clear that nothing in the proposed constitutional amendment would authorize the President to impound funds appropriated by Congress by law or to impose taxes, duties, or fees.

I ask unanimous consent that a discussion of this issue set forth in ''Minority Views'' contained in the report of the Committee on the Judiciary be printed in the RECORD.

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

B. THE AMENDMENT WOULD GIVE THE PRESIDENT BROAD POWERS TO IMPOUND APPROPRIATED FUNDS

That the balanced budget constitutional amendment would authorize the President to impound funds appropriated by Congress is clear from the text of the Constitution and the proposed amendment. Article II, section 3, obligates the President to ''take care that the Laws be faithfully executed,'' and article II, section 7, requires the President to take an oath to ''preserve, protect and defend the Constitution.''

Section 1 of the proposed constitutional amendment provides that ''[t]otal outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.'' The amendment thus would forbid outlays from exceeding revenues by more than the amount specifically authorized by a three-fifths supermajority of each House of Congress. In any fiscal year in which it is clear that in the absence of congressional action, ''total outlays'' will exceed ''total receipts'' by a greater-than-authorized amount, the President is bound by the Constitution and the oath of office it prescribes to prevent the unauthorized deficit.

The powers and obligations conferred upon the President by the Constitution and the proposed constitutional amendment would clearly be read by the courts to include the power to impound appropriated funds where the expenditure of those funds would cause total outlays to exceed total receipts by an amount greater than that authorized by the requisite congressional supermajorities.

This commonsense reading of the proposed constitutional amendment is shared by a broad range of highly regarded legal scholars. Assistant Attorney General Walter Dellinger, who as head of the Office of Legal Counsel at the Department of Justice is responsible for advising the President and the Attorney General regarding the scope and limits on presidential authority, testified before the Judiciary Committee that the proposed constitutional amendment would authorize the President to impound funds to insure that outlays do not exceed receipts. Similarly, Harvard University Law School Professor Charles Fried, who served as Solicitor General during the Reagan Administration, testified that in a year when actual revenues fell below projections and bigger-than-authorized deficit occurred, section 1 ''would offer a President ample warrant to impound appropriated funds.'' Others who share this view include former Attorney General Nicholas deB. Katzenbach, Stanford University Law School Professor Kathleen Sullivan, Yale University Law School Professor Burke Marshall, and Harvard University Law School Professor Laurence H. Tribe.

The fact that the proposed constitutional amendment would confer impoundment authority on the President is confirmed by the actions of the Judiciary Committee this year. Supporters of the amendment opposed and defeated an amendment offered by Senator Kennedy before the Judiciary Committee that would have added the following section to the proposed amendment:

''SECTION . Nothing in this article shall authorize the President to impound funds appropriated by Congress by law, or to impose taxes, duties or fees.''

If the supporters of the proposed constitutional amendment do not intend to give impoundment authority to the President, there is no legitimate explanation of their failure to include the text of the Kennedy amendment in the proposed article.

The impoundment power that would be conferred on the President by the proposed constitutional amendment is far broader than any proposed presidential line-item veto authority now under consideration by the Congress. The line-item veto proposals would allow a President to refrain from spending funds proposed to be spent by a particular item of appropriation in a particular appropriations bill presented to the President. As Assistant Attorney General Dellinger testified, the impoundment authority conferred upon the President by the proposed constitutional amendment would allow a President to order across-the-board cuts in all Federal programs, target specific programs for abolition, or target expenditures intended for particular States or regions for impoundment.

The Committee majority makes two arguments to support its assertion that the balanced budget constitutional amendment does not give the President impoundment authority. Both are wrong.

The first is the suggestion that ''up to the end of the fiscal year, the President has nothing to impound because Congress in the amendment has the power to ratify or to specify the amount of deficit spending that may occur in that fiscal year.'' In essence, the majority asserts that there will never be an unauthorized, and therefore unconstitutional, deficit, because Congress will always step in at the end of the year and ratify whatever deficit has occurred. If true, then the balanced budget is a complete sham, because it would impose no fiscal discipline whatsoever.

But if the majority is wrong in its prediction—that is, if a Congress failed to act before the end of a fiscal year to ratify a previously unauthorized deficit, all of the expenditures undertaken by the Federal government throughout the fiscal year would be unconstitutional and open to challenge in the state and Federal courts (see part I.A, supra). It is inconceivable that the President, sworn to preserve, protect and defend the Constitution, would be found to be powerless to prevent such a result.

Second, the majority argues that ''under section 6 of the amendment, Congress can specify exactly what type of enforcement mechanism it wants and the President, as Chief Executive, is duty bound to enforce that particular congressional scheme to the exclusion of impoundment.'' The fact that Congress is required by section 6 of the proposed amendment to enact enforcement legislation certainly does not suggest that the amendment itself would not grant the president authority to impound appropriated funds. Nothing in the proposed article stipulates that the enforcement legislation must be effective to prevent violations of the amendment. Indeed, there is every reason to believe that no enforcement legislation could prevent violations for occurring.

The President's obligation to faithfully execute the laws is independent of Congress's. That duty is not ''limited to the enforcement of acts of Congress * * * according to their express terms, * * * it include[s] the rights, duties and obligations growing out of the Constitution itself, * * * and all the protection implied by the nature of the government under the Constitution[.]'' *In re Neagle,* 135 U.S. 1, 64 (1890). If an unconstitutional deficit were occurring, Congress could not constitutionally stop the President from seeking to prevent it.

C. THE PROPOSED AMENDMENT MANY ALSO CONFER UPON THE PRESIDENT THE AUTHORITY TO IMPOSE TAXES, DUTIES AND FEES

As discussed above, when a greater-than-authorized deficit occurs, the balanced budget constitutional amendment would impose upon the President an obligation to stop it. While greater attention has been paid to the prospect that the amendment would grant the President authority to impound appropriated funds, the amendment would enable future Presidents to assert that they have the power unilaterally to raise taxes, duties or fees in order to generate additional revenue to avoid an unauthorized deficit. See Testimony of Assistant Attorney General Walter Dellinger, 1995 Judiciary Committee Hearings at 102.

This outcome would turn on its head the allocation of powers envisioned by the Framers. No longer would ''the legislative department alone ha[ve] access to the pockets of the people'' as Madison promised in The Federalist No. 48. Instead, intermixing of legislative and executive power in the President's hands would constitute the ''source of danger'' against which Madison warned.

Mr. KENNEDY. I thank my colleague.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

COMMEMORATING THE 50TH ANNIVERSARY OF THE BATTLE OF IWO JIMA

Mr. CHAFEE. Madam President, first I want to thank the distinguished senior Senator from Arkansas for letting us interrupt the sequence.

Last week, Madam President, following the inspiring remarks by that very senior Senator from Arkansas, there were several very eloquent and moving statements made on this floor regarding the battle for Iwo Jima and the 50th anniversary which we are commemorating currently.

Over the next several days, there will be additional statements dealing with that battle which many believe was the most ferocious of the Pacific war. The actual invasion commenced on February 19, 1945, with the battle lasting 35 days. On February 22, 50 years ago yesterday, D-day plus 3, marines from the 4th and 5th Divisions continued their relentless attack against entrenched enemy positions on Iwo Jima. It was very difficult going.

The first 2 bloody days on the island netted gains at a high price in marines killed and wounded—an indication of what was going to come in the succeeding 32 additional days of combat.

The job of taking Mount Suribachi, the 556-foot high extinct volcano at the southern end of Iwo Jima, fell to the 28th Marine Regiment commanded by Col. Harry E. Liversedge.

On the slopes of Mount Suribachi, the Japanese had constructed an exceedingly clever labyrinth of dug-in

gun positions for coast defense, artillery, mortars and machine gun emplacements. These defensive positions were accompanied by an elaborate cave and tunnel system.

From the volcano's rim—that is the top of Mount Suribachi—everything that went on at both sets of the invasion beaches and, indeed, on most of the island, could be observed. Mount Suribachi was a position that had to be taken by the marines.

The men of the 28th Marine Division were the ones that did it. Just 50 years ago today, February 23, 1945, Mount Suribachi was captured by those valiant marines, and so I think it is only fitting, Madam President, that we do take a few minutes to recall the heroism and the constancy and valor of those marines who seized that position.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I am particularly privileged to join my distinguished colleague from Rhode Island. He is too humble to mention he served on Guadalcanal as a rifleman.

During the Battle of Iwo Jima, he was back in the United States being trained as an officer and later was deployed back to the Pacific as a platoon commander in the Battle for Okinawa.

This Senator, I say humbly, had just joined the Navy at this point in time, and I was awaiting my first assignment. I remember so well the sailors—all of us—gathering around the radio—for that was the only communication we had—listening to the reports from Iwo Jima, and later we studied, of course, the films and read the detailed stories of this great battle.

History records that one-third of the casualties taken by the Marine Corps during the entire Pacific war occurred in this historic battle. But I want to mention to my colleague, in furtherance, of Senator CHAFEE's observation about the flag raising, that there were two flag raisings on Iwo Jima. The first flag raising spontaneously occurred about 10:20 in the morning when a first lieutenant with a 40-man patrol finally scaled the heights and lifted the first flag. Fortunately, that flag was observed by James Forrestal, aboard a ship offshore, Secretary of the Navy, a position which my distinguished colleague later occupied and I had the privilege of following him.

Secretary Forrestal is said to have observed to Gen. HOLLAND SMITH, the commanding officer of all the marines in that operation, ''the raising of the flag means a Marine Corps for another 500 years.''

Later in the day, it was determined by senior officers that the first small flag could not be observed throughout the island. A second marine detail, therefore, was set up scaling the same arduous terrain to raise a larger flag, simply to allow our flag to be observed by a greater number of the marines locked in fierce combat.

The second flag was raised by Sgt. Michael Strank, Cpl. Harlon Block, Pfc. Franklin Sousley, Pfc. Ira Hayes, Pharmacist's Mate Second Class John Bradley, and Pfc. Rene Gagnon. The more visible Stars and Stripes was the one that was captured by the famous photographer Rosenthal, and now used as a model for the famous Marine Corps War Memorial near Arlington Cemetery.

So I am privileged to join my distinguished colleague, but I would like to add another point. Recently, we saw a very serious controversy about the *Enola Gay,* the plane that dropped the atom bomb, being a part of the commemorative exhibit being planned by the Smithsonian Institution.

There was, unfortunately, research done and initial reports written, which, in my judgment, and in the judgment of many, particularly those who were privileged to serve in uniform in World War II, did not properly reflect the facts of that war.

Fortunately, cooler heads and wiser minds have taken that situation now and brought it more nearly into balance, primarily as a result of many veterans organizations, particularly the American Legion and the Air Force Association.

But I point out that this battle portrays the extraordinary losses incurred in the Pacific conflict, and I hope those researchers who wrote the initial reports questioning the mission of the *Enola Gay,* have followed the excellent coverage in remembrance of this battle and recognized the mistakes they perpetrated in their earlier assessments of the war and why this country was involved.

My research shows that this is the last battle of World War II when President Roosevelt was Commander in Chief from beginning to end. He died early in April during the course of the battle on Okinawa, which Senator CHAFEE was in, so this was President Roosevelt's last battle. I think it is most appropriate that we join today with others in making this remembrance.

After brief service as a sailor in World War II, I joined the Marines and served in Korea. I always feel that my Senate career is largely owing to my two opportunities to serve in the military. The military helped me greatly to get an education and start a career. I shall always be grateful. And I do not ever associate my career with the distinguished combat records of Senator CHAFEE, or many others in the Senate. I was simply a volunteer during World War II and again for Korea. I shall be forever grateful for the privilege of serving my country during those two periods of our history and being with those who distinguished themselves.

I thank my colleague and long time friend for joining me on the floor this evening.

Mr. CHAFEE. Thank you, Senator WARNER. In the succeeding days, I am sure that others will come forward with statements commemorating other events that took place 50 years ago in Iwo Jima as the battle progressed for those 35 plus days, and which, as I say, those who studied the wars in the Pacific—many of them, not all—say that was the most ferocious battle. I thank the senior Senator from Virginia and the Chair. Also, I would like to thank the senior Senator from Arkansas.

Mr. WARNER. I talked to retired Brigadier General Hittle who served as an Assistant Secretary of the Navy under Senator CHAFEE and myself, and who participated in the battle of Iwo Jima. On behalf of that distinguished individual and dearly beloved friend, I would like to include a short statement of his recollections of that battle and particularly the performance of one of his marines in that battle.

I ask unanimous consent that a statement by General Hittle be printed in the RECORD.

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

STATEMENT BY GENERAL HITTLE

I first met Elmer Montgomery when he reported to my G–4 Section of the 3rd Marine Division on Guam. He was the replacement for the Section's stenographer. He was older than most of the men in the Division and I noticed that when he had some spare time, he would lean his chair back against the side of the G–4 quanset hut, take a small white Bible out of his pocket, and deliberately zip it open, read, and find contentment. Elmer was not a loner. He liked his fellow Marines, but he would silently wince when hearing some of his fellow Marines use profanity.

In February 1945, we sailed for an island called Iwo Jima. A few days after the landings of the 4th and 5th divisions, the 3rd went ashore and was assigned to attack up the center of the island. A couple of days later, when the front line units had suffered heavy casualties, all Division Sections had to send several men up to the front.

It's no easy task to pick men, knowing that they will go into the ''meatgrinder.'' As I was finishing making the selections, Colonel Beyeo (later a Brigadier General USMC (ret)) popped into my dugout. He said that Sergeant Montgomery wanted to see me. I went out and saw Elmer standing a few feet away. I thought I would put his mind at ease and said ''You weren't among those picked.'' For the first time, he argued with me. He said ''I want to go up front, I have a lot of hunting experience in the mountains, and I want to look after these kids.'' He wouldn't take no for an answer. Then I relented. I told him that he was old enough (35 years) to know what he was doing, and only because he was insisting, he could go forward. That's the last time I saw Elmer. A few hours later he was second in command of an attacking platoon. All the company officers were casualties.

As the platoon attacked, it was pinned down by machine-gun fire in a saucer like depression, if any Marine stood up, he was mowed down by machine-gun fire. The Japanese mortars were beginning to zero in. Sensing the potential finality of the platoon's position, he yelled to his men ''When I stand up, move out of the depression.'' Elmer then stood up and began firing from the hip and rushed the machine-gun positions.

