

newsletter this day and somebody else's the next day. But do you know what, Madam President? In the long run the American people will be far more respectful of the U.S. Senate if we do that.

On this issue it is very simple. We have already appropriated the money. What we are doing now is withholding the money so that it cannot be spent. As long as it is not spent, instead of people having access to family planning, instead of people being able to make the decision themselves of how many children they will have and when, the number of abortions will start going up again. As we have shown over and over again, when family planning is available, the number of abortions go down, and when family planning withheld, the number of abortions go up. It was that way long before any one of us served in this body. It will be that way long after we leave.

So we should stop the rhetoric for the fundraising letters, but instead do what is right. We want to help countries determine what they may or may not do on the question of overpopulation, on the use of their own resources, being given not the tools of abortion but the tools of family planning, and tell the special interest groups that say no, that maybe they have gone a bit too far.

I have nothing but respect for my colleagues who are opposed to abortion. I wish there would never be another abortion in this world. But I am also a realist enough to know that simply withholding family planning money or passing laws does not stop abortion. Giving people alternatives to abortions, modern contraceptives, that does cut down on abortions.

As I say, I have nothing but the greatest respect for those who have moral opposition to abortion. But we should be realistic. It is like the old days when we passed laws against abortion and the back-room abortionists thrived, as they did in my State. When abortion was legal, people made the choice.

This is not necessarily directly on point in this debate, but I remember and I remind people who think simply passing a law determines what is a very difficult question for any woman to ask, what happened in my State in days when I was a young prosecutor. I got a call at 3 o'clock one morning to go to our medical center where a young woman lay nearly dying, hemorrhaging from an illegal abortion. As part of the investigation I instituted that 3 a.m. in the morning, we found out that a number of women, some college students, had gone to one person in our community to seek abortions. He would arrange illegal abortions for them. Abortions were performed by a man who had learned how to perform abortions while working for the SS at Auschwitz. The women would be sent to Canada, the abortions would be performed. They were basically the darning needle type of abortion, and subsequently he

would blackmail these women for money or sex. They had no other place to go. This is where they went. This one young woman nearly died, did not die but ended up sterile as a result. If she had not nearly died, I never would have found out about it. This man would never have been prosecuted. I prosecuted him. As a result of that, we ended up with another case, which I was very proud of, called Leahy versus Beecham, a predecessor to Roe versus Wade, which made clear that abortions within a medical context would be legal. Then the difficult question that any woman would have to make would be her decision, whatever consequences would be hers, not the manipulations of a back-room abortionist.

In a way, we do almost the same thing here. We say we will withhold safe and legal alternatives to abortion, family planning, because we are against abortion. The abortions will go up. Abortions will go up and people will die. Instead, we should give families, from the largess of the United States, money to plan their families.

Madam President, I yield back all time on both sides.

The PRESIDING OFFICER. All time is yielded back.

Mr. LEAHY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the hour of 3:30 p.m. having arrived, the Senate will now resume consideration of Senate Joint Resolution 1, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States to require a balanced budget.

The Senate resumed consideration of the joint resolution.

Pending:

Byrd amendment No. 6, to strike the reliance on estimates and receipts.

The PRESIDING OFFICER. The pending question is amendment No. 6, offered by the Senator from West Virginia [Mr. BYRD].

The debate on the amendment is limited to 2 hours, equally divided and controlled in the usual form.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia [Mr. BYRD] is recognized.

#### AMENDMENT NO. 6, AS MODIFIED

Mr. BYRD. Madam President, I ask unanimous consent to modify my amendment and send the modification to the desk.

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

The amendment is so modified.

The amendment (No. 6), as modified, is as follows:

On page 3, strike lines 12 through 14 and insert the following:

"SECTION 6. The Congress shall implement this article by law.

Mr. BYRD. I thank the Chair and I thank the manager of the resolution, Mr. HATCH, and I thank all Senators.

Madam President, the proponents of the proposed constitutional amendment now before the Senate would have the American people believe that if their proposal is adopted by Congress and ratified by three-fourths of the States, the Federal budget will then be constitutionally required to be balanced every year, unless supermajorities of both Houses pass waivers. But let us all remember that "the devil himself can quote Scriptures for his purpose." My purpose here is to strip away the hype and the rhetoric and examine the manner in which this constitutional amendment will actually work.

Section 1 of the article states, "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year \* \* \*." That is pretty plain. That seems quite straightforward and very clear. There appears to be no room for any misplay or misunderstanding. The entire Federal budget must be balanced each and every year, right down to the bottom dollar. Unlike State and local governments or businesses, where borrowing is frequently used for the purchase of capital investments—or, in the case of family budgets, where debt is incurred for the purchase of homes and automobiles and to pay for college tuition costs—the Federal unified budget will not be allowed to incur debt for any reason under this amendment. Instead, the Federal Government's investments in military weaponry, highways, bridges, waterways, and all other capital items will have to be paid for, in full—cash on the barrel head—as they are purchased. Total spending for any year for any purpose will have to be no greater than the income to the Treasury for that same year if this amendment is adopted.

But, the question arises, just how are we mere mortals to ensure that total outlays do not indeed exceed receipts, and how will that constitutional requirement be enforced?

How, indeed, given that the Federal budget deficit, its total receipts and its total outlays, unlike the family budget, is based entirely on estimates? Granted, these estimates of total outlays and total receipts are prepared by some of the finest statistical wizards in this country—the men and women who work for the nonpartisan Congressional Budget Office.

Once the amount of the deficit is set in the annual Congressional Budget Resolution, then the Congressional Budget Office, CBO, monitors the performance of the economy throughout

the year and keeps Congress informed as to whether the outlay estimate and the revenue estimate and the deficit estimate are going to be correct. But remember, these are all estimates—educated guesses, if you will. I can produce one. You can produce one. It is an educated guess. But we live up to the educated guesses, or at least we are guided by the educated guesses of the Congressional Budget Office. These are estimates of many factors in the public and private sectors which are totally outside of the control of any mortal human—totally outside the control of any human being.

We are told, just don't worry about that section 1. Don't lose any sleep over that section. The authors of the amendment have solved the problem. We need only to look at section 6 of their proposal to find the answer to the dilemma of how to ensure that the budget is balanced in every fiscal year, despite our having to rely on nothing more than estimates. Well, I want Senators, and I want the American people who are watching what is being said and what is being done here, to understand what they would be buying into here. What are you getting here now? Is it just what you see? Is that what you get? We all need to thoroughly understand that crucially important section—section 6—of the resolution.

Section 6 of the resolution reads as follows:

The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

“ \* \* \* which may rely on estimates of outlays and receipts.”

So there you have it.

Congress may enforce balanced budgets by relying on “estimates of outlays and receipts.” We don't need to really balance the budget. We don't need to comply with section 1, which requires the balancing of the outlays, or the spending with the receipts, or the income right down to the bottom dollar, as I said earlier. We don't need to do that. All we have to do is balance the estimates.

So the American people need to understand this. They are being told that if this constitutional amendment to balance the budget is adopted by the Congress and ratified by the States, that the budget will be balanced. That is what article I says, no if's, and's, and but's about it.

The American people need to understand this. Unlike their family budget, which is relatively stable as far as income and expenses are concerned—most families know how much income they will have with which to purchase their needs from month to month and from week to week as those individuals who receive salaries know from week to week and month to month how much those salaries will amount to. So they know how much income they can count upon. But the Federal budget is far from being that stable. The Federal budget is based on myriad estimates

that are compiled in advance of each fiscal year by the CBO, the Congressional Budget Office. These estimates have to include such factors as corporate profits and how much revenues the Treasury will receive from corporate and individual income taxes; what the unemployment rate will be; what the rate of inflation will be; what interest rates will be 6 months from now or 9 months from now; and a whole host of other factors which we do not have to consider as we attempt to keep our own family finances in order.

The fact is that when it comes to the Federal budget, we never know whether the budget for any fiscal year is balanced until well after that fiscal year is over—the clock has run its course and the calendar has been exhausted—and the Treasury Department has had time to finalize its tally of receipts and expenditures. And this usually occurs 3 or 4 weeks after the end of the fiscal year. So we really do not know whether or not the budget is in balance; and if not, how high the deficit is. We really don't know what the final figures are until 3 or 4 weeks after the end of the fiscal year. So, in truth, therein lies the Achilles' heel of this amendment: In no year can we know for sure that the budget is balanced until sometime after that year is over.

The proponents point to section 6 and say we can balance the budget by relying on estimates of outlays and receipts. Madam President, it is disingenuous at best, and, at worst, it is a deliberate hornswoggle to lead the American people to believe that we can even come close to balancing the actual budget by relying on estimates.

In fact, as I will now demonstrate in a series of charts, these estimates vary by billions of dollars—that is billions, not millions, “b,” not “m,” billions, not millions—from the actual results in nearly every year.

Before turning to the specifics of these charts, let me emphasize that the data presented in them come from the independent, nonpartisan CBO, the Congressional Budget Office. It is independent. It is neither Democrat nor Republican. It is nonpartisan. These data are hot off the presses of the Congressional Budget Office and are taken from CBO's most recent publication, entitled “The Economic and Budget Outlook: Fiscal Years 1998–2007.”

And here it is. This is the document that I am talking about.

I highly recommend that Senators, our colleagues here, read this publication. I highly recommend the publication to the American public. It contains an entire chapter, namely chapter 3, which explains the uncertainties in budget projections and how these uncertainties in the economy and in technical factors can greatly affect deficit projections.

In that chapter, when referring to its latest deficit estimates, the Congressional Budget Office makes these statements, and I quote:

... considerable uncertainty surrounds those estimates because the U.S. economy

and the Federal budget are highly complex and are affected by many factors, none of which can be projected with full confidence.

That is the Congressional Budget Office talking, the nonpartisan Congressional Budget Office.

Another quotation from that book:

Growth in potential gross domestic product (GDP) that was half a percentage point higher or lower would decrease or raise the deficit by \$50 billion in fiscal year 2002.

Continuing to quote from that document:

Similarly, a fairly typical swing in the business cycle would increase or decrease the deficit by more than \$100 billion in a given year.

Madam President, those are just two examples of changes in economic factors which the Congressional Budget Office says could cause huge changes in deficits for any fiscal year.

The Congressional Budget Office also says, and I quote:

An increase of 2 percentage points in the annual rate of growth of Medicare and Medicaid alone could boost spending for those two programs by about \$50 billion in fiscal year 2002. If such technical errors (those not attributed to the performance of the economy or legislation) pushed the deficit in the same direction as economic errors in a particular fiscal year, the deficit could swing by very large amounts.

That is the Congressional Budget Office talking. There you have it, Madam President. The very office which has the responsibility for providing Congress with these annual deficit estimates tells us that their own calculations can be off by very large amounts.

In fact, as this chart shows, the difference between revenues, as estimated in the congressional budget resolution for each of fiscal years 1980 through 1996, versus what revenues actually turned out to be for each of those years, varied greatly.

Let me first point out that the green horizontal line on the chart represents a zero difference between estimated and actual revenues—no difference whatsoever. That is what the green line is for any particular year. There is no bar above or below the green line. That means that the Congressional Budget Office hit it right on the head. The green line means that the CBO got it right on the nose. The black numbers above the green line depict years in which actual revenues exceeded the estimates—that occurred in six of these 17 years: 1980, 1987, 1989, 1994, 1995, and 1996—when revenues were \$36 billion greater than CBO estimated they would be.

For 11 of those 17 years, actual revenues were less than CBO estimated they would be, and in a number of those years the revenue shortfalls were large. In 1983, for example, the shortfall was \$65 billion; and for 1992, Federal revenues were actually \$78 billion less than they were estimated to be by the Congressional Budget Office for that year.

In all, over these 17 years, revenues never matched the estimate for any year—not one. On average, actual revenues collected by the Federal Treasury

were off, in one direction or the other, by \$29 billion. That is a pretty big disparity.

The next chart shows for the same 17 year period, 1980 through 1996, the differences between the estimated outlays and what actual outlays turned out to be. For those in our viewing audience, the term "outlays" is a very fancy word for spending. Total outlays means total spending by the Federal Government for a given year.

Starting again on the left of the chart, the green horizontal line represents a bull's-eye for the CBO. They hit it right in the eye. But you notice there is always a variation from the green line.

That green line represents a zero difference between CBO's estimates of what outlays were expected to be and what actual outlays turned out to be for each year. Again, as was the case with revenues, in no year—not one—did actual Federal outlays, or spending, exactly equal the estimate. For 11 of the 17 years, actual spending was greater than the CBO estimate. In 1990, for example, outlays actually exceeded CBO's estimate by \$85 billion. They were off \$85 billion. Outlays, in 1993, were \$92 billion less than they were estimated to be.

So the point I am making is that the estimates are always wrong—always.

On average, over this 17-year period, CBO missed hitting the bull's-eye by \$36 billion per year—per year. A pretty big "goof," by most folks' standards, I would say.

These first two charts have shown that at no time—no time—over the last 17 years have either revenues, or income, or outlays, or spending, equaled the estimate for any year. About the only thing that we can ever be sure of when we talk about these estimates is that they will always—always—be wrong. In fact, the whole point of these charts is to graphically demonstrate that these best guesses by the best experts are consistently, always wrong. And yet, despite knowing that the estimates we must work with have always been wrong and will inevitably continue to be wrong, they are exactly what this section, section 6 of this resolution says Congress may rely on.

It is ludicrous to think that just because we adopt this constitutional amendment—hear me out there—ludicrous to think that just because we adopt this constitutional amendment to balance the budget, somehow we will magically have accurate estimates every year in the future. It just will not happen, unless, of course, someone comes up with a crystal ball that can accurately tell us at the beginning now, at the beginning—that is what it says. That is what the amendment says, at the beginning—at the beginning of each fiscal year what the gross domestic product will be for that year, or what the unemployment rate will be for that year, or what the inflation rate will be for that year, or what in-

terest rates will be for that year, or any of a number of other economic and technical factors. It just cannot be done.

In fact, during the debate on Senate Joint Resolution 1 on Wednesday, February 12, the distinguished manager of the measure, Senator HATCH, and I debated this problem of the inaccuracy of estimates at some length and during our debate the able manager made the following statement. We took it down, and I quote:

Let us be honest. There is no way anybody can absolutely, accurately tell what the outlays and receipts are going to be in advance.

There it is, statement by the manager.

When we say "total outlays of any fiscal year shall not exceed," it has to be written that way because that is the force that says, Congress, your estimates better be good, a lot better than these statutory estimates we have had in the past, because then we will be under a constraint to balance the budget, or vote by a supermajority vote not to balance it. That is the difference.

That is the end of my quotation of my esteemed colleague, Mr. HATCH.

The point is there is no difference. There is nothing in the pending measure that will make these estimates any more accurate in the future than they are right now. I have already laid in the RECORD the statements by CBO that their estimates of deficits can be off by tens of billions of dollars for reasons totally beyond any human being's control. We will not do any better because we cannot do any better. The only "difference," if we put this hoptoad into the Constitution, will be that we are out of sync with the Constitution of the United States if the real budget does not balance at the end of the year.

What are we in Congress to do then? How do we address an unbalanced Federal budget that we are unaware of until the very last minute, or 2 or 3 or 4 weeks after the very last minute? The very last minute the old fiscal year has come and gone, and then 3 weeks later we find out, or possibly even 4, from the Treasury Department what the actual figures were, how much the estimates were off, how much the deficits are. So how do we address an unbalanced Federal budget at that point? How do we square ourselves with the new constitutional dictate for balance?

What happens when it becomes known that, in fact, there has been a deficit for a year that has ended, even though Congress did not vote to waive the balanced budget requirement of section 1? Will the President decide that he is obligated to impound sufficient funds to make up the difference, make up the deficit? Or failing any action by the President, will the courts step in to ensure compliance with the Constitution, albeit after the year in question has ended? Pretty farfetched. But the President's impoundment of funds, that is not so farfetched. It seems possible that one or both of these actions could occur. Remember,

the President and the courts will have their own responsibilities to ensure that the constitutional requirements for a balanced budget are met. We are not going to be tinkering around with a simple statute, you know. This is not just a simple statute that can be repealed the next day or the next month or the next year. We will be in violation of the basic, fundamental, organic law of this great Nation.

