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Senate

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord God, we want to be so committed to You, so filled with Your spirit, so open and expectant of Your blessings and so willing to be surprised by Your goodness, that we will be spontaneous people. We long to be "all-signals-go!" leaders who can respond to life's opportunities and challenges with immediacy and intensity. It is so easy to be navigated by negativism into the eddies of stagnation. Instead, we step into the fast-moving currents of the river of Your spirit and are carried along by supernatural power. We accept the gift of enthusiasm and welcome life expectantly. We are open to Your serendipities and we are thankful for all You will do to help us. We greet the future as a friend. Help us to be a lift and not a load, a blessing and not a burden, to the people around us. We dedicate this day to spontaneous prayer, moment-by-moment relationship with You that will give us responsiveness to the many splendored thing we call life. In the name of our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able chairman of the Judiciary Committee is recognized.

Mr. HATCH. Thank you, Mr. President.

SCHEDULE

Mr. HATCH. Mr. President, on behalf of the majority leader, I announce that today the Senate will begin consideration of Senator FEINSTEIN's amendment to Senate Joint Resolution 1, the balanced budget amendment. Under a previous agreement, there will be 2

hours of debate on Senator FEINSTEIN's amendment with a vote occurring on or in relation to that amendment at 11 a.m.

Following the vote, Senator TORRICELLI will be recognized to offer an amendment relating to capital budgeting. Senator TORRICELLI's amendment is limited to 3 hours of debate, with a vote expected at the expiration or yielding back of any debate time.

Following disposition of Senator TORRICELLI's amendment, the Senate will continue with amendments to the balanced budget amendment. Therefore, all Senators should anticipate additional votes throughout today's session. I thank all of our colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. HAGEL). Under the previous order, the leadership time is reserved.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. 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:

HOLLINGS-SPECTER-BRYAN amendment No. 9, to add a provision proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

LEAHY (for KENNEDY) amendment No. 10, to provide that only Congress shall have authority to enforce the provisions of the balanced budget constitutional amendment, unless Congress passes legislation specifically granting enforcement authority to the President or State or Federal courts.

GRAHAM-ROBB amendment No. 7, to strike the limitation on debt held by the public.

The PRESIDING OFFICER. Under the previous order, the Senator from California, [Mrs. FEINSTEIN] is recognized to offer an amendment with the time between 9 a.m. and 11 a.m. to be equally divided in the usual form.

Mrs. FEINSTEIN. I thank the Chair. Good morning, Mr. President.

Mr. President, I ask unanimous consent that my legislative director, Susy Elfving, be permitted to be on the floor.

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

Mrs. FEINSTEIN. I thank the Chair.

AMENDMENT NO. 11

(Purpose: To propose a substitute)

Mrs. FEINSTEIN. Mr. President, I send an amendment in the nature of a substitute to the desk, and I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will report the amendment first.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] for herself, Mr. DURBIN, Mr. TORRICELLI, and Mr. CLELAND, proposes an amendment numbered 11.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE —

"SECTION 1. 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 for a specific excess of outlays over receipts by a rollcall vote.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless a majority of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"The provisions of this article may be waived for any fiscal year in which the United States is experiencing a national economic emergency or major natural disaster, which is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal. Effective one year after the effective date of this article, the receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors and 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 complying with this article.

"SECTION 8. Nothing in this article shall preclude the authority to enact and implement a separate capital budget for those major capital improvements which require multi-year Federal funding, and which would be excluded from the requirements of section 7 of this article.

"SECTION 9. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later."

Mrs. FEINSTEIN. Mr. President, the amendment I have just sent to the desk essentially differs from the Senate Joint Resolution 1, the majority balanced budget amendment, in just four ways. I would like to quickly summarize the distinctions and then go over each one of them and explain why I believe this amendment will stand the test of scrutiny. This substitute approach, in my view, represents how we need to address the balanced budget amendment.

Mr. President, we have just had quite a bit of debate on the Reid amendment. The arguments have been made as to why the Social Security trust funds, should be removed from the unified budget. This amendment would allow Social Security trust funds to continue to remain as part of the unified budget

up to the point Congress achieves balance, which has been estimated at 2002. The administration and Congress have both indicated a commitment to balancing the budget by 2002. This amendment respects that goal.

The amendment would require that 1 year after enactment, whenever the amendment is ratified by three-quarters of the legislatures of the States, the amendment would go into effect and be binding. If the amendment becomes effective in 2002, the year in which bipartisan consensus exists for balancing the budget, the year in which Social Security would be excluded would be 2003. This provides an opportunity to transition away from our current reliance on the Social Security trust funds to offset deficit spending in other areas and reach balance under a balanced budget amendment.

As Senator HATCH will recall, last year when the amendment was on the floor, we held some negotiations to try to reach agreement. Many of us feel very strongly that Social Security should not be part of balancing the budget. We had some negotiations to review whether we might agree to a balanced budget, that excluded the Social Security trust funds, by the year 2008. The majority did not support the approach and the response to the offer was that it is too difficult to balance the budget if you withdraw Social Security trust funds from the unified budget. I have given that considerable thinking and believe that if we use it up to the point of balance, and then separate it out, that gives time to adjust to this withdrawal of Social Security. My amendment prohibits the use of the Social Security trust funds after Congress has reached balance and would prohibit the use of the trust funds thereafter.

My amendment's second point would retain restrictions on lifting the debt limit. However, it would require a majority vote, rather than a three-fifths vote, as the majority balanced budget amendment provides.

The third point of the amendment would permit Congress to respond to serious economic emergencies or major national disasters. Without that, a bailout for a California earthquake would have to be paid for within the confines of balanced outlays and expenditures. A savings and loan bailout would have to be offset by cuts elsewhere in the budget, balancing revenue and expenditures. This balance, if the Nation faced an economic emergency or major natural disaster, would be much more difficult to achieve in the outyears.

Fourth, this amendment would clarify that passage of the amendment would not prohibit Congress from developing a capital budget. It does not mandate a capital budget, but as has been made clear by Senator TORRICELLI and others, the majority amendment would essentially prevent the Federal Government of the United States of

America from ever developing a capital budget. A capital budget has been a useful budget structure for many of the States, as you know from experience, Mr. President, and many of the cities, as I know. These cities and States have capital budgets separate and distinct from their operating budgets. They fund these capital budgets for physical assets, like buildings, bridges, and highways, in a multiyear funding mechanism. This structure could make sense for the Federal Government as well, and we should not close the door on this option. Unfortunately, the majority balanced budget amendment does precisely that.

So these are the four points of difference. I would like to elaborate on these concerns.

Let me just tell you why I feel so strongly about Social Security. To begin with, Social Security is already separate and discreet. Every worker, workers in your family and in my family, have 6.2 percent of their paycheck deducted every month for FICA taxes. This is matched by 6.2 percent from every employer in the country for a total of 12.4 percent FICA contribution. Workers are told that this money goes into a trust fund to be used for their retirement, invested by the Federal Government, so it will be there when they retire for their Social Security benefits. This I view as a solemn pledge. The workers are never told that the 12.4 percent FICA contribution is actually part of the unified budget. They are never told their payments, in fact, support the purchase of a battleship, or the payment of a lawyer's salary, or the payment of a clerk's salary, or the building of a highway or for any other activity of our Government's general operations.

Now, this is also wrong because of the looming retirement of the baby boom generation. Analysts concluded Congress needed to increase FICA taxes a while back to be able to provide for the retirement of our large baby boom generation. Well, the taxes were increased, but, again, the funds are part of the unified budget and they support a battleship, a lawyer, a clerk, recreation programs, and so on and so forth.

I think that is wrong. I also think the Congress recognized it was wrong when this House, virtually unanimously, enacted the Hollings resolution in 1990. As you know, the Hollings resolution said, henceforth, we will not include Social Security as part of the unified budget.

The majority amendment essentially enshrines in the Constitution, for all time, the use of Social Security trust funds as part of the unified budget. The funds will be used to pay for every soldier, every battleship, every highway, every clerk, and every park employee of the Federal Government.

I think this is wrong. I think it is wrong morally, I think it is wrong ethically, and I think if it were ever tested, it would be found to be wrong legally, as well. But we have been using the Social Security trust funds and we

are in a budget hole as a result. It is really a catch-22 situation. The only way out is to amend this majority balanced budget amendment, and this is what I propose to do.

Now, let me give you some idea of the challenge Social Security faces. This chart represents the Social Security trust funds, between 1996 and 2002. According to the Social Security Administration data, we use approximately \$570 billion of these surplus trust funds to balance the budget. Between 2002 and 2019 we use \$1.8 trillion of Social Security trust funds part of the unified budget. My amendment represents a compromise, if you will. The amendment recognizes how difficult it is to balance the Federal budget without the Social Security trust funds. We will only use the \$570 billion up to 2002, and after 2002, these funds will be separated out from the unified budget. These Social Security receipts will remain in a separate and discreet trust fund. They will not be used to pay for a battleship or a soldier or a clerk's salary or a lawyer's salary or anything else. That is \$1.8 trillion that will essentially be saved to pay for retirements. This restriction makes the task of shoring up the long-term solvency of Social Security, which the majority balanced budget makes more difficult, a lot easier to achieve.

As a former mayor, I know that one of the things you do to really assess spending at any government level is look at outlays. Outlays are dollars the government actually spends. If you look at outlays, you will see in 1995, more than 50 percent of all of the money spent by the Federal Government was essentially spent for entitlements, like Medicare, Medicaid, Social Security, and welfare, and 14 percent was dedicated to pay interest on the debt. Interest, which buys nothing, has doubled since 1969. Therefore, if you do nothing by the year 2003, almost 75 percent of all of the outlays of the Federal Government are effectively Medicare, Medicaid, Social Security, welfare, and interest on the debt. The spending trends are what really motivates me, and I hope others, to accept a constitutional balanced budget amendment.

These spending priorities will run into each other and it becomes more difficult to balance the budget under any balanced budget amendment. One has to understand what we are going to protect. I think Social Security is critically important to protect for a number of reasons.

If we look at the funding patterns for Social Security, Social Security revenue, payroll taxes and interest that has built up a surplus, begins to drop around 2019. As soon as these funds begin to drop, Social Security outlays begin to exceed our Social Security revenue. Under the majority balanced budget amendment, total expenditures and the outlays meet. When outlays exceed our revenue, Congress either has to increase taxes, cut Social Security payments or cut other programs or in

some way find revenues so that those outlays and expenditures match. This is the significance of the Congressional Research Service memo that has been discussed by several Senators. So as it goes straight down, every year you have to either make deeper cuts, in Social Security or somewhere else, or you have to increase taxes just to pay these Social Security checks.

Now, is this fair? Is this what we want to do? Is it fair in these outyears to place Social Security recipients so deeply at risk? I have come to the conclusion that it is not fair, that it is not the right thing to do. Therefore, my amendment would permit the use of the Social Security trust funds up to 2002 and remove it from the unified budget thereafter.

Critics suggest this amendment creates a big problem in the year 2003. However, this amendment would also provide the ability to develop a capital budget. Our Nation has significant capital needs, yet we are underinvesting in this important area. In 1965, the United States invested 6.3 percent of its budget in infrastructure spending. We built the Nation's highways, we built bridges, we built other major projects which benefit this Nation. This is not a nation whose population is going down. It is a nation whose population is increasing and a growing population has infrastructure needs. However, by 1992, our investment in capital infrastructure declined to 3 percent of the budget. When push comes to shove, Congress reduces capital spending, dropping those things that enable us to provide a decent quality of life for our citizens, such as the ability to get to a job without gridlock or the ability to travel over a bridge on a Federal highway that is not going to fall down. Our infrastructure has been decaying and it needs adequate funding.

More than one-third of the major highways of the United States, representing one-quarter of a million miles, are in poor or mediocre condition and need to be repaired. Approximately 25 percent of our 570,000 highway bridges are described as structurally deficient, or functionally obsolete. What does this say? We are becoming capital poor in infrastructure.

Those of us that have been Governors and mayors know that one of the prime responsibilities of government is infrastructure, something that is not very sexy for the public. Our responsibilities are the streets, keeping potholes off of streets, keeping bridges and roads in good repair and minimizing the risk of accidents for people. I contend we cannot do that under the restrictions of this balanced budget, unless, at some point in the future, Congress has the ability to enact a capital budget and to fund long-term capital improvements on a multiyear basis rather than in cash up front as is done now.

If you take 2 percent of GDP as your measure of investment, it would be about \$160 billion right now. Congress could create a limit based on a percent-

age of GDP. I think we spend about \$140 billion now. So if you wanted to ratchet it up, to permit a higher level of investment, you would simply set a limit at a higher percent of GDP.

The limit would operate similar to a kind of bond limit, as we use in States. The Government would have a certain bonding capacity and you would stay within the limit of that bonding capacity, which would reflect our economic strength, interest payments, and pay-back schedule and similar factors.

I think it makes tremendous sense. I think that without providing for a capital budget, we undermine our Nation's ability to do and carry out one of the most important responsibilities of a Federal Government, the providing of safe and adequate Federal infrastructure for the future of our people.

Now, let me speak about the economic emergency. The majority amendment does not provide for an economic emergency. In an economic emergency, it is important that the automatic stabilizers be able to function. It is important that we be able to respond to extreme and serious national emergencies, whether this be a major depression or, I might say, a savings and loan crisis, that develops in the future, or another crisis. Congress was forced to spend an additional \$135 billion to clean up the fiscal mess of the savings and loan crisis in the 1980's and 1990's. These costs weren't anticipated and they weren't projected. Yet, we had to honor the United States' commitment to protect depositors.

If Senate Joint Resolution 1 were in place, Congress would have been forced to cut the budget by \$66 billion in 1991, to meet its savings and loan bailout obligations in that year, by cutting education, cutting highways, cutting crime fighting and other priorities in order to pay off depositors. Now, is that really the situation we want to place ourselves in for, not just 10 or 15 years, but in perpetuity, forever and ever and ever?

If you asked me in the 1960's or 1970's, would I ever think that these savings and loans would default, the answer would have been no. But the fact of the matter is that they did. The fact of the matter is that the cost to the Federal Government was \$135 billion, and in 1991 this Congress ponied up \$66 billion. Now, that is \$66 billion that would be pitted against the purchase of a new battleship or soldiers' salaries or their cost-of-living raise, or a clerk in the Agriculture Department, or a lawyer in the Justice Department. That is the inescapable truth of budgeting.

Therefore, the majority amendment prohibition on the development of a capital budget, even if this or a future Congress believes it would be necessary or prudent or wise to enact one, I think, is a major error. Consequently, my amendment would permit Congress to develop a capital budget in the future.

Now, let me briefly address extending the debt limit. A three-fifths vote in

Government is something you do when you really want the minority to control the process. We are a representative democracy. We represent the people, and the bulk of votes in a representative democracy are a majority. The majority speaks. All of you down there, Mr. and Mrs. America, how many of you favor more police on your streets? The hands go up. A majority. How many favor more firefighters? Hands go up. A majority. We reflect those views when we come back to the Congress. We generally know what the majority believes. It is very hard to know what a minority really believes, and this gives inordinate power to a minority.

People often argue it is easy to receive a majority vote. That is wrong and let me try to show you how wrong it is. Since 1990, no budget resolution or conference report has received a three-fifths majority. Since 1990, no vote to raise the debt limit has received a three-fifths majority.

In 1985, the Gramm-Rudman-Hollings law was adopted in the Senate by a vote of 51 to 37.

The 1990 budget reconciliation bill was passed with a budget vote of 54 to 45.

The 1993 Omnibus Budget Reconciliation Act was passed with a vote of 51 to 50.

The 1995 budget reconciliation bill was adopted on a vote of 52 to 47.

The 1995 temporary debt limit increase was adopted on a vote of 49 to 47.

If that doesn't demonstrate that majority votes even are tough to get, I don't know what does.

Now, the issue here is, what happens if the debt limit isn't extended, and what happens if we permit 41 people to make that determination? Well, we just saw that. The Government shuts down. We default on our obligations. The full faith and credit is cast in doubt.

I think it is a huge mistake to put forward a balanced budget amendment that would permit a minority in Congress to hold the Government hostage, shut it down, bring it to the brink of default, risk the loss of our full faith and credit, and the respect that goes with it. This gives 41 Senators and 179 House Members the power to hold this Nation's credit hostage during budgetary disagreements. So I think it is a big, big mistake.

In closing, I am pleased to submit this amendment on behalf of Senators TORRICELLI, DURBIN, and CLELAND.

Essentially, this amendment keeps Social Security as part of the unified budget up to the point we reach balance. As I mentioned, approximately \$570 billion will be taken from the trust funds and used to balance the budget by 2002. The amendment separates Social Security out at the point of balance and is able to retain \$1.8 trillion of Social Security trust funds outside of the unified budget for the future. This means Social Security will remain financially viable much longer.

Social Security is critical for many recipients. Fourteen percent of people on Social Security today are totally dependent on it. Social Security prevents about 57 percent of beneficiaries from falling into poverty. It is important to protect it. It is the one Government program, beyond all others, that guarantees that people in their golden years will have an opportunity for a decent quality of life.

Second, this amendment provides for a national economic emergency. I have spoken about the savings and loan bailout, an unpredictable event, which cost the Treasury \$135 billion, a \$66 billion appropriation in 1991, alone. Emergencies occur and will need congressional attention. The majority amendment will undermine our ability to address emergency needs.

Third, this amendment does not mandate a capital budget, but it would say that the Constitution does not prohibit the development of a capital budget if a majority of the Congress desires to develop and implement one.

Fourth, this amendment would change the restrictions on extending the debt limit from three-fifths to a majority vote. I am a member of the Judiciary Committee and attended the hearings and listened to the testimony. I sincerely believe, that my amendment is a balanced budget amendment that will stand the test of time and has an opportunity to be ratified by three-fourths of the State. The Senate should adopt this amendment.

I thank the Chair. I yield the floor for the moment.

Mr. ENZI. Mr. President, I have a question on some of the things the Senator has been talking about on capital budgeting.

Could the Senator give me a little better definition of what she is talking about with capital budgeting? Is the Senator talking about all capital projects being off budget? Are we talking about that? What kind of limitations do we have on what can be a capital budget item?

Mrs. FEINSTEIN. I am happy to answer that question. I want to read my amendment's specific language. The language does not talk about any specific capital budget plan. All the language says is "Nothing in this article shall preclude the authority to enact and implement a separate capital budget for those major capital improvements which require multi-year funding and which would be excluded from the requirements of section 7." That is the requirement that outlays and expenditures balance.

I will tell the Senator what I would develop a capital budget. I would set a basic amount of capital. Whether that amount would be anything above \$5 million, \$10 million, \$15 million, or \$20 million would be up to the Congress. But you set the basic amount for major capital purchases, for bridges, office buildings, or a battleship, whatever you want that to be. Also, because you float debt to be able to fund these

items, you would also set a debt limit. That would most likely be a percentage of our Gross Domestic Product. For example, 2 percent of GDP would provide about \$160 billion, 3 percent would be more, and so on.

As I mentioned, we have dramatically dropped our infrastructure spending. It was 6 percent of the budget in the 1960's. It is now down to 3 percent of the budget.

Mr. ENZI. So the amendment really says that there won't be any restriction on doing capital budgeting, which is exactly where we are at the moment.

Mrs. FEINSTEIN. No. I respectfully direct the Senator to the amendment. It simply says, "Enact and implement a separate capital budget."

With every constitutional amendment, as the Senator well knows, the Congress would enact enabling legislation. The Congress would sit down and develop a capital budget if one was desired. My amendment does not mandate one, but if they felt that a capital budget was worthy and desirable and needed by this Nation, they would sit down and discuss the legal parameters and develop the legislation.

All this does is permit it. That is all.

Mr. ENZI. I did read it. It says, "Nothing in this article shall preclude authority." It doesn't give authority to do it. It just eliminates the preclusion of doing it. It does not define what major capital improvements are. All of the things that the Senator from California has in section 8 could be done in enabling legislation under a balanced budget constitutional amendment.

Mrs. FEINSTEIN. No, I disagree. Under the majority amendment it could not be done because, in the majority balanced budget amendment expenditures must equal outlays in every year. Therefore, you could not provide multi-year financing of major capital projects by floating debt. You have to meet the expenditures. Every opinion we have had says that the development of a capital budget would be prohibited.

Mr. ENZI. Does this mean under this that if education is more than a \$5 billion expenditure, that education would be a capital expenditure?

