THE BALANCED BUDGET CONSTITUTIONAL AMENDMENT  
HON. BILL ARCHER  
OF TEXAS  
IN THE HOUSE OF REPRESENTATIVES  
Tuesday, January 7, 1997  

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

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

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

INTRODUCTION OF THE RECONSTRUCTIVE BREAST SURGERY BENEFITS ACT OF 1997  
HON. ANNA G. ESHOO  
OF CALIFORNIA  
IN THE HOUSE OF REPRESENTATIVES  
Tuesday, January 7, 1997  

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

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

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

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

A recent ASPRS survey—with an error range of ±1.9 percent—indicates that 84 percent of women who undergo a mastectomy consider it important to have a reconstruction option available.
percent of respondents had up to 10 patients who were denied insurance coverage for breast reconstruction of the amputated breast. Of those surgeons who support State legislation to address this problem and reported denied coverage, the top three procedures denied were symmetry surgery, a non-diseased breast, revision of breast reconstruction, and nipple areola reconstruction. The top five States of residence of those patients reporting denied coverage are Florida, California, Texas, Pennsylvania, and New York.

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

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

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

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

We should see this failure to comply with the Constitution as a serious and troubling matter. Because I understood that the breakdown had occurred on the other side of the Capitol, I raised the matter with the majority leader of the Senate in a telephone conversation and, subsequently, in a letter which I ask unanimous consent be included in the Record at the conclusion of my remarks. As I noted then, I can understand why, as a practical matter, it might seem redundant to send two identical bills to the President. But the Constitution doesn't say that—Congress—leaders—the authority to selectively withhold from the President any bill that has passed both Houses. And while in this case refusing to send H.R. 4278 to the President won't make a practical difference—since an identical measure has been signed into law—it is easy to imagine how it could set a bad, even a dangerous precedent in other circumstances.

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

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

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

As Members who served in the last Congress will remember, last year the leadership of both the House and Senate decided to expedite our adjournment by combining various 1997 appropriations bills into a single omnibus appropriations bill. It was also decided, for tactical reasons, to have two versions of that omnibus bill—one being a conference report and the other a freestanding bill. H.R. 4278, H.R. 2478 came to be known in Capitol parlance as the “clone” omnibus appropriations bill.

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

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

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

This requirement was not met. The conference report was presented to the President and was signed into law. But the normal, constitutional sequence the House (where the bill originated) has been unable to take the steps necessary for the bill to be sent to the President in accordance with Section 7 of Article I of the Constitution (the “presentment clause”).

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