One thing is certain. Under this resolution, even if deficits are unintended, if they are allowed to stand, they will cause an increase in debt and therefore will ultimately force a vote under section 2 to increase the debt limit. And what does section 2 say? That section requires a supermajority vote of three-fifths of the whole number of each House of Congress and the President's signature in order to increase the limit on U.S. debt held by the public.

What happens if this three-fifths vote cannot be achieved? A financial crisis could be upon us because, at the point when the debt limit is reached and not raised, no more bills can be paid until that debt limit is raised. Virtually all Federal payments would be subject to being withheld—I am not saying they would all be withheld, but they would all be subject to being withheld—Social Security checks, veterans' pensions, payments on Medicare and Medicaid, payments to contractors.

Pretty dire stuff to comprehend, may I say to my colleagues. But, lo and behold—lo and behold—ah, now we have it, section 6. There it is. Section 6 provides an escape hatch. It is not going to be so hard to do after all. Section 6 provides a way out. Whoopee. I am thankful for the proponents having foreseen that we would need a way out of this dilemma so that we won't be caught hoisted by our own petard.

It is almost as if someone who had something to do with writing this amendment realized that we could never actually balance the real budget in the real world, so they dreamed up the Houdini section. This is the Houdini section, section 6. Take a good look at it. The Houdini section. Take a good look. The Houdini section lets us go ahead and use estimates, even though they are invariably going to be inaccurate; therefore, it should be obvious to everyone that the Congress will not be chained, bound or gagged by this constitutional amendment. We will just bring back some of our old friends like Rosy, Rosy Scenario, or resort to some of our well-known magic tricks with smoke and mirrors and, lo and behold, just like Houdini, escape—gone. How sweet it is.

I am perplexed as to how section 6 is intended to work. Will someone help me here? The distinguished manager is on the floor; perhaps he will help me. I ask the manager of the pending resolution how and when do you intend to put section 6 into effect? Let us see what it says. Section 6, "The Congress shall enforce and implement this article by appropriate legislation, which

may rely on estimates of outlays and receipts." Will we have to carry out this section 6 annually? Will we have a kind of floating definition of what the deficit will be every year? Or will we just declare that a discrepancy of, say, 1.4 percent of GDP is "negligible" for one year, and 1.5 percent is "negligible" for the next year?

Also, sections 1, 2, 4 and 5 use the terms—this is an interesting observation. I hope the audience and especially my colleagues will pay close attention. Sections 1, 2, 4 and 5 use the terms "provided by law," "provided by law," "shall become law," "which becomes law." Yet, section 6 uses a different term. It says, "by appropriate legislation." Why the difference? Section 1, which requires the budget to be balanced, which says, "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year. . . ." it goes on to say, ". . . 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." So, there is the iron-clad language referring to law in section 1, in section 2, in section 4 and section 5, but lo and behold, the Houdini section, section 6, does not say anything about law. So what does it mean by the term "appropriate legislation?" Does this mean that we in Congress can "enforce and implement" the article in each year's budget resolution? If so, would it not be possible for Congress to simply estimate that the budget will be in balance, in the budget resolution each year, or, to describe a deficit as "negligible" in the budget resolution and then pretend that we have met the balanced budget requirement of section 1? What would stop the President from stepping in and finishing the job in years where Congress allowed "negligible" deficits? The President of the United States may not want to go along with satisfying the requirements of this amendment by calling a particular amount of deficit a negligible amount.

I think it is obvious that section 6 shows this amendment to be unworkable. It is contradictory to the absolute requirement in section 1 that the budget be balanced each year unless waived, and it invites continued deficits, which, if allowed, will likely create an automatic crisis by forcing supermajority votes to raise the debt in order to pay for those continuing deficits.

My amendment to section 6 is quite simple. It would modify section 6 to read: "The Congress shall implement this article by law." Not by "appropriate legislation" but "by law."

This language will disallow the use of estimates, which I have shown are always inaccurate. It will require Congress simply to comply with section 1. It will eliminate all the gimmicks that section 6 currently allows. My amendment is to keep them honest. My amendment is the "keep us honest" amendment. Keep us honest. It re-

quires "truth in budget balancing." Do it by law.

Without my amendment, the American people can expect to see all of the budgeting tricks that are presently allowed by this committee report to be, by implication—not literally, but by implication—inserted into the Constitution. Rather than rely on my own imagination, Mr. President, let me read to you a few ideas for ingenious obfuscation which come from the Judiciary Committee's own report that accompanies this resolution.

What does section 6 mean? On page 23 of that report, Senate Report 105-3, it is stated that "This provision," meaning section 6, "gives Congress an appropriate degree of flexibility \* \* \*." That is what the committee report says, "flexibility." Right there it is. There is the word—"flexibility."

It gives Congress—

I am quoting from the report—

It gives Congress an appropriate degree of flexibility in fashioning necessary implementing legislation.

What is meant by "flexibility"? Does anybody still use a dictionary around here? The Random House Dictionary defines flexibility as "capable of being bent," like a flexible piece of rubber hose. I think that is probably a pretty accurate definition when it comes to this amendment. It is going to be flexible, capable of being bent.

The report of the committee continues:

For example, Congress could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable and made in good faith.

Who is to be the judge? Does this mean that if we pass a budget that is balanced only on paper we need not worry, if the budget becomes unbalanced during the course of the year, as long as we were reasonable and exercised good faith? Who knows whether we are acting in good faith? We could say so. In arriving at the estimates, does that make anything we pass hunky-dory? Is that the ideal we are supposed to include in our implementing legislation? If that is what the sponsors of this amendment have in mind, I suspect that it is very different from what the American people are expecting from a constitutional amendment to balance the budget.

The next sentence states:

In addition, Congress could decide that a deficit caused by a temporary, self-correcting drop in receipts or increase in outlays during the fiscal year would not violate the article.

Now, will someone explain to me how one can know in advance that a deficit will be self-correcting? And what about the word "temporary"? Well, there is a word one could really get his teeth into.

Mr. President, what that sentence says to me is that at the same time the proponents of the amendment are telling the American people that a con-

stitutional amendment will bring about balanced budgets, they are telling the Congress we don't have to practice what we preach.

Reading again from the report, the next sentence states:

Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1.

Here we have the suggestion that the Congress could just stand up and declare that certain amounts of deficit, as long as we determined it will be "negligible," were not in violation of the amendment. We are told, for example, that the deficit for 1996 of \$107 billion equaled only 1.4 percent of the Nation's \$7.5 trillion gross domestic product. Could we declare that future deficits of not to exceed 1.4 percent of the GDP would be "negligible"? Just \$107 billion, that's not much, just 1.4 percent. I suppose that is the kind of thing the proponents of this resolution have in mind. But if we were to constitutionalize the mandate in section 1, that outlays shall not exceed receipts, any congressional attempt to deviate from that requirement would bring the moral authority of the entire Constitution into question. If we could violate this amendment with impunity, then what other amendments of the Constitution could be put at risk?

And finally, the last sentence in this paragraph of the committee report states:

If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

Now, that is a loophole that, if adopted by the Congress as part of its implementing legislation, would be big enough for Hannibal to take his 46,000 men and his 37 elephants, with which he crossed the Rhone River in 218 B.C., through. Of course, he had 80 elephants at the Battle of Zama in the year 202 B.C. But you could just take all those elephants, all 80 of them, through the loopholes created by those words.

What the sponsors of the amendment are telling us is that if we cannot figure out what to do, if we run into options too difficult to swallow, we can just require that the shortfall be made up the next year, just roll it over, just put it off until next year. The American people, are they listening to what the committee report is telling us about this constitutional amendment and how the strictures may be avoided? They are right there in the print of the committee report. What kind of fiscal shenanigan is this? Just put it off till next year?

The American people think that budget is going to be balanced every year, but that is not what the committee report says. That is not what section 6, the Houdini section of the constitutional amendment, will allow. It won't be balanced, need not be balanced. So much for holding our feet to the fire. One can tell from these clever little suggestions in the committee report that Congress has no intention of

having its feet held to the fire and getting burned by this amendment.

Let me emphasize again, these little gems about how to deal with the deficit under a balanced budget amendment come from the committee's report on Senate Joint Resolution 1. As such, they would not become part of the underlying resolution if it were to pass. They would not have the force of law in any respect, but, nevertheless, they ought to give the American people some idea of the kinds of gimmicks and evasions that the American people can expect to see if this amendment is passed by the Congress of the United States and ratified by the States.

The American people are being sold a bag of tricks. They are not being told about the realities of actually balancing the Federal budget each and every year. As I listen to those who speak in favor of a balanced budget amendment, I do not hear them telling the people that to comply with this mandate, we really intend just to roll the deficit for a given year over into the following year. Won't that just compound the problem the next year? We will end up with "rolling deficits," another term. I do not hear the proponents of this amendment telling the public that the Congress could just state, "Oh, well, the deficit is negligible and so nothing will need to be done this year about it." I do not hear the proponents telling the public that if this constitutional amendment is passed and ratified, the implementing legislation will only require that the budget be balanced on paper at the beginning of the year. That is not what the American people are being told.

Mr. President, how much confidence have even the authors of this amendment, if, as is evident right in the committee report, they have already started figuring out ways to weasel around, slip around, get around the amendment? No, Mr. President, this proposal is not worthy of being enshrined in the Constitution of the United States. It is little more than political pandering thrown up to screen the real difficulty of getting to budget balance each and every year. And I do not think that we should perpetrate this charade upon the American people. If it were simply a joke, which it is, if it were simply a political dodge, which it is, it would be regrettable and unwise to adopt. But it is much, much worse than those things.

This proposal is potentially dangerous. Within its murky appeal and unsound formula for budget balance lie the seeds for the further, rampant diminishment of the trust of the American people in their Government and in their rulers whom they elect. The legislative branch can ill-afford any more cynicism and loss of trust. And I worry as much about the trust deficit as I do about the fiscal deficit. The American people do not trust their politicians now.

Often Members believe that doing what seems to be the safe, popular thing will prove also to be the right

thing. Political correctness is the supposed order of the day for many people. Not for me. I believe that endorsing this balanced budget amendment has taken on the aura of a politically sacred act. It has become a litmus test of sorts—the right choice to make the political meter register 100 percent in one's favor.

But whether or not we amend the Constitution in this damaging way—and I am not against amending the Constitution *per se*, because the Constitution itself provides for its own amendment—but I am unalterably opposed to amending the Constitution in this way. The American people must be made to understand that once one takes a closer look at this idea it is far from what it seems. I hope that each Senator will carefully study this amendment before voting on it. Of course, most of them have already made up their minds. Many are committed and probably feel that they cannot break out of the chains of their commitments. I believe that close and open minded scrutiny of this proposal shreds it, reveals its many shortcomings and unmasks its benign countenance to reveal the sinister seeds of a constitutional crisis in the making or a Constitution in the ruining.

Mr. President, we are told in the Bible that Ezekiel felt the hand of the Lord upon him and he was carried down into the midst of a valley which was full of dry bones. He was told by the Lord to prophesy upon the bones and to say that the Lord God would cause breath to enter into the bones and they would be covered with sinews and flesh and skin and that they would be filled with breath and that the bones would come together, bone to bone, and that they would live and stand upon their feet and become an exceeding great army.

Do not believe, however, that flesh will grow upon the dry bones of this constitutional amendment. The breath of life cannot be breathed into that carcass. It will never stand upon its feet. It is but dry bones and it will remain in the valley of dry bones.

Anyone who believes that this constitutional amendment will work is really living in a fool's paradise—a state of illusive bliss, suspended in a limbo of hypocrisy, double-speak, double-shuffle, vanity, and nonsense. Surely we will not travel this road if we are fully aware of where it may lead. In the days ahead, let us be very sure of just what it is we propose to do to our country and to our Constitution before we act. Mr. President, I reserve the balance of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. AL-LARD). The Senator from Utah.

Mr. HATCH. Mr. President, as always, I enjoyed the distinguished senior Senator from West Virginia. He is always colorful. He always uses a great number of metaphors that are very interesting. He is intelligent. He is competent. And he is formidable, one of the

most formidable Senators in history. So it is very difficult for the Senator from Utah to be as formidable. But I can say this. If we are going to talk about Ezekiel and bones, dry bones, here is 28 years of it, 28 years of dry bones lying over everywhere with no sinews and no possibility of any sinews, in other words, resurrection, unless we do something to countermand this philosophy of taxing and spending the American people blind.

My friend talks about Hannibal crossing the Alps. If my historical background is correct, the discussion of Hannibal in the Alps was by Livy, who wrote the "History of Rome". I think it was a little unfair to bring in 37 elephants. Actually, as I recall the estimate was at least 100 donkeys who, if Hannibal was alive today, would probably, as the good Democrat that he was, be trampling all over the balanced budget amendment with all of those donkeys—not elephants. I think the elephants would be nudging him forward to try to do what is right.

What the distinguished Senator from West Virginia seems to be saying to me, and to the world at large, in his comments here today is that the estimates that we use in the budget system today are faulty. They have never been right. He does not take into account the fact that Congress has continually changed the rules in the bills and the spending practices throughout each year. And that is one of the reasons why the estimates have not been even close to being right in most cases.

Therefore, he seems to be making this syllogism. We use faulty estimates now. It appears to him that we will not be able to prevent the use of faulty estimates if the balanced budget amendment is passed. Therefore, rather than do something that might put some discipline into the budgetary process, let us retain the current faulty system.

His amendment does not address the problem he is raising. So the distinguished Senator seems to be arguing for the current unsatisfactory system, no change whatsoever. I have to add, these unbalanced budgets are higher than I am, I guess, or pretty close to it. The Senator argues for no change of the continuation of unbalanced budget after unbalanced budget, because there will not be any incentives to get the estimates right, will not be any incentives to stop Congress from continuing to spend and raise new spending programs every year that we are in this budget process. The balanced budget amendment would give us incentives to get things right.

If there is a charade, if there is a joke, if there is a dodge, it is during each of these 28 years. I have been here 21 of them, and I am ashamed to say that every one of my 21 years in the Senate, we have had an unbalanced budget. The reason is because we do not have a good system, we do not have a constitutional mandate to force us to do what is right. That is what this amendment will do.

Now, my friend says Americans do not trust their politicians. I think that is right. I think his points are well taken. The fact of the matter is, the reason they do not trust us is because they have seen 28 straight years of this, and for 58 of the last 66 years, we have had these kinds of unbalanced budgets.

Now, is that a good argument for keeping the status quo, for continuing what we are doing and mortgaging the future of our children? I do not think so. I do not know anybody who looks at it carefully who would think so.

There are hoptoads all over the current system, whatever a hoptoad is, but they are all over the current system. The system is not working. The reason it is not working is because there is no incentive to make it work other than to tax and to spend more. You get more credit for spending around here than you do for standing up and saying, "Hey, where will the money come from?" Some of my colleagues of the more liberal persuasion have been here longer than I have, and I have yet to hear some of them say, "Where do we get the money for that program?" No, they go ahead and spend away our children's future, spend away our grandchildren's future. Do not worry, have a good time now and let them pay for it.

We have reached a point where every living man, woman, and child in this country owes about \$20,000 as their share of the national debt right now, as we stand here. Yet, some are arguing for the status quo, a system that is not working, a system that will go on as a broken system, a system where there is no discipline. We have tried five different statutory plans since 1978 and none of them have worked.

Now, I have to say if it was up to my friend from West Virginia and myself, I think we could get together.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. On your time, I am happy to yield to the Senator, and if you need extra time, I am happy to yield.

Mr. BYRD. I thank the Senator.

The Senator continues to refer to the present system; he says that the Senator from West Virginia apparently prefers the present system.

Mr. HATCH. Did I say that? I am implying that.

Mr. BYRD. You did not say that exactly.

Mr. HATCH. I am strongly suspicious that the Senate may prevail over the balanced budget amendment.

Mr. BYRD. Tell me, Mr. President, may I ask the Senator, and I am one who believes we ought to do what we can to balance the budget—

Mr. HATCH. I acknowledge that.

Mr. BYRD. And to reduce the deficits, but I do not think we ought to go about it by way of a constitutional amendment. But the Senator from Utah continues to talk about the present system, the weaknesses of the present system.

