EXTENSIONS OF REMARKS

THE BALANCED BUDGET CONSTITUTIONAL AMENDMENT

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. ARCHER. Mr. Speaker, today I am introducing a joint resolution to amend the Constitution in order to mandate the U.S. Congress to commit to balancing the Federal budget and remove the burdens of large Federal deficits off of the American people. This legislation is essential to the future of our Nation as we stand on the threshold of the 21st century. The costs of maintaining our national debt have absorbed increasing proportions of national savings that would otherwise have been available to finance investment, either public or private. Today, interest payments alone on the debt are the largest item in the budget, comprising over 20 percent of all Federal spending.

This type or irresponsible spending and management must end. Now the 105th Congress has the opportunity to do just that. My balanced budget amendment is very similar to the language that passed the House of Representatives in 1995 by a vote of 300 to 132. However, the most important distinction of my amendment from the 1995 language is the provision specifying the vote margin needed to waive the balanced budget requirement. Under the previously passed bill, three-fifths of the whole House and Senate were required to waive the balanced budget requirements. My amendment sets a more stringent and imperative requirement of two-thirds of those present and voting—the same margin necessary to pass a constitutional amendment.

I hope that my colleagues, on both sides of the aisle, agree that actions speak louder than words. We've talked about our commitment to balancing the budget for long enough, it's time to do it.

INTRODUCTION OF GUNS AND DRUNKS LEGISLATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONYERS. Mr. Speaker, I wouldn't have thought it was necessary to introduce a bill prohibiting gun sellers from selling guns to obviously intoxicated individuals, but it is.

as the law stands, you can't sell alcohol to someone who is clearly drunk because that person might hurt himself or others, but you can sell a drunk a dangerous firearm. Even without a law, common sense might dictate that you don't sell a gun to a drunk, but unfortunately, not everyone uses their common sense.

Deborah Kitchen, a mother of five, was shot by her ex-boyfriend and left paralyzed from the neck down a mere half an hour after the man bought a $100 rifle at a K–Mart in Tampa, FL. The man had consumed a case of beer and nearly a fifth of whiskey before he bought the gun. He was so incapacitated at the time of the purchase that the store clerk had to fill out the Federal firearm registration form.

Ms. Kitchen successfully sued K–Mart for negligence, but the retail chain has appealed, denying any liability. K–Mart doesn't think it did anything wrong in selling the drunk the gun that paralyzed Ms. Kitchen. If gun sellers cannot act responsibly on their own, it is up to us to force them to act responsibly. No one should sell a gun to a drunk, period. My bill would make it a Federal crime to sell a gun to a drunk in an effort to ensure that there won't be any more Deborah Kitchens in the future.

RECOGNIZING THE CONTRIBUTIONS OF MINNESOTAN HUMAN RIGHTS ADVOCATE BARBARA FREY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. VENTO. Mr. Speaker, I rise today in recognition of an extraordinary Minnesotan, Barbara Frey. For 11 years as executive director of Minnesota Advocates, an internationally recognized human rights organization which has played an instrumental part in human rights work, Ms. Frey has poured her tireless energy and efforts into the establishment of the cause of fighting human rights abuses on a worldwide basis. While Barbara Frey will be relinquishing that role, I can safely predict as her Representative and friend that she will continue to make a major contribution to our community and society. Ms. Frey's accomplishments will provide a sound basis and status for her future work in Minnesota and internationally.

Some people have one job; Barbara Frey has several. In addition to her work at Minnesota Advocates, Ms. Frey may add to her resume work as an adjunct professor of human rights at the University of Minnesota Law School In addition, every Sunday she delivers food-shelf donations to the needy from St. Francis Cabrini Catholic Church. She also coaches girls' basketball and teaches a weekly course at St. Paul's Expo Magnet School, where her daughter, Maddie, is a student. Ms. Frey recently paid a visit to the White House on International Human Rights Day to be honored by President Clinton for her efforts to promote women's rights.

Whether educating Minnesota's students or reprimanding military leaders about human rights violations, Barbara Frey has approached her valuable work with the same passion of conviction, courage, and purpose of mission. St. Paul, MN, is fortunate to be home to this most talented and dedicated individual, whose work provides important lessons for us and for our children. I'm sure my colleagues will join me in paying tribute to Ms. Frey, and I join in applauding her numerous local and international contributions. Her important work signifies a task well done on a subject that must remain in our consciousness, both today and tomorrow.