Mrs. FEINSTEIN. No. As I understand it, for example, title I would not be a capital expenditure. The money that is given to poor children, which is I think the largest expenditure, would not be a capital expenditure. Capital expenditure would be reserved for infrastructure.

Mr. ENZI. In the President's budget I notice that he listed social investment as a capital expenditure. That is why I was asking the question about education. I am concerned that the capital budget procedure is just an attempt to be able to move everything outside of the normal budgeting procedure so, in fact, we do not have to balance the budget. That is why I want more definition on what is meant by "capital budget."

Mrs. FEINSTEIN. Mr. President, I appreciate that very much. Perhaps

one way of answering this would be to place in the RECORD a letter sent to Senator DASCHLE by the Secretary of the Treasury on February 3. Let me simply read one sentence. Referring to the majority amendment, the Secretary writes:

The amendment as drafted does not distinguish between capital investment and current spending. Outlays are defined as "all outlays in the United States except for those for repayment of debt principal." Even if Congress were to create a separate capital budget by statute, outlays from that budget would still be "outlays of the United States." Under the majority amendment, a capital budget would be prohibited.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

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

DEPARTMENT OF THE TREASURY,
Washington, DC, February 3, 1997.

Hon. THOMAS A. DASCHLE,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: You asked for our views on whether the Balanced Budget Amendment (the Amendment), as currently proposed, would allow Congress to establish a separate capital budget unconstrained by the Amendment. We discussed this with counsel and, in our view, the present language of the Balanced Budget Amendment would not allow for statutorily exempting capital expenditures from the Amendment's requirement that "total outlays for the year shall not exceed total receipts for that fiscal year." Your inquiry illustrates the inflexibility of the Amendment.

The Amendment as drafted does not distinguish between capital investment and current spending. Outlays are defined as "all outlays of the United States except for those for repayment of debt principal." Even if Congress were to create a separate capital budget by statute, outlays from that budget would still be "outlays of the United States." Indeed, a provision in such a statute that capital expenditures were not "outlays of the United States" for purposes of the Balanced Budget Amendment would be unconstitutional because, under fundamental principles of statutory construction, it would be at odds with the express language and intent of the Amendment.

Proponents of the Balanced Budget Amendment cite the state experience with balanced budget requirements as precedent for a federal Constitution amendment. In relation to your specific question regarding capital budgets, most state requirements are not analogous because spending for capital investments does not have to be offset. States with balanced budget provisions generally have separate operating and capital budgets. Many states require only the operating budget to balance—a situation prohibited by the Amendment. Although the remaining states with balanced budget provisions also require the capital budget to balance, they include bond financing for capital expenditures as a receipt. In other words, in these states, capital funds may use borrowed funds to balance—a solution expressly barred by the definition of receipts in the present Balanced Budget Amendment.

Proponents of a capital budget argue that the absence of a capital budget has reduced investments in infrastructure and other capital improvements that would add to future growth. I do not believe we should move to a capital budget, but under different cir-

cumstances in the future, others might want to do so. The Balanced Budget Amendment before you now would prevent us from moving to a separate capital budget, even if we wanted to.

I hope this answers your question. We would be happy to respond to any further inquiries you may have.

Sincerely,

ROBERT E. RUBIN.

Mr. ENZI. Mr. President, does the amendment of the Senator from California create kind of a loophole, though, by not defining what "capital expenditure" is even in the slightest way?

Mrs. FEINSTEIN. It does permit a separate capital budget for major capital improvements. I believe it would be foolish to put strictures in the Constitution of the United States. It seems to me that the Constitution of the United States should provide general concepts, and the specifics of those concepts should be worked out by the Congress of the United States.

Mr. ENZI. So the Senator is suggesting, then, that there would have to be a much greater detail on the enabling legislation?

Mrs. FEINSTEIN. Absolutely, as there is with every amendment to the Constitution. Implementing legislation carries with it court tests and standards regarding how the legislation is to be carried out.

The PRESIDING OFFICER (Mr. SANTORUM). Who yields time?

Mrs. FEINSTEIN. Mr. President, may I ask the distinguished Senator from Illinois how much time he would require? Ten minutes?

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from California has 31 minutes.

Mrs. FEINSTEIN. I am happy to have the Senator use as much time as he wishes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from California for yielding time.

I rise in support of the Feinstein substitute. I think that we ought to reflect for a moment what we are about. This is not the passage of a congratulatory resolution, nor is it enactment of a law which can be reconsidered at a later date. We are talking about amending the Constitution of the United States. In the last 205 years of our history we have done that 17 times. We should pause and reflect, and I think reflect on what the Senator from California has noted as the obvious flaws and weaknesses in the balanced budget amendment that is being brought to us today.

Last night, many Members of the Senate were given the opportunity to visit the National Archives. I have to tell you quite honestly that in all the years I have lived in Washington I have not done that. I did last night, and saw the original of our Constitution. Just stopping for a moment, pausing, and looking at this great document in its

original form humbles anyone who would call himself a modern day legislator. If we are to change the words of that great document, let us take care to do it rationally, calmly, and in a way that can be defended for decades to come.

I am concerned that this whole debate over the balanced budget amendment has taken on a different style, a different life of its own, a different velocity than most political issues.

We have over the last 10 or 15 years in Washington come to believe that this balanced budget amendment is the answer to America's prayers. Those who support it would suggest if we could just pass the balanced budget amendment, then things will be better—our debt lessened; interest rates will come down; the economy will forge forward helping everyone: businesses, working families alike.

I do not doubt that some of those suggestions are true, but I think we should pause for a moment and really reflect on whether or not we are exaggerating the impact of this amendment, whether we are overstating the case. We in America have done that many times in our history. We have found what we considered to be those silver bullets, those big fixes that this Congress, many of its supporters, came forward with and said this is what we will do to change America and its future.

For a moment, as we reflect about the historical impact of this debate, let us consider some of the big fixes in American history. Consider, for example, the battle for free silver. The free silver movement in the late 19th century called for unlimited free coinage of silver at a time when unstable economic factors were causing devastating economic depressions. Proponents of free silver, including the People's or Populist Party, agrarian interests, and silver miners, thought that free coinage of silver would increase the money supply, drive up the prices of agricultural products and help struggling farmers and working families.

In the famous speech of William Jennings Bryan, of Illinois, "Thou shalt not crucify mankind on a cross of gold" was his basic plea for free silver. He believed, as did many in his time, if we just had free silver, that would be what America's economy needed to prosper.

We hear echoes of William Jennings Bryan in the Chamber in this debate: if we just have a balanced budget amendment, then our Nation's problems will be solved. But some of us reflect on the fact that without a balanced budget constitutional amendment we are making real progress. We are, in fact, moving toward a balanced budget. We have seen more deficit reduction in the last 4 years than any time in this century. Our economy is moving forward, creating millions of jobs and opportunities for family farmers, for small businesses, for working families. And so as to the big fix of the balanced budget

amendment, one has to question whether or not it is truly necessary to put this in our Constitution.

Of course, after the free silver movement came another solution, the gold standard. This was an idea that had been kicking around for a long time. Unfortunately, it was too simplistic. Changes in the supply of gold were tied to mining discoveries rather than economic progress and caused shifts in commodity prices unrelated to the economy. The Gold Standard Act of 1900 reaffirmed the gold standard of the time, but by limiting the amount of base money in the economy the gold standard failed to allow the contraction and expansion of America's money supply. As the efforts to maintain the gold standard helped deepen the Depression, our Nation was forced to shift away from that gold standard. By 1971, dollars could no longer be exchanged for gold at an official rate. In 1976, the statutory link between the dollar and gold was officially severed.

I can tell you, after 14 years of service in the House, there were many of my colleagues during that period of time who still believed passionately in the gold standard. They felt that if we returned to a gold standard, America's economy would spring forward—echoes again of debate we hear on the balanced budget amendment: if we can just pass this amendment, this will certainly solve America's economic problems.

We went through an era of protective tariffs in America's history, too. This was another big fix. There were people who pushed for these tariffs, saying they would generate revenue for the Federal Government at the same time as protecting American manufacture and American agricultural production. The worst of these, the Smoot-Hawley tariff of 1930, which occurred right after the Depression started, is credited, if you can use the term, with driving the American economy even deeper into a depression.

In the early part of our Nation's history, the second half of the 19th century, the national banking issue was always on the forefront. It was one that was debated long and hard in this Chamber and by many others in terms of whether or not it would be the answer to America's problems. It was unable to fully address the problems of our Nation. Cooler heads prevailed. The idea of a national bank was amended.

The point of these stories is to show you that in a quick survey of our Nation's history the silver bullets do not always hit their intended targets. Big fixes, like this balanced budget amendment, do not always have the intended effects.

There is a critical difference between the suggestions of those in the past and what we are dealing with today. These were legislative proposals. If there was a mistake made on free silver or a national bank or the gold standard or a protective tariff, the next Congress could address it, change the law. But in

this case, we are enshrining in our Constitution words that we believe will be the big fix. But what if we are wrong?

And the Senator from California raises questions about the inherent wisdom of the balanced budget amendment before us: Do we really want to put in our Constitution for all times language that threatens the future of the Social Security trust fund?

I think it has been clearly demonstrated with reports from the Congressional Research Service, with the statement of the Senator from California this morning, that we put our Social Security trust fund at risk with the balanced budget amendment that is before us.

We also know that this balanced budget amendment does not give Congress or the Federal Government the flexibility to respond to a national economic emergency or a natural disaster.

Over 1,000 economists have come forward in a rare show of unanimity and said this balanced budget amendment is bad economic policy for America. And yet when I offered an amendment to give more flexibility to respond to an emergency, it was rejected. I hope the Senator from California has better luck today. But her substitute will take care of that problem.

There is also a concern about gridlock. What the Senator from California is proposing is that an extension of the debt limit be approved by a majority vote and not three-fifths. Those of us who have even a short memory can recall that within the last 24 months we had the two longest shutdowns in Federal Government history because of the failure of Congress to rally a majority to extend the debt limit. This constitutional amendment will up the ante, will increase the responsibility, raise the bar—a three-fifths vote. I think the Senator from California is right in saying that when it comes to extending the debt limit, it should be done by majority vote.

I also applaud her comments on a capital budget. I would ask my colleagues to reflect on the fact that every business and virtually every State government has a capital and operating budget. At my town meetings people would come in and say: "Congressman, you just don't get it. I balance my checkbook every month. Why can't you balance the books out in Washington?" A good point.

But I always ask them a question: "Do you have a mortgage on your home?"

"Oh, sure."

"Do you pay it off at the end of every month?"

"Oh, no. It's a 25- or 30-year mortgage."

"What's the difference?"

"Well, this is a home that we are going to have for a long time. This is an investment, Congressman. This isn't the annual operating costs of our family. This is the annual investment of our family."

Families understand that. Americans understand that. The question is

whether Members of the Senate understand it because this balanced budget amendment makes no distinction between capital investments for the future of our Nation and the operating expenses.

And if we should decide, as part of the telecommunications revolution or for some other reason, to make a massive American investment in our future, in economic progress, this balanced budget amendment will tie our hands. It treats the interstate highway system the same way it treats the purchase of paper clips. That is wrong.

The Senator from California addresses that and gives to Congress, even with the balanced budget amendment, the authority to establish a capital budget.

Congress can and should balance the budget. I do not believe we need a constitutional amendment to do it. But if we are going to pass a balanced budget amendment, we must do it right. That is why I support the Feinstein substitute.

I cannot support a balanced budget amendment that jeopardizes Social Security, prohibits prudent capital planning, risks even deeper recessions and unemployment, and invites gridlock and danger of default on Capitol Hill. The Feinstein substitute protects Social Security; it allows a capital budget; it allows a way to provide for economic recessions and avoid the threat of gridlock and default.

The choice is clear. The Feinstein substitute is clearly the better choice, and I urge my colleagues to support it.

Let me say in closing, those who are resisting any amendment to this underlying resolution, to the balanced budget amendment, I think are unfortunately taking the wrong approach. There are possibilities that those who support this amendment are just wrong. And if they are wrong, there is a lot at stake.

Would it not be better if we could come together with a bipartisan consensus to address the serious flaws in this bill? Would it not be better if there were a little humility on the floor of the Senate and the House, and an understanding that perhaps these words, although politically right, may not be right for America's future? Would it not be better if the Members of the House and Senate could take a little walk down through the National Archives, take a look at that Constitution, and realize the gravity of the decision we are about to make?

The PRESIDING OFFICER (Mr. BURNS). The Senator from Wyoming.

Mr. ENZI. Mr. President, I appreciate all the words that have been said here this morning, particularly those that call for us to do a bipartisan consensus.

I am a big believer in the U.S. Constitution. I carry my own copy of the U.S. Constitution. In article V it tells us how to amend this Constitution, and it says that it is going to have to be a bipartisan effort if it is going to take two-thirds when the majority party

has 55. This is going to be a bipartisan effort, but it has to be an effort that winds up with a constitutional amendment that will do what the American public is demanding. They are demanding that we come up with a balanced budget.

I get to stand next to these unbalanced budgets, the last 28 years of work in this body, and I know that, individually, the people in this body have said we have to balance the budget. And I am willing to do it. It is collectively that we have had a little trouble getting it done. It is in that bipartisan manner that we have had trouble getting it done. It is in that situation when we are having to tell the people back home "no" for any particular issue. Somebody told me it takes political will to balance a budget. I really contend it takes political "won't" to balance a budget.

We are talking today about an amendment that will deal with capital budgeting. As the only accountant in the Senate, I am fascinated by some of the definitions of capital budgeting that I am hearing here and reading about in the paper, that the President has said. It looks to me like the Federal idea of capital budgeting is not only a risky gimmick, it is also a loophole so big that you could drive an interstate through it, or an aircraft carrier, or planes and buses, or buildings. Anything can be driven through the loophole that will be created by this nice term "capital budgeting."

I, too, have run into the people at home who say, "Wait a minute, I have a mortgage on my house. How is that different from the United States?" And I say, "Are you paying off the mortgage, or are you just paying the interest? And can you buy two or three or five houses and only pay the interest?" That is what we are trying to do with capital budgeting with the Federal Government. We are saying we don't have to pay the principal back; interest is the only thing that is important.

You and I know if you borrow enough, pretty quick the interest equals all of your revenue. We are a little ways away from that yet in the United States, but it is a distinct possibility. We are talking about a possibility of telling our kids or our grandkids, "You have to pay 84 percent of your wages in taxes and you will get nothing for it because you are going to be paying the interest on the houses that we bought and used up."

At that point, we are going to have a revolution in this country. It is not going to be the same kind of gentle change we are used to. It is not going to be subject to the same slow processes. We are going to have a generation that is going to say, "I am paying Social Security to people I don't even know, and I am never going to get any." And they are going to take Social Security away. If we do not begin balancing budgets, there will not be Social Security.

I don't think there is a single person in this entire body who does not want

to protect Social Security. But how long are we going to wait before we protect Social Security?

We keep talking about capital budgeting. I have said any kind of budgeting would be really great. What we are really talking about is cash-flow budgeting, I think, rather than capital budgeting, unless we are talking about that tremendous loophole, the one that says we can designate anything we want as capital and we can shift it off budget—I hate those words; it is not a good accounting term—but we no longer have to be responsible for anything that we can call capital budgeting, which is a very good accounting term.

The President's commission on setting up a capital budget will not be nearly as restrictive as was the question that I asked earlier. That commission will report on including physical capital and intangible or human capital. That is the social capital I was talking about, the social investment I was talking about before. This loophole would virtually allow anything to be deemed as a capital investment.

I would like to go into a little bit of what happens in some of the other entities that we do allow the right to do capital budgeting, and really what we are talking about is loans for capital. The Federal Government has such an extensive budget that we have not been forced to do any capital budgeting, nor in the foreseeable future would we have to do capital budgeting. We should do cash-flow budgeting so we can build all these capital items we are talking about in a logical progression and within budget, and pay back some of the debt that we already owe so there is less interest, so we have more money to spend.

Probably one of the toughest levels of capital budgeting or loans that we allow to be made is at the local level. I used to be the mayor of a boom town out West that more than doubled in size. We had to have sewer treatment. Yes, there was a Federal program for sewer treatment, but our community had already applied for one of those grants and gotten one and built a sewer treatment plant. Then we had all of these people move in and we exceeded the capacity and were fined for exceeding the capacity of this lifetime plant. So we had to build another sewer treatment plant, and we were last on the list for getting another grant in that area.

We had to build streets. You cannot have houses without streets that let you get to the houses. We had to increase our garbage collection. We also had our own electrical service. The first day I was in office, I got a call from one of the electrical suppliers who wanted to know what I was going to do when my substation blew up. I had to ask him what a substation was. That is a great big transformer for a town. He told me it was operating at 1.2 capacity, and any warm day it would just be eliminated and my town

would be out electricity for maybe 2 weeks while we got a portable substation. I pictured myself for quite awhile being tarred and feathered and ridden out of town, as people's deep freezes thawed or they couldn't read at night or iron or any of the things that we really rely on electricity for but never think about it.

And water, that was really the biggest problem. That has to be one of the most basic things any of us is involved in, is water. We did not have enough water before the boom. We went on water rationing in May and we got off in October, and our water was color-coded. The cold water came out kind of red because there was iron in the water and it took on that color when it mixed with oxygen, and the hot water came out black because we have a lot of coal in the area I am from and the coal would settle out in the hot water tank and then come out when we used hot water. You have to have water. You can do, maybe, without electricity. You cannot do without water.

It was not an option to do without either of them, so we had to issue bonds. We had to borrow on a long-term basis. Our water project alone was 43 miles and \$23 million away. Out here, that is not a microdot in the budget. It does not mean anything out here. But that was \$3,000 in debt for every man, woman, and child living in that town at the time.

They don't just let municipalities print their own money. There is a process that you have to go through that has a lot of review, because you have to prove to the people who might buy the bonds that those bonds will be paid off.

I want to make a distinction again on that "paid off," something we don't even consider around here. In all of the discussion that I have heard on the balanced budget constitutional amendment, in all of the discussion that I have heard on balancing the budget, I have not heard anybody say, "Where's the number here that pays down the national debt?"

That is what we do with bonding. That is what we do with States when they bond. We have an elaborate process to do everything we can to make sure that those bonds will be valid, which means they will be paid off in a reasonable amount of time.

So what did I have to go through to get that \$23 million? One of the things I had to do was go before Standard & Poor's and Moody's in New York and explain how a town of 8,000 people was going to pay off \$24 million in debt. I know that is real small stuff compared to cities in California, but for a guy from rural Wyoming, that was a lot of money.

It also happened to be at the very same time that New York City was going broke, and Standard & Poor's was having daily meetings with the city to see how they were going to pay off the debt that they already had. I didn't mention forgiving the debt. I know there was some talk about that.

But what Standard & Poor's and Moody's was interested in was how it was going to be paid off. They didn't care whether it was Federal grants or how.

So they had a lot of extra special questions for us on how to do that, and as a result of the discussions, there were also criteria that were placed on the bond issues. This is normal stuff that happens with bond issues. There are covenants. That means that you have to dedicate sources of revenue. I have not heard us talk about any really special dedication of revenues to paying off any of this capital budgeting. I will tell you, they come in and they take that revenue before you get to do anything else with it if you default on the bonds. If you even miss a payment, they come in and demand the money, much the same as if you own a home.

Then they also put a restriction on, they call it coverage, and coverage is an additional amount beyond the normal payment that goes into a special fund to make sure that you will not default on the bonds. In the case of our bonds, it was 1.25 percent. That means we had to pay into another fund 25 percent more than our payment to assure that we would make future payments. Again, that is something we don't talk about with capital budgeting for the United States. We just talk about spending the money and how we can build loopholes to do more spending outside of the normal budgeting process.

We also had a requirement of a front-end sinking fund. That means before we could even start the project, we had to put money in a fund to show that we could make the first part of the payments.

And then, and here is a real divergence from what we do back here, we had to have a vote of the people to go into debt—a vote of the people. What would happen with our budgets, these 28 years of no balanced budgets? Would the people let us do that if they had to vote on what we were spending? I know from the State-level discussions on this that that would be an incredible burden and extreme expense, and we can't go to that extent. No, we can't go to that extent, and we were elected to make those kinds of decisions. But we were elected to make them within certain constraints. The people back home tell me that they expect that constraint to be paying things off. They expect us not only to balance the budget, but to get to a situation, to plan for a situation where we pay down the national debt. That is good budgeting; that is good accounting.