Section 6 is in the constitutional amendment. That is the present sys-

tem. That continues the present system of working with estimates of outlays and receipts.

So there is nothing different, except the Constitution of the United States will be trivialized. There will be nothing different in what we are talking about balancing the budget for real after the Constitution has been amended than from what the situation at present is.

Reading section 6:

The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

Now, I have been talking all afternoon, or for almost 1 hour, about estimates of outlays and receipts and the fact that they are never, never accurate.

I hope the Senator from Utah, when he refers to the present system, he scores, he excoriates, and I do not blame him for that, the "present system"—the "present system." He wants to get away from the present system. Well, he is not doing it in section 6, because under section 6 we are told, this is the Houdini section, the section that tells Congress it can do it, it can balance the budget, it can carry out the mandate under the constitutional amendment by relying on estimates of outlays and receipts. So the Senator from Utah is not getting away from the present system when he falls back on section 6.

May I ask the Senator this question: What is meant in this section 6 by "appropriate legislation"? What does that mean?

Mr. HATCH. The same thing that is meant in every constitutional amendment since the Civil War.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. Let me answer the question.

In addition, and I will take back my time, in addition to the fact that we have no strong incentives under the current system to stay within either the estimates or the budget that is under the current system, Congress often compounds the problems inherent in using estimates by making changes in policy that the estimates did not foresee. There is no disincentive under the current system for doing this without great concern about the effect on compliance with the budget plan.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. If I could finish. I want to answer your question, and it will take me a second because it is an interesting question, and then I will be happy to yield.

Under Senate Joint Resolution 1, Congress will, by necessity, need to be more careful about its decisions through the year in order to comply with the constitutional directive of the other sections. For instance, section 6 simply recognizes that to be reasonable and workable, we will need to rely on estimates throughout the fiscal year in complying with the balanced budget amendment rule.

Mr. BYRD. That is the present system.

Mr. HATCH. Let me finish. If there is a minor or negligible drop below balance at the end of the year, and we find out that has occurred after the fiscal year has ended, we can avoid constitutional problems for minor deviations. However, we still have an incentive to get the budget back in line because section 2's debt ceiling provision does not rely on estimates.

That is where the distinguished Senator is missing the point of this amendment. Section 2 does not rely on estimates. It requires that we not increase the debt without a three-fifths vote, and to avoid hitting the debt ceiling we have every incentive to stay at or above balance and to ensure that small deviations are actually made up.

All of this is substantially better than the current system, which is not working. The current system is where we make our estimates and then we immediately forget about them and pass whatever legislation we want to, and that is why they are always out of balance. It has given us 28 straight years of unbalanced budgets, and deficits for 58 of the last 66 years—enough to drive anybody who is fiscally responsible wild.

To argue that this current way of doing things is better than having fiscal discipline written into the Constitution, I think completely misses the point. Senate Joint Resolution 1 is a necessary step to give us the incentives to do something about this mess of unbalanced budgets that are going to continue unless we have something like this.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. I am happy to yield to the Senator.

Mr. BYRD. The Senator has not answered my question. What is meant by the words "appropriate legislation" in section 6? I want to point out the big hole that section 6 provides for the Congress, so that Congress can avoid section 1 of the amendment, which requires a dollar-for-dollar match between spending and income. What is meant by "appropriate legislation"?

May I say as a predicate to asking the question, as I pointed out earlier, in section 1 reference is made to the word "law." Section 1 is really a binding section if you just stood it out there alone: "Total 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."

Section 1 says Congress must "provide by law." Section 2 says: "The limit on the debt shall not be increased \* \* \* unless three-fifths of the whole number of each House shall provide by law." Section 4 refers to increases in revenue which shall become law. Section 5 refers, and uses the words, "which becomes law."

Why is it, Mr. Manager of the bill, my dear colleague, Senator HATCH, why is it that section 6 uses the words "appropriate legislation"? It does not say

that Congress shall enforce and implement this article by law, which may rely on estimates of outlays and receipts. It says by "appropriate legislation." What is meant? Does that mean a simple resolution? Does that mean a concurrent resolution? Does that mean a joint resolution? Does that mean a bill? What is meant by "appropriate legislation"? Why is the change made there? It is perfectly obvious that there must be some reason lurking behind this change in the word "law" in other areas of the constitutional amendment, but in section 6 it uses the words "appropriate legislation." "The Congress shall enforce and implement this article by appropriate legislation." What does that mean?

Mr. HATCH. I will answer the Senator. First, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Utah has 49 minutes. The Senator from West Virginia has 3½ minutes.

Mr. HATCH. All right. I thank the Chair. The term "by law," used in the Senate Joint Resolution 1, sections 1 and 2 is used there in order to make clear that Congress cannot imbalance the budget or raise the debt limit by an internal rule. Why? The President must sign a bill for it to become a "law." The President is not involved in the adoption of rules in the Senate or House.

The term "by appropriate legislation" is used in Senate Joint Resolution 1, section 6, because that is the standard term used in all other enforcement clauses in the Constitution since the Civil War. So we have followed that which has been used. And I believe it will be interpreted similarly to the word "law." But be that as it may, it has not been a problem since the Civil War, and I don't believe it will be a problem now.

Specifically, "appropriate legislation" means that it satisfies article 1, passed by both Houses and is signed by the President. But the language actually mirrors all enforcement clauses in the Constitution since the Civil War. So I don't quite see the problem that the distinguished Senator from West Virginia does, and I don't think anybody else will.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. I will be happy to.

Mr. BYRD. There is a massive problem here. For some reason—and I think the distinguished manager has put his finger on it—the constitutional amendment refers to actions by the Congress that constitute laws—until we get down to section 6. Section 6 is an alternative to section 1. Section 1 is a rather binding section, which says, "Total outlays for any fiscal year shall not exceed total receipts \* \* \*"—"shall" not, not "may" not, not "ought" not, but "shall" not exceed—" \* \* \* for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law. \* \* \*"

That is pretty binding. If that section stood by itself, it would be pretty hard to get around it. But, lo and behold, the authors of the amendment have come along with the Houdini section—section 6—which as much as says you don't have to do it by law, and you can do it by relying on estimates of outlays and receipts.

Now, if you had to do it by law, under section 7 of Article I of the Constitution, which is the presentment clause, whatever we do in section 6 would have to be presented to the President of the United States. He could veto it. But we have a way out here. Section 6 allows us, by "appropriate legislation," to avoid section 1. And appropriate legislation can be a concurrent resolution between the two Houses. It is kind of an agreement or an understanding, or a "shake hands" deal between the two Houses. It doesn't go to the President. It isn't presented to the President under section 7, the presentment clause. He has no voice in the matter—none. He can't veto. And so section 6 allows Congress, in the concurrent resolution on the budget, to put in whatever standards it wants. It can write into the resolution that so long as the deficits do not exceed, say, 1.5 percent of the gross—it used to be gross national product, but now it is gross domestic product—as long as it doesn't exceed 1.5 percent or 1.4 percent. To some, that would be considered negligible. But, as we have seen, with a \$7.5 trillion GDP, 1.4 or 1.5 percent can amount to over \$100 billion. But the President won't have any voice in that. It won't have to go across his desk. He can't veto this little Houdini section. What we do there is all that we will do, but we don't have to do—

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. HATCH. Does the Senator need more time?

Mr. BYRD. I will finish my sentence. I thank the Senator from Utah for his usual courtesy. We will not be bound by section 1. We can do it by way of section 6, which does not require a three-fifths vote for a waiver. And we will be complying with section 6 if we do it in a simple resolution, which is only an action by the Senate concerning the Senate, or on a concurrent resolution, which is an action between the Houses and which doesn't have to go to the President for signature.

I thank the distinguished Senator from Utah. It seems to me that the words in section 6 should give Senators pause. I am sure they would give the American people pause if they understood what Congress can do under that section.

Mr. HATCH. Mr. President, I don't want to spend a lot of time on this because I don't think that is a good point. Ever since the Civil War, the 13th, 14th, 15th, 19th, 24th, and 26th amendments have used the language "appropriate legislation," which, under the Chadha decision of the Supreme

Court, is interpreted as a law as signed by the President. It has to be submitted to the President.

Mr. BYRD. Will the Senator yield briefly?

Mr. HATCH. Sure.

Mr. BYRD. Has Congress ever passed any civil rights statutes by concurrent resolution, or by a simple resolution?

Mr. HATCH. Not that I know of.

Mr. BYRD. No, indeed, but by a joint resolution or a bill, which have the force of law and go to the President for signature.

Mr. HATCH. Under the Supreme Court decision in Chadha, appropriate legislation has to go to the President and become a law. I think it is a moot point, to be honest with you. Frankly, we are using the language of the Constitution itself, and appropriately so, in my opinion.

I notice the distinguished Senator from Wyoming is here. He would like to speak for 8 minutes. I yield to him, and then I would like to have the time back so I can finish my statement. I want to respond to my dear colleague's thoughtful comments. They are intelligent comments, and I always enjoy listening to him as one of the true experts in this body. I mean every word I am saying, as well. I don't agree with him on much of what he is saying here today, but so what. The fact is, I respect him.

I yield 8 minutes to the Senator from Wyoming.

#### PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent that the new counsel on my committee staff, Brian Jones, be granted floor privileges for the remainder of the day on the balanced budget constitutional amendment.

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

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I thank the Senator from Utah for granting me this time.

Mr. President, I rise in opposition to the amendment that is sponsored by my distinguished colleague from West Virginia, Senator BYRD. The amendment would strike the language from section 6 of the balanced budget constitutional amendment that permits Congress to rely on budget estimates when drafting the implementing language pursuant to the ratification of the amendment.

As the only accountant in the U.S. Senate, I know that no budget can be predicted to the penny more than a year in advance. I would like to see that extended out to 2 years in advance. If we demand better estimates, we will get better estimates. If more is riding on the estimates, the estimates will be better. The estimators' performance and ours will be judged. The very heart of budgeting means making estimates before the money is spent. There is no way to do it after the money is spent. You have to do it in



advance. Advance means estimates. Without the use of the estimates of future outlays and receipts, we will be unable to draft implementing legislation that keeps us within the boundaries of the balanced budget amendment.

As an accountant, I am fascinated with the budget discussion because we are talking about numbers. We are talking about balancing budgets. We are talking about formats that will provide us with the most information possible. And we are doing it in the context of a real budget, dealing with real people. We are doing it in the context of a history where we have only had one balanced budget in 40 years. We have not balanced the budget in 28 years.

Some very valid accounting concerns have been raised here in the debate by opponents of the balanced budget constitutional amendment. I have heard reference to the need for capital budgets. I have heard reference to a need for Social Security to be off budget. I have heard reference to the need to take care of accounting problems that happen during recessions. As an accountant, I applaud this insight into the need for new accounting methods. We need to have cash flow budgets so that as cash arrives the purchases can be made without extensive deficits. It is just good business. A balanced budget amendment will force us to have a better accounting system and to even have better estimates.

I have heard debate about the concern with the Judiciary Committee's definitions for estimates. The committee stated that estimates, for example, "means good faith, responsible and reasonable estimates made with an honest intent to implement section 1." I would add that generally accepted principles would also ask that they be conservative estimates. We all know that there is no way to be absolutely accurate about estimates. We have to do the best we can to estimate outlays and receipts and do it routinely at the same day each year.

If we really want to talk about problems with definitions, "off budget" is a fascinating accounting term. In fact, in my accounting references I couldn't even find that term. I have to say from listening to discussions that there doesn't seem to be a lot of consensus on what that really means.

It looks like we found another catchword that scares senior citizens and scares people and gives us a hook not to vote on this. As one who daily approaches being a senior I want to see us get that rhetoric out of that term. We give the impression that Social Security has enough money at the moment. We talk about the surpluses going into Social Security and being used in the budget. Without estimates of outlays and receipts, it would be impossible to gauge the problems that currently affect the very existence of the Social Security system.

Let's talk a little bit more about definitions. I think that accountants

frown on the Federal term "surplus" revenue. Surplus implies more than what is needed. That is definitely not the case with Social Security. Social Security is a trust fund. But we give the impression that that money is being set aside in a special account for seniors so that when they retire there will be money to be drawn out in their name. That is not even close to what actually happens.

We don't have a crystal ball, only reasonable estimates from which to work. The President and Congress currently use estimates and budget planning. The Congressional Budget Office and the Office of Management and Budget already give budget estimates each year. It has been pointed out how accurate they are. One is more conservative than the other. They correct the estimate twice during the year to ensure their accuracy. Congress ultimately decides how to balance the difference between the estimates.

We need to have a system where we can see how far in debt we are. And we need to do that not just for Social Security but for every single trust fund that we have, and the budget. We either have to change the accounting system, account for funds honestly and show how much deficit there is, or rename them so that they are not called trust funds. Perhaps we should do both.

We are not snake oil salesmen here. Meeting the requirements of the balanced budget constitutional amendment will require Congress to go about their business with a great level of accountability. Spending and borrowing decisions must be deliberate because every decision will impact the requirement of this balanced budget constitutional amendment.

I think those people who are opposing the balanced budget constitutional amendment know in their hearts that this one will pass and will also have more swift ratification by the States than most of the other amendments to the Constitution.

Why will that happen? First, most of the States already have a balanced budget constitutional amendment. They work under them, and they know that they work. And, incidentally, those work with estimates. They know their limitation and the type of problems that develop from it. The States understand that problems are not a detriment to the United States having a balanced budget constitutional amendment.

The concern of the inaccuracy of the estimates is overblown. The data that are often used are generated months to over a year in advance to the end of the fiscal year. In fact, the Federal Reserve uses its own estimates to help set its own policy. It also makes mistakes. For example, in the July 1996 Humphrey-Hawkins banking deregulation hearing, Chairman Alan Greenspan predicted the GDP would grow at about 2.5 to 2.75 percent. Instead, it grew by about 3.4 percent. Quite a difference; billions in difference. Is that to say

that the Fed should not use estimates because they do no more than identify the economic trends and provide decisionmakers with useful information? Yes, an estimate is an educated guess. Where else would we start? Where else would the Fed start in determining its policy?

I think that most people in this body realize that a constitutional amendment will pass and get ratified by the States. If we didn't believe that it would be ratified by the States, this would be a real easy debate. But we know that the people of the States want it and the States will respond. If just those States with one or more Senators opposing the balanced budget constitutional amendment did not ratify the constitutional amendment, it would never become a constitutional amendment. So if those Senators' States did not ratify it where one or more Senators were opposing it, we wouldn't have the constitutional amendment. If we did not have appropriate legislation, those people in those States would not have to raise the confusion that we are having raised right here today; that is, to get a hook so that they can explain a vote that is very difficult to explain back home.

The people understand from their own experience that you can't spend more than you take in. Almost every school kid above third grade is able to explain that to me—that, if you spend more money than you take in, you go broke. By third grade they have already had enough experience to realize this fact of life. It has been said that we can learn much from children. Children focus on problems in more simple terms. There is a difference between being simplistic and being simple.

If you went to your banker and said, "I want to borrow money to buy a house, and I don't want to have to pay anything but the interest for the rest of my life," do you think you would get that loan? No, you wouldn't. But that is what we are doing right now with the national debt. By not balancing the budget, the Federal Government has not been good about limiting or disciplining itself in any way.

How does this relate to the constitutional amendment? I am suggesting that, if we limit ourselves by a balanced budget constitutional amendment, we will concentrate more on what we really do well. We will have more people participating and less people expecting Government to do things for them, more caring concern for our elders, and more concentration on our children's and grandchildren's welfare, if we have a balanced budget amendment.

Thank you.

Mr. HATCH. Mr. President, I am going to try to reserve some time out of my time for the Senator from West Virginia to make closing remarks here today. If that is all right, I will reserve some time for the distinguished Senator from West Virginia to make closing remarks out of my time.



Mr. BYRD. Mr. President, the Senator is very kind and generous. It is most characteristic of him.

Mr. HATCH. How much time would the distinguished Senator like to have to close out at the end?

Mr. BYRD. Two or three minutes.

Mr. HATCH. Let me reserve 5 minutes for the distinguished Senator.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. HATCH. I thank my colleague. I have great respect for him, as I have said. I have been around here a long time, and I have seen Senators come and go. This Senator is one of the greatest of all time, and I have respect for him. I do not agree with him here today, but I do have respect for him. And I want his amendment to be given every consideration.