INTRODUCTION OF THE RECONSTRUCTIVE BREAST SURGERY BENEFITS ACT OF 1997

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. ESHOO. Mr. Speaker, I rise today to introduce the Reconstructive Breast Surgery Benefits Act of 1997 to guarantee that insurance companies cover the cost of reconstructive breast surgery that results from mastectomies for which coverage is already provided. In addition, the legislation would secure insurance coverage for all stages of reconstructive breast surgery performed on a nondiseased breast to establish symmetry with the diseased one when reconstructive surgery on the diseased breast is performed.

In 1995, an estimated 182,000 American women were diagnosed with breast cancer, and 85,000 of them underwent a mastectomy as part of their treatment. Reconstructive breast surgery often is an integral part of the mental and physical recovery of women who undergo this traumatic, disfiguring procedure. Unfortunately, insurance companies don't always see it that way. Even though many of them are willing to pay for mastectomies, they sometimes balk at covering breast reconstruction. This legislation would put an end to this shortsighted practice and guarantee that women with breast cancer are not victimized twice—first by the disease, then by their insurance companies.

According to the American Society of Plastic and Reconstructive Surgeons [ASPRS], a significant number of women with breast cancer must undergo mastectomy or amputation of a breast in order to treat their disease appropriately. The two most common types of reconstruction—tissue expansion followed by an implant insertion and flap surgery—can restore the breast mound to a natural shape. Most breast reconstruction requires a series of procedures that may include an operation on the opposite breast for symmetry.

Even though studies show that fear of losing a breast is a leading reason why many women do not participate in early breast cancer detection programs, many general surgeons don't even present reconstruction as an option for mastectomy candidates. Unfortunately, many women are unaware that reconstruction is an option following mastectomy, and they put off testing and/or treatment for breast cancer until it is too late.

A recent ASPRS survey—with an error range of ±1.9 percent—indicates that 84

percent of respondents had up to 10 patients who were denied insurance coverage for breast reconstruction of the amputated breast. Of those surgeons who support State legislation to address this problem and reported denied coverage, the top three procedures denied most often were symmetry surgery on a nondiseased breast, revision of breast reconstruction, and nipple areola reconstruction. The top five States of residence of those patients reporting denied coverage are Florida, California, Texas, Pennsylvania, and New York.

California and Florida also are among the 13 States that have passed laws requiring breast reconstruction coverage after mastectomy. However, State laws alone, such as the California and Florida laws, do not provide adequate protection for women because States do not have jurisdiction over interstate insurance policies provided by large companies under the Employee Retirement Income Security Act [ERISA]. As a result, even women in States that have attempted to address this issue are still at risk of being denied coverage for reconstructive surgery.

The Reconstructive Breast Surgery Benefits Act would amend the Public Health Service Act and ERISA to do the following: require health insurance companies that provide coverage for mastectomies to cover reconstructive breast surgery that results from those mastectomies, including surgery to establish symmetry between breasts; prohibit insurance companies from denying coverage for breast reconstruction resulting from mastectomies on the basis that the coverage is for cosmetic surgery; prohibit insurance companies from denying a woman eligibility or continued eligibility for coverage solely to avoid providing payment for breast reconstruction; prohibit insurance companies from providing monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this act; prohibit insurance companies from penalizing an attending care provider because such care provider gave care to an individual participant or beneficiary in accordance with this act; and prohibit insurance companies from providing incentives to an attending care provider to induce such care provider to give care to an individual participant or beneficiary in a manner inconsistent with this act.

On the other hand, the Reconstructive Breast Surgery Benefits Act would not: Require a woman to undergo reconstructive breast surgery; apply to any insurance company that does not offer benefits for mastectomies; prevent an insurance company from imposing reasonable deductibles, coinsurance, or other cost-sharing in relation to reconstructive breast surgery benefits; prevent insurance companies from negotiating the level and type of reimbursement with a care provider for care given in accordance with this act; and preempt State laws that require coverage for reconstructive breast surgery at least equal to the level of coverage provided in this act.

Mr. Speaker, women who have breast cancer suffer enough without having to worry about whether or not their insurance companies will cover reconstructive surgery. I urge my colleagues in helping to give these women peace of mind and the coverage they need by supporting the Reconstructive Breast Surgery Benefits Act.

CONCERNING A CONGRESSIONAL FAILURE TO COMPLY WITH THE CONSTITUTION DURING THE 104TH CONGRESS

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. SKAGGS. Mr. Speaker, I want to call to the attention of the House what appears to be a failure of the Congress to comply with a clear and basic constitutional mandate.

Section 7 of article I—known as the presentment clause—says ''Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States'' for approval or veto. Nothing could be clearer—if a bill is passed by both bodies, it must be presented to the President. The Constitution does not allow for any exceptions. Yet during the 104th Congress, an exception was made on one occasion, the constitutional mandate notwithstanding.