There was a happy side to this story. We did do capital budgeting. We did cash flow budgeting. We built the things that I talked about, and I want to tell you that today, not because of my efforts, but because of the people who followed me, who followed the cash flow budgeting, that those projects are not only in place, but they

are paid for. Gillette, WY, is one of the few places in the United States that is debt free. That is how you run a city. That is how you should run a State, and most States do. Most States are required to, because they have a balanced budget constitutional amendment that forces them to live within their means. And that is how the United States ought to work.

Capital budgeting could be a great idea, but not if the purpose of capital budgeting is to build loopholes so that we can spend whatever we want to by merely designating it as capital budget.

We also ought to have performance budgets. There are a whole bunch of things that the private sector is doing that would be very adaptable to the Federal Government, and some States have already done them and some States have found them to be very successful.

How do you balance a budget? You do it by strategic planning. You have every single person in the Government, down to the very smallest agency, talk about what their mission is, who their customer is, what they are trying to achieve, and how they will get it done. You get them to focus on the real problem of what they are trying to achieve and how they can most efficiently do it. Focus saves money.

In Wyoming, we talked a long time about strategic planning for the State. We have a thing we call management audits. I am not familiar enough to know if we do that here, but we had a special committee that looked at State agencies. And the purpose of that look was to see if State agencies were doing what the State legislature and the Governor said they were supposed to be doing, if they were following the statutes. I am pleased to say, in most instances, they were doing exactly what we had told them. However, it was in pretty broad terms.

It wasn't good enough to be a mission statement. It wasn't good enough to give them the finite direction they needed to have the best performance possible. So we instituted strategic planning. We forced all of the agencies to come up with a strategic plan, and most of them did. The ones that were most reluctant today are the biggest supporters of strategic planning. Once they tried it, they couldn't believe how it worked.

The way that it works is the agencies for the budget process, actually the individuals in the agencies actually wind up saying, "These are the things that we shouldn't be doing in our agency." I can tell you that the general public said, "Wow, I didn't even know they were doing that stuff."

If we had decisions to make here that were based on the employees of the Federal Government saying these are things we shouldn't be doing and the American public telling us, "Why were you doing those things," we would cut them and nobody would complain.

That is not how it works, though, in Government. If you allow it to happen,

what gets cut in Government are the things that are the most visible. Call it the "athletic team syndrome." If you want to really make an impact, you threaten to cut the athletic team in a small school, and that will get a furor bigger than anything you ever imagined, and it will be reinstated. Not only will it be reinstated, but I have this principle of government that if it is worth reacting to, it is worth overreacting to. So you not only reinstate into the budget what happened, you put a little bit more money into that.

We had that example in Yellowstone Park where they were \$80,000 short on a \$19 million budget, and they asked for extra money and threatened to close down our park early. Now, that is a major economic, as well as recreation, benefit to the entire United States, and particularly to those of us in Montana and Wyoming.

If we had a manager who was short a few dollars who said they needed more money or had to close down early, we would probably fire the manager. We need strategic planning so that we can make the decisions and be sure that the things that should not be done are not being done.

We talk about capital budgeting. We have to be sure that capital budgeting is not just building another loophole into the system, that it is good accounting. We need to have good accounting. We need to have good accounting to protect Social Security.

Social Security right now is being called a trust fund. But it is not the fund with money stuck out there being invested on behalf of the person who paid it in so that when they retire there will be a guarantee of that money being there. It is money that is flowing through the system. It is money that is being paid out as it comes in with some small amounts being left over. Now, \$80 billion this year sounds like a lot of money to me. And it is a lot of money. But it is a titlle in the budget for what needs to be put in if we are going to have an actuarially sound Social Security System.

Not only should we be capital budgeting, not only should we be paying off the national debt, we should be making our trust funds into true trust funds. That is good Government. That is what I am interested in. If we are going to save Social Security, we are going to have to do adequate budgeting to build it up to some point in time where it is actuarially sound.

Mr. President, the Feinstein amendment creates a loophole to the balanced budget constitutional amendment. As I mentioned when I started this speech, you can drive an interstate through it. The Feinstein amendment actually harms the balanced budget amendment because it ultimately will increase debt. It is a license to increase debt.

Congress has been borrowing dollars to no end in order to deficit spend. And that is the problem. The Feinstein

amendment does not tell us how we will pay back the bonds for capital spending. It puts no limitation on the bonds for Federal spending. It has no oversight for the bonds for capital spending. It is more and more debt. I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. May I ask, how much of my time is remaining?

The PRESIDING OFFICER. You have 18 minutes remaining.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, let me try and sum up what I have presented here, and then speak specifically in answer to some of the concerns of the opposition.

Essentially, the amendment that I have on the floor differs from the majority amendment in four ways.

The first and most important way this amendment differs is that it continues to use Social Security trust funds as part of the unified budget up to the point where we reach balance. According to Social Security Administration data, that represents about \$570 billion, cumulatively, of Social Security trust funds that would be used to offset other spending by 2002. For 1996, we used about \$77 billion of the surplus.

Once Congress balances the budget, we would remove Social Security trust funds from the unified budget. That would essentially save for Social Security recipients a cumulative total of about \$1.8 trillion and, therefore, maintain the integrity of the Social Security system.

Additionally, unlike the majority amendment, it would not enshrine in the Constitution that Social Security is part of the unified budget forever, which, reneges on a major commitment to senior citizens in our country.

As I pointed out earlier, Social Security is not funded from the income tax. Its revenue is not supposed to go into general operations of the Government. Social Security is funded from a specific FICA payroll tax. A worker pays 6.2 percent, matched by the employer who pays 6.2 percent. The 12.4 percent is supposed to go into a separate trust fund held for the retirement of workers. Social Security taxes have one purpose and one purpose only. That purpose is to provide a safety net for our Nation's seniors with supplemental income when they retire.

Social Security deserves its unique treatment. Social Security is our largest single Federal program. It has more than 43 million beneficiaries, with 1996 spending of \$350 billion. Additionally, Social Security plays a critical role in reducing poverty among seniors. Without Social Security, the poverty rate of the elderly would be 53 percent rather than the current 14 percent. For 38 percent of all retirees, Social Security is the difference between poverty and no poverty. If those statistics do not speak eloquently for the need to keep

Social Security intact, I do not know what does.

So this amendment, with regard to the point of Social Security, is a compromise. We meet the majority's concern that if we take Social Security trust funds out of the unified budget right now, it is too difficult to balance the budget. My amendment would continue to use the trust funds up to the point of balance and then separate them out after that. The practice of using Social Security trust funds to offset other spending is not enshrined in the Constitution forever and ever as a way of doing business.

Second, we provide in this amendment for a serious economic emergency and for major natural disasters. I can tell this body that the probability of a major earthquake in Southern California, according to seismic experts, has gone up. If that should happen—I should say when that happens—the State's disaster needs are going to be tremendous. Passing the majority's balanced budget amendment tells California that the Federal Government will have no way of meeting these disaster needs. This is a critical difference.

Let me speak about other economic emergencies. Earlier, I mentioned the savings and loan bailout. I was not here for the savings and loan bailout. I do not know how many Members of this body or the other body actually predicted it, but I never would have thought it would have happened. The total costs were \$135 billion of taxpayer's moneys to maintain the full faith and credit of the Federal Government's guarantee to depositors. In 1 year alone, 1991, the cost to the Treasury was \$66 billion.

I would really be concerned about providing for an economic emergency. Last month, the Congressional Budget Office issued a report, citing the sensitivity of the budget deficit to the economy. They indicated this:

If economic growth was one-half percent lower, it would increase the deficit by \$50 billion in FY 2002. And these effects would continue to grow over time.

So you see, this kind of even economic change impacts the deficit tremendously.

If the economy fell into recession and growth were five-tenths of a percent below its forecast, a budget thought to be in balance, would develop a \$50 billion deficit or higher. Under Senate Joint Resolution 1, the budget deficit would need to be eliminated in that fiscal year.

As you can see, even a drop of five-tenths of a percent in the economy would create an additional \$50 billion shortfall in the estimates of that fiscal year which Congress would have to eliminate. To close a \$50 billion budget deficit, Congress would have to eliminate the equivalent of nearly the entire defense procurement budget in that year.

Let me give you another example as to why providing for economic emergencies would be necessary.

Economists estimate that a ticket shock triggered by higher oil prices similar to those of 1973 and 1974 and 1979 and 1980 could trigger a 1- to 2-percent drop in our economy. That would necessitate budget cuts of \$100 to \$150 billion that year. It would be devastating to an economy. I do not know if anyone here remembers what it was like when those prices of oil rose. Economists state it was the major reason for the economic downturn. No one can guarantee, that such a situation would not happen in the future.

So the majority's balanced budget amendment does not address economic risks that face the Nation. I think that is a major weakness in the amendment. Our amendment would suspend the amendment in the event of a serious economic emergency or major natural disaster. This would have to be enacted by a constitutional majority of both bodies.

We also permit a capital budget. My thinking is that when Social Security is withdrawn from the unified budget, we will need to be able to review our budget structure and proceed in a way that does not have a dramatic impact. One way is through the enactment of a capital budget.

Now, the Constitution is not a document that should carry enabling legislation. The Constitution should be worded in general words subject to interpretation and also subject to enabling action by the Congress.

Our amendment reads: "Nothing in this article shall preclude," which means prevent, "the authority to enact and implement"—that would have to be done by congressional enactment and implementation—"a separate capital budget."

The amendment defines a capital budget: "Those major capital improvements." Congress would have to determine what is a major capital improvement, which would require multiyear Federal funding. Those would be excluded from the provisions of this constitutional amendment that requires the strict expenditures must meet outlays.

This means that for, say, Federal office buildings that would maybe run \$40, \$50, \$80, \$100 million or more, or a major transportation systems which could run \$200 or \$300 million, a multi-year financing program could be established. The interest on those programs would be paid out of operating capital, and the amount of interest would probably be limited every year.

The amount of debt would be strictly limited. Perhaps the Congress would limit debt by using a percent of gross domestic product, of GDP. As I said, 2 percent would be about \$160 billion. If you had 3 percent, it would be more, and still more at 4 or 5 percent. An effective limit would probably be somewhere between the 2 percent and, say, 6 percent, 7 percent, or 8 percent of GDP.

Now, is this necessary to do? Even without a balanced budget amendment, spending for infrastructure since the

1960's has dramatically dropped. It was 6 percent in the 1960's. It is 3 percent today, 3 percent of the budget.

We have 250,000 miles of Federal highways that are in disrepair. We have more than 100,000 bridges in disrepair, unable to be repaired in the present day situation. I think at some point the Congress may wish to look at a capital budget. All this amendment does is enable that review to take place.

We mentioned what it means to be controlled by a minority. The fourth area where this amendment differs from the majority is with respect to the debt limit. I have tried to show this body how difficult it is to even raise a majority vote.

Since 1990, no budget resolution or conference report has received a three-fifths vote of this body.

Since 1990, no vote to raise the debt limit has received a three-fifths majority.

The 1985 Gramm-Rudman-Hollings bill, was passed by 51 to 37.

The 1990 budget reconciliation bill was passed by 54 to 45.

The 1993 Omnibus Budget Reconciliation Act was passed by a vote of 51 to 50, just one vote.

The 1995 budget reconciliation was passed by 52 to 47.

The 1995 temporary debt limit increase was passed by 49 to 47. Consequently, last year, we reached our apex of minority rule when the Government was shut down not once, but twice while trying unsuccessfully to prove a point.

Allowing a minority to block an effort to extend the debt limit essentially jeopardizes the full faith and credit of this country, something that those of us who have held executive office know is the true measure of the financial acumen of your city or your State. If you get a bad bond rating by Moody's and Standard & Poor's, the full faith and credit of the bonds you float is dramatically affected.

But a minority in pique, pouting, desirous of showing their enormous clout, can effectively jeopardize the full faith and credit of this Government and put this Government into default. I must tell you, I think that is absolutely dreadful as a matter of public policy.

Those are the four issues in this amendment.

Social Security: Congress can use it up to 2002 to reach balance, but afterward, we must separate it out. This step will preserve \$1.8 trillion in the trust funds for retirees.

Economic emergency: Congress should treat spending for serious economic emergency or major national disasters just like it treats military emergencies.

Capital budget: Congress should at least enable it, rather than prohibit it, which the majority amendment does.

Debt limit: Please, have some sense and address it with a majority vote.

These four issues are the only way this amendment differs from the majority amendment.

Perhaps the majority has their votes. Perhaps they know they have 67 votes. If they do not, I respectfully submit to them, maybe this is worth looking at and reviewing.

Maybe it solves a major problem.

Maybe it provides some kind of constitutional flexibility to meet what might develop in the future. We could face another savings and loan crisis, or another shock from oil prices. We could face a major earthquake in southern California, the probability of which has been increased, or a major flood in the Mississippi River basin, a major earthquake rift zone in the center part of our country.

We could face a range of emergencies and people will need Federal help. That is what we are here to do. We are here to protect the welfare and well-being of our citizens, and not the least among them are seniors. For many seniors, Social Security is the difference between a life of poverty and a life of being able to eat and pay the rent.

I think this is a worthy amendment. I have given it a lot of thought.

My distinguished chairman of the Judiciary Committee is present on the floor. I have listened to the hearings, heard the testimony of Secretary Rubin and really thought about whether your amendment could be improved. I decided that it could, but for some reason the balanced budget amendment is frozen in stone. I do not know who drafted the majority amendment. It was drafted, I assume, by the majority, but it has become the be-all and end-all: "If you do not support us, you cannot be for a balanced budget amendment." I cannot accept that.

I represent a big and deeply troubled State. I hazard a guess that the State of California will never ratify this balanced budget amendment. I cannot speak for any other State, but I think I can for California. And they will not do it because they know about serious economic emergencies. They know about a capital budget. We have 40 million people currently on Social Security, and it's going up every day. The people want this protected.

So this is a compromise with Social Security, economic emergency, capital budget permitted, debt limit by a majority. I would hazard a guess that if this became the amendment of the majority, not only would it pass both bodies, it would be ratified by three-quarters of the States.

I thank the Chair and yield the floor.

Mr. HATCH. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Utah has 29 minutes remaining, and the Senator from California has 17 seconds.

Mr. HATCH. Well, I will try to save some time for the distinguished Senator from California so she can make her wrap-up remarks out of our time.

Mrs. FEINSTEIN. I thank the Senator. I think that was my wrap-up.

Mr. HATCH. If you desire to say anything else, I will certainly extend that courtesy to you.

Mr. President, the balanced budget amendment was written by both sides of the floor. This amendment has been developed over a period of almost 40 years. It has taken both Republicans and Democrats to do it. It is a bipartisan amendment. Even though some in this body might try to see some flaw in it, it is the only balanced budget amendment that has a chance of passage. It is well thought through, it makes sense, and it's the only one that can end having unbalanced budgets year after year, like this stack represents the last 28 years of our budgetary life in this country. I might add that for 58 of the last 66 years we have had similar unbalanced budgets. These stacks are obscene; we know that. I think it tells the story better than anything else I can do. These folks just want to continue the status quo.

Now, the distinguished Senator from California is very sincere, and I admire her for it. She is on our committee. I care for her and I care for her ideas. But in all honesty, I have to rise in opposition to the substitute offered by my colleague from California. With the various escape clauses she has built into her amendment, it would be too easily gamed, and I believe it would be ineffective in stopping Washington's debt addiction. As we have debated the balanced budget amendment here on the Senate floor for the past several weeks, we have seen amendment after amendment that seeks to gut the substance of the proposed constitutional amendment.

What we have here is yet another attempt to make the balanced budget amendment ineffectual by carving out ways to deficit spend. How does this amendment of the distinguished Senator from California, as sincere as she is, make it easier to deficit spend? "Let me count the ways," to paraphrase Elizabeth Barrett Browning.

No. 1, it scales back the number of votes necessary to raise the debt limit. We know how easy it is to raise the debt limit around here, when that is the only methodology you have. So it scales that back from a three-fifths vote to a constitutional majority.

No. 2, it provides a waiver for undefined economic emergencies. These people are really clever in the Congress. They can define anything as an economic emergency. All they have to do is pass a statute saying it is an economic emergency.

No. 3, it provides yet another waiver for undefined natural disasters.

No. 4, it exempts Social Security from the balanced budget calculation beginning in the year 2003.

No. 5, it carves out a separate exemption for items designated as capital investment.

Can you imagine what these intelligent, ingenious, and, in some ways, devious people in the Congress who have done this to us over the last 28 years could do with capital investments?

Now, Mr. President, I wonder what is left. The reason we are here on the

floor debating a balanced budget amendment to the Constitution is not to make it easier to deficit spend. We are here to constrain that sort of runaway spending that has produced unbalanced budgets in every one of the last 28 years. The Feinstein amendment does not do that.

Let me take a few minutes to address the substance of each of the changes proposed by the Feinstein amendment individually. The Feinstein amendment would alter section 5 of the bipartisan balanced budget amendment to allow for a waiver of the balanced budget rule by a constitutional majority in any year "in which the United States is experiencing a national economic emergency or major natural disaster."

As an initial matter, the undefined terms "economic emergency" and "natural disaster" are malleable terms and could be abused by any future Congress bent on deficit spending. What constitutes an economic emergency? We have already resoundingly rejected an amendment on this issue because it is a broad loophole.

Now, what about natural disasters? Does this amendment mean to say that the balanced budget amendment can be waived by 51 votes in the Senate in any year in which there is a natural disaster in some region of the United States? There is hardly any year when we don't have something somebody claims is a natural disaster. If that is the case, and given the fact that natural disaster is not defined, isn't it plausible, or even likely, that Congress will routinely find something to classify as a natural disaster, thereby providing an excuse to waive the requirements of the balanced budget amendment. Twenty-eight years of unbalanced budgets would suggest that this is the case. Congress will find a way if you give them these kinds of generic terms that are not defined and really can't be defined.

What's more, nothing in this amendment of the distinguished Senator from California would require the additional spending to be directed to the communities affected by a natural disaster or to be used to get us out of a recession. "Natural disasters" or "economic emergencies" are only the triggers that let us spend whatever we want for whatever purpose. Because these terms are so malleable and subject to abuse, we need a supermajority provision to guarantee fidelity to the balanced budget rule.

The general three-fifths waiver contained in section 1 of Senate Joint Resolution 1 is both sufficient to answer the concerns raised by this amendment and strong enough to keep the balanced budget amendment meaningful. The Feinstein amendment would exclude Social Security outlays and receipts from unified budget calculations until 1 year after the effective date of Senate Joint Resolution 1, the balanced budget amendment.

In essence, the Feinstein amendment is nothing more than the Reid amend-

ment we debated yesterday to exclude Social Security from Senate Joint Resolution 1 and unified budgets, with one wrinkle—the exemption will not go into effect until 1 year after the date that the balanced budget amendment becomes effective. This would allow, of course, President Clinton to include the current Social Security surpluses in his budget calculations but would leave future Presidents and Congresses holding the bag when they are forced to unnecessarily slash programs like Medicare because the budget deficit appears larger without Social Security surpluses than it really is.

Moreover, the explanation of the distinguished Senator from California of her provision, and the charts that illustrate it, contemplate implementing this change by a one-time massive cut in a single year. Opponents of the balanced budget amendment have regularly argued that such an abrupt change would cause serious economic distortions in our country. The Feinstein amendment suffers from the same disease as the Reid amendment. It is not a workable compromise because, for the most part, Social Security surpluses will be excluded from the protections provided by the balanced budget amendment.

As King Solomon wisely knew, there is no practical way to split the baby without destroying life. If you split the baby and put Social Security exposed out there without any balanced budget protections and everything else is in the budget and protected, Social Security will become a political football to be used by those who want to get around the balanced budget. And everybody here knows that. Everybody knows what a phony issue that is.

So, too, the Feinstein amendment will destroy the viability of the balanced budget amendment.

First, as I discussed during the debate on the Reid amendment, it is necessary to include Social Security in any balanced budget plan. Obviously, without including Social Security, the largest single item in the Federal budget, other programs must be cut far more than they really need to be. I have the belief that the distinguished Senator from California would be among the first to want to oppose those cuts. Certainly I wouldn't feel good about cutting things beyond where they should be cut. But that is what inevitably would happen if the Reid amendment had passed yesterday, or the Feinstein amendment is passed today.