Mr. President, today we begin our third week of debate on the balanced budget amendment. Our national budget as of right now is going to \$5.4 trillion. That is about \$20,000 for every man, woman, and child in America.

Believe me, when we are talking about the debt we are placing on the backs of our children and grandchildren, we are truly playing with fire, and we have been getting burned for 28 years, the 28 years represented by these unbalanced budgets—these stacks are obscene, and yet that is what we face ad infinitum if we do not have this balanced budget amendment. These stacks will reach all the way to the ceiling of this Chamber. And it is time to do something. We have been getting burned for 28 years now—actually, 58 of the last 66 years. That is what those two towers of debt mean. There is only one way to scale this tower of debt and only one way we will ever reach and remain at a balanced budget. There is only one cure that I can think of for this addiction that we have for debt. That is this balanced budget constitutional amendment.

Everybody knows it is a bipartisan amendment. Everybody knows it has been worked out with Democrats and Republicans. Everybody knows it is the only one that has a chance of passage. Everybody knows we have to keep amendments off or we lose Senators here or Senators there. Everybody knows it is the best possible language we can arrive at and still have it be bipartisan.

There are Senators over here who want to have a three-fifths vote to increase taxes. We cannot do that and have it bipartisan, even though the Senator from Utah may have some sympathy for that attitude. We have Senators on the other side who wish that we did not have a constitutional majority to raise taxes, and that certainly they would like us not to have a three-fifths majority to increase the debt. But in order to have a bipartisan amendment and satisfy people on this side of the aisle—and, by the way, people on the other side—we have come to this conclusion. So anybody who says that they have to have their one little

amendment or they cannot vote for this, they are for balanced budgets and they are for a balanced budget amendment but they cannot vote for this, they may be sincere, but, in most cases, they are obfuscating. The fact is, they knew at the beginning of this debate if we cannot pass this amendment as it is, there will never be a balanced budget amendment and there will never be, at least I do not think there will ever be, a fiscal mechanism put into the Constitution that will require us to at least do what is right here.

This afternoon we are resuming the consideration of the Byrd amendment, which would remove the ability of the Congress to rely on estimates in implementing the balanced budget amendment.

Let me just say a few things about this proposal, keeping in mind I want to reserve some time for my colleague on the other side. If there are any Republicans who want to speak, I hope they will get over here soon, because I am going to reserve the last 5 minutes for my colleague from West Virginia.

Estimates are a necessary tool to be used by a more vigilant Federal Government living under current law or under the balanced budget amendment. The very first step in the perennial budgeting process is the presentation of the budget estimates of OMB and the CBO, the Office of Management and Budget and the Congressional Budget Office.

We have just seen this process in action this last month as the President proposed his budget and the Congressional Budget Office came out with its latest deficit predictions, predicting that even though the President is trying to balance the budget—of course, 75 percent of the cuts are in the last 2 years after he has left office—even at that, it is \$49 billion in debt come the year 2002.

This process has not been the subject of intense scrutiny or recriminations. I do not understand why, if it is satisfactory now, some have argued it is insufficient under the balanced budget amendment.

Now, we all know that no budget can be predicted to the penny more than a year and a half in advance, particularly not the \$1.6 or \$1.7 trillion Federal budget. Even I am amazed at how high it is now. The bottom line is that we have no crystal ball, only reasonable estimates upon which to work. The President and the Congress use estimates now in budget planning. They are a necessary part of the process. They will continue whether this passes or not. But there will be some incentives to be more careful if the balanced budget amendment passes. The balanced budget amendment accepts the plain truth that the President and Congress use estimates in the budget process and that they are a necessary part of the process and that they will have to have continued use.

The difference is that the balanced budget amendment provides new incen-

tives for Congress to be more vigilant in actually getting to balance or being more deliberate and accountable in our spending and borrowing decisions. In the past, estimates have been off target at least in part because there was no incentive to get them right in the first place and no real sanction for getting them wrong or failing to live within them. It is ultimately up to Congress to determine the estimates that we use, and, more importantly, it is up to Congress whether they will work to stay within Congress' projected budget or the estimates' projected budget.

Under current practice, once the Congress passes a budget resolution, it never looks back at these predictions with an eye to adjusting its behavior to accommodate new information. Whether the estimates were in fact right or wrong, high or low, Congress is never held accountable under the current system for the accuracy of its estimates or its failure to stay within the stated budget based on those estimates. Under the balanced budget amendment, we would have to be much more vigilant. If the estimates are incorrect, then we, the Congress, will have to set things right to get back on track. Failure to do so would force the Congress to muster a three-fifths vote to approve the deficit and announce to the American people that we have failed to do our job. That is what it will mean. In other words, Congress will be held accountable for its own predictions. This incentive can only help us make more realistic projections and to work to abide by our stated budget goals.

Further, we have only heard part of the story on the accuracy of estimates. The statistics most often cited to show that the CBO is frequently off target when trying to predict the budget are the earliest estimates that the CBO compiles, often a full 20 months before the end of the fiscal year they are predicting. But there are many other sources of updated information throughout the year. Both OMB, the President's Office of Management and Budget, and the CBO, the Congressional Budget Office, update their budget statistics for the current year and their estimates for the next year every February and every August. Further, the Treasury Department issues monthly statements showing detailed information on receipts, outlays, and borrowing. These multiple reports and any additional ones we might require under the balanced budget amendment give the Congress increasingly accurate information, providing the ability to anticipate a trend towards a deficit and to make appropriate adjustments to the budget.

Let us also recognize that the early estimates are often distorted by the subsequent volitional acts of the Government. Life under a balanced budget amendment can use estimates more effectively than they are now. The first thing the Congress and the President will do is pass a budget resolution laying out the general scenario for outlays

and receipts in the fiscal year. This resolution will be based on estimates, as is now the case.

At this stage, the wisest policy is to shoot for a budget which is in surplus, which would be a very wonderful thing compared to what it has been over the last 66 years, shoot for a budget that is in surplus to provide a margin for error in case outlays are in fact greater or revenues less than expected during the year. That would become the norm rather than to not do anything, which is the norm today.

Over the course of the fiscal year, the Congress will need to monitor outlays and receipts. While it is not required that the budget remain in balance during every moment of the year, Congress must work to get its budget back in balance by the end of the year unless it votes, by a three-fifths vote, to authorize a specific deficit. If a trend towards an unintended deficit is observed, Congress should adjust its budget in order to rectify the problem. Indeed, the reconciliation process was originally created for the purpose of adjusting outlays and receipts, if necessary, before the end of each fiscal year.

Should it be determined that circumstances are serious enough to warrant deficit spending, the Congress could approve an appropriate deficit and raise the debt ceiling, if necessary, as provided for in the balanced budget amendment.

As the fiscal year comes to a close, Congress will have a very good idea of whether the budget is likely to be out of balance or out of line. This is where Congress will be held accountable for the accuracy of the estimates it adopted earlier. Sloppy estimates will require more work to keep the budget in balance. Realizing this potential difficulty will keep Congress honest in its budget estimates.

If the budget is balanced or is in surplus, the country will have prospered from disciplined fiscal policy. On the other hand, if it appears that there may be an unintended deficit due to unexpected economic conditions or events, a deficit could be approved but it would take a three-fifths vote to do it. Even if the precise size of the deficit is unknown at the close of the fiscal year, budget forecasts will certainly provide a range in which the deficit will fall. In order to anticipate all contingencies, the Congress would simply approve a deficit at the high end of the projections. That way, the Government would continue proper operations even in the worst case scenario.

So you see, the Federal budget process can work smoothly and efficiently under the terms of the balanced budget amendment. Further, it will provide the strong incentives towards fiscal responsibility, reasonable budget forecasts, and, most important, a balanced budget. The reality is that under a balanced budget amendment, the Government will have increased accountability for its decisions and increased in-

centives to act responsibly throughout the year to get to a balanced budget at the end of the year. This is a real change from the system we now have that has given us an unbroken chain of unbalanced budgets for each of the past 28 years.

Each of the past 28 years—I don't care who you are, you have to be shocked by that. I am so afraid of knocking these over for fear I will crush somebody, but literally, these stacks really tell it all. There is just no real argument against this, other than the argument that you want to spend more, you want to tax more, and that old argument, let us just have the will to do what's right. Come on, give me a break. We haven't had the will for 28 years, we are not going to have it for 28 more if we don't put some fiscal discipline into the Constitution. It is about time to end this game and do what's right.

And, yes, I have to admit I am very loathe to amend the Constitution. It is, to me, an inspired document. Those Founding Fathers never thought for a minute, they never thought for a minute that we would have 28 straight unbalanced budgets and 58 out of 66 years of unbalanced budgets. They never thought that for one minute. They thought the only way you would ever have an unbalanced budget is during time of war or serious, real serious economic distress, and they could understand that. But you would immediately get in balance once the economy picked up or you got out of war. The Founding Fathers knew that, and nobody ever thought in their wildest imaginations that we would be brought to the pitiful, or should I say pitiable, position that we are in today.

Nonetheless, some proponents of the Byrd amendment contend that the reliance on estimates somehow turns the balanced budget amendment into a gimmick. That claim is simply untrue. And, to paraphrase the distinguished senior Senator from Maine, basically she said, "I'll tell you this, if a balanced budget amendment were a gimmick, Congress would have passed it long ago."

I think that says it all. "If the balanced budget were a gimmick, we would have passed it a long time ago," because we love gimmicks around here, the biggest of which, and the biggest hoax of which, is saying that you have to take the largest item in the Federal budget, Social Security, out of the purview of the balanced budget and then let it sit out there all naked so it can be attacked, manipulated, poked at, taken apart.

Mr. LEAHY. Mr. President, will the Senator yield for a question?

Mr. HATCH. I will be happy to.

Mr. LEAHY. Will the Senator acknowledge that the deficit has come down, now, 4 years in a row and the projected budget will for a 5 year?

Mr. HATCH. Of course I will. And I will also acknowledge it is still \$107 billion in debt. If I can just finish, it is

amazing to me—I give credit for that. We had what some think is the largest tax increase in history and the deficit has come down. But the fact of the matter is, only in Washington would people say that a \$107 billion deficit is making real headway.

Mr. LEAHY. Mr. President, as I recall, the tax bill actually lowered taxes for the vast majority of Americans. I can understand some concern for some who may have had it higher, those who serve in this Chamber, because they are in the highest income bracket anyway. They may have felt their taxes go up slightly. But the vast majority of people we represent saw their taxes go down.

I raise this, however, the fact that without all the rhetoric that we have been hearing for years, rhetoric about balancing the budget at a time when the national debt was tripled in the two previous administrations, we have had a President who has brought down, with very tough votes and very tough action, brought the deficit down 4 years in a row. I would only suggest to my good friend and colleague from Utah, the President laid it out very well in the State of the Union message. He said all that's needed for a balanced budget: We vote it, he signs it.

The Republicans are in the majority in the Senate. The Republicans are in the majority in the House. All they have to do is bring up the various spending bills, entitlement bills or anything else. They should have the votes.

Mr. HATCH. Let me just respond. I guess I will do it again. I will stand behind these two stacks of unbalanced budgets for the last 28 years and I will just repeat what the Senator said, the distinguished Senator from Vermont. All you have to do is sign the bill and send it to the President, but we have not been able to do it for 28 years, or 58 out of the last 66. And, by the way, I will give the President credit for bringing down the deficit from around \$170 billion to \$107 billion, but in each of the next 4 years, according to his budget, the deficit goes up until we are almost back to where we were until you reach 2001 and 2002, after he leaves office, when 75 percent of the cuts are going to take place. And everybody knows that is impossible. I should also mention that there were a lot of factors that helped lower the deficit that had nothing to do with the President. So he deserves some credit, but certainly not all of it.

So, the same game is still going on, saying all you have to do is present the budget to him and he will sign it. If you believe that, you don't believe that these are real. Anybody who makes that argument just does not know what has gone on for 28 years and they just don't believe these books are real. I am telling you they are real. This is America, this is where we are going. We are in a fiscal deficit like you cannot believe and only in Washington, DC do people believe that a \$107 billion deficit for a fiscal year is wonderful.

And, by the way, even the poor are paying more under the so-called tax cuts that the distinguished Senator is talking about. When you look at the Social Security tax they are paying, they pay more in Social Security taxes than they do income taxes; user fees, various user fees; they are paying more for pharmaceutical products because of user fees. I was not very happy with it at the time. They are paying higher gas taxes, at least 4 cents or 5 cents a gallon more. That hits the poor harder than anything else. You can go right on down the line. There are an awful lot of extra taxes that people are paying that we hide around here every year because we don't have to be responsible under the current system.

We have shared responsibility for our debt. I am not just blaming colleagues on the other side. There are colleagues on our side—all of us are responsible for it. And we have shared responsibility for our recent gains because some of the cutbacks in programs and restraint of growth occurred from this side of the aisle.

The tax increase did occur from that side of the aisle. We did not support that.

I think we should stop the partisan bickering and do what we need to do. I think what we need to do is adopt Senate Joint Resolution 1, the balanced budget amendment, and if we do that, I really believe we will be able to make real headway in a joint effort and in a bipartisan way to solve the problems of this country, especially the fiscal problems.

As I have pointed out, common-sense reliance on estimates is the best way to apply the balanced budget rule. Further, the opponents' claim focuses only on the deficit vote in section 1 of the balanced budget amendment, but ignores the debt ceiling vote that is required in section 2.

Under the balanced budget amendment, if we want to raise the limit on the debt, we need a three-fifths vote of both Houses of Congress. The debt is not an estimate. It is the real, cold, hard fact. The bottom line is, regardless of what the estimates say, under the balanced budget amendment, our children cannot be saddled with more debt unless there is a vote under the appropriate provision, and, in this case, it is section 2.

There are no loopholes here. Reliance on estimates is both reasonable and sound. If we did not permit a reliance on estimates, someone on the other side would be arguing that the balanced budget amendment would be unworkable because it does not let us rely on estimates. You can just bank on it. Indeed, on the one hand, some opponents argue that the balanced budget amendment would be a straitjacket, while this proposal by my friend from West Virginia argues that it is not stringent enough. If this pending amendment of the distinguished Senator from West Virginia were adopted, this balanced budget amendment would

be much harder to work with, and you could bet that we would hear from the critics then.

Mr. President, this balanced budget amendment that we are debating is the real thing, and that is why so much noise is being made about it. If it wasn't important, there would not be this colossal fight every time we bring it up. It would shake things up in Washington, and there are some who are afraid of that. Personally, I think this town could use a good shaking by its neck. I am not one of those who is afraid of what the balanced budget amendment would do. I am not willing to add many more books to this pile. Even if we pass the balanced budget amendment and it is ratified by 38 States, or three-quarters of the States, we will still have another 5 years leading up to a balanced budget, but at least we know the game is over; we will have to get there.

I am not willing to ruin this country's economy, and I am most certainly not willing to increase that \$20,000 in debt that every man, woman, and child in America currently owes as their share of the national debt. I hope our colleagues will defeat the pending amendment and move on to passing Senate Joint Resolution 1, the balanced budget amendment.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Utah has about 6½ minutes.

Mr. HATCH. I yield 5 minutes to the distinguished Senator from West Virginia. I will reserve 1 minute.

Mr. BYRD. Mr. President, I thank my friend.

Mr. President, section 1 of the constitutional amendment to balance the budget lays it out in a very straightforward way. It says in plain English that outgo shall not exceed income. "Spending shall not exceed income in any fiscal year unless three-fifths of the whole number of each House of Congress shall provide by law for such an excess of outlays over income."

Now, that is a pretty tough section to comply with, and Congress, I think, would be in great difficulty if it sought to follow that mandate. But Congress, by this constitutional amendment, has provided a way around section 1, so that we really don't have to comply with section 1.

Section 6 says that "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts." So, Congress, as anyone will know, because it is plain as the nose on one's face, Congress is just going to forget section 1, that will be too hard to comply with. Congress will choose section 6 as a way out, because then it does not have to balance dollar for dollar, it does not have to have a three-fifths vote, as section 1 would require, for a specific excess of outlays over receipts. It can forget about that. No real balancing of the budget. No three-fifths vote. Just doing it by appropriate leg-

islation, which could be a simple resolution or concurrent resolution. So this is the way out, this is the dishonest way out—section 6. That is the Houdini section.