The platoon was saved, but Elmer's body was never found. In a few minutes, our artillery pounded that ground and the Japanese

positions. Elmer and his white leather-covered Bible became forever a part of the hallowed grounds of Iwo Jima.

Elmer was awarded post-humously the Navy Cross.

When I was Assistant Secretary of the Navy, I was instrumental in having a new destroyer named in honor of Sergeant Elmer Montgomery. I spoke at the keel laying, and twenty years later, I spoke at the decommissioning of this ship. And today, if anyone should ask me if I used my position as Assistant Secretary of the Navy to influence the naming of the Sergeant Elmer Montgomery, I can look him squarely in the eye, and in all truth, say ''I sure did.''

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

MOTION TO REFER

Mr. BUMPERS. Mr. President, I send a motion to refer to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] moves to refer House Joint Resolution 1 to the Budget Committee with instructions to report back forthwith House Joint Resolution 1 and issue a report, at the earliest possible date, which shall include the following:

''Section 1. Point of order against budget resolutions that fail to set forth a glide path to a balanced budget.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

''(j) It shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that fails to set forth appropriate levels for all items described in subsection (a)(1) through (7) for all fiscal years through 2002.''

''Section 2. Prohibition on budget resolutions that fail to set forth a balanced budget.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

''(k) Congressional Enforcement of a Balanced Budget.—

''(1) Beginning in 2001, it shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that sets forth a level of outlays for fiscal year 2002 or any subsequent fiscal year that exceeds the level of receipts for that fiscal year.

''(2) The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this subsection.''

''Section 3. Point of order against budget resolutions that fail to establish a glide path for a balanced budget by 2002 and set forth a balanced budget in 2002 and beyond.—

(a) Section 904 of the Congressional Budget Act of 1974 is amended by inserting ''301(j),'' after ''301(i),'' in both places it appears.

(b) Add the following new section immediately following Section 904 of the Congressional Budget Act of 1974:

''SEC. . Section 301(k) may be waived (A) in any fiscal year by an affirmative vote of three-fifths of the whole number of each House; (B) in any fiscal year in which a declaration of war is in effect; or (C) in any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.''

MOTION TO REFER, AS MODIFIED

Mr. BUMPERS. Madam President, I ask unanimous consent that I be permitted to modify the motion. I have discussed this with the Senator from Idaho. It is a motion that would require a 60-vote majority instead of a simple majority one place in the bill.

The PRESIDING OFFICER. The Senator has that right.

Without objection, the motion is so modified.

The motion, as modified, is as follows:

Motion to refer House Joint Resolution 1 to the Budget Committee with instructions to report back forthwith House Joint Resolution 1 and issue a report, at the earliest possible date, which shall include the following:

''Section 1. Point of order against budget resolutions that fail to set forth a glide path to a balanced budget.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

''(j) It shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that fails to set forth appropriate levels for all items described in subsection (a)(1) through (7) for all fiscal years through 2002.''

''Section 2. Prohibition on budget resolution that fail to set forth a balanced budget.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

''(k) Congressional Enforcement of a Balanced Budget.—

''(1) Beginning in 2001, it shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that sets forth a level of outlays for fiscal year 2002 or any subsequent fiscal year that exceeds the level of receipts for that fiscal year.

''(2) The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this subsection.''

''Section 3. Point of order against budget resolutions that fail to establish a glide path for a balanced budget by 2002 and set forth a balanced budget in 2002 and beyond.—

(a) Section 904 of the Congressional Budget Act of 1974 is amended by inserting ''301(j),'' after ''301(i),'' in both places it appears.

(b) Add the following new section immediately following Section 904 of the Congressional Budget Act of 1974:

''SEC. . Section 301(k) may be waived (A) in any fiscal year by an affirmative vote of three-fifths of the whole number of each House; (B) in any fiscal year in which a declaration of war is in effect; or (C) in any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

''SECTION 4.—Section 306 of the Congressional Budget Act of 1974 is amended as follows:

(1) Immediately following ''Sec. 306.'' insert the following:

''(a) Except for bills, resolutions, amendments, motions, or conference reports, which would amend the congressional budget process''.

(2) Add the following at the end of subparagraph (a):

''(b) No bill, resolution, amendment, motion, or conference report, which would amend the congressional budget process shall be considered by either House.''

Mr. BUMPERS. Madam President, I have more to say on this amendment than we have time for tonight. Besides that, the Senator from Georgia, Senator NUNN, wants to be recognized a little late to offer an amendment, and I know the Senator from Idaho has been here a long time and he is tired.

Let me start off by making a few introductory comments about this whole process and not just about my amendment. This afternoon, as I reflected on the talking thoughts on the amendment, I thought, what on Earth is going on when we have an amendment before this body that was passed by the House of Representatives to amend the Constitution of the United States—we took it, and it is now House Joint Resolution 1, and we have probably voted close to 30 times. We voted about 70 times since we came in on January 3. We voted on amendments on this about 30 times and every single one of them, I believe, has been tabled. The distinguished floor manager on the Republican side of the aisle has moved to table every amendment and has prevailed almost on a straight party line vote on every amendment.

Madam President, I think party discipline, at times, is a wonderful thing. That is what this Nation is all about. We have two parties. I hope we can keep it that way. I am not for third parties. I hear some sophistry about how that would work wonders for the country. I think we have done reasonably well with two political parties and I believe in party unity and discipline—to a point.

But I would like to call the attention of my colleagues to how really bizarre this is. Here we are talking about the organic law of the Nation which has provided us with 205 years of unfettered freedom because of the brilliance of James Madison, John Jay, Alexander Hamilton, George Washington, and all of the other Founders who crafted that brilliant document. Can you imagine in Philadelphia in 1787 George Washington, presiding over the Constitutional Convention to craft that document, saying, James Madison and I have sat down and crafted this amendment and we will broach no changes; and somebody says, Mr. Chairman—or whatever his title was—I have an amendment that I think would improve that, and James Madison says, Mr. President, I move to table that. That is the end of that amendment. Alexander Hamilton, who believed in more central Government—and I did not particularly agree with him, but he was a brilliant man—says, Mr. President, I have an amendment to change three words here that I believe would improve article and amend article IV on unlawful searches

and seizures; and Madison says, I move to table that. Voted on and that is it.

Who here believes that the Constitution of the United States would be the document it is today if at the Constitutional Convention the Founding Fathers had carried on in such a manner? There are 100 Senators—two from each State of the Nation—and we have a right to offer amendments, but they are not even being entertained. They are just being summarily dismissed because they say, if we change this document, House Joint Resolution 1, this amendment to the Constitution, if we change one jot or tittle, the House will not take it back.

Deliberative body? Well, that is laughable. We are not deliberating. Some people here are trying to actually improve it. Others, like me, are trying to kill it. But everybody gets the same treatment —they get tabled, harassment, and out of here.

Going back to the Bill of Rights, the first 10 amendments to the Constitution were submitted in 1789, the same time the Constitution was ratified; and the first 10 amendments, which were the Bill of Rights, were adopted at the same time the Constitution was. Since that time, Madam President, there have been 11,000 proposals offered in the U.S. Congress to tinker with that document—11,000. We have had almost one a day since we came back here January 3, 1995. The last time I checked, 35 constitutional amendments had been proposed to the Constitution since January 3. That is the reason the other day—I think I mentioned this once before, but it is worth repeating. I went down to Wake Forest to speak at a convocation celebrating the 100th year of Wake Forest Law School. When they called me and said, ''What will your topic be?'' I said, ''I will call it 'Trivializing the Constitution.' '' That is what I spoke on, the trivializing the Constitution. There were 11,000 efforts to change a document that the most brilliant minds ever assembled under one roof put together, which has made this country what it is.

And so we come here with an amendment that is as unworkable as prohibition. You know, everybody in this country wanted to put a social policy in the Constitution. They said we want to stop people from drinking, so we put it in the Constitution. About 14 years later we took it out. Do you know why? Because we found we had made a miserable mistake. Regardless of how you feel about drinking, that was not the issue. The issue was that we were setting social policy in the Constitution, and all we got out of it was organized crime—Al Capone, the founder of rumrunning in this country.

Organized crime is still firmly in place in this country. We were tinkering with the Constitution, and a misguided amendment caused it. The figures on this thing are so staggering, people do not want to hear it. Senators do not want to hear it. People who watch C-SPAN do not want to hear it. They do not relate to it. Think about it—promising the American people they would balance the budget by 2002, but first we are going to spend $471 billion more in tax cuts and increase defense spending— If you took Social Security out of the equation, as the Republicans have suggested, approximately $2 trillion in spending would have to be cut to balance the budget by 2002. How many people in this body do you think, Madam President, believe we are going to cut $2 trillion in 7 years? The answer is in the question.

Unhappily for all of us, the constitutional amendment is popular. A vote against House Joint Resolution 1 will not be the first unpopular vote I ever cast. But, as Woodrow Wilson said in his inaugural address, the biggest question for every politician who is a public servant in the mode of a statesman, the biggest question he always has to ask himself, is what part of the public demand should be honored and what part should be rejected.

Politicians try to provide everything on the agenda for everybody. We have a $4.5 trillion debt to prove that. But statesmen have to ask themselves, does the proposal expand individual liberties? Does it provide for domestic or international tranquility? Does it educate our people? Does it provide for more health and general welfare? Or is it something to run for reelection on in 1996?

I do not intend to denigrate or debase my colleagues, but I daresay, Madam President, if this amendment were being voted on in secret and every Senator knew that not one soul would ever know how he or she voted, you might possibly muster 40 votes max.

But the reason the amendment is so popular is because the people of this country think that if you put language in the Constitution, something magical happens. What they do not understand is that there is a real possibility that nothing would happen. For example, Congress might be able to ignore the constitutional requirement if the courts were unwilling or unable to enforce it, as some proponents of the balanced budget amendment suggest.

On the other hand, Congress might blindly follow the provisions of this amendment in a manner that causes economic ruin. For example, say we are in the midst of a recession, headed for a depression. We need to unbalance the budget in order to spend money to create some jobs because the unemployment rate has skyrocketed, as occurred during the Depression when it was 25 percent. If you have 41 people in the Senate who say, ''I am not voting to unbalance the budget under any conditions'', you could be faced with is an apocalypse. And I am telling you, Madam President, that is not a farfetched idea. I have watched, on this floor since I have been in the Senate, people vote to spend money on everything they could find and then when it came time to raise the debt ceiling they said,

No! I am not going to vote to raise the debt ceiling. I just got through voting for $250 billion for a defense budget and for the space station and everything else I could find to spend money for, but I am not voting to raise the debt ceiling. I am going to go back and tell my people what a great fiscal conservative I am.

The people of this country, and indeed the Congress, in their infinite wisdom have seen fit to tinker with the Constitution very, very rarely. As Norman Ornstein said amending the Constitution should be ''the fix of last resort''. This is a perfect description, ''the fix of last resort.''

To my friends who pride themselves on being conservatives, which I do when it comes to fiscal matters, do you know what Robert Goldwin at the conservative American Enterprise Institute said? ''True conservatives do not muck with the Constitution.'' All you conservatives, let me repeat it. This great man at the American Enterprise Institute said, ''True conservatives do not muck with the Constitution.''

My motion would refer House Joint Resolution 1 to the Budget Committee with instructions that the Committee report language which includes the requirements of my proposed amendment. Now, Madam President, my proposed amendment is designed for those members who really do not want to muck with the Constitution. I invite my colleagues to look at these two charts which describes why my proposed amendment is designed to do what needs to be done legislatively and, in my opinion, has more force and effect than a constitutional amendment.

Can you believe that we are debating an amendment to balance the budget, and at the same time people are saying, ''let's go on a spending spree until the year 2002 and pray to God that people have forgotten what we said in 1995''. Let us not deal with the deficit until the year 2002.

I say let us start right now. My proposed amendment, if enacted into law, would require that we will have a balanced budget by the year 2002. The constitutional amendment calls for a balanced budget, but contains no enforcement mechanism that would actually require a balanced budget. If that is not a dramatic difference, I do not understand the mother tongue, English. My amendment requires a balanced budget; the constitutional amendment calls for one. It does not demand it at all.

My proposed amendment says you can waive the balanced budget requirement by a three-fifths vote. So does the constitutional amendment. My proposed amendment says you waive it if there is a declaration of war. The constitutional amendment says the same thing. My proposed amendment says if we are in a military conflict, a majority of each house can waive the requirement. The constitutional amendment includes the same provision.

My proposed amendment would require that each annual Budget Resolution passed by Congress between now and 2002 contain a glide path showing how we will get to a balanced budget by 2002. Everybody says we cannot balance the budget overnight. Everybody knows we cannot do it overnight.

My proposed amendment is enforceable because a budget resolution could not be passed if it did not balance the budget in 2002. If a budget resolution is not passed, Congress is prohibited from enacting appropriations and tax bills. The constitutional amendment, on the other hand, may or may not be enforceable. Nobody knows for sure.

The most beautiful thing about my proposed amendment is it is more enforceable than the constitutional amendment and it does not touch the Constitution.

My proposed amendment also protects Social Security. The constitutional amendment raids the Social Security system to the tune of $681 billion between now and the year 2002.

My proposed amendment says, ''Action now.'' Do you know what the constitutional amendment that we are debating here says? ''No requirement for action until the year 2002, at the earliest.''

That is right, America; 7 years before we even start on this whole thing and no requirement to do otherwise.

Madam President, I have some more things I want to say, but everybody wants to get out of here. My distinguished friend from Georgia has an amendment he wants to lay down and discuss for a moment.

So I ask unanimous consent that I be permitted to yield to the Senator from Georgia for that purpose, that my motion be temporarily laid aside, and that it become the pending business when we return to House Joint Resolution 1 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia.

Mr. NUNN. Madam President, I thank my friend from Arkansas. I appreciate his yielding at this point. I do have two amendments. I would like to call up both amendments for the purpose of making sure they are eligible to be voted on, and then I will talk about one amendment tonight relating to judicial review.

AMENDMENT NO. 299

(Purpose: To permit waiver of the amendment during an economic emergency)

Mr. NUNN. Madam President, I would like to call up an amendment relating to economic emergency, which is amendment No. 299, and ask it be sequenced.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 299.

Mr. NUNN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike lines 18 through 25 and insert the following:

''SEC. 5. The provisions of this article shall not apply to any fiscal year—

''(1) if at any time during that fiscal year the United States is in a state of war declared by the Congress pursuant to section 8 of article I of this Constitution; or

''(2) if, with respect to that fiscal year, the Senate and the House of Representatives agree to a concurrent resolution stating, in substance, that a national economic emergency requires the suspension of the application of this article for that fiscal year.