The proponents of this amendment have not told us which programs they will cut in order to come up with approximately \$100 billion per year that the total exclusion of Social Security surpluses will cost us. Astoundingly, this figure is greater than our combined annual expenditure on education, the environment, and transportation and infrastructure. In fact, between 2003 and 2019, when the Social Security outlays will exceed receipts, the trust

fund is expected to earn more than \$1.8 trillion. Where do the supporters of the Feinstein amendment propose to come up with the money necessary to cover this self-imposed shortfall? It is no secret around here that many on the other side support this amendment because they want to kill the balanced budget amendment. That is the whole game here. I do not believe that is the motive of the distinguished Senator from California. At least I hope it isn't. But that is the only reason why this amendment will be supported by our friends on the other side, if you really analyze it.

Let's put it in perspective. Discretionary savings from last year's budget resolution, which were described as draconian, were only \$291 billion. The Feinstein amendment would require that Congress cut spending or raise taxes more than six times that amount.

Similarly, the projected revenues from the 1993 Clinton tax increase—the largest tax increase in history, many assert—were only \$241 billion. The Feinstein amendment would require that Congress cut spending or increase taxes over six times this largest tax increase in history. These levels of spending cuts and tax increases are clearly unworkable. And the adoption of the Feinstein amendment would kill any chance the balanced budget amendment has of being ratified. That is really in the eyes of many who hate this balanced budget amendment, who do not want fiscal restraint, and who really want to continue their taxing and spending ways. That is really why they support the Feinstein amendment.

One person who testified against the balanced budget amendment said—if you are going to have a balanced budget amendment you should not exclude anything from the budget.

Second, exempting Social Security from the mandates of the balanced budget amendment for any considerable period of time will probably result in the demise of the Social Security program years earlier. Such an exemption will create a powerful incentive to redefine taxing and spending programs as Social Security, and to pay for them through what could become a giant loophole in any attempt to balance the budget.

Opponents of the balanced budget amendment incorrectly contend that including present-day Social Security surpluses in a unified budget would raid the trust funds. Give me a break. This is a complete misnomer because the surpluses are nothing more than an accounting record. Social Security FICA taxes are deposited with other revenues. Interest-bearing securities are purchased equal to the amounts of Social Security receipts. And those are Federal Government U.S. interest-bearing securities. These securities provide safe investments as long as we are financially solvent in this country, as long as we don't go broke, as long as our economy is going ahead, and the

only thing that is going to keep us doing that for sure will be if we pass the balanced budget amendment.

The fact is that these securities provide a safe investment, the safest in the world, I have to say, as long as this country is safe. This safety, however, would be wrecked if Social Security were removed from the protection of Senate Joint Resolution 1's balancing requirements. In fact, the very fears of the advocates of the Feinstein amendment will be realized. Their exemption of Social Security will really cause the trust fund to be raided. That is the ironic situation here. Why? Because under the Feinstein amendment trust fund receipts would be used to finance other costly programs that they would simply call Social Security.

I heard the distinguished Senator from Nevada, Senator REID, 2 days ago say that Social Security is defined by statute. If it is defined by statute, it can be redefined by statute. There is no argument against that. It is ridiculous to sit here and argue that it will not be used as a loophole to spend anything they want to spend by calling it Social Security. Trust fund receipts really could be used to finance other costly programs by simply relabeling them "Social Security."

With the loophole proposed by this exemption in place there will be an irresistible impulse in future Congresses to redefine unrelated programs as Social Security. This in turn will create an incentive for Congress to include costly programs as part of Social Security. Congress has not been able to restrain itself.

Look at these. There is just no answer to this by those who oppose the balanced budget amendment. Anything they try to say just comes out when you look at 28 years of unbalanced budgets, and 58 of them over the last 66 years. This is not rocket science. It doesn't take any brains to understand that Congress is incapable of living within its means unless we put in some sort of restraint within the Constitution that requires them to live within their means.

So I am saying that if you carve out Social Security that in turn would create an incentive for Congress to include costly programs as part of Social Security. Like I say, Congress can't restrain itself from either wasteful spending or increasing this web of services provided by Social Security. What is going to prevent them from doing that in the future if you have all of the loopholes that the Feinstein amendment provides for? Are we willing to let future Congresses roll the dice with the financial security of America's seniors? That is what is going to happen if we do not have a balanced budget amendment. Mark my word, it certainly is going to happen if we pass the Feinstein amendment and put Social Security out there exposed all by itself and not subject to balanced budget protections. Frankly, if the Feinstein amendment passes the balanced budget

amendment is dead. There is no use kidding about it. It would be killed, and for good reason because it wouldn't work anyway. So that is what we are talking about.

Passing an exemption loophole would essentially create two Federal budgets. One would be based on sound principles of solvency, and the other, the Social Security budget, which would not be based on sound principles of solvency. One budget would be required to be in balance unless a supermajority voted to allow a deficit. The other the Social Security budget would be raided and bloated with unrelated spending programs and projects.

Taking Social Security off budget will subject the funds to Washington's special interest scavengers. As I have said before, when you have rats in your house, you need to plug up the holes. If you do not, they are going to find a way in. If we leave Social Security off budget all of the 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 devour it.

This loophole would not only blow a hole in the balanced budget amendment but it would also seriously harm Social Security. This in turn could mean—and I think would mean—the end of Social Security as we know it, transforming it into the least secure of all Federal Government programs. I do not see how anybody can argue with that.

Third, let's not forget about the troubling future for Social Security. The Feinstein amendment does absolutely nothing to protect Social Security, and, in fact, it will make it extremely difficult, if not impossible, to achieve balanced budgets. The Social Security Board of Trustees estimates that by the year 2070, if we keep going the way we currently are, Social Security is expected to run an annual \$7 trillion deficit. If we include Social Security in our balanced budget calculations we will be able to prepare for and budget for these massive shortfalls. Under the Feinstein proposal we will not be including this deficit in our budgetary planning.

As a result, under the Feinstein amendment, in order to raise revenue and increase the debt ceiling sufficient to cover the expected Social Security shortfalls of the next century, we will have to dramatically increase taxes or cut spending on other important programs or face an annual three-fifths-vote fiscal crisis to avoid financial default by raising the already staggering \$5.3 trillion national debt ceiling. The way to protect Social Security benefits is to pass the balanced budget amendment, Senate Joint Resolution 1.

The proposal to exempt Social Security will not only destroy the balanced budget amendment but in all probability will cause the Social Security trust funds to run out of money sooner than they would have without an exemption.

The final change in the amendment of the distinguished Senator would permit the creation of capital budgets for those major capital improvements which require multiyear Federal funding. Most programs are funded for more than 1 year. Exempting capital budgets from the balanced budget amendment is bad policy because it creates a powerful incentive for Congress and the President to balance the budget by redefining more programs as capital expenditures. This is just another loophole. A gimmick capital budget exemption could actually endanger capital investments as fake investments crowd out real investment.

For these reasons, budget experts, including the President's Office of Management and Budget, the General Accounting Office, and the Congressional Budget Office, have suggested that capital budgets are inappropriate at the Federal level and certainly do not justify increasing debt to finance them. The amendment of the distinguished Senator from California would enshrine that into the Constitution.

The most basic problem with the separate capital budget as envisioned by the Feinstein amendment is that there is no clear standard definition of a capital budget. So no one knows what expenditures will fall within that definition. For example, in President Clinton's proposed fiscal year 1998 budget, the Office of Management and Budget lists four broad categories of programs that may or may not be considered capital expenditures, ranging from physical assets owned by the Federal Government to social investment, including nutrition programs, health care and drug rehabilitation, all under the idea of a capital budget.

Mr. President, perhaps the point was best made in a Washington Post editorial criticizing the Reagan administration for floating the idea of a capital budget. In that editorial, the Post wrote that "The concept of the capital budget applied to the Federal Government is pure fakery. It is the resort of an administration that, finding the realities of the budget intractable, wants to fuzz up the numbers." Pretty hard to argue with that. Pretty hard to argue with that.

Finally, Mr. President, given all these holes in the balanced budget rule proposal offered by the distinguished Senator from California, it is no wonder the proponents of this substitute have concluded that they need to reduce the supermajority requirement to raise the debt ceiling in their substitute. Given the high likelihood of substantial borrowing under this substitute for undefined capital spending, undefined economic emergencies and natural disasters and the possible loophole for the abuse of Social Security, no wonder the proponents of this substitute do not want to have the three-fifths vote to raise the debt ceiling. Instead, they reduce the antidebt protections of Senate Joint Resolution 1 to a constitutional majority.

Now, Mr. President, I hope we will reject this substitute, which is essentially a hit parade of loopholes repeatedly offered over the years by opponents of the bipartisan consensus balanced budget amendment and which could literally endanger Social Security.

The Feinstein amendment is a hit parade of loopholes offered in past debates. How can we keep borrowing? How can we keep doing this to ourselves, doing this to future generations, doing this to our children and our grandchildren? These volumes, this picture speaks a thousand words, a million words, maybe I should say trillions of words, as to why we have to get strong about doing something about these unbalanced budgets.

Let me count the ways why this amendment is wrong.

No. 1, it exempts an undefined capital budget, allowing any level of borrowing for capital as defined by future Congresses. They could do anything they want to under this amendment. Just define them—any statute, any simple majority.

No. 2, it allows for a waiver of the balanced budget rule in times of economic emergency or natural disaster, however interpreted by any future Congress. They could do anything they want to if we adopt the Feinstein amendment. The balanced budget amendment would be a thing of the past. There would be no hope to have any fiscal mechanism at all. In fact, it would be the biggest joke you could possibly have.

No. 3, it exempts whatever a future Congress calls "Social Security." They could define anything as Social Security. This endangers the retirement security of current and future American seniors.

And No. 4, because of all these loopholes for deficit spending, it reduces the supermajority requirement to raise the debt ceiling from a three-fifths majority to a constitutional majority or 51 percent.

The substitute offered by the Senator from California should be rejected. It would allow continued deficit spending and borrowing, as has happened in the past 28 years, or should I say in 58 of the last 66 years. It would just continue the process, only make it easier to do it under the guise that we are somehow or other living within a balanced budget amendment constraint as defined by this amendment.

Mr. President, look, we are talking about the future of our country. We are talking about our children. We are talking about our grandchildren. We are talking about our seniors. We are talking about a country that is going to be swallowed up in debt if we do not pass a balanced budget amendment.

I had one of the leading liberals from the Democratic side tell me yesterday in no uncertain terms that—in fact, more than one—I have had at least three or four just flat out admit that if it had not been for these fights for the

balanced budget—and these people, all but one of these people are against the balanced budget amendment—if it had not been for these fights over the balanced budget amendment, if we had not waged this battle, we would not even be talking about balanced budgets.

All you have to do is look at this year's balanced budget submitted by President Clinton, and he is not alone. I saw budgets by several Presidents that also were smoke and mirrors because they have to; there is no restraint; there is nothing that forces them to do right. But you look at the budget that President Clinton called a balanced budget this year, that he just submitted. According to the Congressional Budget Office, which has been pretty accurate on some of these matters, that budget by the year 2002 will not be balanced; it will be at least \$49 billion in deficit, and that is assuming that all these rosy scenarios the President has plugged into it are coming to pass. That is assuming that. The fact is, it will not be balanced.

Second, even if it was true that it would be balanced, everybody knows the only way we can reach balance is to attack the deficits each and every year up to the year 2002. President Clinton's budget goes up for the next 4 years, and then he calls for a 75-percent reduction in the 2 years after he leaves office. It does not take a rocket scientist to realize that is a phony budget, that they have tried to get around the requisite of bringing up here a balanced budget. He said he would. But it clearly is not a balanced budget. And it clearly could not be balanced. Even if you assume that it is—and the Congressional Budget Office says it is not—the fact is, it could not be balanced by a 75-percent reduction in the 2 years after the President leaves office. It is as phony a budget as you can have from that standpoint. But we are going to work from it because we are going to have to.

Let me just say this. If we pass the substitute amendment of the Senator from California today, those games will become even more pronounced. No, what we have to do is, we have to realize that over the last 20 years—frankly, longer than that—good Democrats and good Republicans have fought together to work this out. We have worked it out. This is the only amendment that has a chance of passage. It has to pass unamended.

Frankly, I hope that our colleagues will vote down the Feinstein amendment and support the balanced budget amendment in the end. If this goes down, it is going to be because of one vote. No matter what the final vote is, it is going to be because of one vote. I can tell you that right now. I do not believe it is going to go down. I believe we will pass this amendment in the Senate, and I am hopeful that this will be an incentive to go to the House.

Mr. President, do I have any time remaining?

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator has 15 seconds.

Mr. HATCH. Then I yield back the remainder of my time, and I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The Senator from California has 17 seconds.

Mr. HATCH. I am sorry.

Mrs. FEINSTEIN. I would add very quickly, Mr. President, that there is one, deep, soft underbelly in the majority balanced budget amendment. You cannot use Social Security trust funds and spend the money on operating expenditures, whether it be for a battleship or a satellite, and save those monies for someone's retirement.

I rest my case. I thank the Chair. I yield the floor and the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to table amendment No. 11, offered by the Senator from California [Mrs. FEINSTEIN].

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced, yeas 67, nays 33, as follows:

The result was announced—yeas 67, nays 33, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—67

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

NAYS—33

Akaka	Feingold	Landriau
Biden	Feinstein	Lautenberg
Bingaman	Ford	Leahy
Boxer	Glenn	Levin
Breaux	Harkin	Lieberman
Bumpers	Hollings	Mikulski
Cleland	Inouye	Moynihan
Conrad	Johnson	Reed
Daschle	Kennedy	Sarbanes
Dorgan	Kerry	Torricelli
Durbin	Kohl	Wellstone

The motion to lay on the table the amendment (No. 11) was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I know there are a couple of Senators who want to qualify their amendments.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that immediately following the vote on Senator TORRICELLI's amendment, Senator DORGAN be recognized to offer his substitute amendment. I further ask unanimous consent that there be 2 hours of debate equally divided in the usual form, and following the expiration or yielding back of time, the Senate proceed to a vote on or in relation to the Dorgan amendment.

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

Mr. HATCH. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey [Mr. TORRICELLI] is recognized to offer an amendment on which there shall be 3 hours of debate equally divided in the usual form.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to address a question to the distinguished Senator from New Jersey. Would he be willing to yield me 30 seconds in order for me to offer an amendment?

Mr. TORRICELLI. I am pleased to yield to the Senator from Arkansas.

MOTION TO REFER WITH INSTRUCTIONS

Mr. BUMPERS. Mr. President, on behalf of Senator FEINGOLD and myself, we move to refer Senate Joint Resolution 1 to the Budget Committee with instructions to report back forthwith with an amendment. That is essentially the amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself and Mr. FEINGOLD, moves to refer Senate Joint Resolution 1 to the Budget Committee with instructions to report back forthwith with an amendment.

The motion with instructions follows:

Strike all after the resolving clause and insert the following:

"SECTION 1. POINT OF ORDER AGAINST BUDGET RESOLUTIONS THAT FAIL TO SET FORTH A GLIDE PATH TO A BALANCED BUDGET.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

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

"SECTION 2. PROHIBITION ON BUDGET RESOLUTIONS THAT FAIL TO SET FORTH A BALANCED BUDGET.—Section 301 of the Congress-

sional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

"(k) CONGRESSIONAL ENFORCEMENT OF A BALANCED BUDGET.—

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

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

"SECTION 3. POINT OF ORDER AGAINST BUDGET RESOLUTIONS THAT FAIL TO ESTABLISH A GLIDE PATH FOR A BALANCED BUDGET BY 2002 AND SET FORTH A BALANCED BUDGET IN 2002 AND BEYOND.—

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

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

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

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

(a) Immediately following "Sec. 306." insert the following:

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

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

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

Mr. BUMPERS. Mr. President, I now ask unanimous consent that the amendment be laid aside subject to further consideration.

The PRESIDING OFFICER. Is there objection to consider the motion at this time? If not, without objection, it is so ordered. Without objection, the motion to set aside is granted.

Mr. FEINGOLD. Mr. President, I would also like to ask the Senator from New Jersey if he would yield.

Mr. TORRICELLI. I will be happy to yield.

Mr. FEINGOLD. I thank the Senator from New Jersey.

Mr. President, I ask unanimous consent that the pending business be set aside.

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

AMENDMENTS NOS. 13 AND 14

Mr. FEINGOLD. Mr. President, I have two amendments to Senate Joint Resolution 1 that I would like to offer. I ask unanimous consent that it be in

order to send both of them to the desk at this time. I understand they will be set aside until a later point when they can be debated and voted upon, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes amendments numbered 13 and 14.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments (Nos. 13 and 14) are as follows:

AMENDMENT NO. 13

(Purpose: To require approval of the amendment in 3 years)

On page 2, line 7, strike "seven" and insert "3".

AMENDMENT NO. 14

(Purpose: To permit the use of an accumulated surplus to balance the budget during any fiscal year)

On page 2, line 15, after "vote" insert "or unless Congress shall provide by law that an accumulated budget surplus shall be available to offset outlays to the extent necessary to provide that outlays for that fiscal year do not exceed total receipts for that fiscal year".

AMENDMENT NO. 15

(Purpose: To permit limited waiver during economic emergencies and allow a capital budget)

Mr. TORRICELLI. Mr. President, I have an amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. TORRICELLI] for himself, Mr. LAUTENBERG, Ms. LANDRIEU, Mr. KOHL and Mrs. BOXER, proposes an amendment numbered 15.

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

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

The amendment is as follows:

On page 3, strike lines 4 through 11, and insert the following:

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"The provisions of this article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, which becomes law.

"The provisions of this article may be waived for any fiscal year in which the United States is in a period of economic recession or significant economic hardship and is so declared by a joint resolution, which becomes law.

On page 3, strike lines 15 through 19, and insert the following:

"SECTION 7. Total receipts shall exclude those derived from net borrowing and the

disposition of major public physical capital assets. Total outlays shall include all outlays of the United States Government except those for repayment of debt principal and those dedicated to a capital budget. The capital budget shall include only investments in major public physical capital that provides long-term economic benefits.

Mr. TORRICELLI. Mr. President, I offer my amendment recognizing that the context of this debate is fundamentally different because of over 20 years of effort by the Senator from Utah, Mr. HATCH, and a Member in the House from Texas, Mr. STENHOLM, who have worked diligently to bring before this institution of the Congress an amendment to require a balanced budget.

While their efforts to date have not succeeded, the fact that we meet with a Federal deficit which has been reduced by over 60 percent in annual terms in the last 3 years is no small testament to their efforts.

The national debate has been fundamentally changed. It is no longer a question of if there is going to be an operating balanced budget in the U.S. Government, but when and how it is going to be achieved.

I take great pride in that, through the years, on three occasions I joined with them to do so, because, in my judgment, 15 years ago this country began a radical and even dangerous experimentation with changing the finances of the U.S. Government. There had been for some 200 years an unspoken compact among the generations—the Nation would borrow for its national defense or to provide for its domestic economy in times of danger or severe deprivation, but quickly return to an operating surplus and to pay those debts when the situation allowed.

So from the War of 1812, and the Civil War, through the Second World War and the time of the Great Depression, succeeding giants of American history borrowed so much as was necessary to ensure the survival of the Republic, but almost immediately in each and every circumstance returned to an operating surplus and dealt with the principal of the debt in fairness to future generations and to assure the financial health of the U.S. Government.

Our generation has the unfortunate distinction of being the first to break that compact. During the 1980's, the Federal deficit, from less than \$1 trillion, grew to in excess of \$4 trillion. Indeed, during the Reagan Presidency alone, the annual Federal debt grew at a rate in excess of 13 percent, reaching the extraordinary drain on the Federal Treasury for interest alone of 20 percent of all revenues.

When the Clinton administration assumed office 4 years ago, President Clinton inherited an operating deficit of \$290 billion. In 4 years we have experienced an extraordinary change, a 63-percent reduction in the annual debt of the U.S. Government as a result of the deficit reduction initiative of 1993. So at this point the United States has the lowest operating annual debt of any industrialized nation in the world with 1.4 percent.

The question, therefore, is whether the United States has learned a valuable lesson from the excesses that began in 1981 and began to abate in 1993, or whether, indeed, this change of fortunes in the last 4 years is itself an aberration, and a permanent amendment to the Constitution is required.