What would I do? My amendment strikes the last words in section 6. My amendment says: "The Congress shall implement this article by law." Period. You can't get around that.

What does it mean when we say the Congress shall implement this article by law? It means that Congress will do by law what it says it will do in section 1; namely, it will have to balance the budget dollar for dollar, and the only way it can get out of doing that then will be to have the three-fifths vote to waive the requirement.

So in order to keep us honest, in order to keep the proponents honest, and I include myself—I am not a proponent—in order to keep all of us honest in Congress, we strike out this Houdini language, which allows Congress to weasel around and avoid the impact of the amendment, and we say "the Congress shall implement this article," which means section 1, balance the budget, and it has to do it by law.

So this is the "to keep them honest" amendment, Mr. President, and I hope Members of the Senate will support my amendment.

The American people have a pretty low estimate of politicians. They don't believe us. They don't believe that we mean what we say. They don't have much faith in Congress. It isn't just Congress, but we are talking about Congress now because Congress has to enforce this article. They don't have faith in Congress, and we are going to confirm their lack of faith in Congress by enacting this article in the Constitution and, more specifically, by including in it section 6, which provides the loopholes by which we can avoid the strictures and the commandment of the language of section 1. We are merely going to compound and add to and solidify and fortify the American people's low estimate of Congress and of politicians in general.

So that is why I am offering this amendment. Let's clean up section 6 to say, "No, no, we are not going to have this sleight of hand." Congress will enforce this article, and Congress will have to do it by law.

Unless we approve my amendment, this section 6 will allow Congress to avoid the three-fifths vote, which is required if outlays are going to exceed income in any fiscal year, and will allow Congress to use estimates, sleight-of-hand estimates, in order to fool the American people.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. BYRD. I thank the Chair, and I thank Senator HATCH.

Mr. HATCH. Mr. President, I say in relation to section 6, the term "appropriate legislation" has appeared in every enforcement clause that has been adopted since the Civil War. But in

order for appropriate legislation to become a law, it must be passed by both Houses of Congress, presented to the President, and signed by him into law. I do not think there is any question about it. I yield back the balance of my time. I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Byrd amendment No. 6, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah [Mr. BENNETT], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Oklahoma [Mr. INHOFE], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 34, as follows:

[Rollcall Vote No. 12 Leg.]

YEAS—61

Abraham	Frist	Moseley-Braun
Allard	Gorton	Murkowski
Ashcroft	Graham	Nickles
Baucus	Gramm	Reid
Biden	Grams	Robb
Bond	Grassley	Roberts
Brownback	Gregg	Roth
Bryan	Hagel	Santorum
Burns	Harkin	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith, Bob
Coats	Hutchinson	Smith, Gordon
Cochran	Hutchison	H.
Collins	Jeffords	Snowe
Coverdell	Kempthorne	Stevens
Craig	Kyl	Thomas
D'Amato	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	Mack	Warner
Enzi	McCain	Wyden
Feinstein	McConnell	

NAYS—34

Akaka	Feingold	Levin
Bingaman	Ford	Lieberman
Boxer	Glenn	Mikulski
Breaux	Hollings	Moynihan
Bumpers	Johnson	Murray
Byrd	Kennedy	Reed
Cleland	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	
Durbin	Leahy	

NOT VOTING—5

Bennett	Inhofe	Specter
Faircloth	Inouye	

The motion to lay on the table the amendment (No. 6), as modified, was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is recognized to offer an amendment.

Mr. REID. Will the Chair bring order to the Chamber, please.

The PRESIDING OFFICER. The Senator will be in order.

AMENDMENT NO. 8

(Purpose: To require that the outlay and receipt totals of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds not be included as a part of the budget totals)

Mr. REID. Mr. President, I send an amendment on behalf of myself and Senators DORGAN, DASCHLE, KENNEDY, FEINSTEIN, CONRAD, FORD, HOLLINGS, and WYDEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 8.

Mr. REID. Mr. 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 19, after the period inset "The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds (as and if modified to preserve the solvency of the Funds) used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article."

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that on Wednesday, February 26, immediately following the vote on Senator FEINSTEIN's amendment, Senator TORRICELLI be recognized to offer an amendment relating to capital budgeting. I further ask consent that there be 3 hours for debate, equally divided in the usual form, with no amendments in order to the amendment. I finally ask that following the expiration or yielding back of the time, the Senate proceed to a vote on or in relation to the Torricelli amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, in the early 1930's, this country faced what was called the Great Depression. That was a time that in the history books is even hard to understand. But banks had their doors locked and depositors could not get into the bank to get their money. Banks were formally closed and informally closed. Factories were either slowed down or stopped completely. Homes were foreclosed upon. Families moved in with each other. You had brothers living with brothers and everyone living with each other. It was such that books were written about what was taking place. It was the "Grapes of Wrath," as indicated in the book by John Steinbeck, where the State of California, to stop people from migrating to California, actually tried to close its borders, as people were fleeing from the economic hardship they found in the States east of California.

We were a rich nation. We are a rich nation. But the rich nation we knew had collapsed. Mines were closed. Farms became dust bowls. Trees were not cut in our forests. It was the stuff

of which songs were written. The troubadour of the Depression, Woody Guthrie, wrote many songs dealing with the Depression—"Dust Bowl Blues," "End of the Line," "Hey, Buddy, Have You Got a Dime." These are a few of the songs Woody Guthrie wrote.

There was much written, Mr. President, that capitalism had failed, and maybe even democracy was failing. We had soup kitchens, bread lines, people scavenged the dumps to find the bare necessities of life. The rules and laws that said kids should go to school were not enforced. Some say that up to 25 percent of children were malnourished. We have terms that were originated during the Depression, such as "tramps," "bums," "hitchhikers," and "railriders." More than 30 percent of the people were out of jobs. Those with jobs, many times, wished they had no jobs because they worked endless hours, for almost no pay. Only about 15 percent of the people of that day had pensions. It was during this time of calamity, this time of depression, that people said we have to do something else.

Mr. President, one of the things that was done was, we adopted during the Great Depression in 1935 a program we call Social Security. It was a noble experiment. It has come to be the finest social program in the history of the world. What was said during that debate 60 years ago or more? Among other things, President Roosevelt said, on August 14, 1935, when he signed the bill:

Today, a hope of many years standing is, in large part, fulfilled. The civilization of the past 100 years, with its startling industrial changes, has tended more and more to make life insecure. Young people have come to wonder what would be their lot when they came to old age. The man with a job has wondered how long that job would last. The Social Security measure gives us at least some protection, and protection to as many as 30 million of our citizens who will reap direct benefits through unemployment compensation, old-age pension, and through increased services for the protection of children of the prevention of ill health.

We can never ensure 100 percent of the population 100 percent of the vicissitudes of life. But we have tried to frame a law which will give some measure of protection to the average citizen and to his family against the loss of a job and against poverty-ridden old age.

He went on to say:

If the Senate and the House of Representatives in this long, arduous session. . .

Remember, Mr. President, this was in the throes of the Great Depression.

If the Senate and House of Representatives in its long, arduous session have done nothing more than pass this bill, the session will be regarded as historic for all time.

Said President Franklin Roosevelt.

Mr. President, at that time we lived by the radio—not TV, but by radio. The President gave a radio address where, among other things, he said, on August 15, on the fifth anniversary of Social Security:

Five years ago the term "Social Security" was new to American ears. Today it has significance for more than 40 million men and

women workers whose application for old age insurance accounts have been received. This system is designed to ensure them an income for life after old age retires them from their jobs.

He went on to say in this same address to the American public:

The millions of today want and have a right to the same security their forefathers sought—the assurance that with the health and willingness to work they will find a place for themselves in the social and economic system for the time. Because it is becoming increasingly difficult for individuals to build their own security singlehanded, Government must now step in to help them lay the foundation stones. Just as Government in the past has helped lay the foundation of business and industry, we must face the fact that in this country we have a rich man's security and a poor man's security, and that the Government owes equal obligations to both. National security is not half and half. It is all or none. The Social Security Act offers to all our citizens a workable and working method of meeting urgent present needs and future needs. It utilizes the familiar machinery of a Federal-State government to promote the commonwealth and the economic stability of the Nation. The act does not offer anyone, either individual or collectively, an easy life, nor was it ever intended to do so. None of the sums of money paid out to the individual in assistance or insurance will spell anything approaching abundance, but they will furnish that minimum necessary to keep a foothold, and that is the kind of protection Americans want.

Mr. President, these were some statements made by Franklin Roosevelt. These statements that he made were visionary because we have established in this country a program that people depend on.

I received a letter in my office today from one Helen Collins who lives in Las Vegas. I wrote her a letter to talk about the balanced budget. She wanted to know about it. So I answered her request.

She wrote on the bottom of my letter a handwritten note dated February 18, 1997.

Dear Senator REID: Thank you for the update and for supporting a balanced budget amendment which expressly exempts the Social Security trust fund. I have been a widow since age 21. I never considered applying for any kind of welfare assistance. I worked, and raised and educated my son. He got a master's degree. Sad to say, at age 71, I am totally on my own on quite a limited budget. By being very careful, I get by. However, I do worry about getting more seriously ill and losing Social Security. For many of us, these are not the golden years. But I, for one, thank God that good people like you are helping us maintain our dignity and independence. Sincerely, Helen M. Collins.

Mr. President, this is what the President of the United States said more than 60 years ago. He said, "The act does not offer anyone"—not Helen Collins or anyone else—"either individually or collectively, an easy life, nor was it ever intended to do so \* \* \* but they will furnish the minimum necessary to keep a foothold, and that is the kind of protection Americans want."

I repeat, the most successful social program in the history of the world is

Social Security. This amendment is an effort to save Social Security.

I have listened to the arguments for the last several years about this balanced budget amendment and why it is important. I agree. But I agree, Mr. President, that the balanced budget amendment should pass only if it exempts Social Security.

I think we should have a balanced budget the hard way, the right way. Why should we use \$80 billion this year, as an example, in surplus in Social Security to help disguise and offset the budget? We should not.

When I first started this matter a number of years ago—3 years ago, to be exact—I was a lone voice crying in the wilderness. That is not the way it is anymore. We have gained support. In the last year we gained support from people like courageous Republican Congressmen in the House of Representatives who have said they will support a balanced budget amendment, but they want the opportunity to exclude Social Security because they believe also that, if we are going to balance the budget, it should be done honestly. It should be done the hard way.

This Social Security Program that was set up 60-plus years ago was a fairly simple and principled experiment. They said what we will do is have the employer and the employee pay into a trust fund those moneys that will be saved so that people when they retire can have some money. Remember, Mr. President, we are talking about a Social Security trust fund.

Before coming to Congress, I was a practicing lawyer. I represented people who had problems and needed guidance. In some of the work that I did, I dealt with my clients' money. I established in my office trust accounts for my clients. And in this trust account, I would put my clients' money. If I took any part of that money, \$10, \$100, \$1,000, \$10,000, any portion of it for personal use, to buy my wife a coat, to make a car payment, to make a house payment, or to go to dinner, I would be subject to disbarment. They could take my license to practice law. Not only could they do that, but if the activities that I had committed were egregious enough, I could be prosecuted criminally. I do not see why the Social Security trust fund should be any different. What right do we have to pilfer those trust funds?

I have heard arguments made here on the floor of the Senate by people saying, "Well, that is what we have been doing in the past." Well, isn't that great? Does that mean we should place in the Constitution or enshrine in the Constitution of the United States the fact that we have been taking money wrongly in the past from Social Security? It is an easy way to balance the budget. It adds billions, coming to trillions of dollars by the year 2029 to balance that. It is an easy way to balance the budget. No wonder there is a rush to balance the budget when you are going to violate and take money out of the Social Security trust fund.

I have heard people say, "Well, there may be a little confusion here with Social Security. What we will do after we pass the constitutional amendment is we will then come back and pass a statute that says you can't use Social Security." That is really stretching, because we all know you can't pass a statute to override an expressed provision in the Constitution. A promise like that is really meaningless. Proponents know the calamity of passing it. I say if we want to pass a constitutional amendment to balance the budget, just exclude Social Security. This would pass with 85 votes in the Senate and probably at least 350 votes in the House. Social Security is not a giveaway. It is not an entitlement program. It is a program, though, that requires sacrifice by an employer and employee, and because of that I believe we should do everything within our power to make sure that Social Security remains strong for the foreseeable future.

There are some who say that if we have this amendment, then people can claim everything as Social Security. You can claim that building highways is Social Security. That is so fallacious and wrong. Social Security is enshrined in the law. We know what Social Security is. The underlying amendment diverts Social Security revenues for other uses. It could force future Social Security cuts to resolve frequent budget crunches, and I think more positively would force future Social Security cuts to resolve frequent budget crunches. It will force Social Security into an early funding crisis.

Also, this is a little off the point, but I have heard arguments today saying, well, States balance their budgets; why don't we? I have been a constitutional officeholder in the State of Nevada, served three legislative sessions. People go around saying Nevada has a balanced budget, just like most States. They do not have a balanced budget. What they do is put capital expenditures off budget. They bond for that. There is no balanced budget in the State of Nevada or most other States. But I am willing to go for a balanced budget. I am saying we will keep the capital expenditures off. All I want is to exclude Social Security. My amendment seeks a balanced budget that protects Social Security. It keeps Social Security revenues in the trust fund. It protects Social Security from cuts. It preserves the 1983 long-term rescue of Social Security. It protects Social Security.

In 1983, Tip O'Neil, Ronald Reagan, Claude Pepper, and a number of others got together to determine what they could do to fund Social Security in the foreseeable future. Social Security was in a time of crisis. They got together in a bipartisan fashion and funded Social Security, they thought at the time, to go to the year 2060. We know now that fund will likely go to the year 2029 or thereabouts. But they did excellent

work. In 1983, they reformed Social Security to preserve it for future generations. We can preserve it long after 2029 with some minor adjustments. I served as a member of the entitlement commission where we studied this and other issues for more than a year.

So to finance Social Security benefits, low- and middle-income wage earners now pay a heavier payroll tax than wealthier Americans. The largest single tax that people pay is Social Security. It would seem to me that it would be logical and fair to do what we can to secure those benefits.

The underlying amendment would abandon our commitment to future retirees. No funds could be reserved for future use. The constitutional amendment would supersede the statutory transfer of bonds into the Social Security trust fund. If we adopt the current underlying balanced budget amendment, we remove the obligation to eventually use the Social Security surpluses to pay benefits.

The underlying amendment would force Social Security cuts. It will force crisis. It will encourage deadlock.

In a letter to Tom DASCHLE from the President of the United States, January 20 of this year, the President said:

In the event of an impasse in which the budget requirements can neither be waived nor met, disbursement of Social Security collections would cease or unelected judges could reduce benefits to comply with this constitutional mandate. No subsequent implementing legislation would protect Social Security with certainty because a constitutional amendment would override statutory law.

That is pretty specific. Would there be a crisis? Of course there would be a crisis. We would have three alternatives: have deep cuts in Social Security or deep cuts in other programs we have already cut to the bone. Alternatively, we could have massive tax increases. I think any one of those is not something I look forward to. I think we should pass my amendment and then pass a real constitutional amendment to balance the budget. The Democratic alternative, the one that I am offering, would allow the trust fund to spend surpluses, keeping Social Security viable for many years.

We have heard a lot in this past week about the need to protect Social Security. It is important to recognize in a little more detail the history of Social Security and appreciate why some of us are fighting so hard for this express exemption. I have said and I believe that Social Security is the most successful social program in the history of the world. It was enacted on August 14, 1935, at a time this country was in the throes of the greatest depression this country has ever felt and perhaps the greatest worldwide depression ever. It was enacted to provide for the general welfare by establishing a system of Federal old age benefits and by enabling the several States to make more adequate provision for its old.

The real significance of this act is that it was this country's first major

Federal program to deal directly with the economic security of its citizens.

Before then, this matter was handled by States and private sources. In those days we had what were called poorhouses. Each county had a poorhouse where they would put poor people. They were not pleasant. Some were better than others. There were no standards. Whatever the counties could provide with State assistance is where people went.