In exercising its power under paragraph (2) of this section, the Senate and House of Representatives shall take into consideration the extent and rate of industrial activity, unemployment, and inflation, and such other factors as they deem appropriate.''

AMENDMENT NO. 300

(Purpose: To limit judicial review)

Mr. NUNN. Madam President, I ask unanimous consent that amendment be set aside and that I call up amendment No. 300 at this point in time. I ask it be sequenced.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 300.

Mr. NUNN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 3, after the period insert ''The power of any court to order relief pursuant to any case or controversy arising under this article shall not extend to ordering any remedies other than a declaratory judgment or such remedies as are specifically authorized in implementing legislation pursuant to this section.''.

Mr. NUNN. Madam President, the amendment that is amendment No. 300 relates to judicial review under the balanced budget amendment that is now pending before the Senate. I intend to offer this amendment and have it voted on on Tuesday, and I am very hopeful this body will agree to the amendment.

My amendment would provide that the power of any court to order relief under the balanced budget amendment could not extend to any relief other than a declaratory judgment or such remedies as may be specifically authorized in legislation implementing the balanced budget amendment.

Madam President, this amendment is identical to the Danforth amendment that was agreed to last year as a part of the balanced budget amendment which was voted on last year but not passed. I voted for that amendment but I did so after the Danforth amendment was incorporated in that amendment because I felt, and continue to feel, that this is absolutely essential if we are going to pass a constitutional amendment, if it is going to be ratified by the States, and if it is going to be able to function properly under our system of Government.

In my judgment, adoption of a balanced budget amendment without a limitation of judicial review would radically alter the balance of powers among the three branches of Government that is fundamental to our democracy. As former Deputy Attorney General Nicholas Katzenbach has noted:

[T]o open up even the possibility that judges appointed for life might end up making the most fundamental of all political decision[s] is not only an unprecedented shift of constitutional roles and responsibilities but one that should be totally unacceptable in a democratic society.

Former Solicitor and Federal Judge Robert Bork has expressed his grave concern that the balanced budget amendment:

* * * would likely [result in] hundreds, if not thousands of lawsuits around the country, many of them on inconsistent theories and providing inconsistent results.

Under the Constitution, the taxing and spending powers are vested in the two policymaking branches of Government, the legislative and executive branches. These branches are elected by the people. The powers to tax, borrow, and pay debts are expressly vested in the Congress under article I, section 7, 8, and 9, under the 16th amendment. The power to appropriate funds is expressly vested in the Congress under article I, section 9. The power to implement and execute the laws made under the powers of Congress is vested in the President, under article II, section 1.

The Founders of this Nation fought a revolution in opposition to taxation without representation. They would have found it inconceivable that the power to tax might be vested in the unelected, lifetime tenured members of the judicial branch of government.

As a general matter, the judiciary has treated questions involving the power to tax and spend as political questions that should not be addressed by the judicial branch. Our constituents view the balanced budget amendment as a means to address taxation and spending decisions over which they feel less and less control. They would be sorely disappointed if not outraged if the result of the amendment is to transfer the power to tax and spend from elected officials to unelected life tenured judges.

Madam President, I have no doubt that a majority, a large majority of the people I represent in the State of Georgia, are in favor of a balanced budget. Many of those people, if not most, would favor the sort of last resort effort to balance that budget by constitutional amendment, if that is the only way to do it, and that is what we are debating now. I do not believe, however, very many constituents in the State of Georgia would want the Federal courts to make these crucial decisions. I do not believe they would want any risk of that attendant to a

constitutional amendment that we are voting on in the next few days.

One of the arguments that has been offered against the judicial review limitation—and of course we voted on a very similar amendment to my amendment, sponsored by the Senator from Louisiana, Senator JOHNSTON, last week. It was defeated by 47 votes for it, 51 votes against it. And one of the arguments that was offered against that Johnston amendment which I voted for, and was very disappointed when it did not pass, is that it is unnecessary because the Supreme Court has tended to treat taxation and spending issues as political questions not appropriate for judicial review.

I do not agree with this argument against the Johnston amendment and against the Danforth amendment. There have been unfortunate encroachments on the political question doctrine which demonstrate the potential and the high risk for an activist judiciary to assert the power to tax.

In testimony on the balanced budget amendment, Assistant Attorney General Walter Dellinger has cited the case of *Missouri* v. *Jenkins*, 495 U.S. 33. That was a 1990 case in which the Supreme Court considered a decision by a district court to order specific taxes in order to implement the lower court's desegregation plans. Although the Supreme Court in that case did not approve the district court's imposition of specific taxes, the Supreme Court approved a decision by the court of appeals mandating taxation so long as the specific details were left to the State.

In other words, to those who say this is not a danger, I say look at the Missouri case, where the court, upheld by the Supreme Court, made it clear that the lower court's decision could hold, mandating taxation by the State.

If that precedent holds and somebody comes in under this constitutional amendment and makes a case that has standing, they would very likely find some Federal judge who would be willing to take this case, the Missouri case, and act on it and perhaps even order taxation under that theory.

If the Supreme Court can permit Federal courts to order the imposition of taxes to address nonbudgetary issues—that is what the Missouri case was—in my view, it is quite likely the court would consider it appropriate to order taxation to meet the specific constitutional objective of a balanced budget. It seems to me it is more likely that they would order it in that case than it even was in the Missouri case.

Madam President, an alternative argument against this amendment is, because there have been relatively few cases in which the Supreme Court has stretched the political question doctrine, we can rely on legislative history of this balanced budget amendment to discourage the court from asserting new powers over the budget.

Again, I do not agree. Legislative history has not been particularly helpful. In fact, it may even be considered harmful. The discussion in the committee report, for instance, on page 9, the committee report that brings out this amendment, expressly declines to state that the amendment precludes judicial review. Instead, the report states—this is the report before us by the Judiciary Committee:

> By remaining silent about judicial review in the amendment itself, its authors have refused to establish congressional sanctions for the Federal courts to involve themselves in fundamental macroeconomic and budgetary questions while not undermining their equally fundamental obligation to say what the law is.

Madam President, there is a vast difference between actually prohibiting judicial review as opposed to merely refusing to establish congressional sanction for judicial review. That is what this committee report does.

An activist court—we have many Federal judges that are still in activist category in a number of appeals courts—an activist court faced with a lawsuit based upon the balanced budget amendment, in my view, will have no trouble pointing out that Congress consciously decided not to prohibit judicial review. Legislative history of the balanced budget amendment underscores the potential for such a ruling. Last year, the Senate adopted the Danforth amendment expressly restricting judicial review. This year, the Senate rejected a similar amendment offered by Senator JOHNSTON. While the defeat of an amendment does not necessarily provide conclusive legislative intent of a desire to achieve the opposite result, it constitutes powerful evidence of intent when the issue is separation of powers and the Congress specifically rejects a proposal to frame a constitutional amendment in a manner that would protect the prerogatives of the legislative branch.

The legislative history in the House is even more of a problem. As Senator LEVIN noted, on February 15, Representative SCHAEFER, a lead sponsor of the House amendment, said—this is one of the lead sponsors on the House side, Representative SCHAEFER:

> A Member of Congress, or an appropriate administration official, probably would have standing to file suit challenging legislation that subverted the amendment.

He went on, the same Representative SCHAEFER, one of the prime authors of this amendment on the House side, quoting him again:

> The courts could invalidate an individual appropriation, or attack that. They could rule as to whether a given act of Congress, or action by the Executive, violated the requirements of this amendment.

In other words, Madam President, one of the prime authors of this amendment on the House side explicitly invites the court to get in the rulings on tax and spending decisions.

I find this very troubling. The statements by a lead sponsor in the House represents a wide open invitation for unelected life tenure members of the judicial branch to make fundamental policy decisions on budgetary matters. I have the highest respect for the judiciary. I do not believe, however, that making budget decisions is a role that would be sought or welcomed by the American people in terms of Federal judges carrying this out. In fact, I think a number of Federal judges, probably a majority them, would not welcome this kind of responsibility or this kind of jurisdiction. It is certainly not a role that our constituents would expect to be filled by unelected Federal officials. If we start having unelected officials making tax and budgetary decisions, we are basically going to be unraveling the Boston Tea Party in terms of the forefathers when they did not want taxation without representation.

Madam President, another argument in opposition to a limitation on judicial review is that cases will be dismissed because plaintiffs lack standing. As noted in the judiciary report, pages 9 and 10, the powers of the judiciary under article III of the Constitution traditionally have been limited by the constitutional doctrine that a lawsuit cannot be considered by the Federal courts unless a plaintiff can demonstrate that he or she has standing to bring litigation. Under current Supreme Court doctrine, the plaintiff must show that he or she suffered an injury, in fact that the injury is traceable to the alleged unlawful conduct, and that the relief sought would redress the injury. The Judiciary Committee report asserts that it would be vastly improbable that a litigant could meet these standards.

Again, I do not agree with that report. Assistant Attorney General Walter Dellinger provided the following examples of individuals who would have standing.

If a crime bill authorizes forfeitures, it thereby increases Federal revenue. A criminal defendant would have standing to challenge a forfeiture on the grounds that the bill was passed by voice vote rather than by a rollcall vote as required by the balanced budget amendment.

Another example from Assistant Attorney General Walter Dellinger is that if the President were to reduce Social Security benefits in order to address the balanced budget amendment, a Social Security recipient would have standing to challenge the President's decision.

It is not too difficult to contemplate other scenarios. If welfare benefits are cut by the President, a welfare recipient could challenge the authority of the President to do so. At least that is the risk. If the President declines to cut welfare benefits, a State could challenge the President's failure to do so. If a State terminates a highway improvement contract because the President cut Federal funds, it is likely that both the State and the contractor would have standing to challenge the President's actions.

In each of these cases, the litigant, whether an individual, a company or a State would have standing because the litigant could meet all three elements of the test of standing: The entity suffered an injury in fact, No. 1; the injury was clearly traceable to the action or inaction under the balanced budget amendment, No. 2; and, No. 3, the relief sought, which would be invalidating the action or mandating a tax or expenditure, would redress the injury.

As Senator JOHNSTON noted on February 15, the experience of the States with balanced budget amendments demonstrates the likelihood that the court will find standing to institute lawsuits under the balanced budget amendment as reflected in litigation that is taking place in Louisiana, Georgia, Wisconsin, and California. Some have suggested that, because the States did not experience a flood of litigation, there is nothing to worry about. Again, I do not agree.

As former Solicitor General and Harvard Law School Professor Charles Fried noted, and quoting him:

> The experience of State court adjudication under State constitutional provisions that require balanced budgets and impose debt limitation shows that courts can get intimately involved in the budget process and that they almost certainly will.

Madam President, it would only take one or two well-placed cases a year to create budgetary chaos during the years that it would take from the time the lawsuit was initiated to the time that it was resolved by the Supreme Court of the United States. It does not take but one case to put clouds over a whole issue, such as bond issues or Treasury notes.

I do not think we are thinking through what we are doing here in not putting an amendment in here that makes this judicial review clear and makes it clear where the limitations are.

Madam President, some have contended that a constitutional provision governing judicial review is not necessary because Congress can restrict judicial review by statute in the future. Again, I dissent. I do not agree.

In the first place, there is no guarantee that such limitations would be placed in the implementing legislation. If we believe judicial review should be restricted under this constitutional amendment, we need to say that and we need to say it now before we pass it and before the States vote on it.

Second, although the courts have sustained certain statutory limitations on judicial review of statutory and common law rights, there is no case in which the Supreme Court has held that Congress could cut off all avenues of judicial review of a constitutional issue.

If there is, I want someone to show it to me. Where is the case by the Supreme Court that says Congress can cut off the right of the Supreme Court to issue a ruling on the Constitution of the United States? I have not seen that ruling.

As noted in the highly respected analysis of the Constitution prepared by the Congressional Research Service:

> [T]hat the Congress may through the exercise of its powers vitiate and overturn constitutional decisions and restrain the right of constitutional rights is an assertion often made but not sustained by any decision of the court.

Let me read that again. The Congressional Research Service says:

> [T]hat Congress may through the exercise of its power vitiate and overturn constitutional decisions and restrain the exercise of constitutional rights is an assertion often made but not sustained by any decision of the court.

Madam President, the only way to ensure the validity of legislation restricting jurisdiction on a constitutional matter is to expressly restrict judicial review in the text of the constitutional amendment. If we do not do that, we are inviting litigation, we are inviting judicial chaos, and we are inviting at least a risk of the fundamental overturning of the balance of powers and the separation of powers between our branches of Government.

I do not believe a conservative body wants to do that. I just cannot believe we want to do that, particularly since we passed the same amendment last year and we have rejected it this year, which is even more of an invitation for the courts to construe that we really are inviting judicial review. It is inconceivable to me that we are not going to get 50 votes to make this clear. It is really literally inconceivable.

Some have asked, ''How can we have a balanced budget amendment and how can it be enforced without judicial review?''

The first thing I would say on that, Madam President, is that we all take an oath to abide by the Constitution. That is part of the oath that we subscribe to when we come into this body. I do not believe that Members of this body will intentionally violate that oath, nor do I believe they will risk the wrath of their constituents by violating the Constitution.

We may have 60 Senators who decide it is not a year for a balanced budget under this amendment, but that is in keeping with the amendment. That is not in defiance of it. It is permitted under the amendment.

If Congress finds that such judicial review is desirable, it can tailor a statute to meet particular requirements.

I have heard people say, ''You don't need to propose it in this amendment because we can come back by statute and do this.'' It seems to me that that is simply not the case. I do not agree with that.

But I do believe that if we pass this amendment and then we decide that we want some judicial review—I probably will not want it—but if some people decide it, then there is no reason they cannot propose it, because this amendment permits the Congress to grant judicial review by statute if the Congress decides to do so.

So we can tailor a statute to meet requirements in the future. We will have all the flexibility we need to meet that.

Under my amendment, Congress can decide based on experience what remedies are best—whether judicial review should include only declaratory relief or whether it should include injunctions; whether it should be directed only at spending or whether it should include taxes. On the latter, I certainly will adamantly oppose any kind of judicial review that gives the courts the power to set spending or to set taxes. These are decisions Congress should make and it should be made based on experience.

The amendment in its present form, I believe, is defective because it fails to address these issues. It leaves the whole situation ambiguous.