There have been few instances in the life of this Republic when any Congress has found it necessary to change the Constitution by which we govern ourselves. We recognize that the U.S. Constitution is a precious document in its balances, its allocation of powers. It is, I think, important to note, and no small achievement, that when the 20th century ends in but a few brief years there will be only two governments on this globe who will end the century with the same basic form of government, under the same Constitution, with the same allotment of powers with which they began the century. The United States of America is one. The certain genius of our Constitution, both how it was written and how it distributed powers, is certainly a reason.

I rise, therefore, Mr. President, recognizing that any decision to amend the Constitution of the United States is extraordinarily serious and, indeed, sobering for every Member of the institution. I, therefore, believe if it is to be amended, it is to be done so carefully, and in every respect, ensuring that we understand the consequences.

The amendment that I bring before the body today deals with three central elements of the resolution. First, whether or not the U.S. Government should continue to both have its current accounts and its capital budget reflected in a single accounting; second, how, indeed, under this amendment the Government will respond to times of economic recession; and third, how the U.S. Government would respond to threats to our national security under the provisions of the resolution.

I begin, Mr. President, with a question of a capital budget. Throughout these last 20 years, much has been spoken about the mounting deficit of the U.S. Government. We have convinced the American people, I believe, of two conclusions that bear further scrutiny. First, that the principal and only debt of the United States that bears witness is the debt operational of the U.S. Government; and second, that the appropriate level of debt of the U.S. Government is zero. Neither conclusion, Mr. President, bears scrutiny.

No institution which plans for its future, is properly taking advantage of its ability to borrow, has no operating deficit. Indeed, Mr. President, 43 States in this Union by calculation set the proper and appropriate level of deficit borrowing. The States do so through capital borrowing commissions. They evaluate the transportation, the infrastructure needs, the investment needs of their States and carefully calculate their ability to pay back those loans and what they will contribute to the economic performance of their States.

Indeed, this has been so successful that for the last 50 years not only has no State defaulted, but, indeed, I know in no instance when there has been a serious issue of a Governor of either party or their respective legislatures engaging in inappropriate or excessive borrowing, or any borrowing, other than what was required for the economic future of their State.

Unique in our society is the U.S. Government. Unlike all major businesses in each of these States, and all of our economic competitors, the U.S. Government has no capital budget. In our planning, we regard the construction of a road or a railroad or a school which may last for 20, 50, or 100 years the same way we regard the hiring of a new employee, the buying of a piece of paper, paying for the lights. The fact is that by any standard accounting—one is the exchange of financial resources for a lasting and productive resource, and the other is an immediate consumption—this has not been addressed and has never been changed.

My fear, Mr. President, is that if we adopt the balanced budget amendment as now offered by the Senator from Utah without a capital budgeting provision, the thirsts of the U.S. Government for consumption will certainly begin to exclude what remains of long-term investments in this country. Because, indeed, over these years, we have seen a serious deterioration in the amount of investment by the United States. In 1960, 25 percent of the Federal budget was dedicated to long-term capital investments. The United States constructed a highway system that was the envy of the world. Our mass transit systems for railroads were still on the cutting edge. We built a university system that was without peer. By the time the 1960's concluded, no nation on Earth would want to be in a position to not be able to trade the American transportation or infrastructure or research base with their own.

I doubt, Mr. President, few nations would make that trade today. The United States is now last in all developed nations in the world in our level of infrastructure investment in capital planning. Today, our Government invests only 7 percent of our revenues in capital expenditures, the Japanese having a rate of nearly 6 percent, as indicated on this graph, the Germans having a rate half again as great as our own. Our percentage of GDP dedicated to infrastructure investment is now barely 1.7 percent.

The question, therefore, is if today we proceed to a balanced budget amendment without this exemption for capital expenditures, will this 1.7 percent rate of GDP, this 7 percent rate of all Government spending, deteriorate further? The irony, Mr. President, of this situation is the exact opposite of what has happened with American business. American business today operates a \$4.5 trillion deficit. American businesses learned that deficit spending, if it involves productivity, new

plant and equipment, and operating efficiency, is not only necessary, it is required for future economic growth.

Mr. President, I attempt to bring that same lesson to the floor of this Senate. We are potentially putting a straitjacket financially on this Government and our ability to be competitive.

In the United States today, there are a quarter of a million miles of roads that are substandard and in need of immediate repair. They will not serve us another century of efficient business performance. Twenty-five percent of all the bridges in America that are handling the cargo of our industry, servicing our towns, leading to the productivity of our businesses, are in need of immediate repair. The great ports of America, which once rivaled any in the world—and now, indeed, the port of New York, once the most efficient and busiest port in the world, now offloads cargo in the outer harbor because it is too shallow to take modern ships like Japan and Europe. We are disinvesting in America, transforming places in this country into the efficiency of Third World nations. This disinvestment in the American future cannot continue.

The Senator from Utah, in previous discussions in the Judiciary Committee, makes a worthwhile point: Who is to ensure that worthwhile capital projects are not placed in the general operating budgets of the U.S. Government, or vice versa? Who is to draw the line? Well, Mr. President, in our corporations, in our homes, and indeed in our States, we have learned to draw that line. States have capital planning commissions. Every homeowner has learned the difference between a home mortgage and buying a new suit or paying for the evening meal. Indeed, every corporation in America has learned in the marketplace to distinguish. So can this Government, and so it must.

Mr. President, I believe that, more perhaps than any other provision I offer in my amendment today, this call for capital planning in the U.S. Government will reflect how serious we are at long last about rearranging the spending powers of the U.S. Government and making them responsible again. And so the first of three provisions in my amendment to the balanced budget amendment is for dealing with capital spending.

Mr. President, my second provision deals with the ability of the U.S. Government to respond to another set of contingencies, just as important as dealing with the long-term financial planning of this Government and its investments. I mentioned the question of dealing with national military emergencies. The Senator from Utah appropriately has placed in his balanced budget amendment a provision that, if the United States engages in a war, through a declaration of war, three-fifths of the Congress can waive the provision of a balanced budget. He is right to do so. But it is also inadequate.

Mr. President, in the experiences of the 20th century, the most important military expenditures to defend this Union have not always been made solely after a declaration of war. Given the enormity of preparing for armed conflict, the complexity of technology and the time necessary to construct the implements of war, the most important expenditures have often been made in the months or years preceding armed conflict. Indeed, the principal battles of the Second World War, when the implements of war were considerably less costly or complex than those that we will meet in the 21st century, the principal investments for that conflict were made not only in the months, but in the years preceding the Second World War.

President Roosevelt's decision to rebuild the U.S. Navy and double its size was made not after Pearl Harbor, but in the years before. The question, therefore, with this amendment, that we are to waive these provisions only after a declaration of war—what does that do to an American President and the American military that recognizes an imminent threat, can discern an almost certain conflict, and needs desperately to prepare the Union to defend itself?

Indeed, Mr. President, in our own time, in the Persian Gulf war, on a far smaller scale, we recognized exactly these circumstances. It was 5 months from the time that Saddam Hussein invaded Kuwait to the beginning of hostilities on the Kuwaiti-Iraqi border. In those 5 months, the U.S. Government was operating at a \$220 billion deficit. President Bush consumed an additional \$10 billion in deficit spending to prepare for the almost certain conflict with Iraqi Armed Forces. There was no declaration of war, but there was no mistaking what was going to happen. It was as certain as Franklin Delano Roosevelt saw an imminent conflict with Germany and Japan, and as certain as President Wilson knew there would be a conflict in Europe, and indeed as certain as in the opening weeks of his administration, President Lincoln knew the inevitability of a war between the States. Each began to plan for conflict. Each began to borrow. And when the conflict began, this country at least approached being prepared.

And so, Mr. President, the second principal change that I offer to the balanced budget amendment—the first was to allow for a separate capital planning expenditure budget to deal with long-term economic investments. My second is to allow, by a joint resolution, the declaration of a national military emergency so that the country can properly plan.

I do so in fairness to the Senator from Utah. I also want to mention that I do so without there being a declaration of war, but also changing to a majority vote, in recognition that I do not want any foreign adversary to ever miscalculate that because we are unable to reach a three-fifths vote, we

will also be unable to defend the United States.

It is worth noting that, at no point in the years preceding the Second World War, at no point preceding the First World War, and it was demonstrated at no point before the Persian Gulf war, did three-fifths of this institution stand for the proper preparations for war. Indeed, as a Democratic author of the Persian Gulf war measure in the House of Representatives, we never did get a three-fifths vote. With Germany having overrun half of Europe, these institutions of the Congress passed the Selective Service Act to prepare the United States for a war, which was almost certain, by a single vote. Therefore, not only do I provide for a joint resolution so the United States can prepare for imminent hostilities, but I do so by a majority vote.

Third, Mr. President, I have an additional change which deals with an equally important matter of economic recession. There are those who come to the floor of the Senate and argue that deficit spending is necessary to maintain the economic performance of the United States, and they provide evidence that, indeed, the rapid growth of this economy in the latter half of the 20th century and the extraordinary standard of living that we have achieved is due in no small part to the ability of the United States to borrow. Others argue that that right has been abused. Indeed, we have drawn upon our credit to such an extent that we have placed a burden on the future which is unsustainable, and, with 20 percent of our tax dollars going not to build new roads, not to educate another generation, but to only pay interest on the debt, they are right. Indeed, Mr. President, both are right on the question of achieving a balance between the two.

There has been in this latter half of the 20th century a notable and even extraordinary change in the business cycle of growth and recession. Indeed, between 1900 and 1950 there were 33 quarters of real negative economic growth. Through the experience of the Great Depression the U.S. Government learned, and then admittedly abused, the ability to adjust the business cycle through borrowing in times of recession to compensate for declining private investment and expenditures. The result is that in these last 47 years compared with the 33 quarters of negative economic growth in the first half of the century, we have experienced only four quarters of negative economic growth since 1950.

The question then is, How do we achieve a balance? The Senator from Utah appropriately noted that the power to borrow has been abused with a mounting deficit which is unsustainable on its face versus losing this ability to deal with real economic downturns and provide adjustments. Indeed, Secretary Rubin in his testimony provided a warning that without some ability to stabilize we could

“turn slowdowns into recessions and recessions into more severe recessions or even depressions.”

The Treasury Department has estimated that during the 1992 recession, without the ability to engage in some deficit spending, the recession that lasted from 1990 to 1992 would have had in excess of 9 percent unemployment instead of 7.7 percent with an additional 1 million jobs being lost.

Mr. President, I have attempted in my amendment in its final provision to strike a balance. That is where the institutions of the Congress could by joint resolution declare an economic emergency and allow it, only for so long as it believes that emergency exists, to engage in deficit spending to ensure that the public works programs and job creation ability of the Government is not lost.

Mr. President, we will never know what would have happened in the Great Depression had there not been a Second World War or a New Deal and the massive deficit spending of that period to end the economic debt into which this country had gone. It was by any measure a real threat to American democracy. In the Second World War this country approached 60 percent of GDP in deficit spending. It is a debt burden which the Nation must bear. It also provided a foundation for a standard of living and an economic performance which in all of human history has never been equaled.

My amendment seeks to use the creditworthiness powers of this Government to deal with those economic contingencies but making certain that they are used only in periods of economic emergency.

In short, Mr. President, in each of these provisions I have attempted to do by constitutional amendment what common sense provided that we do through 200 years of American history. I do so with considerable regret. Succeeding generations in this country provided for capital spending because they cared about the future. The Constitution didn't require that they do it. They did it because it made sense for the American future. Succeeding generations borrowed to defend the Nation when it was threatened because they cared about the defense of the Republic, not because the Constitution required that they only borrow to provide for the national defense and not exceed that authority when the Nation was not threatened. Succeeding generations borrowed to deal with economic recessions and depressions because they cared about the economic future of the country and our people and did not abuse it.

No Member of the Senate should take pride in the fact that in our generation it might be necessary to amend the United States Constitution to provide for these capital expenditures in dealing with military threats and economic emergencies, to assure that our country is responsible in dealing with that borrowing, and that the borrowing is done only to the extent and to the degree that it is appropriate. We should

do so because we care about our people and the future of the Republic. Yet, like the Senator from Utah, I rise because there is the unmistakable fact that in our own time that power has been abused.

Therefore, I rise with amendments to the resolution recognizing that amending the Constitution is unlike any other action taken by the Congress of the United States. We legislate not for our time; we write for all time. These are words that will govern contingencies that we cannot imagine, circumstances that we cannot foresee. If it is necessary to amend the Constitution of the United States, it is necessary to do so to the fullest extent possible with all the wisdom that we can muster. I believe the amendment of the Senator from Utah would be improved and enhanced by these changes. Indeed, I believe these changes are necessary to responsibly add to the work of our ancestors who wrote this great document and provided for the political stability of this Nation through these two centuries and allowed it to become the unique society and the extraordinary Nation that we have become.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). Who yields time?

Mr. HATCH. Mr. President, I yield 3 minutes to the distinguished Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise today as a strong supporter of the balanced budget amendment and a strong supporter of the Torricelli amendment. I do not believe that the two are inconsistent.

Those of us who support amending the Constitution to balance the budget have an obligation to make sure that we are supporting the best possible balanced budget amendment. I listened carefully to Senator BYRD earlier this week when he talked about the sanctity of the Constitution. He argued, and I agree, that we ought to amend this most basic and important document of our Government with only our best ideas, principles and language.

The balanced budget amendment does, in my opinion, embody a principle simple and vital enough to deserve inclusion in the Constitution. It says that we ought to spend no more than we take in. It says that this generation has no right to finance its own consumption with money borrowed from the next generation. It asks the Federal Government to run its finances in a manner that both provides for a strong America in the present and builds a stronger America in the future.

The Torricelli amendment would improve the balanced budget amendment by bringing it closer to this fundamental principle. The Torricelli amendment would exclude investments in physical infrastructure that provide long-term economic benefits from the definition of Federal outlays. In other words, it would put into the balanced budget amendment the requirement that we balance our operating budget

but would allow debt financing of long-term public investments.

To me this makes eminently good sense. It is how everyone else keeps their books, from State governments, to businesses, to families. You pay now for things that are going to benefit you now, and you pay over time for investments, the value of which accrues over time. A State government issues bonds to finance major highway projects and new construction of public buildings. A business goes to the bank for a loan to upgrade its machinery. A family takes out a mortgage to buy a house.

When we say on the Senate floor that the Government ought to balance its books just like an American family has to, we mean that the Government ought to balance its operating budget just like an American family has to. No one is suggesting that a family wait until they save up enough money to pay cash for a home. If we operated that way, there would be very few homes bought in this country.

If the Federal Government must balance its budget without separating out its capital expenditures, there will be very few public investments made in this country, and that would be very wrong. Already, the Federal Government woefully underinvests in the capital that will grow our economy—in our roads, in our schools, in our cities. The Torricelli amendment will ensure that in pursuing a balanced budget we do not have a perverse incentive to avoid those public expenditures that would most benefit future generations.

State governments understand this. Forty-three of them have balanced budget requirements that separate out the capital budget. In my State of Wisconsin, the constitution requires that taxes cover expenses. But it also states that debt may be incurred “to acquire, construct, develop, extend, enlarge or improve land, waters, property, highways, railways, buildings, equipment, or facilities for public purposes.”

That is a simple, straightforward and correct approach that we ought to take in the Federal balanced budget amendment, and I hope my fellow supporters of the balanced budget amendment will agree. This debate has always been about stopping the practice of robbing Peter and Paul, Jr. to pay for Peter and Paul, Sr. Supporters of a balanced budget amendment want to look beyond our needs today and toward our hopes for the future.

That means not spending more than we take in. And that means making wise, long-term investments in the economy that will sustain future generations. We can do both with a balanced budget amendment to the Constitution if we also pass the Torricelli amendment, and so I urge my colleagues to do so.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 15 minutes to the distinguished Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. I thank the Chair. I thank the Senator from Utah for his strong leadership on this issue. It is not easy carrying the ball for so long and so well. He has done such an admirable job of that. I am sure our colleagues on both sides of the aisle admire him for what he has done.

I want to talk for a few minutes on the broader question of the need for the constitutional amendment to balance the budget. It seems to me that among all of the things we address in this body, there are some basic considerations that should underlie it all, and we should focus from time to time on what we really should be about, what we should do as those who govern.

I think it comes down to two basic categories, that is, trying to institute policies that make for the long-term strength of this country, and to try to do things that will encourage people to have more confidence and faith in their system of government.

I believe those are the two basic things we ought always keep in mind as we go about our structured existence around here, the hurly-burly that we all have to contend with in passing thousands of pieces of legislation. Does it contribute to the long-term strength and viability of this country and does it contribute to people's confidence in their form of Government. I feel that is what we are dealing with here. I feel that every once in a while something comes up that really is important with regard to one or the other of those considerations, and I think the constitutional amendment to balance the budget has to do with both of those considerations, because I fear for the economic future of this country if we do not pass such an amendment.

I feel that when the results of our economic policies today are felt a little bit further down the road and we see that once again the so-called balanced budget agreements that we may reach around here do not, in fact, balance the budget, we are going to increase the cynicism that the American people already have toward this Government. That is why I think a constitutional amendment to balance the budget is so important.

There has been a lot of discussion as to whether or not there really is a need. I think most all of us take seriously the proposition of amending the Constitution, even though our forefathers certainly contemplated it. Thomas Jefferson is often quoted. Certainly they felt that from time to time we need to reexamine our basic institutions and not be afraid after due deliberation to make changes that in the course of history are proven necessary to improve our system of government. But it is not something to be taken lightly, and I do not think any of us do take it lightly.

It is clear that from time to time we must sit down and see whether or not we are functioning as we should,

whether we are getting the job done for this country and, if not, what should we do about it. We can go down the same old road or we can try to do something about it.

This constitutional amendment constitutes doing something about it because it is clear that we will go down in history under present circumstances as the first generation to leave their children in worse shape than they found their country when they took positions of leadership. It is true, without question, that we are leaving the next generation with astronomical tax rates to face, astronomical interest rates to face, a slower economy. We certainly are on the road, the path that most and great civilizations have followed through history. Some historians say you can calculate it almost to the year. Some say they survive for 250 years. A case can be made that we are on the downside of that mountain, that we are certainly going in the same direction of other great powers—the Turks or Ottoman Empire or Spanish Empire, ones that ruled the world once upon a time but proved they could slide off into second-rate powers and nations that were much less than what they aspired to be or were in prior times.

A good case can be made that we are on track for that. We know, our own entitlement commission tells us that by the year 2012 we will be paying out all of the tax collections we receive in entitlement and interest rates and have nothing for national defense, have nothing for infrastructure, have nothing for education. That is the road we are going down.

Some say, no, we are making progress; all we need to do is get about the business of balancing the budget, that we are really making progress. If history is to be any indication of that, though, I hope that plea falls on deaf ears, as it should.

The President's budget is used as an example of the fact that we are making progress, we might even have a so-called balanced budget amendment agreement. However, upon examination, we see readily that the President's budget or anything that might come from the President's budget that we might agree to is not going to solve the problem. It will not balance the budget. It adds over \$1 trillion to the debt. It is based on assumptions that in all likelihood will not play out. It is based on assumptions having to do with current economic expansion which is now in the sixth year, making it the third longest on record. The likelihood is that will not continue indefinitely. It is based upon high projections of corporate profits that the CBO says are unrealistic. It is based upon the proposition that we will continue to have medical savings, and many, many experts, including the Budget Committee, think we have got most of those savings on the front end, that they will not be occurring year after year after year, and that will impact our tax revenues.

The President's budget is based upon extremely optimistic projections for long-term interest rates. And last but not least, of course, three-quarters of the cuts in the President's budget come after the President is no longer in office, the last 2 years.

In other words, it is based on the proposition that a future Congress will have more courage than this one does and we will be making cuts in discretionary programs, things that most all of us agree we need to be more attentive to, things like infrastructure and research and development and things of that nature that provide for the long-term viability of this Nation. But the proposition is that we will continue to squeeze that 17 percent of nonentitlement, nondefense, noninterest portion of the budget, that narrow 17 percent, for those infrastructure items and parks and that sort of thing, and get astronomical savings from cutting those areas in the last 2 years.

We know that will not happen. We know that will never take place. So that is why David Broder referred to the budget as one of "no hard choices." But, as we know, the time is past for no hard choices. We cannot get by with that any longer. We cannot get by with that indefinitely.

Last Saturday I was watching on television, on C-SPAN, a former colleague of ours, Senator Packwood. He was speaking to a group out in Oregon about things that he knows a lot about, about our tax structure, about budgetary matters. As chairman of the Finance Committee, of course, he was deeply involved in those matters. He had some charts.

