retirement accounts to purchase a home. A 401(k) plan is nothing more than a self-directed retirement plan—in much the same way an IRA account is. If we allow people to borrow money from a 401(k) plan for this purpose, shouldn't we also allow borrowing from an IRA account?

I believe we should. My legislation allows this to be done in a flexible, but responsible manner. My bill allows 100 percent of the funds in one's IRA account to be used for a first-time home purchase, structured either as a loan or an equity sharing investment.

Under my bill, IRA advances structured as a loan may be flexible. Any loan from an IRA can be for a term of up to 15 years. The loan may be interest only—no principal amortization. And, interest on the loan may be deferred until repayment of the loan. These two options increase flexibility with respect to cash flow. Finally, the loan may be unsecured or may be secured—typically by a second lien on the home. This increases flexibility with respect to second mortgage limitations typically imposed by secondary market mortgage lenders like Fannie Mae and Freddie Mac.

IRA advances structured as an equity sharing agreement are intended to mirror current free market practices, in which homebuyers give up part of the appreciation of value of their home in return for vital down payment assistance. To preserve the concept of having the IRA engage in economic transactions, my bill requires that equity sharing arrangements be structured under terms similar to those made in arms-length transactions.

While flexible, the bill is also structured in a careful, targeted manner. The public policy purpose of the bill is to promote entry into the housing market. Therefore, the home buyer must be a first-time home buyer. In addition, the home purchase must be a principal residence. Finally, the loan or equity investment must be repaid upon the sale of the home.

My bill also contains provisions to prevent self-dealing or tax-gaming. For example, the interest rate on the loan must be no less than 200 basis points below and not more than 200 basis points above comparable Treasury rates. In this way, the IRA earns at least a fair rate of return, but individuals cannot funnel excessive tax-deferred funds into an account. Perhaps most importantly, my bill provides that forgiveness or default on loan or equity repayment subjects an IRA to premature distribution treatment—making the funds subject to tax and withdrawal penalty. This effectively prevents individuals or parents from converting IRA funds tax-free to personal use through a fabricated default.

Finally, I would like to compare this approach to the so-called penalty waiver approach. This approach was included in H.R. 4210, a major tax bill approved in the 102d Congress, but vetoed by the President. The penalty waiver provision was also included in the super-IRA bills introduced last year by Senator ROTH in the Senate and Representatives THOMAS and Pickle in the House. Many Members of both the House and Senate Have introduced legislation incorporating this concept.

Quite simply, the penalty waiver approach provides for a waiver of the 10-percent penalty on premature IRA withdrawals for certain identified purposes. Typically, qualified purposes in legislative proposals include first-time home purchase, higher education expenses, and emergency medical bills.

Clearly, adoption of this type of proposal would make it easier to access IRA's for these purposes. However, penalty waiver advocates generally fail to emphasize that the IRA account holder would still owe Federal and State income taxes. At best, a penalty waiver would marginally reduce the huge disincentive against using IRA funds to buy a home.

Let me illustrate this point. Take a hypothetical case in which a young couple plans on buying a house, requiring a downpayment of $10,000. Let's assume the couple's sole source of long-term savings is the $10,000 they have in their IRA account. Let's also assume that this couple is in a marginal 28 percent Federal tax bracket, and a 6-percent marginal State tax bracket. Even under a penalty waiver approach, this couple would still forfeit almost one-third of the amount in their IRA account to State and Federal taxes. Moreover, they would have less than $7,000 left to invest, not enough to make the required downpayment. In contrast, under my legislation, the couple could lend themselves all of the $10,000, with no tax or penalty consequences.

This difference is especially important when considering parental loans. It is true that certain penalty waiver proposals permit parental withdrawals to assist their children with a downpayment. But I think it would be a very rare case in which a parent would be willing to take $10,000 from their IRA account, suffering an unnecessary tax of from $3,000 to $4,000, to assist their children with a downpayment.

Thus, a penalty waiver sounds like a good public policy change. However, in practice, it would have only a marginal impact—reducing one's tax penalty by only around 20 percent of the amount otherwise owed. This incentive will induce relatively few people to actually take money out of their account to buy a house, compared to current law. As a result, it will produce a very small increase in the level of homeownership in this country.

We need to do more to access IRA funds for home ownership. Adoption of the First-time Homebuyer Affordability Act would make it much easier for many Americans struggling to meet downpayment requirements and enter the housing market. I would welcome cosponsors for this bill, and urge its consideration in the House.

PROPOSING A BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

SPEECH OF

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States:

Mr. QUINN. Mr. Chairman, I rise today in strong agreement with my colleague from New York, Congressman JERRY SOLOMON, who yesterday called the balanced budget amendment, ''the most important matter the House will address during the 104th Congress.''

The important thing to remember today is that I am here at the request of my constituents who overwhelmingly support this historic legislation.

As an advocate of fiscal responsibility, I have been fighting for a balanced budget amendment since I ran for Congress more than 2 years ago.

Implicit in this legislation is a measure to require that a balanced budget is achieved without touching the Social Security trust fund. We must leave Social Security alone.

Time and time again, Congress has failed to summon up the courage to attack spending. This constitutional amendment makes courage the law and forces us to get our financial house in order.

In addition to the balanced budget amendment, we also need the line-item veto and legislation prohibiting unfunded mandates. By enacting all of these proposals, we can help reduce the deficit and make a start on balancing the budget.

I supported the Barton substitute with the three-fifths tax limitation provision because I think it is the best approach to make it as difficult as possible to raise taxes to balance the budget. Raising taxes simply lifts the burden off of Congress and places it on the backs of hard-working, American taxpayers.

As the Hamburg town supervisor, I was required by law and by my constituents to balance the town budget each and every year. The American people are calling on us to balance the Federal budget, and we can respond with this law requiring us to do just that.

Local governments are forced to balance their budget. State governments are forced to balance their budget. Yet the Federal Government has failed to balance the budget since the Johnson administration.

We must always keep in mind that we are the representatives of the people. As such, we must listen to the voices of Americans. Their voices are loud and clear. Pass the balanced budget amendment.