In fact, as I have said, it leaves it worse than ambiguous because we are now debating essentially the same constitutional amendment we had last year. Last year, the Danforth amendment, which precluded this kind of judicial review without expressed statute, was passed. It was part of that amendment. This year, it has been expressly defeated on the floor of the U.S. Senate. And I would submit that any Federal judge would look at that that wants to get involved and they would say, ''There is our invitation that Congress clearly could have precluded it. They consciously precluded it last year, 1994, and they did not preclude it in 1959.'' And some of the authors of the amendment on the House side even invited this kind of judicial review.

Madam President, I know that many of my colleagues have grave reservations about this overall balanced budget amendment because of its impact on congressional spending powers. I understand these concerns, but, frankly, I think that we are down to the point where we have about 40 years of experience and without a constitutional amendment we have simply not come to grips with our fiscal problems.

It is my hope that I can vote for this constitutional amendment. But I will not be able to vote for it unless we make it clear that the judiciary of this country is not going to tax and spend and we are not going to change our form of Government back door by a constitutional amendment that is ambiguous on this question.

I understand the concerns that people have, many concerns about what will happen in various forms of spending under this constitutional amendment. Those concerns are legitimate. Many of those concerns, however, go to the question of whether we are going to ever have a balanced budget at all under any such kind of provision.

I also understand and have great identification with the view expressed by those who supported the Reid amendment on the Social Security exclusion. Some people have described that, in my view, certainly from my

perspective, erroneously as being an amendment that says we are not going to touch Social Security. Far from it. My view and my position on that is the Social Security system has to be dealt with. I do not think we have to do anything that hurts people on Social Security now, or those about to retire. But we cannot continue to borrow the money from the Social Security trust fund every year, put it in the operating fund, and then put a Treasury bill in the Social Security trust fund.

Not only are we doing that, this constitutional amendment, unless we deal with that—and we are not dealing with it now because the Reid amendment was defeated—this constitutional amendment basically invites, it invites raiding the trust fund. Because it defines debt as being debt held by the public. Trust fund debt, putting a Treasury bill in the trust fund, is not debt held by the public. And we have what probably is inadvertent—I hope it is inadvertent—we have an inadvertent provision here in this amendment that basically invites building up more surpluses in the trust fund because you can borrow those funds with impunity from the operating fund and it does not require 60 votes.

Now I think that is another flaw that needs to be dealt with. And I would think the authors of this amendment would want to deal with these flaws. But we are about to put something in the Constitution. I know the argument is that if we make any amendment here it has to go back to the House and that causes trouble; it would cost time.

Madam President, we are about to amend the Constitution of the United States. We are about to put a provision in here that may be here 50 years from now, 100 years from now, or 200 years from now. I cannot conceive of passing something that we believe or a majority believe is flawed in an effort to get something through in a rapid fashion.

I hope that we will deal with Social Security also, because, if we do not, Madam President, in spite of the fact that the 2002 date may be met—and I hope it is under this, if it is passed and ratified by the States; that is we, by the definition of this amendment, may have a balanced budget in 2002—and that would be an improvement, certainly an improvement over the present situation—it really will not be a balance because we will be borrowing about $100 billion that year from the Social Security trust fund and that will count as a balance. We will put a Treasury bill in the Social Security trust fund and then we will say that we have met the balance.

And yet, by the year 2013 or 2014, in that neighborhood, the general operating fund will owe the Social Security trust fund about $3 trillion. We will do that. We will have that kind of debt to the Social Security trust fund even if we meet the mandate in this balanced budget amendment by 2002. And even if we have a balanced budget amendment in 2002, 2003, or 2004, if we meet it every year, we are still going to be rolling up debt. We are still going to have an operating budget that is out of balance because we are operating by borrowing from the Social Security trust fund.

Not only the principal; we are borrowing the interest. What happens when the baby boomers retire? We will wake up in this country and we will find we owe $3 trillion. We no longer will have three workers for every retiree. We will be moving 2½ down to 2.

At some point in the 2020's what we will have to do in order to have a Social Security fund be able to meet its payments, we will have to begin paying back that $3 trillion. Guess what happens then? We will be able to say for a few more years the Social Security trust fund can meet its obligations, but the general fund is going to have to borrow money, or we will have to tax people much, much greater than we are taxing now. In fact, the tax rates could become almost unbearable and almost unworkable in that situation.

Now, I have to say that if we deal with this Social Security question like the REID amendment or some other amendment, and I hope we will, in my opinion, in all honesty, it will take more than 7 years to get the budget balanced. We should not keep the 7-year provision in this bill because we will have to find another $110 or $120 billion in the year 2002. It will probably take more like 10 years.

But I cannot think of anything more disillusioning to the American people than to go through the whole constitutional action here, pass it in the Senate, pass it in the House, pass it in three-fourths of the States, get down do 2002, 2003, 2004 and discover we have been borrowing money from the Social Security every year and that we still do not really have a balanced operational budget.

Only in the macro sense will we have the economic effect, but we will be rolling up debt after debt after debt. We will owe $3 trillion by the time many of our children will be getting to the point they retire. That is going to be very, very disturbing.

It is my hope that we will deal with both of these matters. On the Social Security I know there are a lot of people who feel that way. If we do not deal with it here, it will come up over and over and over again this year. We will be caught in a catch-22. We will be caught in a catch-22.

I may not vote against this amendment because of Social Security, although I may. I have not decided that. I certainly know that I am not going to be able to support this unless we deal with the judicial part of this judicial review.

Assuming we pass this, we are going to be dealing with it, they will continue big efforts on the floor of the House and the Senate to get Social Security out of here—not because Social Security itself does not have to be addressed. It does. We will have to address it separately. We should be addressing the Social Security system not as a way of building up surpluses that mask the true size of the Federal deficit. We ought to be dealing with it to preserve the integrity of that fund over a long period of time, and to make sure that our elderly people are fully protected. I am afraid that is not the way we will go.

Madam President, one final thought. The way this amendment is worded now where it is only debt held by the public that counts in terms of debt, what we have is a major enticement for a loophole in this amendment. The loophole is, if we create more surplus in the trust funds, the Social Security trust fund, the airport trust fund, the highway trust fund, where our gas taxes go, the more surpluses we build up in there, the less we are going to have to do on deficits because those surpluses can be borrowed under the provisions of this amendment with impunity.

They will not count as deficit. They will not count as debt. I think that is a major mistake. I think it is a real flaw in this amendment. I think it will come back to haunt us. If this passes and is ratified we will have people—year after year, and at some point it will probably pass—come to the point where they say we are not going to continue to use these Social Security surpluses. We will stop that.

It may happen on the budget resolution. At some point, the people of this country will find out and we will pass that kind of recusal. It may be on a budget resolution, and then we will be in the dilemma. We will have 7 years to get the budget balanced under this constitutional amendment.

We are not going to be able to change that by statute. We will not be able to meet the requirements, because at some point we are going to come to our senses and quit borrowing that Social Security trust fund each and every year. Then we will be in a situation, I predict, where we will not be able to meet the requirements of the balanced budget amendment by 2002, setting off a whole other round of disillusioned people out there, wondering if we will ever be able to deal with our fiscal problems responsibly.

Madam President, I point these flaws out because I am one who hopes to be able to support this constitutional amendment as a last resort. I think having a constitutional amendment to deal with fiscal matters and budgetary questions is really a tragedy. I think it is an indictment of our entire political process that we are at this point. But we are at this point.

I am one of those who would, if we have the right provisions in this amendment, I will vote for it. If we do not, it will be very difficult, but I will have to cast my vote no. The judicial part to me is enormously important, as I have said over and over again in this presentation, and I have said it privately to my colleagues, and I have said it in many different forums. The

last thing we need added to our budgetary difficulties in this country is to have Federal judges setting tax and spending policy.

Madam President, I understand both of my amendments are now in order and are sequenced, and I will be entitled to have votes.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. Madam President, I have listened carefully to the comments of my colleague. I have to say that I am disappointed he feels the way he does because I believe that the amendment that he offers does not accomplish what he wants to accomplish anyway.

Declaratory relief can be just as intrusive as an injunction. When a court declares a statute unconstitutional, it has the same effect as enjoining the Constitution. Exactly the same thing.

My dear friend and colleague, who I have a great deal of admiration for and who I respect very much, seems to agree that the standing doctrine would give the courts the ability to interfere with the budgetary process, but because it is a possibility that the courts might interfere, certainly not a probability under anybody's viewpoint, that he would like to see that changed. Well, that may be. Others would like to not see it changed.

The Senator cited Missouri versus Jenkins. I have to say Missouri versus Jenkins is a 14th amendment case. The 14th amendment only applies to States. Frankly, it does not apply to the Federal Government. We have never had a ruling from the Supreme Court that applies to budgetary policy or macroeconomic policy in that sense, where the courts will tell a Federal Government to tax and spend.

The courts have maintained an aloofness from that. It is not a question in the mind of most who look at it. Missouri versus Jenkins is an example, but that case only applies to the States. As I say, it is a 14th amendment school desegregation case. The court in Jenkins noted that its result does not duplicate coequal branches or implicate coequal branches of government. There is no way that that case applies.

In fact, even that case is under severe questioning by almost everybody in law today as having gone too far, even though it was a desegregation case, which is considerably different from what we are talking about here.

I am confident, and I have no doubt at all, that we can deal with the judicial activism problem through implementing legislation. Here are some examples, the Norris-La Guardia Act, it is in effect today where Congress prohibited courts from enjoining labor disputes. We abide by it to this day because the courts were enjoining labor disputes. In contract and a whole variety of other areas, the courts were interfering. But the Congress decided to limit the jurisdiction of the courts and to this day we have abided by that limitation. The Anti-Injunction Act, prohibiting courts from enjoining collection of taxes.

We will, in the Judiciary Committee, make it a top priority, and certainly it will be a top priority of mine, to draft implementing legislation to deal with this matter. I hope my colleague will not get himself in such a position that he cannot vote for this when it is the best he is ever going to see under those circumstances.

Mr. President, the balanced budget amendment is a fine-tuned law. It manages to strike the delicate balance between reviewability by the courts and limitations on the court's ability to interfere with congressional authority. But the proposed amendment could destroy that balance and endanger the ability of the balanced budget amendment to effectuate real change in the way Congress does business.

The Nunn amendment, which is virtually identical to Senator DANFORTH's amendment of last year to the balanced budget amendment, would limit judicial remedies to declaratory judgments or such remedies that Congress specifies in implementing legislation.

If the purpose of the Nunn amendment is to prevent judicial activism, to prohibit the courts from ordering the raising of taxes, the cutting of spending programs, or the slashing of the Federal budget, as a vehicle it does not accomplish its aim. Simply put, in many circumstances a declaratory judgment can be as intrusive as an injunction. Consider a hypothetical situation where a Federal spending program is unconstitutional. Whether a court restrains the implementation of the program by injunction or declares that program unconstitutional, the effect is the same: The agency will not enforce the program.

The intrusive nature of declaratory relief was at least implicitly recognized by Justice Felix Frankfurter in *Colegrove* v. *Green*, 328 U.S. 549 (1946). In writing for the majority, Justice Frankfurter opined that a declatory judgment is a statutory equitable remedy that should only be granted when standards for granting an injunction are met.

Moreover, I fear that expressly permitting declaratory relief in House Joint Resolution 1 may be construed by some activist court as a constitutional invitation to interfere in the budgetary process—the very situation that Senator NUNN seeks to avoid.

Finally, I believe this amendment is unnecessary. The long existing and well-recognized precepts of standing, justiciability, separation of powers, as well as the political question doctrine, refrain courts from interfering with the budgetary process. Furthermore, as a further safeguard against judicial activism, pursuant to both article III of the Constitution and section 6 of House Joint Resolution 1, Congress may limit the jurisdiction of courts and the remedies that courts may provide. The Judiciary Committee will study this and draft implementing legislation to prevent undue judicial activism. The proper place to do this is in implementing legislation and not in the body of a constitutional amendment. No constitutional provision presently contains a jurisdictional limitation on courts.

Let me explain at greater length why I think the Nunn amendment is unnecessary:

JUDICIAL ENFORCEMENT

First let me state that I wholeheartedly agree with former Attorney General William P. Barr, who stated that if House Joint Resolution 1 is ratified there is:

> * * * little risk that the amendment will become the basis for judicial micromanagement or superintendence of the Federal budget process. Furthermore, to the extent such judicial intrusion does arise, the amendment itself equips Congress to correct the problem by statute. On balance, moreover, whatever remote risk there may be that courts will play an overly intrusive role in enforcing the amendment, that risk is, in my opinion, vastly outweighed by the benefits of such an amendment.

CONGRESS' POWER TO RESTRAIN THE COURTS

In order to resist the ambition of the courts, the Framers gave to Congress in article III of the Constitution the authority to limit the jurisdiction of the courts and the type of remedies the courts may render. If Congress truly fears certain courts may decide to ignore law and precedent, Congress—if it finds it necessary—may, through implementing legislation, forbid courts the use of their injunctive powers altogether. Or Congress could create an exclusive cause of action or tribunal with carefully limited powers, satisfactory to Congress, to deal with balanced budget complaints.

But Congress should not, as the distinguished Senator from Georgia proposes, limit judicial review to declaratory judgments. I believe that House Joint Resolution 1 strikes the right balance in terms of judicial review. By remaining silent about judicial review in the amendment itself, its authors have refused to establish congressional sanction for the Federal courts to involve themselves in fundamental macroeconomic and budgetary questions. At the same time, this balanced budget amendment does not undermine the court's equally fundamental obligation, as first stated in *Marbury* v. *Madison*, 1 Cranch 137, 177 (1803), to ''say what the law is.'' After all, while I am confident that courts will not be able to interfere with our budgetary prerogatives, I am frank enough to say I cannot predict every conceivable lawsuit which might arise under this amendment, and which does not implicate these budgetary prerogatives. A litigant, in such narrow circumstances, if he or she can demonstrate standing, ought to be able to have their case heard.

It is simply wrong to assume that Congress would just sit by in the unlikely event that a court would commit some overreaching act. Believe me, Congress knows how to defend itself.

Congress knows how to restrict the jurisdiction of courts or limit the scope of judicial remedies. But I do not think this necessary. Lower courts follow precedent, and the precepts of standing, separation of powers, and the political question doctrine effectively limit the ability of courts to interfere in the budgetary process.