I called and asked for those tables with regard to percentages of taxing and spending as a percentage of gross domestic product with regard to this country and other countries. There are some very interesting things in there in terms of where we are today and where we are likely to be tomorrow.

Mr. President, I ask unanimous consent that those tables be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FEDERAL, STATE/LOCAL AND TOTAL GOVERNMENT TAXES AND SPENDING AS A PERCENTAGE OF GROSS DOMESTIC PRODUCT: 1950–95

(United States only, in percent)

Year	Federal		State/Local *		Total	
	Tax	Spend	Tax	Spend	Tax	Spend
1950	14.8	16.0	6.6	7.1	21.4	23.1
1955	17.0	17.8	6.9	7.3	23.9	25.1
1960	18.3	18.3	7.9	7.8	26.2	26.1
1965	17.4	17.6	8.7	8.6	26.1	26.2
1970	19.6	19.9	10.2	9.8	29.7	29.7
1975	18.5	22.0	10.8	10.4	29.3	32.4
1980	19.6	22.3	10.1	9.2	29.6	31.5
1985	18.5	23.9	10.6	9.2	29.1	33.0
1990	18.8	22.8	10.7	10.2	29.5	33.0
1991	18.6	23.3	10.9	10.7	29.5	34.0
1992	18.4	23.3	11.1	10.8	29.5	34.1
1993	18.4	22.5	11.2	10.7	29.6	33.3
1994	19.0	22.0	11.1	10.7	30.0	32.7
1995	19.3	21.7	11.0	10.7	30.4	32.4

* Does not include the receipt or spending of grants-in-aid from the federal government, which are counted as federal expenditures.

Note: Totals may not add due to rounding.
Source: Budget of the United States Government, Historical Tables, Office of Management and Budget, March, 1996.

TOTAL GOVERNMENT TAXES AND SPENDING FOR SELECTED ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD) COUNTRIES AS A PERCENTAGE OF GROSS DOMESTIC PRODUCT, 1970-95

[In percent]

Country	1970		1980		1985		1990		1995*	
	Tax	Spend	Tax	Spend	Tax	Spend	Tax	Spend	Tax	Spend
United States	29	32	31	32	30	33	31	33	32	34
Japan	21	19	28	32	31	32	35	32	34	38
United Kingdom	40	39	40	43	41	44	39	40	37	42
Canada	34	35	36	39	39	45	42	46	42	46
Germany	38	39	45	48	46	47	43	45	46	50
Netherlands	42	44	51	55	54	57	49	54	48	51
France	39	39	46	46	49	52	48	50	49	54
Italy	30	34	33	42	38	51	42	53	45	52
Norway	44	41	48	43	50	41	52	49	47	46
Denmark	42	40	53	56	57	59	57	59	60	62
Sweden	47	43	56	60	60	63	63	59	59	67

* Projected.

Note: All figures rounded. The percentages in this chart are compiled by the OECD, an association of the major industrialized countries of the world. The OECD uses a different method of calculating government expenditures and revenues than the standard budget accounting method the U.S. government uses. Therefore, while the figures in this table give an accurate comparison of the spending and revenue trends of our major competitors, these figures should not be compared directly to other data.

Source: Organization for Economic Cooperation and Development Outlook, December 1995.

TOTAL GOVERNMENT TAXES AND SPENDING FOR SELECTED INDUSTRIALIZING COUNTRIES AS A PERCENTAGE OF GROSS DOMESTIC PRODUCT, 1998-94

[Pacific rim countries; in percent]

Country	1998		1990		1991		1992		1993		1994	
	Tax	Spend	Tax	Spend	Tax	Spend	Tax	Spend	Tax	Spend	Tax	Spend
Thailand	18	14	19	14	18	14	18	16	18	16	19	15
Taiwan	15	14	17	15	14	16	14	20	14	18	14	16
Korea	17	16	18	16	17	16	18	17	19	18	20	18
Bangladesh	9	17	9	17	10	16	11	16	12	17	12	19
Hong Kong	16	14	15	15	17	14	17	14	19	15	17	16
India	18	20	18	20	17	18	16	17	17	18	16	17
Indonesia	17	19	20	19	18	19	19	19	18	17	17	17
Philippines	16	18	17	20	18	19	18	19	18	19	20	19
China	20	23	20	22	18	21	16	19	15	18	15	18
Chile	21	27	21	20	22	21	22	20	23	21	22	20
Malaysia	25	28	26	30	26	28	27	28	31	25	31	24

Note: All figures rounded. Many nations use different methods of calculating government expenditures and revenues than the standard budget accounting method the U.S. government uses. These series can, however, give an approximate comparison of these spending and revenue trends of these countries.

Source: Government Finance Statistics Yearbook, International Monetary Fund, 1995. Asia Development Outlook, 1995-1996, Asian Development Bank.

Mr. THOMPSON. What road are we on? If we do not need a constitutional amendment to balance the budget and if we do not have that, what is likely to happen based on history and based on reasonable projections?

First of all, he gave me a chart that had to do with United States, State/local, and total government taxes and spending as a percentage of GNP. It showed a couple of different things.

In 1950, the tax take was 21.4 percent. In 1950, 21.4 percent of GDP. In 1995 it was 30.4 percent. But, spending went from 23.1 percent to 32.4 percent.

So the point that he made, which I think is a valid one, is you cannot tax your way out of this problem. We are increasing taxes both in real terms and in terms of percentage of GDP, but of course, spending continues to increase right along with it. So, today, we are taxing a little over 30 percent and spending a little over 32 percent.

Then he made some comparisons with some other countries. I think it is some indication of our future, and some indication of maybe our past in a way. As far as our future is concerned, the direction it looks like we are likely to go is the same direction that many of our friends in Europe and Scandinavian countries went. Figures with regard to Germany, France, Norway, Denmark, and Sweden—there, interestingly enough, they, too, are spending a greater percentage of their GDP than their taxing reflects.

In Germany they are taxing 46 percent, spending 50; France, 49 percent,

spending 54; Norway and Denmark and Sweden—Denmark, of course, taxing 60 percent of GDP and spending 62 percent.

What is in common among all of these countries is they all have economic problems. They are all having problems with unemployment. They are all having the problems with the demographics that we will soon be facing, problems of a growing elderly population. They are all economies that, I think it would be fair to be say, generally are stagnating and having great problems. They are all economies that historically, just like us, always spend a little more than they tax. They continue to raise taxes, but always spend a little more than they tax. That seems to be our future on the present course.

On the other hand, if you look at some countries around the Pacific rim—Taiwan, Hong Kong, Indonesia, countries of that nature, you see they are taxing in the neighborhood of between 14 and 17 percent of GDP and spending in the neighborhood of 16 and 17 percent of GDP. So, not only do they have very low rates of taxation and low rates of spending, but their spending is not outstripping their taxes.

What do we have there that is common among those countries? High rates of growth, high employment rates, economic prosperity. They are behind us right now in many respects. They are on the move. They are catching up with these policies, and we are looking to a future with these other policies.

There is no reason to believe we will not go down that same road that our European neighbors and our Scandinavian neighbors have gone. That, of course, will put us in an extremely vulnerable position when the baby boomers start retiring and all of our social services are flooded with those numbers. We are not going to be able to make it. It is going to take all of our revenues. We all know that. We all dance around and make sounds about a balanced budget because we are putting the numbers down on the back of an envelope. You could put numbers on the back of an envelope, saying that future Congresses will cut when the time comes so, therefore, we have a balanced budget. It is the easiest thing in the world to do on paper but everybody knows it is not going to happen. And when it does not happen, once again we will wonder why only 48 percent of the people in this Nation are even bothering to vote. It is because they feel there is a kind of joint, tacit understanding we will say whatever is necessary and do whatever is necessary for temporary political advantage, telling people we are going to have something that we are not really going to have, while continuing to spend because spending garners political support, political votes, and political contributions, and hoping that the hatchet will fall on somebody else's watch, years down the road.

That is what this is all about. We can make arguments about various amendments to this constitutional amendment. Some of them are well thought out, well reasoned and so forth. But they avoid the hard question. Are we going to limit ourselves?

Again, people say we do not need to mess with the Constitution in order to do that because we have it within our means to do the right thing. By that logic, we should not have to have the first amendment. We have it in our means not to pass a law abridging freedom of speech. All we have to do is not do it. Yet, we decided that we ought to have a constitutional amendment because we know historically, and our Founding Fathers certainly knew, that there seemed to be a tendency—I ask unanimous consent for another 3 minutes.

Mr. TORRICELLI. I yield 3 more minutes.

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

Mr. THOMPSON. Our Founding Fathers knew historically governments like to pass laws abridging freedom of speech. They knew historically that governments like to pass laws or carry out activities that constitute illegal searches and seizures, and that is why we came up with the fourth amendment. Governments historically like to do things that we decided a long time ago that we don't want them to do.

What has history shown with regard to our ability to pass a balanced budget, or our ability to restrain spending? If we have any track record at all, it is one that is clear as can possibly be and that is we do not have that ability, we do not have that will in order to do that.

Interestingly and parenthetically, after it was over with, in Q and A, Senator Packwood was asked, "Senator Packwood, where do we get that will?"

He thought for a minute and said, "I am reluctantly coming to the conclusion that the only thing that will cause it will be term limits."

But that is a debate for another day. I yield the floor.

Mr. TORRICELLI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, we have before us an amendment that contains three separate changes to the balanced budget amendment. I do not believe that any of these three changes would be appropriate. I don't think they are wise or necessary, and so I have to oppose Senator TORRICELLI's amendment.

Let me add that all of these things, at least in concept, have already been rejected by the Senate. There is no reason to adopt them now.

The first change in the amendment would allow for a waiver of the balanced budget rule by a majority vote in any year where the United States is in a period of economic recession or significant economic hardship.

Mr. President, this portion of the Torricelli amendment is similar to the Durbin amendment that the Senate defeated by an overwhelming 64 to 35 vote just 2 weeks ago. The reasons it was rejected apply to the Torricelli amendment as well. In fact, they may apply with greater force, as this language is more permissive and less clear than was the Durbin amendment.

The terms used in this amendment are undefined. The determination of "an economic recession," or "significant economic hardship," could easily be manipulated by a spendthrift Congress as a way to avoid the discipline of the balanced budget amendment. Nearly anything could be seen as a significant economic hardship if considered from a certain point of view. It is important to note that even during times of national economic prosperity, some regions may experience localized downturns. This proposal could allow such regional hardships to justify waiving the balanced budget amendment and giving the country deficits at the exact time it should be running surpluses.

Thus, the amendment, I am sorry to say, would create a huge loophole, a giant loophole, that would swallow the balanced budget rule. It is also important to note that if the balanced budget amendment is waived for a session, it is waived for all spending in that year. In other words, the amendment would permit deficit spending for any number of projects that are in no way related to the so-called significant economic hardship.

Just remember President Clinton's 1993 attempt to push through a multi-billion-dollar emergency stimulus boondoggle under the guise of trying to end a recession which had, in fact, already ended. Mr. President, if you take your finger out of the hole in the dike, then the whole town can be flooded.

One of the arguments made in favor of this proposal is that without it, the balanced budget amendment will somehow inhibit the functions of the so-called automatic stabilizers. I have spoken extensively on this issue, and I think it is clear that the importance of automatic stabilizers has been overstated and, in any case, the balanced budget amendment will not inhibit their functioning.

Moreover, this amendment does not respond to the concerns raised about the automatic stabilizers. It simply allows Congress to avoid the balanced budget by a lower threshold. Put simply, this proposal is a loophole and should be rejected, as I hope it will be, just as a similar proposal was overwhelmingly rejected a couple of weeks ago.

The next change this amendment would make to the balanced budget

amendment would be to permit a waiver by a simple majority when the United States "faces an imminent and serious military threat to national security." If this proposal sounds familiar to my colleagues, it is because it is the same amendment that Senator DODD proposed about 2 weeks ago. That amendment was discussed thoroughly and soundly defeated by a vote of 64 to 36.

This provision would permit a waiver if the United States merely faces a threat. I understand what military conflict is. It involves shooting. But the notion of a mere threat is far more pliable. Indeed, ever since the advent and proliferation of nuclear weapons, it could be cogently argued that the United States "faces an imminent and serious military threat to national security" every minute of every day. Thus, anyone who seeks refuge from the tough choices necessary to balance the budget could invoke this threat and waive the balanced budget rule if this provision is incorporated into this balanced budget amendment.

In short, Mr. President, this proposal is another huge loophole, or would create a potentially huge loophole. Its effect is to weaken and confuse the standard by which the balanced budget amendment may be waived and, thus, it would weaken the balanced budget amendment. It should be rejected, as it was before.

The third change that the amendment of my friend from New Jersey would make would be to exempt spending on capital items from the balanced budget rule. Similar proposals were contained in the Feinstein amendment that the Senate just rejected only a few moments ago.

One part of this proposal is that the definition of receipts, instead of excluding all funds derived from borrowing, would now exclude only those derived from "net borrowing and the disposition of major public physical capital assets." Outlays still include repayment of debt principal, but also would exclude "those dedicated to a capital budget."

While I am not entirely clear on the purpose or full ramifications of the net borrowing provision from its placement, it appears to take account of depreciation of the current year's capital or economic income of an item in the capital budget. It might perhaps have other effects. In any event, it might artificially make receipts seem higher, as a matter of accounting, than they really are. That, in turn, could allow future Congresses to avoid a three-fifths vote in some years where there is a deficit by manipulation of the net borrowing provision of this amendment. I expressed concerns about this language when my colleague from New Jersey proposed it in the Judiciary Committee. Those concerns have increased now that he has expanded the exception from what it was in his committee amendment. Depreciation is a highly malleable concept which could allow

substantial gaming of this provision. Additionally, this proposal would not count the proceeds from the sale of capital assets. I do not understand why we would limit commonsense flexibility in this way.

The next change this amendment would make would be to exclude "investments in major public physical capital that provides long-term benefits" from the definition of outlays. Mr. President, what does this mean? How big must an investment be to be considered major? How far into the future must benefits be realized for the investment to be considered long term? Is a health program for children physical because children are an asset?

I could go on for hours on the interpretation, or the potential interpretations, this huge loophole would make and allow. Exempting capital budgets from the balanced budget amendment opens up a tremendous loophole in the amendment. There would be powerful incentives for Congress and the President to balance the budget by redefining more programs as capital expenditures.

A gimmick capital budget exemption could actually endanger capital investments, as fake investments crowd out real capital investments. The most basic problem with that is that all discussions of capital accounts are that there is no clear standard definition of a capital budget. So no one knows what expenditures will fall within that definition. Attempts to limit the reach of the capital budget definition are largely exercises in futility, because the terms are inherently malleable.

Creative budgeters can find a way to get more spending into that capital category.

Just yesterday the President recognized these activities and created a Capital Budget Commission to study whether the Federal Government should implement a capital budgeting procedure, since many in his administration, including the Secretary of Treasury, think it would be horrible to implement a capital budget procedure from the Federal standpoint.

One of the primary duties of this Commission will be to report on the appropriate definition of capital budgets including "use of capital for the Federal Government itself or the economy at large; ownership by the Federal Government or some other entity; defense and nondefense capital; physical capital and intangible or human capital; distinctions among investments in and for current, future, and retired workers, capital to increase productivity and capital to enhance the quality of life; and existing definitions of capital for budgeting."

Gee, that covers everything. It just means that the balanced budget amendment would be a worthless piece of paper—with this amendment, it would become a worthless piece of the Constitution.

This list of possible items to be included certainly suggests the difficul-

ties in defining capital budgets and limiting the exceptions to the balanced budget amendment. Yet, today we are asked to enshrine some form of capital budgets in the Constitution before this Commission has even started its work.

To be honest with you, nobody should be deceived. I think we are going through what we went through before when they needed a vote and formed a Commission to get that vote, and then totally ignored the findings of the Commission afterward. There is nobody in this administration that really believes in capital budgets for the Federal Government, or at least I do not know of anybody. And I have seen plenty of evidence that they do not believe in the use of capital budgets and that it is inappropriate to use them for the Federal Government. So it is just another attempt to try to defeat the balanced budget amendment by the White House. And I do not think anybody fails to understand that who has been around here for any period of time.

The definitional problems inherent in capital budgeting are made clear in President Clinton's proposed fiscal year 1998 budget. In it, the OMB, that is, the Office of Management and Budget, lists four broad categories of programs that may or may not be considered capital expenditures, ranging from physical assets owned by the Federal Government to social investment including nutrition programs, health care, and drug rehabilitation, among other social welfare spending. That is taken from the "Office of Management and Budget, Analytical Perspectives, Proposed FY 1998 Budget," at page 101. Even within those four broad categories, there are questions about which programs should be included. It is particularly inappropriate to place capital budgeting in the Constitution when there is no agreement on what constitutes a capital budget. Nor is there likely to be agreement after the so-called suddenly created Commission does its work.

This concern has been echoed by the Congressional Budget Office in the testimony of Robert Hartman before the House Subcommittee on Economic Development in 1993. He stated the following:

Establishing a capital budget imposes a significant risk of increasing Government consumption by reducing budget discipline and encouraging the reclassification of operating expenditures as investment.

Now, put another way, capital budgets are a loophole which could reduce budgetary discipline. The very last thing our children need is for us to have less budgetary discipline.

Mr. Hartman continued his criticism of capital budgeting by noting that the Federal Government is not constrained by the normal disciplinary factors that face most potential borrowers. Most people who want to borrow must demonstrate to the bank a reasonable likelihood that the investment will pay off, so that the bank can judge the risk of the investment.

[T]he Federal Government—with the sovereign power to tax and create money—faces little discipline from lenders, who are assured of being repaid independent of the productivity of the Government's investment. The restraint that does exist is almost entirely internal and must be self-imposed. That was Robert Hartman.

You know, we have seen, Mr. President, what happens when Congress tries to discipline itself. I think the best illustration I could give is standing right here, 28 straight undisciplined, unbalanced budgets.

The fact is, these two stacks represent 28 solid straight years of unbalanced budgets. Yeah, we have people coming in here and saying, we can just do this. All we have to do is vote. This is the kind of discipline that we have without the balanced budget amendment. I tell you this. If we do not pass a balanced budget amendment, these two stacks are going to go to the ceiling of this Chamber and beyond because there is no way that there is going to be the fiscal discipline that really is needed. We have 28 straight years of unbalanced budgets.

In the absence of external discipline, borrowing choices may not be made on economic grounds. Borrowing can instead become a source of seemingly unlimited money from which Congress could fund any special interest with sufficient political clout. It is exactly these types of perverse incentives that have gotten us into \$5.3 trillion of debt.

Building on the testimony of Robert Hartman, CBO has noted that:

[The Federal Government] Unlike private investment that is guided by market considerations, political factors may dominate the choice of public investment projects.

That is a nice way of saying what financial markets expert David Malpass stated as part of his testimony before the Judiciary Committee last month, regarding a Federal capital budget exemption:

One person's capital investment is another person's pork-barreling.

The Washington Post was even less diplomatic in an editorial that was highly critical of capital budgeting when the idea was floated during the Reagan administration. This is what the Washington Post said about capital budgets:

The concept of a capital budget, applied to the Federal Government, is pure fakery. It is the resort of an administration that, finding the realities of the budget intractable, wants to fuzz up the numbers. . . . To introduce capital budgeting into the Federal accounts would create such wide realms of discretion, and such sponginess of the figures, that a diligent budget director could bring the deficit out at any number he chose.

Well, as you can see, the Clinton administration joined the consensus against debt-financed capital budgeting when it stated in the President's 1998 budget document:

. . . the rationale for borrowing to finance . . . investment is not persuasive. . . . A capital budget is not a justification to relax current and proposed budget constraints.

The proposed budget constraints in the balanced budget amendment most certainly should not be relaxed.

They further suggested that the Government borrowing crowds out private use of that capital which has offsetting negative effects on the overall economy and the return of the Government's investment.

Let me add, that the Capital Budget Commission that the President announced yesterday specifically did not authorize the consideration of deficit-funded capital budgets. The administration clearly appears to be opposed to such proposals. But that is exactly what my friend from New Jersey's amendment encourages. I may not object to having a capital budget that is funded out of annual tax receipts, but it would be a risky gimmick to have debt-funded capital budgets which nearly everybody agrees should not be enshrined into our beloved Constitution.