Social Security took away county poorhouses. Federal action became necessary because neither the States nor private charities had the financial resources to cope with the growing need during the depression years. The balanced budget amendment now before this body radically alters in one fell swoop this program. It shifts the burden for ensuring the economic security of our Nation's senior citizens. It puts us on the course of turning this responsibility back to individual States and private charities, and it does so, in my opinion, in a very deceitful way.

Balancing the budget is very hard. It is made significantly easier by having these Social Security surpluses. If those surpluses were not available, we would really have to bite the bullet. We would have to make some significant changes, but we would at least have an honest balanced budget. This is not an honest balanced budget. And there is no wonder that the Helen Collinses of the world write and say, "We are afraid of our little security you are going to take away from us." They have reason to be afraid.

I have talked on this Senate floor a number of times about my grandmother. The first time I ever heard of Social Security was from my grandmother. I never knew my grandmother as a young woman. I knew my grandmother as short and somewhat heavy. She did not get around very well. She had eight children. She lived in a very rural part of Nevada, in a very depressed place, but my grandmother had dignity because she was able every month to get her old age pension check, and she was proud of that. It gave her dignity and independence from her eight children. She did not have to be a ward to her family, and she was one of the lucky ones because she had a family. Think of how much more insecure a person who had no family would feel.

So Social Security is an important program. People like Helen Collins should be worried, because if this amendment passes, Social Security as we know it is gone. It will be destroyed.

What is the recent history of Social Security? We have talked about it a little bit. We have talked about what happened in 1983 in this bipartisan commission. But we have also had a current commission. Included were former majority leader Dole and current Federal Reserve Chairman Greenspan, a notable opponent of the bal-

anced budget amendment. But these people studied what should take place. The panel charted a course to long-term solvency. This contract that we have, the Social Security contract, is really a Contract With America, the first Contract With America, one that means something to people on the street. People on the street may not understand the importance to them individually of term limits, of line-item veto, of prayer in school. But they do understand the importance of getting a Social Security check. Separate and apart from the merits that I have just spoken of, Social Security is a Contract With America.

So, in short, we must protect what happened in 1935 and how it was again protected in 1983. The only way to do that is to pass this amendment.

In 1990, there was an amendment offered on this floor. It was an amendment offered by Senator HOLLINGS. It became known as the section 13301 amendment. The effect of this amendment was that it took Social Security off budget. It passed overwhelmingly out of committee. All but one person voted for it out of committee. All but two Senators voted for it in the Senate. It got 98 votes. The author of this amendment has spoken on this floor eloquently on a number of occasions. The junior Senator from South Carolina said he offered this amendment for the purpose of protecting the integrity of the trust funds of the Social Security system. The purpose of the Hollings amendment was to separate Social Security from the unified budget.

After we established the payroll tax we wanted to ensure the money was excluded from the unified budget. It passed by a vote of 98 to 2. It was a strong statement of congressional intent to protect Social Security.

The balanced budget amendment now before this body repeals something we passed 98 to 2. The plain language of S. J. Res. 1, the underlying amendment here, makes it clear that Social Security should be treated as part of the unified budget and should be used to bring down the deficit. It is ironic that some would suggest that this should occur after we voted just a few years ago by a vote of 98 to 2 to pass the Hollings amendment. The real inconsistency is that voting in 1990 to remove Social Security from the budget and then voting in 1997 to again include it.

I do not think there are many people in this body who would say that the senior Senator from New Mexico does not understand budgetary matters. In fact, I think he has had a wide ranging experience, not only serving on the Budget Committee but serving on the Appropriations Committee, where I have had the pleasure of serving with him during my tenure in the Senate. The senior Senator from New Mexico, during the time that the debate took place on the Hollings amendment, said,

among other things, "I voted for Senator HOLLINGS' proposal because I support"—this is a direct quote—"I support the concept of taking Social Security out of the budget deficit calculation. But I cast this vote with reservations."

Now, listen to his reservation:

The best way to protect Social Security is to reduce the Federal budget deficit. We need to balance our non-Social Security budget so that the Social Security trust fund surpluses can be invested . . . instead of used to pay for other Federal operating costs. We could move toward this goal without changing the unified budget, a concept which has served us well for over 20 years now.

So what the chairman of the Budget Committee today said back in 1990 is that we have to support the Hollings amendment. And he voted for it. The only reason he did not like it is it was not strong enough.

Again:

I voted for Senator Hollings' proposal [this is the senior Senator from New Mexico talking] because I support the concept of taking Social Security out of the budget deficit calculations. But I cast this vote with reservations.

And here I say, what are his reservations? It was that the provision, the Hollings amendment, was not strong enough. He wanted to build a firewall. He, Senator DOMENICI, went on to say:

We need a firewall around those trust funds to make sure those reserves are there to pay benefits in the next century. Without a firewall or the discipline of budget constraints, the trust funds would be unprotected and could be spent on any number of costly programs.

Now, please, someone tell me how we can go forward now, 7 years later, after the chairman of the Budget Committee said this in 1990? I mean, is this misspeak?

Many of us spent a great deal of time reviewing the recent report by the Advisory Council on Social Security, and I mean within the past few months. This panel of experts was charged with providing recommendations to Congress on the long-term solvency of the trust funds. There were 13 members from all walks of life, chaired by a professor from a university in Michigan. They were not unanimous, but all 13 said that Social Security trust fund moneys should be invested in some fashion; part of them. Six felt one way, five another way, one another way, but they all felt these moneys should be partially invested in the private sector.

Now we are saying, if this amendment passes, that this 13-member commission, their work would go for naught, because you cannot invest moneys if there aren't any. And there would be no moneys if this amendment passed because the surpluses would be used to offset the deficit. So, should we now vote to utilize the trust funds for balancing the budget that will place at risk our ability to pursue these proposals suggested by the 13-member commission just a matter of few months ago? One proposal calls for investing a portion of the current trust fund in the

equities market. You cannot invest in the equities market unless there is some money left over, so you could not do that.

We need to understand the importance of the mission of the advisory panel. We paid this group of experts to find solutions that will bring about long-term solvency of the funds. By including Social Security in a balanced budget amendment, we are, in fact, admitting that we care not about the long-term solvency of the trust fund. What we are really saying is that the short-term goal of balancing the budget is all that matters.

I am saying the American public wants us to stop playing games back here. If we are going to have a balanced budget amendment, let us do it the right way, let us do it the honest way: Exclude Social Security and not use those huge surpluses that will be going on for the next 30-plus years.

We are not simply negating their findings by passing this underlying amendment. In fact, we are negating the whole reason we organized this Commission in the first place. And we are negating the need for Social Security.

There are some people who do not want Social Security. I believe that there are people who would rather Social Security fail. I need look no further. I pull this out. I carry this with me all the time. This is a quote from the majority leader of the House of Representatives, House Majority Leader DICK ARMEY:

Social Security is a rotten trick. I think we are going to have to bite the bullet on Social Security and phase it out over time.

Does that sound like somebody who wants to save Social Security? I think not.

Mr. President, there is a need for an express exemption of Social Security. It is Congress' obligation to ensure both parties perform their obligations under the terms of the contract we have with the people of America. This will not be possible if the underlying balanced budget amendment passes. It can only happen if we exempt Social Security.

Social Security is a program that is working. It is a Government program that works. The poverty rate for today's seniors is about 10 percent, the lowest in the history of this country. What was it prior to the adoption of Social Security? It is obvious that someone like Helen Collins would be in one of those poor houses. A widow since age 21, who struggled and worked to put her only child through college, now is pleading with us: "All I have is Social Security. I have never had to go to welfare. Social Security is not a welfare program. Can't you do something to make sure you protect Social Security?"

That is all we are asking. Adopt this amendment and then go ahead and pass a balanced budget amendment. But I say to my friends, please, don't pass the underlying amendment unless we

exclude Social Security. The poverty rate today for seniors is 10.5 percent, the lowest in the history of this country. We don't need poorhouses anymore. We don't need people, like my friend who wrote me this handwritten note, in a poorhouse.

Why don't we have poorhouses? Why do we have a poverty rate of seniors at 10.5 percent? We have it because of one reason, and that is Social Security.

Are we concerned about the raiding of this surplus by those intent on enforcing the balanced budget amendment? Maybe so. This is not a Democrat or Republican issue, I hope. I hope my colleagues on the other side of the aisle would recognize that Social Security is a program that is important to both Democrats and Republicans. We need Republican support to adopt this amendment, and I plead with my friends, adopt this amendment. We have some courageous Members in the House of Representatives, sophomore Republican Members of the House, who are leading the fight over there to exclude Social Security from a balanced budget amendment. I think we should all be proud of them. We need some Republican Senators to join with them.

What we can't support is an attempt to use Social Security as a means of achieving this short-term goal. To do so would be a breach of our obligation under the terms of the Social Security contract with America that we have. In short, people pay into the Social Security trust fund through a lifetime of their employment in the labor force with the guarantee that they will get their money back upon retirement. It is a simple contract to understand. Today's workers support today's retirees, and tomorrow's workers support tomorrow's retirees. This simplicity belies the high regard and faith that the American worker has for this guarantee.

So, at a time when so many are attacking this institution, questioning their faith in the system, it is imperative we provide Americans with the guarantee that while we all will sacrifice to balance the budget, we will all sacrifice equally, we won't do it on the back of Social Security, because to do so would just be another gimmick, another thing that was referred to as smoke and mirrors.

This amendment should receive the support of everybody supporting the balanced budget amendment. While some have given assurances Social Security will not be touched in the enforcement of a balanced budget amendment, this amendment will put teeth into that assurance. If people on the other side of the aisle say, "We agree with the Senator, we don't think Social Security should be touched either; in fact, we will pass a resolution, we will even tell you we will pass a statute after this becomes effective," well, it is wasteful, it will be meaningless. The only way that it will work is if it is included in this amendment. Let's exclude Social Security.



Our amendment gives all an opportunity to, in effect, step up to the proverbial plate and take a swing at what is the right thing to do, and that is to exclude Social Security so that it is protected. If they don't wish to protect Social Security, they should not support our amendment. Promises not to raid the Social Security system are insufficient and really unenforceable. We need a binding commitment, and this amendment will do just that.

Social Security affects all of us. There are proposals that include investing this money in the private market. This cannot be done unless we exempt the trust funds to ensure those funds are available for investment. By not exempting Social Security, we not only hurt today's senior citizens but are compromising the future of tomorrow's retirees as well. This is not an amendment that helps people with white hair only. This is an amendment that helps their children and their children's children.

As I indicated, Mr. President, when I started this 3 years ago, I had very little support and help. But the message is resonating to the American people. Within the past 10 days, there have been two comprehensive nationwide polls. Hart-Teeter—now, remember, these are Republican pollsters. They poll for Republicans running for office. They also do work in the markets. They did a poll for NBC, National Broadcasting Co., and the Wall Street Journal. Mr. President, 71 percent of the people polled said they will not support a balanced budget amendment unless Social Security is excluded. A similar poll was conducted a few days later by the New York Times. Like numbers. Almost 75 percent of the American people say, "Do not balance the budget if Social Security is included." They say, "Balance the budget, but exclude Social Security."

We have a number of think tanks that have taken a very close look at this. I served on the Entitlement Commission with the Director of the Center on Budget and Policy Priorities, Mr. Greenstein. The Center on Budget and Policy Priorities told us that by the year 2020, the second decade of the next century, Social Security reserves will be in the trillions of dollars.

They say:

If Social Security surpluses were to be used in the next two decades to increase national saving rather than to offset the deficit and the rest of the budget, that will likely result in stronger economic growth.

So what the Center on Budget and Policy Priorities says is if you take these moneys to mask the deficit, it doesn't help. But if you take the Social Security reserves and make them truly reserves, it will result in greater savings and will cause more economic growth in our great country.

Here is what the Center on Budget and Policy Priorities says about the underlying amendment. Among other things, they say:

Unfortunately, the balanced budget amendment—

The underlying amendment—

would undercut the approach to bolstering Social Security. The implications of this requirement on Social Security are very significant. First, the budget would be considered balanced when the deficit outside Social Security exactly offset the surplus inside Social Security. But when that occurred, the objective of accumulating Social Security surplus, partly to build the Nation's capital stock and productive capacity so we can better afford to pay for the baby boomers' retirement, would be stymied. Second, the benefits of the baby boomers would likely have to be financed in full by the taxes of those working in the years the baby boomers retire.

Very simple. So everyone understands what the Center on Budget and Policy Priorities says, for example, if in the private sector you pay into a fund all your life so that when you reach age 65 you can retire, and you go to your employer and say, "Well, I'm 65. I want to draw my retirement," they say, "Fine. You can go ahead and draw your retirement, but every penny you draw out for retirement you have to put that much money in." And the person says, "Would you repeat that?" And so the boss would repeat it. The boss would say, "Sure. You paid money into the fund all of your lifetime while you worked here, but we've used the money for something else. So if you want to draw money out, you have to put it back in the second time." That is in effect what is—not in effect—that is literally what is happening in here.

If the underlying balanced budget amendment passes, Social Security recipients will have to pay twice if they want their benefits. This version of the balanced budget amendment would thus undercut the central achievements of the 1980 Social Security reforms.

That is pretty direct. The Center on Budget and Policy Priorities further says:

Under the amendment, reductions in Social Security could be used to help Congress and the President balance the budget if they are faced with a budget crunch. The balanced budget amendment is likely to lead to periodic midyear crisis when budgets, thought to be balanced at the start of a fiscal year, fall out of balance at the fiscal year, such as factors of slowing economic growth. When sizable deficits emerge with only part of the year remaining, they will often be very difficult to address.

Among other things, they can, under this amendment, raise the debt if they get a three-fifths vote; raise taxes, another supervote. In such circumstances, the Policy Priority Institute says:

The President or the courts may feel compelled to act to uphold the constitutional requirements for a budget balance.

In documents circulated in November 1996, explaining how the amendment worked, the House coauthors of the amendment—listen to this—wrote:

In such circumstances the President would be bound at the point at which the Government runs out of money to stop issuing checks. This would appear to include Social Security checks.

Mr. President, this is not something I made up. These are direct words from

the sponsors of the amendment in the House of Representatives. They put in writing—I quote—

... the President would be bound at the point at which the Government runs out of money to stop issuing checks.

So, ladies and gentlemen, the underlying amendment clearly will destroy Social Security.

The major difference between the two versions of the balanced budget amendment—mine and the underlying amendment—is that the version which excludes Social Security allows the Nation to draw on its Social Security savings during the period when the baby-boom generation is in its peak retirement years and requires the Nation to save more in advance to help cover the cost of the baby-boom generation. Pretty clear.

We have here a great institution, part of the Library of Congress, called the Congressional Research Service. When a Member of Congress has a question about an issue, you can call. You may want to know about how much lumber our forests are producing. You may want to know how many miles of roads there are in Nevada, Iowa, or Colorado. Any kind of information they can get information for us.

One of the things they were asked to comment on is, What about this underlying amendment? What about the amendment that is now before this body? What will it do? They said, among other things:

The amendment would preclude, at a future time when Social Security outlays in a particular year begin to exceed Social Security receipts in that particular year, the use of the Social Security funds to pay out benefits.

So what they said is the same thing Greenstein said, that when you have surpluses built up they would go to offset the deficit. They go on to say:

Therefore, under the balanced budget amendment's language, there is mandated a balance in each year for the outlays that year and the receipts that year. Payments out of the balance of the Social Security trust funds would not be counted as Government receipts under the balanced budget amendment when in the year 2019, or whenever the time occurs, the receipts in those particular years and the Social Security trust funds are not adequate to cover the outlays in those years. That is, payments out of the trust fund surpluses could not be counted in the calculation of the balance between total Federal outlays and receipts. Because the balanced budget amendment requires that required balance be between outlays for that year and receipts for that year, the moneys that constitute the Social Security surpluses would not be available as a balance for the payment of benefits.

That again is very clear. It is again from another source saying that the underlying amendment will destroy Social Security.

Some people tried to get the Congressional Reference Service to change their mind, to write another report. And they wrote another report that said the same thing. Shorter, but says the same thing.

Thus, the pending balanced budget amendment requires outlays for any fiscal year not to exceed total receipts for that year.