Nevertheless, if necessary, a shield against judicial interference is section 6 of House Joint Resolution 1 itself. Under this section, Congress may adopt statutory remedies and mechanisms for any purported budgetary shortfall, such as sequestration, rescission, or the establishment of a contingency fund. Pursuant to section 6, it is clear that Congress, if it finds it necessary, could limit the type of remedies a court may grant or limit courts' jurisdiction in some other manner to proscribe judicial overreaching. This is not at all a new device; Congress has adopted such limitations in other circumstances pursuant to its article III authority.

In fact, Congress may also limit judicial review to particular special tribunals with limited authority to grant relief. Such a tribunal was set up as recently as the Reagan administration, which needed a special claims tribunal to settle claims on Iranian assets.

Beyond which, in the virtually impossible scenario where these safeguards fail, Congress can take whatever action it must to moot any case in which a risk of judicial overreaching becomes real.

STANDING, SEPARATION OF POWERS, AND POLITICAL QUESTIONS

There exists three basic constraints which prevent the courts from interfering in the budgetary process. First, limitations on Federal courts contained in article III of the Constitution, primarily the doctrine of ''standing.'' Second, the deference courts owe to Congress under both the political question doctrine and section 6 of the amendment itself, which confers enforcement authority in Congress. Third, the limits on judicial remedies which can be imposed on a coordinate branch of government—in this case, of course, the legislative branch. These are limitations on remedies that are self-imposed by courts and that, in appropriate circumstances, may be imposed on the courts by Congress. These limitations, such as the doctrine of separation of powers, prohibit courts from raising taxes, a power exclusively delegated to Congress by the Constitution and not altered by the balanced budget amendment.

Consequently, contrary to the contention of opponents of the balanced budget amendment, separation of power concerns further the purpose of the amendment in that it assures that the burden to balance the budget falls squarely on the shoulders of Congress—which is consistent with the intent of the Framers of the Constitution that all budgetary matters be placed in the hands of Congress.

STANDING

Concerning the doctrine of ''standing,'' it is beyond dispute that to succeed in any lawsuit, a litigant must first demonstrate standing to sue. To demonstrate article III standing, a litigant at a minimum must meet three requirements that were enunciated by the Supreme Court in *Lujan* v. *Defenders of Wildlife*, 112 S.Ct. 2130 (19920: First, Injury in fact—that the litigant suffered some concrete and particularized injury; second, traceability—that the concrete injury was both caused by and is traceable to the unlawful conduct; and third, redressibility—that the relief sought will redress the alleged injury. It is a large hurdle for a litigant to demonstrate the ''injury in fact'' requirement; that is, something more concrete than a ''generalized grievance'' and burden shared by all citizens and taxpayers.

Even in the vastly improbable case where an ''injury in fact'' was established, a litigant would find it nearly impossible to establish the ''traceability'' and ''redressibility'' requirements of the article III standing test. After all, there will be hundreds and hundreds of Federal spending programs even after Federal spending is brought under control. Furthermore, because the Congress would have numerous options to achieve balanced budget compliance, there would be no legitimate basis for a court to nullify or modify a specific spending measure objected to by the litigant.

As to the ''redressibility'' prong, this requirement would be difficult to meet simply because courts are wary of becoming involved in the budget process—which is legislative in nature—and separation of power concerns will prevent courts from specifying adjustments to any Federal program or expenditures. Thus, for this reason, *Missouri* v. *Jenkins*, 495 U.S. 33 (1990), where the Supreme Court upheld a district court's power to order a local school district to levy taxes to support a desegregation plan, is inapposite. Plainly put, the Jenkins case is not applicable to the balanced budget amendment because section 1 of the 14th amendment—from which the judiciary derives its power to rule against the States in equal protection claims—does not apply to the Federal Government and because the separation of powers doctrine prevents judicial encroachments on Congress' bailiwick. Courts simply will not have the authority to order Congress to raise taxes.

POLITICAL QUESTION

The well-established political question and justifiability doctrines will mandate that courts give the greatest deference to congressional budgetary measures, particularly since section 6 of House Joint Resolution 1 explicitly confers on Congress the responsibility of enforcing the amendment, and the amendment allows Congress to ''rely on estimates of outlays and receipts.'' Under these circumstances, it is extremely unlikely that a court would substitute its judgment for that of Congress.

Moreover, despite the argument of some opponents of the balanced budget amendment, the ''taxpayer'' standing case, *Flast* v. *Cohen*, 392 U.S. 83 (1968), is not applicable to enforcement of the balanced budget amendment. The Flast case has been limited by the Supreme Court to establishment clause cases. Also, Flast is, by its own terms, limited to cases challenging taxes created for an illicit purpose.

I also believe that there would be no so-called congressional standing for Members of Congress to commence actions under the balanced budget amendment. Because Members of Congress would not be able to demonstrate that they were ''harmed in fact'' by any dilution or nullification of their vote—and because under the doctrine of ''equitable discretion,'' Members would not be able to show that substantial relief could not otherwise be obtained from fellow legislators through the enactment, repeal, or amendment of a statute—it is hardly likely that Members of Congress would have standing to challenge actions under the balanced budget amendment.

Mr. President, I believe it is clear that the enforcement concerns about the balanced budget amendment do not amount to a hill of beans. The fear of the demon of judicial interference is exorcised by the reality of over a century of constitutional doctrines that prevent unelected courts from interfering with the power of the democratic branch of Government and that bestow Congress with the means to protect its prerogatives.

Madam President, I will over the weekend try to answer every question that he has raised because I know that he is raising sincere questions. We have answered some of them, but we will answer all of them.

I hope he will keep his options open, because this is no small matter. We have worked on this ever since I have been in the Senate. It has been Democrats and Republicans. We have no way of pleasing everybody in this body or that body. It has taken a consensus. It has taken the work of literally hundreds of us to get to this point.

I wish I could accommodate every Senator who wants to change something here, but I cannot. Anybody who says that Social Security debt is not public debt I do not think understands the budget. The fact of the matter is we owe that as the Federal Government, and we owe it to the public from whom it is borrowed. And that is every senior citizen in this country that will exist at the time those notes come due.

But be that as it may, we have done the best we can. I believe the amendment will be voted up next Tuesday, but if it is voted down, so be it. I have lived with it as long as anybody. I have done everything I possibly can to satisfy everybody. So has Senator SIMON and others who have worked on this,

and there is just no way we can do that.

Frankly, it is a choice between doing nothing, again, or doing what we can do. That is what it comes down to. I think when the votes are cast next Tuesday, we are going to do what we can do because everybody here knows we have to take drastic action. We can no longer afford to let this thing go; we just no longer can afford to do it.

I have a lot of respect for my colleague from Georgia, and I would like to accommodate him in every way. I wish I could. I always try to do that with him because he is one of the great Senators here, and I am not just saying that. I know that and I feel that, and he is my friend. But I just plain do not believe that a constitutional case can be made that will allow the courts to interfere in the budgetary process of the Congress without the Congress slapping the living daylights out of the courts.

I suppose anything is possible, but with the amendment that he has, declaratory judgment relief may put us in a bigger bind than not having it there at all. That is why I did not like that last year, to be honest with you. It would be a lot better for us to work on restricting the jurisdiction of the court, which we can do, as we did in the Norris-LaGuardia Act, and a number of other cases, and do it in a straight-up, intentionally good way. It would pass overwhelmingly if not unanimously in both bodies. We can do that and do it right without scuttling the one chance in history to get spending under control and to get our priorities under control, part of which the distinguished Senator from Georgia and I would fight our guts out for, and that is the national security interests of this country.

The only way we are ever going to get to that point where we really start being concerned in the Federal Government about the real priorities of government, especially the Federal Government, is to have this consensus, have it written into the Constitution whereby we have a rule that requires us to do something. This is our chance.

If I could make it perfect, I would do that. There are ways that I would write this differently if I were the sole arbiter or dictator in this body. I am sure that is true with just about everybody in this body. But we come to a point sometimes in this life where we have to do the best we can.

Frankly, if the distinguished Senator insists on having these amendments added to it, we lose votes otherwise. And we lose anyway if his vote is the deciding vote in this matter, and it very well may be—I suspect it is—or at least comes close to being. I am not going to give up no matter who votes against this.

To make a long story short, I wish I could accommodate him. So do a lot of others. I would always accommodate my friend from Georgia, if I could. But we always have 535 people we have to accommodate around here if we do that.

Look, I believe we have done the best job we can to bring an amendment to the floor of both Houses. This amendment has passed before. I believe my colleague has voted for it before. The last one did have this declaratory judgment in, and I did not like that and neither did a lot of others, but we swallowed hard and took it at that time because the Senate had to pass it, and we did not pass it, by the way. We lost by four votes. It did not work. We did get Senator Danforth. But the fact of the matter is, it did not pass.

Mr. NUNN. Will the Senator yield?

Mr. HATCH. I will be glad to.

Mr. NUNN. I thank my friend from Utah. I know how hard he has worked on this. I do know, having managed bills on the floor, that you cannot accommodate everyone. I understand that. You have to count the votes and make those judgments. I respect that.

As my friend knows, I have immense respect for him and his leadership in this matter and on every other matter. The reason I put in the Danforth amendment, as you know, the Johnston amendment had nothing in it about declaratory judgment, and that was voted down. The Danforth amendment had been accepted. I would just as soon have left out the declaratory judgment part. That was put in because that amendment was accepted by the Senator from Utah and the Senate last year.

I have another amendment here that basically says:

> 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 adopted pursuant to this section.

I am perfectly willing to modify my amendment and substitute this, which leaves out any reference to declaratory judgment. I can do that now, or if you want to look it over.

Mr. HATCH. I have to say that is preferable. But I also have to say, I think that my friend knows how I feel about him; I do not have a person I look up to more than my friend from Georgia in this whole body. But I am worried if my friend insists that either language has to go in here—I would like to accommodate him—but if he insists on it, I think this battle may well be over, because even if we could pass it here, I am not sure we can over there.

They have done a good job. It comes down to doing the best we can. I have to say, I can make this amendment more perfect. I can give you a variety of ways of doing that, but I cannot get a consensus to go with me. It has been a hard thing for me, too.

Look, I spent my lifetime, as the distinguished Senator has, in the law. I hold the ABA rating for Martindale-Hubbell, and I really feel deeply about the law. I feel deeply that we could write other things in here that might make it more perfect—no doubt about it—but I cannot get a consensus. I hope my friend will consider that because we worked our guts out to get this here. This is the last chance I think we may ever have to pass it.

I have to say that that amendment, even if that were accepted, would do very little more than what we can do by doing good implementing legislation afterwards. And I promise my friend that I will write that with him to his satisfaction and help get it through both Houses of Congress, and I think we can do it before the summer is up.

But let me tell you, I think it will work just as well as any other change where we have limited jurisdiction of the courts. I will work together with him to do that. I do not think my friend has any doubt that Congress is going to zealously guard its rights. If any court—if any court—tries to infringe on our budgetary process, we are going to slap that court down so fast their heads are going to be spinning.

Mr. NUNN. I say to my friend from Utah, I have two problems with that argument. If Congress is going to zealously guard this right, this is the time to do it when we are amending the Constitution, because once you have put it in the Constitution, you have elevated the whole matter to the judges and the judges then decide their responsibility and their duties under the Constitution. And there is no case that indicates that the Supreme Court is willing for Congress to make the final decision about which jurisdiction the courts have in interpreting the Constitution of the United States.

Mr. HATCH. There are a lot of cases—I will try to look them up for the Senator—where the court has deferred completely to Congress, and in every budgetary case of congressional budgetmaking, the courts have stayed out of them.

Mr. NUNN. I say to my friend, I think he is absolutely sincere in that, and I hope his legal arguments will prevail both in this body and in the courts if this amendment becomes law.

I also will say, those who passed the 14th amendment to the Constitution that resulted in an interpretation in the Jenkins versus Missouri case, I suspect those people would have been shocked to find that the Federal courts used the 14th amendment to require a State to raise taxes.

I doubt very seriously if any of the authors of the 14th amendment anticipated that later on the Federal courts were going to require a State to raise taxes. I think they would have been in pretty much the same position you are in now. They would have argued vigorously that it would never happen. But it did happen. I think it could happen in this manner. It may even be more likely here in dealing with budgetary matters and putting an explicit provision into the Constitution.

Mr. HATCH. If my friend will yield, I think that is not a great concern. I will

tell you why. First of all, Jenkins versus Missouri was a desegregation case where the court decided to enforce desegregation the way it did, and it used the 14th amendment, which only applies to the States. It cannot be used to apply to the Federal Government.

Mr. NUNN. This amendment can.

Mr. HATCH. Not really. In section 6, it says, ''Congress shall enforce and implement this article by appropriate legislation.'' In other words, we have constitutional impetus. If my friend would work with me to come up with implementing legislation that would restrict the courts—which it will—and which will pass overwhelmingly in both bodies, we have the total authority and direction under this amendment to do that. I cannot imagine any court in the land that would ignore that mandate in a constitutional amendment; I just cannot.

Mr. NUNN. My problem is, I say to my friend—and I know he is an eminent legal scholar, but there are other constitutional scholars, such as Nicholas Katzenbach, Robert Bork, Mr. Freed, Larry Tribe, and a number of others, who fundamentally disagree with that analysis.

Mr. HATCH. But they cannot disagree with the fact that, look, there is no provision in the Constitution today, and neither will this be a provision, that will limit judicial review. That is a premise I think we have to agree with.

Mr. NUNN. The 11th amendment to the Constitution is an explicit part of the Constitution, and it does limit judicial review. It says:

''The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.''

Mr. HATCH. We are talking about implementing legislation mandated by a constitutional amendment that allows us—in fact, mandates us—to come up with implementing legislation to enforce this article. That is different from that. I agree the courts can have judicial review—I do not think there is any question about that—on anything they want to take jurisdiction of, but they have to abide by section 6. ''The Congress shall enforce and implement this article by appropriate legislation.'' And they will abide by that. I do not think Judge Bork or Freed or Dellinger, any of them, would say that is not going to be abided by if you and I and we pass it through Congress, do legislation implementing this that says the courts do not have the power to do so.

Mr. NUNN. My problem is, that is a big ''if.'' If we cannot do it now because there are people who oppose it here, and if we cannot make this clear now when you and I both agree that we do not want the courts involved in this, what makes the Senator believe we can do it by statute?