Mr. President, the nonpartisan General Accounting Office has also found fault with the notion of debt financing of capital budgeting. In a 1992 study by the GAO, entitled "Prompt Action Necessary to Prevent Long-term Damage to the Economy," the GAO on capital budgets said:

The creation of explicit categories for governmental capital and developmental investment expenditures should not be viewed as a license to run deficits to finance these categories. In the short run, both consumption and investment goods use economic resources, and deficit financing for either will absorb resources that would otherwise be available for private investment. Deficits also raise Federal interest costs, regardless of the source of the deficit . . . the choice between spending for investment and spending for consumption should be seen as the setting of priorities within an overall fiscal constraint, not as a reason for relaxing that constraint and permitting a larger deficit.

In other words, capital expenditures should be kept inside the balanced budget role of the amendment, something that my friend's amendment would not do.

Now, Mr. President, OMB, GAO, and CBO have all expressed serious reservations about implementing a debt-financed capital budget in even a statutory manner. Yet this amendment would enshrine it in the Constitution. Proponents of capital budgets have suggested that because States rely on capital budgets to finance depreciable investment expenditures, the Federal Government should likewise be able to account for such expenditures separately from its main operating budget.

The simple fact is, Mr. President, that the Federal budget, unlike State budgets, is sufficiently large to handle capital expenditures. The Federal budget for fiscal year 1997 is projected to exceed \$1.6 trillion. Of that we will spend approximately \$21 billion in direct Federal outlays for what the President's budget defines as non-defense, physical capital investment, the category most analogous to State government or private capital budgets. That is a mere 1.3 percent of the total Federal budget for that year. There is no reason why these relatively small

investment expenditures cannot compete with other budget priorities under the stricture of the balanced budget amendment.

The fact is that the Federal Government does not need capital budgeting as much as smaller entities because it commands such a large budget. The analogy to capital budgeting by businesses or States is inept because the Federal Government is not subject to the same checks as either private businesses or State and local institutions or governments.

Private businesses are disciplined by markets. State and local government capital budgeting is subject to bond ratings. These checks on the abuse of capital budgets will not exist under a Federal capital budget, making it far more likely that a Federal capital budget would be abused. CBO has observed, and let me just quote them,

The main difficulty with relying on Government investment spending is that unlike private investment that is guided by market considerations, political factors may dominate the choice of the public investment projects.

Now, Mr. President, all three proposals in the amendment of my friend from New Jersey have already been debated, all have been rejected during this debate, two of them in stand-alone amendments. The last thing we need to do is weaken the rules requiring a balanced budget. We have 28 years of unbalanced budgets here to show that.

Under the Torricelli amendment, we would absolutely be expecting more of the same. There is no question about it. I know the distinguished Senator from New Jersey, and I know that he wants to get spending under control. I know that he is sincere in bringing this amendment forth. Literally, it would open up so many doors to violating the balanced budget rule that I have to oppose it, I reluctantly have to oppose it.

What we need is a straightforward amendment like we have, like Senate Joint Resolution 1, the amendment that most of us are fighting for so hard, an amendment without risky gimmicks and without loopholes. Senate Joint Resolution 1 is such an amendment. It has been carefully drafted over many years and represents a balanced, bipartisan, bicameral approach, and it is the only way that we can return fiscal responsibility and sanity to this Government. I am convinced of that, and I think there is no question the vast majority of our Senators are convinced of it. The question is, can we get 67 votes in order to pass? I believe we can. I have faith that we can. I think this is the last chance. This is the only amendment that has any chance of passage for the Congress. It is the last chance to do it, and it really is coming down to just one vote.

Now, I pray with all my heart that we will be able to pass it here. I do not know what they will do in the House. I suspect if we pass it here, it will have momentum going to the House, and I expect it to be passed there. I expect to pass it here.

I do not want to spend any more time on this amendment. I have done the best I can to explain why I cannot support it and why I am asking my colleagues not to support it. Yet I understand that it is a serious amendment, and I appreciate the seriousness of my colleague from New Jersey. He is on our committee. He played a significant role during the debate of this matter in the committee, and I respect him.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, would the distinguished Senator from New Jersey yield me 5 minutes of his time?

Mr. TORRICELLI. Mr. President, I am happy to yield to the Senator from West Virginia 10 minutes.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I have sat on this floor today and listened carefully to the distinguished Senator from New Jersey as he explained his amendment and as he has recounted the reasons for his having offered the amendment. I see no other Senator on the floor other than perhaps Mr. HATCH, the distinguished manager of the amendment, who sat through the entirety of Mr. TORRICELLI's speech.

Mr. President, I say that to say this: The speech by the distinguished Senator from New Jersey was one of the most thoughtful, most thought provoking, most reasonable speeches that I have heard on any subject, and particularly on the subject matter of the resolution that is before the Senate. One could not listen to Mr. TORRICELLI without immediately knowing that a great deal of work and thought and agonizing went into that speech.

The Senator from New Jersey is the one Senator whose vote has not yet been announced. We do not know how the Senator from New Jersey is going to vote, and that realization in itself would be indicative that he must have spent some tormenting, agonizing moments in the preparation of that speech. I am going to vote for the amendment that has been offered by Mr. TORRICELLI because I think it is a needed amendment. Whether the Senator, in the final analysis, casts his vote for the constitutional amendment or against the constitutional amendment is beside the point here at the moment. I respect the Senator for the thought that he has invested in this speech, and I admire him for that.

I would have understood Henry Clay, who was a proponent of the great American system, to have made the kind of speech that has been made by the Senator from New Jersey. I would have understood Webster, in his debate with Hayne, on January 26 and 27, 1830—he spoke along the same line, saying that the people of New England did not recognize boundaries of rivers or lines of latitude, or mountains, as boundaries to their political patriotism. He thought that if an investment in infrastructure in South Carolina, for

example, would benefit the Nation, it was a matter great enough for him as a Senator from New England to support. The Old Cumberland Road was a project that was supported by Henry Clay. They recognized the necessity for building up the Nation's infrastructure. They were looking not just at the present, but they were also looking at the future.

Now, when they propose investments in infrastructure, investments in railroads, investments in canals, investments in bridges and highways, it seems to me that our friends on the other side cannot have it both ways. I have listened to their speeches, and they support, they say, doing the same thing that the States do—having a balanced budget amendment to the Constitution. We have heard them say over and over again, "Let's do what the States do. The Federal Government should do what the States do. We need a constitutional amendment to the Constitution that will force us to do what the States do, and the States have a constitutional amendment." They have amendments in their constitution or they have it written into the constitution that they have to balance their budgets.

The proponents don't bother to explain that States have both a capital budget and an operating budget. They don't bother to explain that. The people who listen to this debate are to take it on faith that we are not talking about apples and oranges, but we are talking about apples and apples.

Mr. LEAHY. Will the Senator yield on that one point?

Mr. BYRD. If I may, I want to ask the Senator from Utah a question. They say, "Let's do like the States do. They have constitutions that require them to balance their budgets." But the proponents of this constitutional amendment don't bother to enlighten their listeners and readers to the fact that the States have capital budgets which they don't balance every year.

So now the distinguished Senator from New Jersey [Mr. TORRICELLI], seeks to meet that argument and put, indeed, into the Constitution language that will allow the Federal Government to operate on two budgets—an operating budget and a capital budget—so that the Federal Government will be, indeed, operating like the State governments, it will have a Constitution insofar as capital budgeting is concerned, like the State governments. It will continue to have an operating budget, and it will also have a capital budget. But it cannot have a capital budget, under the language of the proposed constitutional amendment. Section 1 provides against that. Section 1 says: "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year."

So, right there, in section 1, as plain as the nose on your face, we would be precluded from passing a law once this constitutional amendment is adopted here and ratified by the States—the

Federal Government would be precluded from having a capital budget. Well, the Senator from New Jersey seeks to remedy that. He seeks to provide that the Federal Government will have two budgets, so that indeed the Federal Government would be on a par with the States.

Mr. President, I ask unanimous consent that I may ask a question of another Senator without losing the floor.

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

Mr. BYRD. Mr. President, I ask the distinguished Senator from Utah, how is it that the proponents are able to talk out of both sides of their mouths? They say, on the one hand, that the Federal Government should be like the States; it should have in its Constitution a provision for a balanced budget; the Federal Government should operate on a balanced budget. Now, the States all have operating budgets and capital budgets—

The PRESIDING OFFICER. The 10 minutes allotted to the Senator from West Virginia have expired.

Mr. TORRICELLI. I yield 5 more minutes to the Senator from West Virginia.

Mr. BYRD. I thank my friend. How can my friends on the Republican side—and let me say that I have great admiration for the Senator from Utah. He has stood here day after day and labored in the vineyard and carried the burden of the arguments. I marvel at his equanimity, his patience, and his characteristic courtesy. But how can the Senator argue, on the one hand, that the Federal Government should be like the States, that it should be constitutionally required to balance its budget, but he opposes letting the Federal Government be like the States when he opposes having the Federal Government operate not only on an operating budget but also with a capital budget?

Mr. HATCH. Well, I think the Senator raises a very good point, which is that there are some who say that we ought to balance the budget like the States. Well, there are 44 States that have balanced budget amendments. First, that is a difference there. We don't have a balanced budget amendment in the Constitution; they do in theirs. Second, some States do have capital budgets and, therefore, are different. But the reason they are different is because States don't print the money. We print the money. We have a huge budget. They have to live within certain constraints. So it isn't exactly alike, there is no question. What we are requiring here is the Federal Government—I mentioned in my remarks that in the fiscal 1998 budget are some \$20 billion-plus, less than 1.6 percent of the total budget, that would be used for capital budgets.

The Federal Government has such a massive budget that it doesn't need capital budgets. Most budgeteers will say don't do it to the Federal Government, for a wide variety of reasons. Let

me read from this because I think it applies directly to what my friend has raised. He always raises good questions, and this is certainly a good one. This book is entitled "Analytical Perspectives: Budget of the United States Government, Fiscal Year 1998," prepared by the administration.

In one section here, it says:

State borrowing to finance investment, like business borrowing, is subject to limitations that do not apply to Federal borrowing. Like business borrowing, it is constrained by the credit market's assessment of the State's capacity to repay. Furthermore, it is usually designated for specified investments, and it is almost always subject to constitutional limits or referendum requirements.

We are not subject to referendum requirements. We are not subject to constitutional limits. If we had the amendment of the Senator from New Jersey and that became part of this constitutional amendment, we would not have the same designated, specified investment routine. You could do almost anything you wanted to do with the language in that amendment. Of course, there is no bond rating that can rate the Federal Government. I think that is why we don't have the same free market or even economic marketplace ideas that literally would constrain the Federal Government.

I have to also say that the amendment of the distinguished Senator from New Jersey literally opens up the door to anything. You could call anything capital budgeting, including perhaps even physical welfare matters which, of course, when you think of capital budgeting you think of roads and bridges. Frankly, you could just put anything in there. That is why this language is so broad that it can't be put into the Constitution because there is no definition. It could be used in any way that the proponents of more spending want to use it. There would be no limitation of restraint. There are no referendums that you could use to stop impropriety and excessive spending and vesting, if you will.

The PRESIDING OFFICER. The 5 minutes allotted to the Senator has expired.

Mr. LEAHY. Mr. President, will the Senator yield for a question from the Senator from West Virginia and for a question from the Democratic floor manager?

The PRESIDING OFFICER. The Chair observes that the time is under the control of the Senator from New Jersey.

Mr. BYRD. Mr. President, I hope the distinguished Senator from Utah will exercise his usual fairness and charge a little of the time to himself.

Mr. HATCH. I would be glad to do that. If my colleague gets short on time, I will try to accommodate him.

Mr. TORRICELLI. I am happy to yield to the Senator from West Virginia. I enjoyed listening to the Senator from Utah. But I would enjoy it much more if I was listening to him on my own time.

Mr. LEAHY. How much time is available to this side, Mr. President, of the argument, and how much time to that side of the argument?

The PRESIDING OFFICER. The Senator from New Jersey has 41 minutes and 2 seconds, and the Senator from Utah has 44 minutes and 34 seconds.

Mr. LEAHY. Mr. President, I wonder if the Democratic floor manager could have 5 minutes?

Mr. TORRICELLI. I am happy to yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, as I listened to the question of the Senator from West Virginia and the response, I do not believe that the question was fully answered. I say to my good friend from Utah that he and I have debated this matter in committee now for several years. We have debated it on the floor of the Senate for the past couple of weeks, which also feels like several years. We have gone back and forth.

Mr. HATCH. Indeed, it does.

Mr. LEAHY. I ask us to think back to 1804 when Thomas Jefferson financed the Louisiana Purchase. He spent, I believe, \$15 million at that time, which he had to borrow. Put that \$15 million, I say to my friend from New Jersey, in today's dollars and it would amount to \$225 billion. He had to borrow the equivalent of \$225 billion in 1 year for that transaction. We have not had a deficit as high as \$225 billion, I do not think since the last deficit during the Bush administration. In fact, \$225 billion exceeds all annual Federal deficits except for those in the last 2 years of the Bush administration.

I think that we ought to commend Senator TORRICELLI for the constructive way in which he has acted in this debate. I agree with what the pre-eminent historian of the Senate, the Senator from West Virginia, said when he spoke of the debates of Clay and others.

I also agree that this amendment and this debate shows a great deal of thought from the Senator from New Jersey. He was thoughtful and serious during our committee proceedings and debate, as well. He has consistently shown that he has thought hard about and wrestled with this matter. I hope everyone, whether they are for or against his amendment, will listen to his speech. Whether they are for or against this constitutional amendment, I hope everyone will seriously consider the amendment offered by the Senator from New Jersey. The Nation's leading economists all agree that a capital budget is an essential part of the State experience with balanced budget requirements, and that the omission of a capital budget in this proposed constitutional amendment is a major flaw. Over 1,000 economists, including 11 Nobel laureates, noted in a statement of opposition announced by the Senator from West Virginia that you should have this. It is a major flaw in this whole poorly written Senate Joint Resolution 1. Unfortunately, as I

have said before, this resolution is one that is written more for a bumper sticker than it is for the Constitution of the United States of America, the greatest Constitution ever.

I wish the manager, my good friend from Utah, and his cosponsors would abandon their blood oath of not allowing amendments and consider the merits of this suggested amendment.

All Senators should consider favorably Senator TORRICELLI's effort to correct dangerous aspects of the underlying proposed constitutional amendment.

CAPITAL BUDGETING

Senator TORRICELLI forcefully pointed out during the Judiciary Committee deliberations on the underlying measure that we as a nation are suffering from a capital investment crisis. In 1965, more than 6 percent of Federal expenditures were invested in infrastructure such as roads, bridges, ports, and mass transit systems. By 1992, that share of capital investment had fallen by more than half to about 3 percent of our Federal budget and this year it will approach barely 2 percent.

At the same time as our infrastructure funding has been shrinking, our Nation's needs have continued to grow. The result is that we are becoming a nation in disrepair. For instance, more than a quarter of a million miles of roads need repair and more than 25 percent of our bridges have exceeded their life span.

This failure to maintain adequate infrastructure is hurting our competitiveness in the global economy. We are competing against other countries with the foresight to repair their roads and bridges, modernize their transit systems, maintain their ports, build new schools and make the investments in telecommunications infrastructure that are the keys to success in today's global competition. The United States is dead last among the G-7 nations in public infrastructure investment as a percentage of gross domestic product.

Senator TORRICELLI is correct that we must reverse this trend and make the long-term investments needed to support a strong economy. I am glad to see President Clinton calling for study and action on capital budgeting. We must be able to invest in capital improvements—and, in my view, in education—if we are to give our children their best chance to compete and win in the coming century.

The underlying proposed constitutional amendment prohibits budgeting for capital expenditures. Instead it would include all expenditures on an annual basis for purposes of calculating balance. All expenditures, whether the equivalent of operating expenses or capital investments, are tallied the same for purposes of the underlying proposed constitutional amendment.

The sponsors and proponents of this measure refuse to permit any exception and future Congresses will be forever barred from solving our infrastructure crisis by creating a capital budget for long-term investments.

The majority report is silent on this important subject. The Committee's past hearings, however, establish an extensive record in support of maintaining a separate capital budget. Herbert Stein, of the American Enterprise Institute and former economic adviser to President Nixon; Edward V. Regan, of the Jerome Levy Economics Institute and former New York State Controller; and Dr. Fred Bergsten, on behalf of the bipartisan Competitiveness Policy Council and former Assistant Secretary of the Treasury during the Carter administration; differed on the wisdom of enacting a constitutional amendment on the budget but all agreed on one thing: If such an amendment were to be considered it should separate capital investments for any annual balance requirement.

Nonetheless, when the Judiciary Committee had the opportunity last month to consider amendments that would have allowed for a separate budget for capital investments, it rejected them. Senator TORRICELLI offered a substitute amendment to establish a Federal capital budget but the committee rejected the Torricelli amendment by an 8 to 9 vote with all Republican members who voted, voting against capital budgeting.

This inflexibility is one of the principal reasons that President Clinton opposes this constitutional amendment on budgeting. The President stated:

We must give future generations the freedom to formulate the Federal budget in ways they deem most appropriate. For example, some believe that the Federal Government should do what many State governments do: adopt a balanced operating budget and a separate capital budget. Under this constitutional balanced budget proposal, the government would be precluded from doing so.

During the committee's January 17 hearing, Robert Greenstein of the Center on Budget and Policy Priorities explained:

What families do when they balance their budget is families say that all of their income, including money they borrow, equals all the cash they pay out. Families borrow money when they purchase a house through a mortgage, when they buy a car, and especially when they send a child to college. If families had to operate on the basis that this amendment does, they would have to pay for all of college education out of the current year's income, all of the entire cost of a home, not the down payment, the whole thing, out of the current year's income. Nobody operates that way.

The actions of Thomas Jefferson as President, as opposed to his oft-quoted ruminations about the evils of public debt, are also instructive but ignored by the proponents of the underlying measure. In 1804, President Jefferson had the United States borrow \$15 million, in 1804 dollars, by selling bonds to finance the Louisiana Purchase. That amount approximates more than \$225 billion in 1993 dollars and exceeds every Federal budget deficit except for the final 2 years of the Bush administration.

Was President Jefferson wrong to invest in the Louisiana Territory that provided this country with 15 States?

Of course not. But had the provisions of Senate Joint Resolution 1 been included in the Constitution in the early 1800's, our Nation's westward expansion might well have ended at the Mississippi River.

Under this proposed constitutional amendment, the failure to permit a capital budget would have severe consequences by discouraging long-term investment and ignoring our infrastructure crisis. Just as a budget deficit unfairly harms future generations so, too, does the failure to differentiate capital investments from operating and consumption expenditures. The inevitable result will be less investment in our country's future, pressure to operate through inefficient leasing practices and gimmickry.

The Torricelli amendment should reduce the pressure to engage in some of the gimmickry otherwise likely to be occasioned by this proposed constitutional amendment. It may also result in more accurate disclosure to Americans about how their money is being spent and how the budget is being balanced.

Not many of us could afford homes if we could not borrow and get a mortgage on our home. When we talk about balancing our family budgets, we do not normally mean that we should not invest in a house or a car. We mean that we should not spend more every week or every month than we can afford. We mean to include our mortgage and car payments but not the full extent of the 5-, 15- or 30-year liability.

Likewise, small businesses and large corporations could not do business if they could not borrow to meet their capital budget needs.

Most States with balanced budget amendments have separate capital budgets, as well. I am told that number is 42 States. Indeed, I believe that most States with balanced budget requirements obtain capital funds that finance major capital projects by issuing long-term debt.

The Nation's leading economists agree that a capital budget is an essential part of the State experience with balanced-budget requirements and that the omission of a capital budget in this proposed constitutional amendment is a major flaw. Over 1,000 economists, including 11 Nobel laureates, noted in their January 30, 1997 statement:

Unlike many State constitutions, which permit borrowing to finance capital expenditures, the proposed Federal amendment makes no distinction between capital investments and current outlays. . . . The amendment would prevent Federal borrowing to finance expenditures for infrastructure, education, research and development, environmental protection, and other investments vital to the Nation's future well-being.

The Torricelli amendment to allow capital budgeting is in keeping with traditional notions of balancing our budgets.