What they are saying is you would not have to use Social Security surpluses. What you can do is borrow more money or cut more services or raise more taxes. Of course, remember, when you have surpluses running as high as they are, the one place you are going to go is where the surpluses are.

To support what CRS has said we again come back at a later time with the subsequent report by the Center on Budget and Policy Priorities where they say:

Under the balanced budget amendment, the Social Security surplus could not be tapped and interest earnings on the surplus could not be used unless it was offsetting surplus in the rest of the budget.

Again, it is very clear what CRS said, what the Center on Budget and Policy Priorities said.

Mr. President, there are numerous organizations that oppose the balanced budget amendment for various reasons. There are also organizations that do not support the passage of the balanced budget amendment because of what it does to Social Security.

One such organization is the esteemed National Committee to Preserve Social Security and Medicare with about 6 million members. Mr. President, they, just a few days ago, wrote a letter to me where they said, among other things:

Your amendment would preserve the integrity of the Social Security trust fund under a balanced budget constitutional amendment.

They did not equivocate. They did not say, "Offer this amendment at the right time." They say, the amendment that is now before this body will preserve the integrity of the Social Security trust fund under a balanced budget constitutional amendment. They go on to say:

The issue is clear-cut. As drafted, S.J. Res. 1 overturns the 1990 law taking Social Security off budget and allows Social Security to be raided to reduce the deficit. Statutory measures to protect Social Security from such a result are not adequate because of the supremacy of the Constitution and because future Congresses are free to change such statutory measures while the provision to place Social Security on budget will remain in the United States Constitution. Borrowing from the reserve to finance current consumption will place a heavy burden on future generations because the debt to the trust fund must be paid with interest.

Mr. President, there certainly has to be consideration given to what will happen if the underlying balanced budget amendment passes. It will not only throw the Social Security trust fund out of kilter, it will be a cheap and very deceitful way to attempt to balance the budget. As a result of that, we have a letter written January 28 from President Bill Clinton to Leader DASCHLE where he says in the paragraph in the middle of page 1:

I am very concerned that Senate Joint Resolution 1, the Constitutional amendment to balance the budget, could pose grave risks to the Social Security system. In the event of passage, in which the budget requirements can neither be waived nor met, disbursement

of Social Security checks could cease or unelected judges could reduce benefits to comply with this constitutional mandate. No subsequent implementing legislation could protect Social Security with certainty because a constitutional amendment overrides statutory law.

Mr. President, we have offered this amendment. The Senator from Nevada has offered it, along with Senators DORGAN, DASCHLE, KENNEDY, FEINSTEIN, WYDEN, CONRAD, FORD and HOLLINGS.

Mr. President, I say stop and look at what is happening. If you take a look at what is the state of the economy today, last year was the 4th year in a row we had a declining deficit, the first time since before the Civil War we have had 4 years in a row with a declining deficit. Lowest unemployment, lowest inflation for 40 years, highest economic growth in 40 years, 300,000 fewer Federal employees today than 4 years ago, excluding the cuts in the military. Our Federal Government today is about the same size as when President Kennedy was President. Home building during the last 2 years, the largest number of homes built in any comparable 2-year period.

The economy is doing well. I do not think this underlying amendment which would throw Social Security in reverse will do anything to help the economy. In fact, it will hurt the economy and certainly hurt the Helen Collinses of the world, people who have their dignity as a result of the Social Security system.

Mr. President, I talked about why Social Security was passed. I talked about banks shutting their doors. I talked about factories slowing down and stopping. I talked about homes being foreclosed upon, farms being foreclosed upon, people being evacuated from their businesses because they did not pay their bills, families living together, "The Grapes of Wrath"—we do not need "The Grapes of Wrath" revisited. We are a rich nation. We have an obligation to provide for people in their senior years, especially when they provided for themselves, and that is all Social Security does. Social Security is not a gift. It is not welfare. It is a program, Mr. President, that gives people dignity like my grandmother and like Helen Collins.

We need to understand that this underlying amendment is not fair. If everyone acknowledges that they want to take care of Social Security and protect Social Security, then why not accept my amendment? I hope people of good will on both sides of the aisle will think about this amendment, will understand where we have come in the 3 years since I first offered it.

I was a lone voice crying in the wilderness 3 years ago. Now, Mr. President, we have support. The American public supports what we are attempting to do. They are supporting it because they know the importance of Social Security, and they know that if we do not expressly exclude Social Security from a balanced budget amend-

ment, it will be destroyed. That is why I will only support a balanced budget amendment that expressly exempts Social Security.

Mr. HATCH. Mr. President, I am hoping we can conclude debate for this evening. I will say a few words and hope that our leadership will be ready to end the session for today. I give warning that I am prepared to close down the Senate if the Senate is prepared to be closed down.

Let me just say a few words about my friend's amendment. My friend, Senator REID, and others seek to remove Social Security from the protections of the balanced budget amendment. I look forward to a lengthy debate tomorrow on this subject and this issue. But while I respect these critics, and I certainly do, the truth of the matter is that the Reid amendment is merely a diversion from what should be the real focus of this debate: whether the Constitution should be amended to require a balanced budget amendment except in exigent circumstances.

When I say that, I again look at these 28 years of unbalanced budgets. This is the real issue. Everybody knows that if the Reid amendment passes, this is going to only get worse. The fact of the matter is, if we are going to do anything about this, we have to pass the underlying balanced budget amendment without the Reid amendment on it. Exempting Social Security from the balanced budget amendment will create an overwhelming incentive to do just what these critics fear.

Let me point out this chart here. Social Security—don't leave it out. The budget is protected by the balanced budget amendment. If Social Security is left out, special interests will eat Social Security surpluses like cheese. There is no question about it. This exemption would focus budget pressures on the Social Security trust fund that could destroy the viability of the Social Security trust fund itself. It is a risky gimmick, and it has no real relationship to the goals sought.

Taking Social Security off budget will subject its funds to Washington's special interest scavengers. When you have rats in your home, you need to plug up all the holes. If you do not, they will find a way in. If we leave Social Security off budget, new and old special interest spending initiatives which cannot survive or make their way in under a balanced budget plan will smell out the scent of Social Security and simply devour, just like these rats that are devouring the Social Security cheese. You need to leave it in because the budget will be protected by the balanced budget amendment. Do not take it out.

Furthermore, exempting the trust funds is simply unjustified. There already exists an elaborate scheme of firewalls that protect the trust funds from Presidential and congressional tampering. Nothing in the balanced budget amendment is inconsistent with the statutory firewall scheme. The

truth is that the passage of Senate Joint Resolution 1 is the best way to preserve Social Security benefits.

Mr. President, I must emphasize another reason why the Reid amendment is unnecessary. The proposal to remove Social Security from the protections of the balanced budget amendment does nothing to respond to the concern that Social Security benefits will be reduced. This is the language of the Reid amendment. Nothing in the exemption would protect Social Security recipients from either benefit cuts or tax increases. Just look at the message there. In fact, the Reid amendment could weaken the financial integrity of the Social Security System.

Under current projections, Social Security will have exhausted the trust funds and will be running deficits by the year 2029. Many of us believe they will run deficits before then. By 2070, as shown on the chart, Social Security will face a startling \$7 trillion shortfall. Just look at these deficits—by 2070, a \$7 trillion shortfall.

Excluding Social Security ignores this problem and places the whole system in dire jeopardy. Including Social Security in the budget calculation forces Congress to address the pending crisis in a responsible manner before it becomes too late. Why? Because exempting Social Security creates two budgets, one which must be balanced because receipts must equal outlays, and the other, a Social Security trust budget which will contain the current trust fund's surplus. This second budget presents the political branches of Government with a powerful incentive to redefine costly spending programs as Social Security and pay for them through what would become a giant loophole in any attempt to balance the budget.

There is no telling where these games might lead. Imagine the christening of the SS Social Security battleship, or the creation of the Social Security National Park, which will probably, of course, be located in Utah if this administration has anything to say about it. Thus, this loophole would make it easy to balance the budget on paper without changing anything except accounting methods. And, in perhaps the ultimate paradox, Congress could use the loophole to seem to eliminate the deficit without a single spending cut.

According to Wall Street analyst David Malpass, who recently testified before the Judiciary Committee, "Financial markets would react negatively to a budget concept that ignores Social Security." By passing a balanced budget that excludes Social Security, Congress would, according to him, and I think anybody else who looks at it objectively, "game" the system, saying, in effect, that it does not intend to balance the consolidated unitary Federal budget. For Malpass and other market analysts, "This would be a decidedly negative signal for financial markets leading to higher interest rates." That would hurt every citizen

in this country, but most of all the poor.

Furthermore, Wall Street's support for the balanced budget amendment was made evident today in a full-page advertisement that Merrill Lynch placed in Roll Call. The ad was entitled "Why the Balanced Budget Amendment Makes Sense."

I ask unanimous consent that the article be printed in the RECORD at this point.

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

#### WHY THE BALANCED BUDGET AMENDMENT MAKES SENSE

During the next month, Congress will debate whether to add a balanced budget amendment to the Constitution.

Many arguments have been raised against a balanced budget amendment. Chief among them is that the amendment would aggravate an economic downturn by forcing budget cuts and tax increases.

This is a legitimate concern. There is widespread agreement that tax increases and spending cuts in times of economic contraction would only exacerbate a downturn.

But the balanced budget amendment would not put members of Congress in strait-jackets. The language of the amendment clearly allows for flexibility on this score and it is certainly plausible that three-fifths of the House and Senate would waive the requirement during economic slowdowns.

Concern about the impact of a balanced budget amendment should be linked to where the economy is headed if fiscal policy remains on its present course.

Any budget agreement reached this year will strive to balance the budget by 2002. But this year's budget agreement will do little to address the long-term fiscal problems this country faces.

As the Congressional Budget Office has shown, our long-term fiscal outlook is unsustainable. According to CBO,

Entitlement and interest spending will skyrocket after 2010—from 12 percent of GDP today to between 22 percent and 30 percent by 2025.

The spending explosion will create enormous future deficits. By 2030, the deficit could range between 12 percent and 37 percent of GDP—compared to 1.4 percent in 1996.

In addition, economists project that current spending and tax policies will ultimately levy a crushing 84 percent lifetime net tax rate on future generations of Americans.

Clearly, measured in terms of deficits, debt levels, or future tax rates, our current fiscal path will soon become unaffordable. As a nation, we have made promises that we simply cannot keep without endangering our economic future and that of our children.

That's why we support a balanced budget amendment. The amendment itself will not reduce the deficit by a dime. But it could create a political climate that makes the hard choices we face a little easier and lend political support to the long-term pursuit of fiscal prudence.

Mr. HATCH. Mr. President, I believe that this gamesmanship is exactly what must be avoided. The way to avoid it is to reject such exemptions. The best way to protect retirees of future generations is to adopt a clean and strong balanced budget amendment, free of loopholes. Significantly, critics of Senate Joint Resolution 1, who wish to exempt Social Security,

have not demonstrated in the least how they would balance the budget without including the present Social Security trust fund surpluses, which, as I stated, is only temporary. Presumably, without including the present surpluses in budget calculations, other programs would have to suffer greater cuts.

It is ironic that many of those who argue that a balanced budget constitutional amendment would cause cuts in social programs are themselves calling for the exemption of Social Security, advocating draconian cuts in their most favorite programs. Let me give you an example. Between the years 2002 and 2007, without including the surplus, the deficit will appear to be \$700 billion larger than it is. This means either a mammoth tax hike on all American families—almost \$1,100 per year per household—or devastating cuts in important programs like Medicare, cancer, and other disease research, Head Start, and environmental cleanup. I might add that Treasury Secretary Rubin, at a January 17 balanced budget constitutional amendment hearing, testified that the trust fund surplus will be included in the Presidential budget, and that this view of budget policy reflects the view of the President and the Congress.

Indeed, President Clinton, in a recent press conference, while opposing the balanced budget constitutional amendment, admitted he could not balance the budget without counting the present Social Security surpluses. In the words of the President, "Neither the Republicans nor I could produce a balanced budget tomorrow that could pass if Social Security funds could not be counted." In fact, all the budgets the President has submitted to Congress have contained the Social Security surplus. Some would think it hypocritical to not argue that it should not be included. I would never go that far, but it is a game that is being played by the White House and, frankly, it is time for the games to end.

The President knows that not including the present day surpluses would require draconian cuts to other worthwhile Federal programs. By the way, contrary to what Senator REID has alleged, CRS did not—let me emphasize this—conclude in any of its memoranda that the balanced budget amendment requirement and the Social Security program would prohibit the use of surpluses or other receipts to finance benefits in succeeding years. In fact, today, the nonpartisan Concord Coalition—a nonpartisan group founded by a Democrat, Paul Tsongas, and a Republican, Warren Rudman—revealed a study that clearly demonstrates that the best way to protect Social Security is to adopt this clean, unamended balanced budget constitutional amendment.

I want to point out that the Concord Coalition has been cited by both sides as a responsible group trying to do the best to bring about good budgetary matters in this country. I also want to

point out that these amendments that are attacking this balanced budget amendment would, for the first time, place a statutory reference in the Constitution. The constitutional effect of this is unclear and likely to engender much confusion that could be destructive in both balanced budgets and Social Security. In fact, former Assistant and Acting Attorney General Stuart Gerson, and attorney Alan Morrison, a liberal attorney, as witnesses for the majority and minority, respectively, in a recent hearing on Senate Joint Resolution 1, the balanced budget constitutional amendment, agreed that exempting Social Security from the balanced budget amendment is a bad, bad idea.

According to Alan Morrison, a litigator with the Public Citizen, who opposes the balanced budget amendment and who testified for the minority:

Given the size of Social Security, to allow it to run at a deficit would undermine the whole concept of a balanced budget. Moreover, there is no definition of Social Security in the Constitution, and it would be extremely unwise and productive of litigation and political maneuvering to try to write one. If there is to be a balanced budget constitutional amendment, there should be no exceptions.

He is a liberal and is affiliated with the Ralph Nader group. But he is a competent constitutional expert. Normally, he is advocating the most liberal constitutional principles. But even he said there should be no exemptions like the Reid amendment to this balanced budget amendment.

Mr. President, I am eager for the debate tomorrow over the Social Security exemption. I am confident that when the dust settles, the Reid amendment will go down to defeat because it will be shown to be not only unnecessary, but also harmful to the very thing it sought to safeguard, Social Security.

I have stated that the debate on the Reid amendment is really a diversion from the real underlying issue—whether this Nation has the will to avert a common fiscal crisis. Mr. President, the absolute biggest threat to Social Security is our growing debt and concomitant interest payments. Debt-related inflation hits hard those on fixed incomes, and the Government's use of capital to fund debt slows productivity and income growth and siphons off needed money for worthwhile programs. The way to protect Social Security benefits is to pass Senate Joint Resolution 1. The proposal to exempt Social Security will not only destroy the balanced budget amendment, but, in all probability, will also cause the Social Security trust funds to run out of money sooner than they would have without an exemption, risking the viability of the Social Security program itself.

Finally, the Senator from Nevada has raised the specter that the balanced budget amendment may cause the Social Security trust funds to be "raided," because the amounts of the

present day surplus will be included in budget calculations. This contention is erroneous for several reasons.

The argument to exempt Social Security surpluses disregards the fact that the United States has a unified budget, and not including the present trust fund surpluses will make the budget very difficult to balance and threatens the vitality of other Federal programs.

The Social Security trust funds are, in actuality, nothing more than an accounting device. Let's consider this chart on how the system works. Social Security tax receipts are not kept in some sort of isolated bank vault. Instead, Social Security taxes are deposited into accounts maintained by the Federal Government with various financial institutions. Social Security taxes, along with other deposited receipts, become part of the U.S. Treasury. FICA tax receipts go to the Social Security Administration, and they are passed on from there to the Treasury, where all FICA tax proceeds are commingled with the general funds. In return, the Treasury invests in Treasury bonds which will be redeemed later. These bonds are, incidentally, the most important and stable securities in the world.

All the Treasury moneys are indistinguishable from other deposited moneys. But the Social Security revenues are accounted for separately through the issuance of Federal securities to trust funds. The trust funds do not hold the moneys. They are simply book-keeping accounts.

Thus, as part of unified budget, any surplus derived from the trust funds, much like other revenues, is used to finance the operations of the Federal Government. Like all of us, the Federal Government has one budget. Listing categories of spending in discrete book-keeping entries does not reduce the size of what we owe or spend.