Mr. HATCH. It would be easy to do by statute because I believe——

Mr. NUNN. Why, when one of the authors of the amendment on the House side says he wants judicial review? Evidently, there are people over on the House side that want judicial review. Otherwise, the Senator would not be in the box he is in, in terms of not being able to get this amendment accepted.

Mr. HATCH. He was a cosponsor of the amendment. He is not even an attorney. He is an intelligent person but not a constitutional scholar. I do not think that anybody doubts that his comment that he wants judicial review means a doggone thing.

Mr. NUNN. To get legislation passed, we do not have to get 50 percent of the constitutional scholars, we have to get 50 percent of the people voting.

Mr. HATCH. Right. I do not think the Senator from Georgia doubts for a minute that we can get 51 percent in each body to pass implementing legislation that would limit the jurisdiction of the courts in this matter.

Mr. NUNN. I would not have doubted it until we started debating this several days ago and, to my surprise, I saw the Johnston amendment defeated. I would not have doubted it until then. I cannot conceive a U.S. Senate—now a conservative majority—leaving in an ambiguity about whether the Federal courts are going to be given the license or invitation to take over taxing and spending decisions under a constitutional amendment. I could not conceive that until 2 weeks ago.

Mr. HATCH. Remember that I as the manager of the bill led the fight to defeat that amendment. I will lead the fight to make sure the implementing legislation does what the Senator from Georgia wants it to do.

There is no way that this amendment solves every problem with regard to budgeting or with regard to balancing the budget that can possibly come up. There is no way you can do that without writing a 300-page statute. And even then you cannot do it.

So what I am saying is that I hope my colleague will at least let me work on answering his questions over the weekend. I hope he will look at the answer and keep his powder dry on this and look at the fact that we have done our single best—our collective best, really—to come up with an amendment that is the only one we can come up with. It will work. We can implement it.

The implementing language can be the way the Senator would like it to be, I have no doubt in my mind. I do not think the distinguished Senator from Georgia has much doubt that we can pass the implementing legislation on this. I have even gotten the acquiescence of the Speaker of the House that he will work hard to get it passed. I do not have any doubt at all that we will do that.

The Johnston amendment—even if it were accepted—would still have to have implementing legislation one way or the other. We can do what the Senator wants done, and I have no doubt that we can—and I do not think anybody doubts that, including the Senator from Georgia especially, if we all come together—and still make that giant step to try to get spending under control.

Mr. NUNN. I say to my friend that there is a vast difference in having to pass implementing legislation in order to block a court from exercising jurisdiction and having to pass implementing legislation if they are going to have jurisdiction.

If we pass this amendment, the implementing legislation would be required, but in the absence thereof, the courts would have no jurisdiction. If we do not pass this amendment, it is my great fear that the courts will have jurisdiction unless we pass implementing legislation; and even if we do, the courts can say that implementing legislation exceeds the powers of Congress to limit their constitutional review because they have jurisdiction over the Constitution. When we put this in there, it is an invitation to assert that jurisdiction. Maybe they would not do it. Maybe it would not happen next year or the year after or in 5 years. But we have a risk that at some time this amendment—without clarity on the judicial review provision—could change the balance of powers in this country and basically eliminate a whole part of the separation of powers. I do not think the people of this country really want that.

Mr. HATCH. That is true in every provision in the Constitution. The courts have the right of judicial review if they want to exercise it. If we take that position, we would have to exclude them from everything in the Constitution that we do not want them to be involved in. The fact is that the courts have been scrupulous, for the most part—other than in Jenkins—in these areas. Jenkins does not apply because it is a 14th amendment case. But even then it is held in disrepute by most scholars because it went too far. Still it was not on point, nor can it be used on point.

If we are going to have runaway courts, it will not make any difference what we write into this amendment. The fact is that we have to have some faith in the courts that they are going to live within the constraints that the Constitution allows for. In this particular case we have article III, which allows us to restrain or restrict the jurisdiction of the courts, which I propose we can do in implementing legislation. And we have section 6 here of the amendment, which tells us we have to implement this and enforce this legislation.

So all I am saying is that I am not sure we are arguing differently. I am concerned, just like my friend from Georgia is. But I think we can resolve

it by working together to get it resolved without scuttling the whole effort that has now taken almost 4 solid weeks on the floor.

Mr. NUNN. I say to my friend that I thank him for listening, and I thank him for his concern and leadership. I assure him that until the final vote, I will continue to listen to him and try to work with him. It is my hope, though, that there would be some revisiting going on between the people who are saying they could not accept this amendment and the Senator from Utah, because the people I talked to on the House side, including Republican and Democratic leadership—not all of them, but a number—who are leading the way on this amendment, indicate to me this kind of provision would be acceptable and even welcomed by them.

Mr. HATCH. Some feel that way, and others do not. That is one of the problems I have.

Mr. NUNN. There is a group of those who want the judiciary to basically get involved in these decisions.

Mr. HATCH. Those who want to defeat the amendment—there are still some of those, and we have found in the process that there are some of those who even voted for it in the past but who now would like to see it defeated.

Mr. NUNN. I am not one of those.

Mr. HATCH. I am not suggesting that.

Mr. NUNN. I would like to say that.

Mr. HATCH. I hope it is not true. I am counting the Senator is not.

The fact is that is the kind of problem we have been faced with. All I can say is I am trying to do the best I can as one inferior mortal, to try to bring this thing to fruition and try to do the best I can to get us to a point where we really have the chance to do something about our national debt. To me this is our only chance, and I do not think I am standing here alone on that. Even the Senator from Georgia has acknowledged that we need something like this to do it. It is just he wishes he could write this into it.

Mr. NUNN. I wish we did not need it, but we do, I am afraid.

Mr. HATCH. I thank my friend from Georgia, and we will try to bring more light to this subject as the week goes on.

Mr. MOYNIHAN. Madam President, in my remarks yesterday I continued the examination of our experience since the advent of contemporary economics in moderating the business cycle and substantially resolving the crisess of capitalism which in the century before World War II was widely seen as implacable and unresolvable. The business cycle of the industrial age with its extraordinary alterations of boom and bust was a new experience for mankind. Many concluded it was an unacceptable experience—that capitalism had to go; that private ownership had to go. Then a learning process took place and the problem has moderated to the point when it can be said within reason to have been resolved.

The swings that we experienced would be near-to-unbelievable today; certainly unacceptable.

In 1906, output increased by 11.6 percent, to be followed 2 years later by a decline of 8.2 percent in 1908, and an increase of 16.6 percent in 1909.

In 1918, output increased by 12.3 percent to be followed by 3 years of negative growth including a drop in output of 8.7 percent in 1921.

Then came the Great Depression. After increasing by 6.7 percent in 1929, output fell by 9.9 percent in 1930, another 7.7 percent in 1931, and then a further decline of an incredible 14.8 percent in 1932.

After World War II all this changed, following a brief adjustment period, as we converted from a war-time to peacetime economy. Since then the largest reduction in output was 2.2 percent in 1982.

In my earlier remarks I attributed the steady growth in the post World War II period to ''a great achievement in social learning'' which we would put in jeopardy if we adopted the balanced budget amendment.

We have learned to moderate the business cycle using the budget as a counter-cyclical tool. We used this knowledge in both Republicans and Democratic administrations. For example, George P. Shultz—one of the most admired public men of his generation—while OMB director in the Nixon administration put in place expansionary budget policies that stimulated the economy following the 1970–71 recession.

In my remarks on February 10 and February 13, and again yesterday, I indicated that several economists, including staff working for Charles Shultze, chairman of the Council of Economic Advisers in the Carter administration, have concluded that if we try to balance the budget in the middle of a recession that the unemployment rate could exceed 10 percent—a level that was reached only momentarily, during the 1981–82 recession, in all of the post-World II era.

In today's Wall Street Journal, Al Hunt reports on a Treasury Department study which confirms this analysis for the 1990–92 recession—a mild recession in which the unemployment rate rose from 5.1 percent in June 1990 to 7.7 percent in June 1992. Analysts at the Treasury Department estimate that

> * * * if a balanced budget amendment had been in effect—and the cyclical increase in the deficit had been offset by spending cuts and tax increases—the unemployment rate would have peaked somewhere in the range of 8.3 to 9.4 percent.
>
> The implication of this analysis is that employment would have been about 1.5 million lower in mid–1992 * * * if a balanced budget amendment had been in effect.

Clearly, if the recession had been deeper—in the 1979–82 period the unemployment rate increased from 5.6 to 10.8 percent—or if the unemployment rate at the beginning of the recession had been higher—the unemployment rate last month was 5.7 percent—then the unemployment rate would have increased to more than 10 percent if a balanced budget amendment had been in effect.

The Treasury Department study also analyzed the effects of the balanced budget amendment on the unemployment rate of each State. Even in the mild recession of 1990–1992, the unemployment rate could reach double digits in the following States, many of which are large industrial States:

Alaska, 10.6 percent;
California, 12.1 percent;
Florida, 10.4 percent;
Massachusetts, 10.9 percent;
Michigan, 10.0 percent;
New Jersey, 11.8 percent;
My own state of New York, 11.4 percent;
Rhode Island, 10.6 percent;
West Virginia, 13.5 percent.

Madam President, I ask unanimous consent that the text of the Treasury Department study entitled ''The Balanced Budget Amendment and the Economy'' be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. MOYNIHAN. Madam President, and what is our reaction to the potential economic impact of the balanced budget amendment? According to Louis Uchitelle of the New York Times,

> Such estimates of the potential impact are not emphasized very much, however, in the debate over the balanced budget amendment. So far, the battle has focused on its value as a tool to shrink government or to discipline spending. But if the amendment is enacted, the side effect would be huge: a system that has softened recessions since the 1930's would be dismantled.

Let me repeat part of this observation: ''if the amendment is enacted, the side effect would be huge: a system that has softened recessions since the 1930's would be dismantled.''

To put it simply, if ratified, the balanced budget amendment would substitute budget policies that magnify the business cycle for policies that have dampened cycles in the post World War II period. In the pre-World War II period the Federal budget, except for war years, was about 2–3 percent of the GDP and had very little influence on macro-economic activity. After World War II, the Federal budget exceeds 10 percent of GDP and becomes an important instrument for stablizing the economy.

The transformation is clearly discernible from this chart. After World War II, automatic stabilizers—which go into effect long before the National Bureau of of Economic Research has made a determination that we are in or have had a recession—and discretionary fiscal policy hugely moderate the business cycle.

Up until now the Federal budget in the post-World War II period has cushioned the effects of a recession. In this chart we have seen the result—only a few tiny declines. But now, if we tried to balance the budget in a recession, we would amplify the shocks and return the economy to the panics and depressions of the pre-World War II period shown on the chart.

What happens if we undo all that we have learned over the past 60 years? Joseph Stiglitz, a member of the President's Council of Economic Advisers, observes, in his comments to New York Times reporter Louis Uchitelle, that ''The Government would become, almost inevitably, a destabilizer of the economy rather than a stabilizer.''

The Treasury study, referred to earlier in my remarks, concludes with a theme that I have emphasized over the past few weeks on the floor of the Senate, as I have reviewed the history of fiscal policy over the past 40 years.

On February 8 I stated:

* * * I make the point that there 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. I rise today to provide documentation as to how a series of one-time events of the 1980's led to our present fiscal disorders, even as events in the 1990's point to a way out of them.

Similarly the Treasury study concludes:

Large deficits in the recent past have led many to believe that a balanced budget amendment to the Constitution is the only way to ensure fiscal discipline. The large deficits of the 1930's and early 1990's, however, are an exception to the general pattern since World War II * * *.

The relatively small deficits prior to the 1980's and the experience of the past two years shows that fiscal discipline does not require such drastic action as amending the Constitution and the severe economic consequences that would result.

The choices before us are best summed up by William Hoagland, the respected Republican staff director of the Senate Budget Committee. In the New York Times article by Mr. Uchitelle Mr. Hoagland is quoted as follows:

There are risks associated with a balanced budget and I don't think anyone should deny them * * * Nevertheless, the debate on the floor has been dominated by what we must do to get the budget in balance, not what the risks of a balanced budget might be.

Before we adopt this balanced budget amendment let's make sure we understand the risks. As I study the pre and post-World War II patterns of economic cycles, that are clearly evident on this chart, I conclude that the risks are too great.

EXHIBIT 1

THE BALANCED BUDGET AMENDMENT AND THE ECONOMY: HOW A BALANCED BUDGET AMENDMENT WOULD HAVE WORSENED THE RECESSION OF 1990–1992

INTRODUCTION

So far the debate over a balanced budget amendment has been primarily a political debate. Proponents of ''cutting'' have squared off against proponents of ''spending.'' The one thing that has been oddly lacking is a straightforward discussion of how a balanced budget amendment might affect the economy. Thus, this paper examines the possible consequences of a balanced budget amendment on jobs, on incomes, and on the long-term standards of living of the American people.

Simply put, a balanced budget amendment could cause significant harm to the economy. The balanced budget amendment currently being considered by Congress would require the federal budget to be balanced by a date certain. This requirement could harm the American economy and American workers in two basic ways. First, the economy may have trouble handling the elimination of the deficit too fast—by cutting spending and raising taxes by about $1.2 trillion between now and 2002 ($1.6 trillion if tax cuts proposed in the Contract With America are adopted). Perhaps more importantly, requiring a balanced budget in every year, regardless of the economic situation, would hamper the ability of the federal government to lessen the impact of recessions.

DANGER TO THE ECONOMY

A balanced budget amendment would make economic recessions more severe than they otherwise would be. Currently the federal budget helps to lessen the impact of recessions through ''automatic stabilizers.'' These automatic stabilizers allow spending to increase and revenue to fall during times of economic hardship. For example, spending on federal government programs like unemployment compensation and food stamps automatically increase as the economy goes into recession because more people become eligible for the programs. In addition, as people earn less money as a result of a recession, they pay less in taxes. While these changes in spending and taxes increase the deficit, they serve to reduce the damage done by recessions to the American economy and American families.

A balanced budget amendment would force the government to raise taxes and cut spending in recessions—at just the moment that raising taxes and cutting spending will do the most harm to the economy and aggravate the recession.

How do automatic stabilizers work? On average, every one dollar drop in production and incomes as the economy enters a recession generates a twenty-seven cent increase in the deficit, as tax revenues fall and spending on programs rises.

Thus, a one dollar fall in incomes and spending becomes a fall of only 73 cents to the economy as a whole. Shocks to total demand and spending would therefore be more than one-third larger if the federal budget were forced to be in year-by-year balance as the economy goes through business cycles.