As Members who served in the last Congress will remember, last year the leadership of both the House and Senate decided to expedite our adjournment by combining various 1997 appropriations usually dealt with in separate measures into a single omnibus appropriations bill. It was also decided, for tactical reasons, to have two versions of that omnibus bill—one being a conference report on a 1997 defense appropriations measure, the other being a new, freestanding bill, H.R. 4278. H.R. 4278 came to be known in Capitol parlance as the ''clone'' omnibus appropriations bill.

Accordingly, on September 28, 1996, the House agreed to consider the conference report and also agreed that if the conference report was adopted, H.R. 4278, the clone bill, also would be deemed passed.

The House did pass the conference report on September 28, and on September 30, 1996, both that conference report and H.R. 4278 were considered and approved by the Senate as well. In fact, the Senate passed the clone bill, without amendment, by a separate rollcall vote of 84 to 15.

In short, last year two omnibus 1997 appropriations bills were passed in identical form by both the House and the Senate. Constitutionally, both bills had equal standing, and both should have been presented to the President. Even though the President predictably would have let one die by pocket veto.

This requirement was not met. The conference report was presented to the President and was signed into law. But the normal, constitutional procedures were not followed with respect to the other bill, H.R. 4278.

Before a bill can be presented to the President, it must be enrolled and signed by the Speaker and by the President of the Senate, or others empowered to act for them, to attest that it has in fact been passed by both bodies. And, before a House bill—such as H.R. 4278—can be enrolled, the bill and related papers must be returned to the House by the Senate. In the case of H.R. 4278, evidently, this normally routine step was not taken. The bill was not returned to the House, and so it was never enrolled, never signed by the Speaker or anyone else authorized to sign it, and never presented to the President—despite the clear mandate of the Constitution.

We should see this failure to comply with the Constitution as a serious and troubling matter.

Because I understood that the breakdown had occurred on the other side of the Capitol, I raised the matter with the majority leader of the Senate in a telephone conversation and, subsequently, in a letter which I ask unanimous consent be included in the RECORD at the conclusion of my remarks.

As I noted then, I can understand why, as a practical matter, it might seem redundant to send two identical bills to the President. But the Constitution doesn't give Members of Congress—even leaders—the authority to selectively withhold from the President any bill that has passed both Houses. And while in this case refusing to send H.R. 4278 to the President won't make a practical difference—since an identical measure has been signed into law—it is easy to imagine how it could set a bad, even a dangerous precedent in other circumstances.

It was my hope, Mr. President, that when this matter was called to the attention of the leadership, steps would be taken to make sure that H.R. 4278 was duly enrolled, signed, and presented to the President. Unfortunately, that did not occur and, now that a new Congress has begun, it evidently cannot occur.

That is very regrettable and, as I've already said, something that I think we need to take seriously. As Members of Congress, we have each sworn to uphold the Constitution. If we are to be faithful to that oath, we must make sure that Congress in the future meets its constitutional requirements, including those imposed by the presentment clause.

Mr. Speaker, for the information of the House, I include at this point my letter of December 23, 1996, to the majority leader of the Senate concerning this matter.

HOUSE OF REPRESENTATIVES,
Washington, DC, December 23, 1996.

Hon. TRENT LOTT,
Senate Majority Leader,
Washington, DC.

DEAR TRENT: Thanks very much for calling me at home a second time last week; sorry to have missed your first try. I greatly appreciate having been able to talk with you about the so-called ''clone'' omnibus appropriations bill. As I mentioned, I have some serious concerns about the way the bill has been handled.

On September 28, the House agreed to consider the conference report regarding H.R. 3610 (the omnibus consolidated appropriations bill for fiscal 1997) and agreed that, upon adoption of that conference report, H.R. 4278 (a separate, identical measure) would also be considered as passed.

As you know, the House did pass the conference report, and on September 30, both the conference report and H.R. 4278 were considered and approved by the Senate as well, the latter being passed without amendment by a vote of 84–15 (rollcall number 302). However, while H.R. 3610 was presented to the President on September 30 (and signed into law as P.L. 104–208), I understand that the Senate has not yet returned to the House the papers related to H.R. 4278, and as a consequence the House (where the bill originated) has been unable to take the steps necessary for the bill to be presented to the President in accordance with Section 7 of Article I of the Constitution (the ''presentment clause'').

It's true that enactment of P.L. 104–208 means that enactment of H.R. 4278 would be redundant. However, the presentment