Moreover the surplus Social Security taxes being collected today will not cover the future cost of the system. Most of current Social Security taxes are currently used to cover benefit payments to present retirees.

Outlays will exceed receipts of the system, and the year that it is suspected to do that is the year 2019. The guarantee of future benefits, therefore, will depend on the Federal Government's future ability to levy taxes, the size and the amount of the benefits, and the overall health of the economy, not the balances or "surpluses" of the trust funds.

To characterize the use of the surplus as "raiding" the trust funds is, therefore, erroneous and absolutely wrong. Furthermore, the exclusion of the present-day surpluses in the budget will make it extraordinarily difficult to balance the budget by the year 2002, the date Senate Joint Resolution 1 mandates balancing the budget. Between now and the year 2002, the surplus is estimated to be over \$500 billion in current dollars. Ten years from now,

the year 2007, the value of trust fund surpluses is expected to be \$1.067 trillion. This is an annual surplus average of approximately \$100 billion.

According to current budgetary figures, \$100 billion per year is more than our current annual expenditure on education, the environment, and transportation and infrastructure. Mr. President, \$1.067 trillion is in fact more than our expenditure this year on Medicare, education, veterans' benefits, the environment, national defense, Social Security, transportation and infrastructure, and natural resources combined.

Where will we come up with the money to fund these programs if we exclude Social Security surpluses from the unified budget? Federal programs would have to be cut, or taxes raised by this amount to reach the balanced budget goal. Ironically, it appears that those who yell the loudest to exempt Social Security are the very same people who wish to increase the very social welfare programs that are being put at risk by this exemption. They are the ones that are really screaming about wanting to spend more on social programs, which will have to be cut if this amendment becomes law.

The real issue is where are we going to get the money to redeem the Federal securities that make up the Social Security trust funds?

Let's put that other chart up. Where will we come up with this \$1.067 trillion shortfall if Social Security is exempted from the balanced budget amendment?

The trust funds are not being raided. We owe the money to the Social Security trust fund, and we will have to pay. But if Social Security is exempted from the balanced budget amendment it will be mortally wounded. Either other programs will be relabeled "Social Security" so that they take away from the luster of Social Security and the willingness of people to support it like it should be. Either programs will be relabeled "Social Security"—as we have done in the past—and the present surpluses will be spent, or the surplus will be used to pay down our national debt. And thereafter we will keep spending until we have reached the debt ceiling. Either way, the surplus will be used up.

Well, frankly, it is the Reid exemption and the Reid amendment that will ultimately destroy Social Security. The best way to face the coming problems with the Social Security System is through a unified budget. We all have to work together within constraints to redeem those securities, and not allow any other programs to be relabeled Social Security or affect the Social Security trust funds. But if we don't, if we take Social Security outside the unified budget, the rats will come and eat it away. Inside, Social Security competes better than any other issue for budgetary markets. So, it is penny-wise and pound-foolish to take it out and risk having to reduce all of these other good social welfare

programs. Head Start, education, environment, highways and infrastructure—all of these programs that are so important would have to be cut to reach a balanced budget by the year 2002 if Social Security is exempted.

We show that by the year 2019—on this chart, the green part is the surpluses—surpluses drop, and huge deficits will be as high as \$7 trillion a year by the year 2007. Without the balanced budget amendment, that is where we are headed.

We would not get this balanced budget if the Reid amendment happened to pass. And, if it did pass, it would put us at tremendous risk as we try to reach a balanced budget by the year 2002. We would have to cut almost every social program that we have more than we should. Naturally we are going to have to find restraint in growth, and we are going to have to find ways of cutting without cutting to the bone.

Taking Social Security out. I have to tell you, it will still be the same system. The only difference is we will still be investing in the bonds which I was showing—these Federal Government securities. The only difference is our colleagues who want to spend more will be spending those surpluses for more social welfare programs without reaching a balanced budget.

The fact is that this country will be doomed. We have to pass this amendment. Frankly, it is the only thing I know to stop the rats from raiding all of our budgetary assets. And this will start us on the pathway of getting things in order.

Look. We know that we cannot keep up the same system. We cannot keep doing this. We just can't keep doing this. And the only chance to put an end to these types of unbalanced budgets year after year is to pass this balanced budget amendment, and to pass it intact without these amendments, as sincere as they may be.

Mr. President, I am prepared to move on this side of the Senate, if we can.

Mr. REID. Mr. President, I have just a few more comments which I would like to make in response to my friend, my western friend from the State of Utah, for whom I have the greatest respect. But I would say to him and those listening that we are all beginning to see where some of the special interest scavengers are and who the rats are that will be looking for the cheese. And I think if you look at the Wall Street Journal today you will look at a full-page ad. You would find that those are the people who are the rats and those are the people looking for cheese. The Helen Collins of the world who are trying to survive on Social Security can't run a full-page ad in the Wall Street Journal. The cheese is the surplus from Social Security. That is what the rats are eating. They have been doing it all along.

For my friend from Utah to say that President Clinton has said he has been using it in his calculations, that doesn't make it right. That is my

whole point. Let's do it the right way. Why would we enshrine in the Constitution something we have been doing wrong for 15 years now? The surpluses of Social Security should not go toward balancing the budget. Everybody says it will be hard to do. You have that right. It will be hard to do. But when we do it it will be honest. It will be done the right way. When we say we have a balanced budget we will really have done it. We don't have one now.

My friend, prior to coming to this body, was a trial lawyer, and a good lawyer. I say to him and to anyone within the sound of my voice that you can't have Social Security. It is statutorily defined. You can't include a national park in that, and other programs. It is statutorily defined.

Now, people may say that you look in the Wall Street Journal; Merrill Lynch and others, which I have not seen—I am sure it is a full-page ad—they run this full-page ad. I repeat, the Helen Collinses of the world and almost 75 percent of the American public do not support a constitutional amendment to balance the budget unless Social Security is excluded. They cannot run a full-page ad in the Wall Street Journal. But those that are running full-page ads know where the cheese is, and the cheese is the surpluses for Social Security that they will use to balance the budget.

And people say, why? The same answer I guess is the answer that Willie Sutton gave when they asked him, after he was put in prison, "Willie, why did you rob all those banks?" He said, "That's where the money was." Well, the reason they are going after the Social Security surpluses is that is the only place we have surplus money now.

I repeat, why enshrine in the Constitution something that we have been doing that is wrong?

Now, my friend from Utah has said, well, the CRS really did not mean what they said, and if they said what they mean they really did not say it that way. I read from the Center on Budget Policy Priorities just a few paragraphs. In fact, I know the time is late. I will read one paragraph. They say there are three memos, two from CRS and one from them.

All three memos explain that under the Hatch and Schaefer-Stenholm versions—

This underlying amendment—outlays in any year—including outlays for benefits paid from the Social Security trust fund—may not exceed receipts in that year. All three memos note that any funds drawn down from the accumulated Social Security surpluses to help pay for the Social Security benefits of retired baby boomers would not count as receipts in those years.

Very clear. That is what they have said.

Now, they have said there is no exception as to war. Of course, there is exception in the Constitution as to war. So this amendment is not as pure as some would like us to believe.

I also say for emphasis that my friend said it would be difficult to bal-

ance the budget. Democrats and Republicans say it would be difficult to balance the budget unless you use Social Security trust fund moneys, but it is not a fair balance.

Mr. President, I will close tonight—I know everyone is anxious to go. We will take this debate up tomorrow. We have a series of speakers lined up, as does my friend from Utah.

Congressman DAVID MCINTOSH, a sophomore Republican Congressman from Indiana, says, and I quote:

Republicans cannot allow ourselves to be defined as cutting Social Security even as we move forward with the balanced budget amendment.

Now, this man, Mr. MCINTOSH, is no left-wing socialist. He is noted as being one of the most conservative Members in the entire House of Representatives. He was part of the Republican revolution, but he, sophomore Republican, has said, I want to be able to vote on the Reid amendment; I want to be able to vote to exclude Social Security. Why? Because it is the right thing to do. It is the honest way to balance the budget.

Mr. HATCH. Mr. President, I do not want to prolong the debate tonight, but I have to say no matter what you do, those funds are going to be invested in bonds, U.S. securities. That is what is statutorily required.

The fact is, if you set Social Security outside of the budget, if Social Security is defined by statute, it can be redefined by statute. So we have accounting surpluses in Social Security. I am just using bizarre examples, but what about Medicare? People around here are not willing to reform Medicare. They are not willing to pay the price to get it done. They just want to find some other revenue source to pay for it. It would be easy to shove it into Social Security and make the surplus pay for it rather than facing the music which the balanced budget amendment would make us do.

And it is not just that. It is all social spending they want to do. They will use that surplus for that rather than using it for what it needs to be used for, and that is to balance the budget. And the only way you are going to get the payment for that Social Security surplus in the future is if the United States can redeem its bonds. And the only way the United States can redeem its bonds in the year 2020 is if we do what is right today and we pass a balanced budget amendment.

That is the only way, because every dime of it, if there is a surplus up to the year 2020, every dime will be invested in Federal Government bonds, every dime, just like it is today.

The question is, will we be using those dollars, every dime in those dollars, to balance the budget or will it just be another big spending spree by those who want to spend us blind and who have done so for 28 straight years?

I do not mean to sound rabid about this, but this is important stuff. And when we start talking about putting

Social Security outside the balanced budget amendment, we're really talking about milking that program to death. You cannot get away with it if it is all on budget. If it is a unified budget, you cannot get away with it. And these people say it is currently raided. Everyone knows that every single nickel of that money is going to go into Federal Government bonds. The question is whether that money is going to be used to reduce the deficit and get us to a balanced budget by the year 2002 or whether we are going to have people raiding it and using it to pay for other additional social spending programs because it is not subject to balanced budget requisites.

This is a pretty serious issue. I have here a wonderful article by Stephen Chapman in Sunday's Washington Times entitled "Balanced Budget Shell Game."

He says:

Opponents of a simple balanced budget amendment, which include President Clinton, say it would harm retirees by allowing Social Security surpluses to be used to offset deficits elsewhere in the budget.

North Dakota's Democratic Sen. Byron Dorgan says such a "misuse" would violate "a solemn promise."

How is that, since all that money is going to be invested in Federal Government bonds? The question is, what is it going to be used for, once the Government gets the money? Is it going to be used to balance the budget or used for more spending, which is going to happen if the Reid amendment passes?

This tax taken from your paycheck goes into a trust fund to be used for only one purpose, and that is to fund the Social Security system. The critics say the amendment would encourage Congress to cut retirement benefits to pay for tax cuts and other programs at the expense of the elderly.

They propose an alternative version that excludes Social Security from deficit calculations. For many Members of Congress, this option has an extra attraction: It has no chance of enactment, since it would force Congress to come up with another \$465 billion in spending cuts or tax increases between now and the year 2002. So there will be no need to make the unpleasant choices that our lawmakers have been dodging for an entire generation.

As they have passed these 28 unbalanced budgets and 58 of the last 66.

The opponents have found a clever way to gull voters into accepting a continued tide of red ink.

But the public shouldn't be fooled. The opponents are playing a shell game, hoping voters won't be able to detect their sleight of hand. The fears they have for Social Security are unfounded and their solution would protect only fiscal indiscipline.

Indiscipline, not discipline.

First of all, excluding Social Security would create a loophole big enough to drive a \$300 billion deficit through. If Social Security is exempt from the balanced-budget requirement, everything will be Social Security. Any program with any remote benefit to the elderly can easily be renamed. "Housing, national health care, highways will be treated as Social Security," says Heritage Foundation budget expert Daniel Mitchell. We would end up with a "balanced" budget that drives us ever deeper into debt.

The exclusion is billed as a way to prevent looting of the trust fund, but its actual effect would be zero. Right now, the retirement fund is running a surplus every year. The surplus is "invested" in government bonds—in other words, it is lent to the Treasury, which uses the borrowed money to pay for other government programs. Once it is excluded from the budget, the surplus will still be lent to the Treasury. Mr. Dorgan says Social Security taxes should never be used except to pay Social Security benefits. But his proposal does nothing to prevent that.

The ostensible reason we are running a surplus is to build up a reserve that can be used to pay benefits when the Baby-Boom generation retires. Dorgan and Co. say the original balanced-budget amendment would deplete that reserve, seriously endangering future benefits. Nonsense. The "reserve" consists of government bonds. These are nothing more than IOUs, which cannot be repaid unless future taxpayers are willing. When the Baby Boomers retire, taxes will have to rise to pay their benefits. That's true whether Social Security runs a surplus today or not.

The opponents insist that excluding Social Security from the amendment would shield it from politicians eager to starve Grandma so they can hand out goodies to special interests. Since Congress wouldn't be able to reduce the deficit by cutting Social Security benefits, those benefits would be as safe as the gold in Fort Knox.

This argument is neat, simple and hopelessly naive. What it overlooks is that if Congress can't use the surplus to balance the budget, it can always get rid of the surplus by cutting payroll taxes—then raise taxes an equivalent amount elsewhere to pay for the programs it wants. It could also cut benefits to allow even deeper cuts in the payroll tax, which would permit additional tax increases to finance spending that doesn't help the elderly. The protection for Social Security would soon turn out to be no protection at all.

The opponents of the original amendment take the politically easy position of saying that the Constitution shouldn't require the budget to be balanced at the expense of the elderly. What they mean is that the Constitution shouldn't require the budget to be balanced at the expense of anyone.

The fact is, the same funds will be invested in the same bonds, and the credit of the United States will have to take care of those bonds in the future or people on Social Security will not have the money. You saw the deficits expected in Social Security during the next century.

The fact is, unless we balance this budget, unless we get fiscal discipline into the Constitution, I guarantee we are not going to do what is necessary to solve our fiscal problems. We are certainly not going to have the funds to take care of Social Security in the future.

So, passing the balanced budget amendment in its current form, in the form that we have here, the only one that has a chance of passage, is our only hope to get spending under control.

Mr. President, I am prepared to turn the floor over to the majority leader.

Mr. REID. Mr. President, I see the leader here. I have just a couple of more comments. I have about 5 more minutes, Mr. Leader?

Mr. LOTT. That will be fine.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I would first of all say I don't know who this man is from the Washington Times, but having read that before coming here I know why he writes for that newspaper. I think he would have trouble getting a job anyplace else with the logic he uses in that.

As far as I am concerned, he is perpetuating the myth that Social Security proceeds will and should be used to balance the budget. I think that is wrong. Remember, the commission that just reported to us in the last few months said that some of those trust fund moneys should be invested in private securities. We cannot do that if all the money goes to balancing the budget, as will happen with the underlying amendment.

My friend from Utah said all through this debate that Social Security is the only way, using the excesses, the surplus from Social Security, that you can balance the budget. That does not make it right. That is wrong. If you told a future Social Security recipient the money you are paying in and your employer is paying in is going to be used to balance the budget, it is going to pay for foreign aid and other type things, I don't think they would be too happy.

Senator DOMENICI said it about as well as we could in 1990 when he said,

I voted for the Hollings proposal because I support the concept of taking Social Security out of the budget deficit calculations. We need a firewall around those funds to make sure the reserves are there to pay Social Security benefits in the next century.

The Reid amendment is the firewall that the chairman of the Budget Committee called for 6 years ago. We should pass it. It can be done with my amendment.

I further say that the President of the United States, in his radio address this past Saturday said:

It would prevent us from responding to foreign challenges abroad or economic trouble at home, if to do so resulted in even a minor budget deficit. And because it would write a specific economic policy into our Constitution, it could force the Secretary of the Treasury to cut Social Security, or drive the budget into courts of law when a deficit occurred when Congress was not working on the budget. In a court of law, judges could be forced to halt Social Security checks or to raise taxes just to meet the demands of the constitutional amendment.

It is wrong to balance the budget using Social Security surpluses. That is what Congressman DAVID MCINTOSH, Republican from the State of Indiana, said when he stated, "Republicans cannot allow ourselves to be defined as cutting Social Security." They will. Anyone voting for the underlying amendment and not for the Reid amendment will be deemed as cutting Social Security because that, in fact, is what would occur.

The PRESIDING OFFICER. The Senator from Mississippi.