The principal benefit of the automatic stabilizers is that they are automatic and take effect immediately. We lack the advance notice of a recession for either Congress or the Federal Reserve to react effectively. For example, as of early 1991, the Federal Reserve concluded that it had adopted appropriate anti-recessionary policies and expected a recovery by mid-1992. It did not anticipate the further rise in unemployment.

Thus, while the Federal Reserve bears an important part of the responsibility for managing the business cycle, its ability to ''fine tune'' the economy is limited. Given the lags with which its policies affect the economy, the Federal Reserve would have difficulty compensating for the elimination of automatic stabilizers during recessions and the shock to the economy of reducing the deficit too fast. Even with the most effective Federal Reserve policy, a balanced budget amendment would amplify recessions and harm the economy.

THE RECESSION OF 1992

To illustrate how the business cycle would change under an amendment, consider the recession of 1990–1992. During this recession, the unemployment rate rose from 5.1 percent in June of 1990 to 7.7 percent in June of 1992. The automatic stabilizers in the federal budget injected roughly $87 billion into the economy in 1992 relative to 1990. This cyclical increase in the deficit helped to mitigate the impact of the recession, making the unemployment rate between 0.7 and 1.7 percentage points lower in June of 1992 than it otherwise would have been. Thus, if a balanced budget amendment had been in effect—and the cyclical increase in the deficit had been offset by spending cuts and tax increases—the unemployment rate would have peaked somewhere in the range of 8.3 to 9.4 percent.

The implication of this analysis is that employment would have been about 1.5 million lower in mid-1992—as shown in Chart A—if a balanced budget amendment had been in effect.

CONCLUSION

Large deficits in the recent past have led many to believe that a balanced budget amendment to the Constitution is the only way to ensure fiscal discipline. The large deficits of the 1980s and early 1990s, however, are an exception to the general pattern since World War II.

Further, while the deficit as a share of the Gross Domestic Product (GDP) did rise to high levels during the 1980s, this ratio is now on a downward trend. The deficit as a share of GDP, which was 4.9 percent in 1992, is currently projected to steadily decline to 1.6 percent of GDP in 2005. The Administration and Congress have achieved this through difficult decisions to reduce spending and to increase revenues (see chart B).

For example, before this Administration took office, the deficit was projected to be $400 billion in 1998—current projections show that this has been cut by more than half, to $194 billion. In fact, the federal budget is currently in primary surplus—revenues exceed the federal government's spending on all federal programs combined. The deficit is due solely to the cost of paying interest on the debt accumulated largely during the high deficits of the 1980s—not because we are overspending today (see Chart C).

The relatively small deficits prior to the 1980s and the experience of the past two years shows that fiscal discipline does not require such drastic action as amending the Constitution and the severe economic consequences that would result.

THE IMPACT ON ALABAMA JOBS IF A BALANCED BUDGET AMENDMENT HAD BEEN IN PLACE DURING THE RECESSION OF 1990–1992

The Balanced Budget Amendment and Alabama:

During the recession of 1990–1992, the unemployment rate in Alabama rose from 6.7 percent to a peak of 7.5 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Alabama would have peaked at a higher level: between 7.7 and 8.1 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 3,300 to 10,000 in Alabama in the recession of 1990–1992.

THE IMPACT ON ALASKA JOBS

The Balanced Budget Amendment and Alaska:

During the recession of 1990–1992, the unemployment rate in Alaska rose from 6.9 percent to a peak of 9.1 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Alaska

would have peaked at a higher level: between 9.6 and 10.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,300 to 4,000 in Alaska in the recession of 1990–1992.

THE IMPACT ON ARIZONA JOBS

The Balanced Budget Amendment and Arizona:

During the recession of 1990–1992, the unemployment rate in Arizona rose from 5.5 percent to a peak of 7.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Arizona would have peaked at a higher level: between 8.2 and 9.2 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 8,500 to 25,500 in Arizona in the recession of 1990–1992.

THE IMPACT ON ARKANSAS JOBS

The Balanced Budget Amendment and Arkansas:

During the recession of 1990–1992 the unemployment rate in Arkansas rose from 6.8 percent to a peak of 7.3 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Arkansas would have peaked at a higher level: between 7.5 and 7.8 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,600 to 4,800 in Arkansas in the recession of 1990–1992.

THE IMPACT ON CALIFORNIA JOBS

The Balanced Budget Amendment and California:

During the recession of 1990–1992, the unemployment rate in California rose from 5.3 percent to a peak of 9.3 percent.

Had the balanced budget amendment been in effect, the unemployment rate in California would have peaked at a higher level: between 10.2 and 12.1 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 129,400 to 388,100 in California in the recession of 1990–1992.

THE IMPACT ON COLORADO JOBS

The Balanced Budget Amendment and Colorado:

During the recession of 1990–1992, the unemployment rate in Colorado rose from 5.0 percent to a peak of 6.2 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Colorado would have peaked at a higher level: between 6.5 and 7.0 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 4,700 to 14,200 in Colorado in the recession of 1990–1992.

THE IMPACT ON CONNECTICUT JOBS

The Balanced Budget Amendment and Connecticut:

During the recession of 1990–1992, the unemployment rate in Connecticut rose from 5.0 percent to a peak of 7.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Connecticut would have peaked at a higher level: between 8.3 and 9.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 10,500 to 31,400 in Connecticut in the recession of 1990–1992.

THE IMPACT ON DELAWARE JOBS

The Balanced Budget Amendment and Delaware:

During the recession of 1990–1992, the unemployment rate in Delaware rose from 4.2 percent to a peak of 5.6 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Delaware would have peaked at a higher level: between 5.9 and 6.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,100 to 3,300 in Delaware in the recession of 1990–1992.

THE IMPACT ON FLORIDA JOBS

The Balanced Budget Amendment and Florida:

During the recession of 1990–1992, the unemployment rate in Florida rose from 5.7 percent to a peak of 8.5 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Florida would have peaked at a higher level: between 9.1 and 10.4 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 38,800 to 116,500 in Florida in the recession of 1990–1992.

THE IMPACT ON GEORGIA JOBS

The Balanced Budget Amendment and Georgia:

During the recession of 1990–1992, the unemployment rate in Georgia rose from 5.4 percent to a peak of 7.0 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Georgia would have peaked at a higher level: between 7.4 and 8.1 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 11,500 to 34,400 in Georgia in the recession of 1990–1992.

THE IMPACT ON HAWAII JOBS

The Balanced Budget Amendment and Hawaii:

During the recession of 1990–1992, the unemployment rate in Hawaii rose from 2.7 percent to a peak of 4.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Hawaii would have peaked at a higher level: between 5.2 and 6.1 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 2,500 to 7,600 in Hawaii in the recession of 1990–1992.

THE IMPACT ON IDAHO JOBS

The Balanced Budget Amendment and Idaho:

During the recession of 1990–1992, the unemployment rate in Idaho remained stable at 6.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Idaho would have peaked at a higher level: between 6.6 and 6.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 700 to 2,200 in Idaho in the recession of 1990–1992.

THE IMPACT ON ILLINOIS JOBS

The Balanced Budget Amendment and Illinois:

During the recession of 1990–1992, the unemployment rate in Illinois rose from 6.5 percent to a peak of 8.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Illinois would have peaked at a higher level: between 8.8 and 9.7 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 24,200 to 72,200 in Illinois in the recession of 1990–1992.

THE IMPACT ON INDIANA JOBS

The Balanced Budget Amendment and Indiana:

During the recession of 1990–1992, the unemployment rate in Indiana rose from 5.1 percent to a peak of 6.8 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Indiana would have peaked at a higher level: between 7.2 and 8.0 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 10,300 to 31,000 in Indiana in the recession of 1990–1992.

THE IMPACT ON IOWA JOBS

The Balanced Budget Amendment and Iowa:

During the recession of 1990–1992, the unemployment rate in Iowa rose from 4.2 percent to a peak of 4.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Iowa would have peaked at a higher level: between 4.9 and 5.2 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 200 to 600 in Iowa in the recession of 1990–1992.

THE IMPACT ON KANSAS JOBS

The Balanced Budget Amendment and Kansas:

During the recession of 1990–1992, the unemployment rate in Kansas fell—from 4.5 percent to 3.9 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Kansas at the time of highest nationwide unemployment would have been between 4.1 and 4.4 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,900 to 5,600 in Kansas in the recession of 1990–1992.

THE IMPACT ON KENTUCKY JOBS

The Balanced Budget Amendment and Kentucky:

During the recession of 1990–1992, the unemployment rate in Kentucky rose from 5.7 percent to a peak of 7.0 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Kentucky would have peaked at a higher level: between 7.3 and 7.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 4,900 to 14,700 in Kentucky in the recession of 1990–1992.

THE IMPACT ON LOUISIANA JOBS

The Balanced Budget Amendment and Louisiana:

During the recession of 1990–1992, the unemployment rate in Louisiana rose from 6.2 percent to a peak of 7.3 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Louisiana would have peaked at a higher level: between 7.6 and 8.2 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 5,400 to 16,200 in Louisiana in the recession of 1990–1992.

THE IMPACT ON MAINE JOBS

The Balanced Budget Amendment and Maine:

During the recession of 1990–1992, the unemployment rate in Maine rose from 5.0 percent to a peak of 6.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Maine would have peaked at a higher level: between 7.1 and 7.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 2,400 to 7,100 in Maine in the recession of 1990–1992.

THE IMPACT ON MARYLAND JOBS

The Balanced Budget Amendment and Maryland:

During the recession of 1990–1992, the unemployment rate in Maryland rose from 4.7 percent to a peak of 6.6 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Maryland would have peaked at a higher level: between 7.0 and 9.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 11,000 to 32,900 in Maryland in the recession of 1990–1992.

THE IMPACT ON MASSACHUSETTS JOBS

The Balanced Budget Amendment and Massachusetts:

During the recession of 1990–1992, the unemployment rate in Massachusetts rose from 6.2 percent to a peak of 9.0 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Massachusetts would have peaked at a higher level: between 9.6 and 10.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 18,700 to 56,100 in Massachusetts in the recession of 1990–1992.

THE IMPACT ON MICHIGAN JOBS

The Balanced Budget Amendment and Michigan:

During the recession of 1990–1992, the unemployment rate in Michigan rose from 7.3 percent to a peak of 8.9 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Michigan would have peaked at a higher level: between 9.3 and 10.0 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 15,500 to 46,600 in Michigan in the recession of 1990–1992.

THE IMPACT ON MINNESOTA JOBS

The Balanced Budget Amendment and Minnesota:

During the recession of 1990–1992, the unemployment rate in Minnesota rose from 4.9 percent to a peak of 5.2 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Minnesota would have peaked at a higher level: between 5.4 and 5.7 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 3,400 to 10,200 in Minnesota in the recession of 1990–1992.

THE IMPACT ON MISSISSIPPI JOBS

The Balanced Budget Amendment and Mississippi:

During the recession of 1990–1992, the unemployment rate in Mississippi rose from 7.3 percent to a peak of 8.6 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Mississippi would have peaked at a higher level: between 8.9 and 9.5 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 3,300 to 9,800 in Mississippi in the recession of 1990–1992.

THE IMPACT ON MISSOURI JOBS

The Balanced Budget Amendment and Missouri:

During the recession of 1990–1992, the unemployment rate in Missouri was steady at 5.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Missouri would have peaked at a higher level: between 5.9 and 6.2 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 3,800 to 11,300 in Missouri in the recession of 1990–1992.

THE IMPACT ON MONTANA JOBS

The Balanced Budget Amendment and Montana:

During the recession of 1990–1992, the unemployment rate in Montana rose from 5.6 percent to a peak of 6.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Montana would have peaked at a higher level: between 7.0 and 7.5 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,000 to 3,000 in Montana in the recession of 1990–1992.

THE IMPACT ON NEBRASKA JOBS

The Balanced Budget Amendment and Nebraska:

During the recession of 1990–1992, the unemployment rate in Nebraska rose from 2.1 percent to a peak of 3.1 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Nebraska would have peaked at a higher level: between 3.3 and 3.8 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,900 to 5,600 in Nebraska in the recession of 1990–1992.

THE IMPACT ON NEVADA JOBS

The Balanced Budget Amendment and Nevada:

During the recession of 1990–1992, the unemployment rate in Nevada rose from 4.8 percent to a peak of 6.6 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Nevada would have peaked at a higher level: between 7.0 and 7.8 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 2,800 to 8,300 in Nevada in the recession of 1990–1992.

THE IMPACT ON NEW HAMPSHIRE JOBS

The Balanced Budget Amendment and New Hampshire:

During the recession of 1990–1992, the unemployment rate in New Hampshire rose from 5.7 percent to a peak of 7.6 percent.

Had the balanced budget amendment been in effect, the unemployment rate in New Hampshire would have peaked at a higher level: between 8.0 and 8.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 2,500 to 7,400 in New Hampshire in the recession of 1990–1992.

THE IMPACT ON NEW JERSEY JOBS

The Balanced Budget Amendment and New Jersey:

During the recession of 1990–1992, the unemployment rate in New Jersey rose from 4.9 percent to a peak of 9.0 percent.

Had the balanced budget amendment been in effect, the unemployment rate in New Jersey would have peaked at a higher level: between 9.9 and 11.8 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 34,400 to 103,100 in New Jersey in the recession of 1990–1992.

THE IMPACT ON NEW MEXICO JOBS

The Balanced Budget Amendment and New Mexico:

During the recession of 1990–1992, the unemployment rate in New Mexico rose from 6.2 percent to a peak of 6.9 percent.

Had the balanced budget amendment been in effect, the unemployment rate in New Mexico would have peaked at a higher level: between 7.1 and 7.4 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,100 to 3,300 in New Mexico in the recession of 1990–1992.

THE IMPACT ON NEW YORK JOBS

The Balanced Budget Amendment and New York:

During the recession of 1990–1992, the unemployment rate in New York rose from 5.3 percent to a peak of 8.9 percent.

Had the balanced budget amendment been in effect, the unemployment rate in New York would have peaked at a higher level: between 9.7 and 11.4 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 65,900 to 197,600 in New York in the recession of 1990–1992.

THE IMPACT ON NORTH CAROLINA JOBS

The Balanced Budget Amendment and North Carolina:

During the recession of 1990–1992, the unemployment rate in North Carolina rose from 4.4 percent to a peak of 6.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in North Carolina would have peaked at a higher level: between 6.9 and 7.8 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 15,400 to 46,200 in North Carolina in the recession of 1990–1992.

