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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