THE IMPACT ON NORTH DAKOTA JOBS

The Balanced Budget Amendment and North Dakota:

During the recession of 1990–1992, the unemployment rate in North Dakota rose from 3.9 percent to a peak of 4.8 percent.

Had the balanced budget amendment been in effect, the unemployment rate in North Dakota would have peaked at a higher level: between 5.0 and 5.4 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 600 to 1,900 in North Dakota in the recession of 1990–1992.

THE IMPACT ON OHIO JOBS

The Balanced Budget Amendment and Ohio:

During the recession of 1990–1992, the unemployment rate in Ohio rose from 5.4 percent to a peak of 7.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Ohio would have peaked at a higher level: between 8.2 and 9.3 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 26,800 to 80,300 in Ohio in the recession of 1990–1992.

THE IMPACT ON OKLAHOMA JOBS

The Balanced Budget Amendment and Oklahoma:

During the recession of 1990–1992, the unemployment rate in Oklahoma was steady at 5.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Oklahoma would have peaked at a higher level: between 5.7 and 6.0 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 2,100 to 6,400 in Oklahoma in the recession of 1990–1992.

THE IMPACT ON OREGON JOBS

The Balanced Budget Amendment and Oregon:

During the recession of 1990–1992, the unemployment rate in Oregon rose from 5.6 percent to a peak of 7.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Oregon would have peaked at a higher level: between 7.8 and 8.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 5,900 to 17,700 in Oregon in the recession of 1990–1992.

THE IMPACT ON PENNSYLVANIA JOBS

The Balanced Budget Amendment and Pennsylvania:

During the recession of 1990–1992, the unemployment rate in Pennsylvania rose from 5.0 percent to a peak of 7.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Pennsylvania would have peaked at a higher level: between 8.3 and 9.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 33,700 to 101,200 in Pennsylvania in the recession of 1990–1992.

THE IMPACT ON RHODE ISLAND JOBS

The Balanced Budget Amendment and Rhode Island:

During the recession of 1990–1992, the unemployment rate in Rhode Island rose from 7.0 percent to a peak of 9.1 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Rhode Island would have peaked at a higher level: between 9.6 and 10.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 2,300 to 6,900 in Rhode Island in the recession of 1990–1992.

THE IMPACT ON SOUTH CAROLINA JOBS

The Balanced Budget Amendment and South Carolina:

During the recession of 1990–1992, the unemployment rate in South Carolina rose from 4.7 percent to a peak of 6.1 percent.

Had the balanced budget amendment been in effect, the unemployment rate in South Carolina would have peaked at a higher level: between 6.4 and 7.1 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 5,400 to 16,300 in South Carolina in the recession of 1990–1992.

THE IMPACT ON SOUTH DAKOTA JOBS

The Balanced Budget Amendment and South Dakota:

During the recession of 1990–1992, the unemployment rate in South Dakota *fell*—from 3.8 percent to 3.1 percent.

Had the balanced budget amendment been in effect, the unemployment rate in South Dakota would have been higher in June 1992: between 3.3 and 3.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 500 to 1,500 in South Dakota in the recession of 1990–1992.

THE IMPACT ON TENNESSEE JOBS

The Balanced Budget Amendment and Tennessee:

During the recession of 1990–1992. the unemployment rate in Tennessee rose from 5.1 percent to a peak of 6.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Tennessee would have peaked at a higher level: between 6.7 and 7.3 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 6,900 to 20,600 in Tennessee in the recession of 1990–1992.

THE IMPACT ON TEXAS JOBS

The Balanced Budget Amendment and Texas:

During the recession of 1990–1992, the unemployment rate in Texas rose from 6.2 percent to a peak of 7.8 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Texas would have peaked at a higher level: between 8.2 and 8.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 30,700 to 92,200 in Texas in the recession of 1990–1992.

THE IMPACT ON UTAH JOBS

The Balanced Budget Amendment and Utah:

During the recession of 1990–1992, the unemployment rate in Utah rose from 4.3 percent to a peak of 5.0 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Utah would have peaked at a higher level: between 5.2 and 5.5 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,300 to 3,900 in Utah in the recession of 1990–1992.

THE IMPACT ON VERMONT JOBS

The Balanced Budget Amendment and Vermont:

During the recession of 1990–1992, the unemployment rate in Vermont rose from 5.0 percent to a peak of 6.9 percent.

Had the balanced budget amendment been effect, the unemployment rate in Vermont would have peaked at a higher level: between 7.3 and 8.2 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,300 to 3,800 in Vermont in the recession of 1990–1992.

THE IMPACT ON VIRGINIA JOBS

The Balanced Budget Amendment and Virginia:

During the recession of 1990–1992, the unemployment rate in Virginia rose from 4.3 percent to a peak of 6.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Virginia would have peaked at a higher level between 6.9 and 7.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 15,400 to 46,200 in Virginia in the recession of 1990–1992.

THE IMPACT ON WASHINGTON JOBS

The Balanced Budget Amendment and Washington:

During the recession of 1990–1992, the unemployment rate in Washington rose from 4.7 percent to a peak of 7.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Washington would have peaked at a higher level between 8.0 and 9.3 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 15,200 to 45,700 in Washington in the recession of 1990–1992.

THE IMPACT ON WEST VIRGINIA JOBS

The Balanced Budget Amendment and West Virginia:

During the recession of 1990–1992, the unemployment rate in West Virginia rose from 8.1 percent to a peak of 11.3 percent.

Had the balanced budget amendment been in effect, the unemployment rate in West Virginia would have peaked at a higher level between 12.0 and 13.5 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 5,000 to 15,000 in West Virginia in the recession of 1990–1992.

THE IMPACT ON WISCONSIN JOBS

The Balanced Budget Amendment and Wisconsin:

During the recession of 1990–1992, the unemployment rate in Wisconsin rose from 4.3 percent to a peak of 5.2 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Wisconsin would have peaked at a higher level between 5.4 and 5.8 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 5,300 to 15,800 in Wisconsin in the recession of 1990–1992.

THE IMPACT OF WYOMING JOBS IF A BALANCED BUDGET AMENDMENT HAD BEEN IN PLACE DURING THE RECESSION OF 1990–1992

The Balanced Budget Amendment and Wyoming:

During the recession of 1990–1992, the unemployment rate in Wyoming rose from 5.4 percent to a peak of 5.8 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Wyoming would have peaked at higher level between 6.0 and 6.3 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 300 to 1,000 in Wyoming in the recession of 1990–1992.

The Balanced Budget Amendment and the United States:

During the recession of 1990–1992, the unemployment rate in the United States rose from 5.1 percent to a peak of 7.7 percent in June of 1992.

Had the balanced budget amendment been in effect, the unemployment rate would have peaked at a higher level: in the range of 8.3 to 9.4 percent.

Thus the balanced budget amendment would have led to a rise in nationwide unemployment of 750,000 to 2.2 million in the recession of 1990–1992.

Why Does a Balanced Budget Amendment Raise Unemployment?

Under current law, spending on federal government programs like unemployment compensation and food stamps automatically increases as the economy goes into recession. In addition, as people earn less money as a result of a recession they pay lower taxes. These changes in spending and taxes affect the federal deficit. The increases in the federal deficit during recessions are ''automatic stabilizers'' that reduce the damage done by recessions to the American economy and American workers.

A balanced budget amendment would force the government to raise taxes and cut spending in recessions—at just the moment that raising taxes and cutting spending will do most harm to the economy, and aggravate the recession.

SUMMARY OF METHODOLOGY.

From the cycle peak in June 1990 to the unemployment rate peak in June 1992, the unemployment rate rose by 2.6 percentage points.

Using a (low estimate of the) Okun's Law coefficient of 2, and an automatic stabilizer magnitude (estimated over 1953–1994) of 0.27, the associated cyclical swing in the deficit is some 1.4 percentage points of GDP.

In the absence of automatic stabilizers the Keynesian multiplier would be higher than we usually assume. Estimate the multiplier in the absence of automatic stabilizers at 1.7, as opposed to 1.2 in the presence of automatic stabilizers.

Thus the downward shock to exogenous demand of 1.4 percent of GDP administered by the tax increases and spending cuts necessary to offset the cyclical component of the deficit would have depressed GDP by some 2.4 percent.

Using an Okun's law coefficient of 2, the central scenario estimate of the extra rise in unemployment in the absence of automatic stabilizers is 1.2 percentage points.

Obtain a favorable scenario by assuming that Federal Reserve action manages to offset half of the increase in the size of the recession.

Obtain an unfavorable scenario by assuming that the size of automatic stabilizers has trended upward in the post-WWII period, and using a higher Okun's law coefficient of 2.5.

Distribute the rise in the unemployment rate across states proportionately to their 1990–1992 recession-driven increase in unemployment.

EXPLANATION OF VOTE ON AMENDMENT NO. 306

Mr. McCAIN. Madam President, I wanted to take a moment to explain my position for the record on the vote

on the Rockefeller amendment. I voted to table Senator JOHN ROCKEFELLER's amendment on the balanced budget amendment. Senators on the other side of the aisle would have you believe that this Congress is ready and willing to break a sacred obligation to care for our veterans and their survivors. Binding future Congresses in how we manage veterans' programs is counterproductive micromanagement which could very well harm the best interests of veterans and has no place in a constitutional amendment. No one should interpret my vote as waning in my personal commitment to veterans and their families. I have always worked hard to properly fund veterans' programs and I will personally do everything I can to ensure veterans benefits are fully funded in the future. The truth of the matter is that this country has a moral obligation to those who have paid dearly through their pain and suffering in defense of the freedoms that all Americans enjoy today and we must not and will not abdicate our responsibilities.

PROTECTING FEDERAL LAW ENFORCEMENT DOLLARS—AMENDMENT NO. 301

Mrs. MURRAY. Madam President, I rise in support of Senator BYRD's amendment to protect Federal outlays for law enforcement, and the reduction and prevention of crime.

I am proud of the Violent Crime Control and Law Enforcement Act we passed last year. It is a comprehensive approach to solving our Nation's crime problem. It includes: funds for 100,000 new police officers across the Nation; a ban on the manufacture, sale, and future possession of 19 semiautomatic assault weapons; and increased penalties for Federal violent crimes and sex crimes.

However, passing tougher laws and putting more police on our streets will not stop the violence that is ravaging our Nation. These measures, while effective, are only part of the larger solution. We also must focus on preventive measures if we hope to find permanent solutions to the epidemic of violence.

Last year's crime bill does just that. The legislation includes: the Violence Against Women Act, which authorizes funding for rape education and community prevention programs, battered women's shelters, and a national family violence hotline.

The crime bill also authorizes local grants for education, after-school safe haven programs, and other initiatives aimed at reducing gang membership among young people. The bill provides for grants to localities for crime prevention measures, including: police partnerships for children, supervised child visitation centers, and partnerships between senior citizens and police.

In addition, the legislation provides grants to law enforcement to create partnerships with child and family support agencies to fight crimes committed against children.

Madam President, I believe in the value and necessity of these vital programs. As a woman, a mother, and a former teacher I want to make sure we let our children know we care about them, they can trust us to do the right thing, and we will not turn our backs on them.

Although I am pleased that Republican proposals to redirect these important prevention dollars do not target the Violence Against Women Act, I am disturbed about the implications for programs aimed at our Nation's youth.

Our children are afraid, and sadly, they have every reason to be. Every day, 5,703 teenagers are victims of violent crimes. Every 2 hours, a child is murdered. Every 5 seconds of the schoolday, a student drops out of public school.

We, as adults, have a responsibility to care for our children, to teach them to value themselves and their communities, and not to give up on them. It is time for us as adults to address the issue of violence honestly. Violence is a symptom of deeper problems. Lets not restrict our attention to punishing criminals and building more prisons, while ignoring the causes of violence among our children.

I have talked with young people throughout the State of Washington. My overwhelming conclusion is that a lot of the youth on our streets have been victims themselves—victims of abusive adults, victims of our overburdened school system, and victims of a juvenile justice system that cannot respond to their real needs. These disaffected kids invariably have kids of their own, and the cycle of violence begins again. Prevention and education are the keys to breaking this dangerous pattern of violence.

Madam President, the dollars allocated to fund the Violent Crime Control and Law Enforcement Act of 1994 are extremely important. I applaud Senator BYRD's effort to safeguard these crime fighting dollars.

UNANIMOUS-CONSENT AGREEMENTS

Mr. HATCH. I ask unanimous consent that the vote occur in relation to the pending amendment numbered 267 and the Bumpers motion and amendments numbered 299 and 300 on Tuesday, February 28, in the stacked sequence to begin at 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I ask unanimous consent that at 11:30 a.m. on Tuesday, February 28, Senator HATCH be recognized to control the next 30 minutes for debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I ask unanimous consent that at 12 noon the next 30 minutes be under the control of Senator BYRD for debate only.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. HATCH. I further ask that following the conclusion of the stacked votes on Tuesday, February 28, Senator BYRD be recognized for up to 15 minutes for debate only, to be followed by 15 minutes under the control of Senator HATCH for debate only, to be followed by 15 minutes under the control of Senator DASCHLE for debate only, with the last 15 minutes under the control of Senator DOLE to close the debate prior to the final vote on House Joint Resolution 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. HATCH. As if in executive session, I ask unanimous consent that the Senate immediately proceed to the consideration of the following nominations on the Executive Calendar en bloc: Calendar Nos. 8, 9, 10, and 11, and all nominations placed on the Secretary's desk; further, that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table en bloc; that any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Dale W. Thompson, Jr., 000–00–0000, U.S. Air Force

ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Jerry R. Rutherford, 000–00–0000, U.S. Army

NAVY

The following-named officer for appointment to the grade of Vice Admiral while assigned to be position of importance and responsibility under Title 10, United States Code, Section 601:

To be vice admiral

Rear Adm. John A. Lockard, 000–00–0000, U.S. Navy

DEPARTMENT OF DEFENSE

Eleanor Hill, of Virginia, to be Inspector General, Department of Defense, vice Susan J. Crawford.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, NAVY

Air Force nominations beginning Alan L. Christensen, and ending Gardner G. Bassett, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 23, 1995.

Air Force nominations beginning Barrett W. Bader, and ending Joseph N. Zemis, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Air Force nominations beginning Jonathan E. Adams, and ending Sharon G. Freier,