MILITARY THREATS

I further commend Senator TORRICELLI for including within his

amendment language to correct a dangerous flaw in the proposed constitutional amendment. The underlying proposed constitutional amendment requires the United States to be engaged in military conflict before a waiver may be obtained. Moreover, the Senate report's section-by-section on this language compounds the problem by indicating that only military conflict that involve the actual use of military force may serve as a basis for this waiver.

I hope that this is not what the authors, sponsors and proponents of the underlying constitutional proposal truly intend, although their votes to table the Dodd amendment seem to indicate that they mean what they say. They are creating constitutional circumstances that make military spending and preparations easier only when military force is actually used and military conflict ensues. Arming to deter aggression would no longer be the preferred course, aiding allies in a conflict rather than dispatching U.S. military forces would no longer be as viable an alternative and rebuilding our military capabilities after a conflict would no longer be possible without a supermajority vote of three-fifths of the Congress.

I cannot support such restrictive measures. I have spent much of my time in the Senate working with Republican and Democratic administrations to avoid the actual use of military force. This amendment is written in such a way that it serves to encourage such use. Nothing that would serve to place our men and women in harm's way more quickly or would leave them less well equipped or prepared should garner the support of this Senate.

I hope that all Senators will consider favorably Senator TORRICELLI's effort to correct this dangerous aspect of the underlying proposed constitutional amendment and render it more consistent with the foreign policy objectives and vision outlined last night by Senator TORRICELLI.

I urge the manager and the sponsors of the resolution to abandon their "no amendments" strategy and consider the merits of this suggested amendment. Balancing the budget is important. But their underlying proposal turns the world topsy-turvy by making that goal the be-all and end-all of national policy without considering what a supermajority requirement can mean to our Nation's security and defense, to our foreign policy and our military preparedness.

As Senator SARBANES has so eloquently reminded us, one historic example points out the folly of such a supermajority requirements. In the summer of 1941, Congress was confronted with extending the time of service of those members of the armed services who had been drafted the year before. With the prospect of war increasing, President Roosevelt, in a special message to Capitol Hill, asked Congress to declare a national emergency that would allow the Army to

extend the service of draftees. Speaker Sam Rayburn had to twist arms in the well of the House of Representative to get the House to pass the measure regarding the draft for World War II by just one vote, 203 to 202. It then passed the Senate by a vote of 45 to 30.

The Nation was literally a few months away from the outbreak of World War II. But neither the House nor the Senate vote would have met the supermajority requirement in the underlying proposal. Even after the President had declared a national emergency, Congress could not muster a supermajority vote in either body.

ECONOMIC RECESSION

The third prong of the Torricelli amendment would allow the proposed constitutional restrictions for end of the year balance to be waived in the event of an economic recession or serious economic emergency. He is right on point. More than 1,000 of the Nation's most respected economists, including 11 Nobel laureates, as well as the former chair of President Nixon's Council of Economic Advisors, the current and former Federal Reserve Board Chairmen, and former Democrat and Republican Directors of the Congressional Budget Office all agree that the underlying proposal is unsound economic policy. They all agree that the underlying proposal would hamper the Government's ability to cope with economic downturns.

Economists and financial experts agree that the underlying proposal will straitjacket the economy in hard times. It will hamstring the adjustment mechanisms that have been developed since the Great Depression to preserve jobs and restore the economy after a downturn. The 1,060 economists and 11 Nobel laureates who are opposing the underlying proposed constitutional amendment condemn it because it mandates perverse actions in the face of recessions.

If the economy takes a downturn and Americans are losing their jobs—as happened in the early 1990's—the underlying proposal makes it more difficult for our Government to respond to the needs of working families. As Treasury Secretary Rubin testified before the Judiciary Committee:

A balanced budget amendment would subject the Nation to unacceptable economic risks in perpetuity. . . . A balanced budget amendment could turn slowdowns into recessions, and recessions into more severe recessions or even depressions.

I am deeply concerned about the impact that the underlying proposal might have on jobs for working families in Vermont and across the country during times of recession. As Secretary Rubin explained, the so-called automatic stabilizers in our economy would be ineffective under the underlying proposal. These are mechanisms that have been developed over the last 50 years to reduce the extremes of the "boom-and-bust" cycles. They are intended to prevent another Great Depression and have proven effective over time.

Secretary Rubin testified:

[W]ithout automatic stabilizers, the Treasury Department has estimated that unemployment in 1992 that resulted from the 1990 recession might have hit 9 percent instead of 7.7 percent, which would have been in excess of 1 million jobs lost.

Federal Reserve Chairman Alan Greenspan recently reiterated his opposition to the proposed constitutional amendment during questioning by Senator LAUTENBERG during his testimony before the Senate Budget Committee. He urged the Senate Budget Committee to continue to eliminate the deficit, but he joined Secretary Rubin and our Nation's leading economists in the conclusion that the underlying proposed constitutional amendment places too many constraints on our economy.

Although the sponsors of the underlying measure repeatedly outline the dangers of a budget deficit, they fail to address how the proposed constitutional amendment will provide for the flexibility needed in economic downturns without holding working families and hard hit regions hostage to a supermajority vote. This aspect of the Torricelli amendment restores that flexibility by requiring a simple majority vote to respond to economic recessions and emergencies.

When he spoke last night in this historic Chamber, Senator TORRICELLI spoke about the proper role of Government and redefining its role without sacrificing our ability and ignoring our responsibilities to help our neighbors when they need help. He is right to offer this essential change in the underlying proposal to amend the Constitution.

A waiver of these provisions by a supermajority vote of three-fifths of both Houses of Congress is small comfort to America's working families. Many national recessions start out in different regions of the country. For example, the most recent recession hit New England first. What if citizens of New England, who have fewer Members of the House of Representatives than other regions of the country, needed help? Could they get Senators and Representatives from other States, which were still experiencing good times, to waive a constitutional balanced budget requirement to help protect their livelihoods?

Prof. Robert Eisner of Northwestern University and past president of the American Economic Association understood the economic problems under the underlying proposed constitutional amendment when he recently wrote:

One need only recall the near-collapses, in recent years, of the economies in New England, California and Texas. Who would bail them out if their own tax revenues again declined and there were surges of claims for unemployment benefits, food stamps and general assistance?

Relief for economic recessions and emergencies must be flexible. Usually, a swift response from the Federal Government is needed to aid State and local relief efforts. Economic emergency relief by constitutional super-

majority mandate is a prescription for gridlock, not swift action. When your State or region is hit by recession or economic emergency, do you want critical Federal assistance to hang on the whims of 41 Senators or 175 Representatives from other regions?

I find it ironic that the supporters of the underlying constitutional amendment, who do not trust Congress to continue to reduce the deficit, argue that we should trust future Congresses to muster supermajority votes in both bodies.

Our Founders rejected requirements of supermajorities. We should look to their sound reasons for rejecting supermajority requirements before we impose on our most vulnerable citizens a three-fifths supermajority requirement to provide them Federal relief from recessions and serious economic emergencies. I believe this supermajority requirement would recklessly endanger our economy and our democracy.

We do not need to theorize or speculate about the costs and risks. The Nation got a taste of it just 2 years ago with the longest Government shutdown in history and a debt limit crisis that when on for months. In 1995, 165 Republican Members of the House of Representatives pledged to refuse to vote for raising the debt limit, unless President Clinton accepted their balanced budget plan. The Speaker of the House, NEWT GINGRICH, went along with this ultimatum, by declaring "I am with them * * * I do not care what the price is." As a result of this blackmail politics, the American people suffered through two Government shutdowns for a total of 27 days. In the 22 years I have served in the Senate, I have not seen an action more irresponsible by either Democrats or Republicans.

Fortunately, the President stood up to this blackmail and the American public convinced a majority in Congress to act responsibly. Who knows what would have happened under the supermajority votes required in the underlying proposal.

The supermajority requirement lowers the blackmail threshold, in the words of some of its House sponsors. This three-fifths supermajority requirement invites political blackmail and rewards extremism. If both the House and Senate require three-fifths of their Members to agree to waive the end of the year balance requirement or raise the debt limit, then 40 percent plus one in either the House or the Senate could hold the country hostage to their demands.

The House sponsors of this proposed constitutional amendment have acknowledged this folly. In a November 1996 paper on the underlying proposal, Representatives DAN SCHAEFER and CHARLES STENHOLM wrote that their proposal would have the effect of "lowering the 'blackmail threshold' * * * from 50 percent plus one in either body to 40 percent plus one * * *." These are the words of the House sponsors of the underlying proposal, not mine.

As Robert Greenstein of the Center on Budget and Policy Priorities, a distinguished expert on Congress' ways, testified before the Judiciary Committee, the underlying proposal's supermajority requirements would permit minority factions to extort pork barrel projects or extreme legislation as their price.

Coming from a State with a congressional delegation of three Members, I know something about the rights of small States. Supermajority vote requirements trample on the rights of small States and reward large ones. In the House, a combination of Representatives from six large States could hold a waiver hostage to their demands, even if the vast majority of Representatives from 44 States were in agreement that a waiver was justified.

Our Founders rejected such supermajority voting requirements on matters within Congress' purview. Alexander Hamilton described supermajority requirements as a poison that serves to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junta to the regular deliberations and decisions of a respectable majority. Such supermajority requirements reflect a basic distrust not just of Congress, but of the electorate itself. I reject that notion and am prepared to keep faith with and in the American people. We should honor the fundamental principle of majority rule, a principle that has been enshrined in our Constitution for more than 200 years, and a principle embodied in the Torricelli amendment.

Senator TORRICELLI has approached this matter with seriousness and sincerity. He is attempting to perfect the underlying proposal for a constitutional amendment and cure several of its flaws.

When the Judiciary Committee considered this proposed constitutional amendment last month, we did so on an expedited basis. Nonetheless, Senator TORRICELLI was a full participant at our hearings. He examined former Acting Attorney General Stuart Gerson and Mr. Gerson conceded to him that the underlying amendment presents the most likely situation in which congressional standing, which has never been recognized, might be recognized and Mr. Gerson described to him the unfortunate Federal precedent in which a Federal court ordered local taxes to be raised. I recall his exchange with Senator Simon regarding the relationship of our national debt to our gross domestic product and how we compare favorably with the other industrialized countries of Europe and the world.

He continued his thoughtful approach to the proposed constitutional amendment during our committee markup when he offered an amendment that Chairman HATCH first praised, then defeated by casting a final and deciding vote against it. At least at the committee we afforded members an opportunity to offer amendments and to obtain votes on those amendments.

This is one of the most important legislative matters we will consider this Congress. It is a proposed amendment to our fundamental charter, the United States Constitution. In my view, allowing amendments, debating amendments and voting on amendments is an essential aspect of developing any legislation and, in particular, a proposed constitutional amendment.

Early in this debate the distinguished minority leader made the point that we do not have the luxury of reexamining constitutional amendments as we would a statute. Once a constitutional amendment is passed, it is almost impossible to revisit. Accordingly, it is essential that Senators have the opportunity to seek to improve the text of the proposed amendment. Even the witnesses called by the proponents of the underlying measure acknowledged that it is not perfect, that it has shortcomings, and that its text could be improved. To do otherwise is to disregard our obligations to our constituents, the Constitution and the future.

Senator TORRICELLI has come forward with a very important amendment. He is most sincere and serious in this effort and he deserves the courtesy and opportunity to have the Senate vote on the merits of his amendment. Respected economists, the current Chairman and past Chairman of the Federal Reserve, the Secretary of the Treasury, numerous witnesses and the President of the United States have all noted that the underlying proposal for a constitutional amendment runs the risk of strait-jacketing the future, of creating military difficulties and reducing our ability to respond to international crises and of making economic downturns deeper and turning recessions into depressions.

Here is a Senator who has come to this floor willing to put himself on the line and debate, honestly debate, the critical issues affected by this amendment. In matters that affect our Nation's supreme law, we need to vote consistent with our best judgment and our conscience as we represent those who elected us and entrusted us to make these votes. Senator TORRICELLI has offered this Senate, the people of New Jersey and this country his best judgment regarding how to improve this constitutional proposal. Before we return to the economic and fiscal policies of the Hoover era that led to the Great Depression, I urge the Senate be given an opportunity to vote on the Torricelli amendment on its merits.

I hope that the other side, which has rejected every amendment on Social Security, on protecting working families or protecting children's programs from disproportionate cuts and on everything else—no matter how good the amendment might be—would not require their followers to leap blindly off the cliff of tabling motions but would allow them to listen to this debate and vote honestly on it.

The Senator from New Jersey has raised a very clear issue. Let me tell

you right now, anybody who thinks the Louisiana Purchase was a good idea ought to be listening to the Senator from New Jersey and supporting him.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, there may be some responsible economists who are for putting capital budgets into the Federal Government's budget process. I personally do not know of any. If there are, I do not think that their arguments would stand up. To compare the State and the Federal Government, the distinguished Senator from West Virginia raises a good issue. You can't fully compare State budgeting with Federal budgeting. I agree with him. On the other hand, you can't say we should have a capital budget in the Federal budget because it is clear that the Federal Government doesn't operate like the States. We print the money. We don't have a referendum nor do we have a balanced budget amendment that would restrain the spending. If you have these huge loopholes, whether you have a balanced budget amendment or not, it just wouldn't work. Plus you have 50 States where it is pretty tough for State legislators in an individual State with a balanced budget amendment to fudge and fuzz up the language. In the Federal Government it is a lot easier. We just can't put this kind of language in there. It is just that simple. And if you do that, then you have made a loophole, an undefined loophole that would allow any subsequent Congress that is irresponsible—and we have had 28 years of irresponsibility. I mean all you have to do is look at this stack of unbalanced budgets for the last 28 years, and headed higher. I have to tell you. Here is one which I am just now discussing which is certainly going higher, this 1998 budget. Without the balanced budget amendment we are just lost. We are going to have more and more of this and less and less responsibility.

I yield the floor.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. I am happy to yield.

Mr. BYRD. Mr. President, I want to take 2 or 3 minutes.

I want to close by again thanking the distinguished Senator from New Jersey. I wish to compliment him. I think he has exposed a major flaw in the argument of the proponents. He has made it indubitably clear that the proponents meet themselves in their arguments coming back. They argue both ways, as I have already indicated, that the Federal Government should operate like the States on a balanced budget. Now, when the Senator from New Jersey seeks to put the Federal Government on a par with the States and have a capital budget, on which almost all of the States operate, then the proponents say, oh, no. My friend, Mr. HATCH, says, oh, no, we do not want to do that. We do not want to put that kind of thing in the Constitution. This is the glittering gawgaw—

Mr. HATCH. Now, be nice. Be nice.

Mr. BYRD. The glittering gawgaw of glorified garbage that the proponents are seeking to nail into the Constitution.

But, Mr. President, my friend, Mr. HATCH, says, oh, we do not print the money.

Well, that is true but that is not an answer to what we have been talking about here and the need for a capital budget.

Let me just close by saying to my friend from Utah, who continues to go over to his props, the books, I hope he will pause to explain that beginning with Mr. Reagan, Mr. Reagan's administration, the total debt of the United States at that time was \$997 billion. Going right down to the close of September 30, 1981, which was the end of the last fiscal year for which Mr. Carter was responsible, the total Federal debt was just under \$1 trillion. But going right down to the end of the last fiscal year for which Mr. Bush was responsible, September 30, 1993, the Federal debt was \$4.316 trillion.

Now, that will help to explain what is inside those budgets that are stacked on the Senator's desk. That would help to explain the great difference between the debt as it stood accumulated after the first 192 years of its existence under 39 administrations, 38 Presidents—one of them, Grover Cleveland, served two terms which were separated—which was slightly under \$1 trillion—

Mr. HATCH. And \$4.3 trillion.

Mr. BYRD. Slightly under \$1 trillion for all of the administrations down to the last minute of the fiscal year for which Mr. Carter was responsible, and then comparing that figure, which was under \$1 trillion, with the massive debt of \$4.316 trillion, down to the last minute of the last fiscal year for which Mr. Bush was responsible. I am talking about the Reagan-Bush budgets. They are the largest part of that massive pile of books there.

Mr. HATCH. That is true.

Mr. BYRD. It might be well to consider how much of that massive pile of books was debt that was encountered under the Reagan-Bush administrations.

I thank the Senator for yielding.

Mr. HATCH. Mr. President, if I could answer that, I would be more than happy to. First of all, these are not props. These are real books. These are real unbalanced budgets, 28 of them.

Mr. BYRD. That is real debt.

Mr. HATCH. That is real debt. And let us just understand the basic principle of government. The President proposes, whoever that President may be, but the Congress disposes.

To be honest with you, Reagan's tax cuts involved 40 percent growth in revenues more than they had predicted. But he had to deal primarily with the House of Representatives where all money bills must originate, controlled by those who did not agree with him, who kept spending. And that is Congress. And even those in the 1980's who

did not agree with President Reagan and wanted to spend more in Congress, even they should not be totally blamed for this because this all began basically with the Great Society programs that have been going out of control ever since. We now have almost two-thirds of the budget in entitlement spending. I know President Reagan did not ask for that. Neither did President Bush, and neither, I guess you can say, has President Clinton. I do not even think President Carter asked for that. We did that.

Mr. BYRD. Will the Senator yield on that point?

Mr. HATCH. If I could finish. I would like to finish. I want to make this point because the Senator has raised this.

We did that. Congress did that. Congress is responsible primarily for this. I admit it could take some Presidential leadership from time to time, too.

Mr. BYRD. And some Presidential vetoes.

Mr. HATCH. As well as some Presidential vetoes. That is true. I remember when President Ford used the veto some 60 times. He was vastly criticized by his political opponents for what he did. Now, I think there is plenty of blame for everybody involved—Presidents, but mostly Congress.

See, I am not particularly picking on Presidents today. I am picking on us. The President can propose but we dispose. We are the ones who create these appropriations bills and these budget bills. We are the ones who have done the spending. We are the ones who have failed to get entitlement spending under control. We are the ones who have failed to reform Medicaid and Medicare that are going into bankruptcy. All money bills have to originate in the House of Representatives, and during all of the Reagan years the House of Representatives was controlled primarily by those of the liberal persuasion, in both parties I might add. I suspect you could say the Senate was, also, if you added up the liberals versus moderates and conservatives. I think there were more liberals in almost every year of the Reagan administration in both Houses of Congress.

Frankly, I am not going to blame President Reagan. I am not going to blame President Bush. I am not going to blame President Clinton or President Carter. I might go back to President Johnson and say there were some problems there. That is when all these Great Society programs, all well-intentioned, many of which do good but many of which are out of control today, that is when they originated. I believe the distinguished Senator from West Virginia was here at that time.

Mr. BYRD. Mr. President, will the Senator yield? He mentioned me.

Mr. HATCH. What is the time for both sides?

The PRESIDING OFFICER. The Senator from Utah has 34 minutes remaining on his time; the Senator from New Jersey has 36 minutes.

Mr. HATCH. I will be glad to yield.

Mr. BYRD. Only to say that I was a part of the problem.

Mr. HATCH. Not really.

Mr. BYRD. No, no.

Mr. HATCH. The Senator was a part of the Congress.

Mr. BYRD. I was a part of the problem when I voted for the Reagan tax cut, and I have kicked myself in the seat of the pants ever since. That was—

Mr. HATCH. I kind of admired the Senator for it.

Mr. BYRD. I did not hear the Senator.

Mr. HATCH. I said I admired the Senator for that.

Mr. BYRD. Well, I thank the Senator.

Mr. HATCH. That the Senator came across the line and actually produced 40 percent more revenues than they thought. The problem is we kept spending.

Mr. BYRD. May I finish.

Mr. HATCH. Sure.

Mr. BYRD. I was rolling along pretty well.

Mr. HATCH. I am still proud.

Mr. BYRD. Mr. President, I sought to get Mr. Reagan to postpone the third year of his proposed 3-year tax cut until such time as we could see what the budget deficit was, until such time as we could see what was happening to the economy. No, he wouldn't do that. So I offered legislation here, as minority leader, at that time, to require that that third year of the tax cut be delayed. But my amendment was rejected, just like all amendments that we are offering now to the constitutional amendment are being rejected summarily. My amendment was rejected. And then I voted for the Reagan tax cut.

My people said, "Go along with this new President. Give him a chance. Give him what he wants." And so I did, and I have been sorry of it ever since.

I voted for that Reagan tax cut. I also voted for his massive military buildup. And, so, I am that much to blame. But let it not be said that the President should escape the charge of having overblown spending, and the debt, by saying, "We are the Congress. The President proposes, the Congress disposes." Mr. Reagan had a veto pen. Why didn't he veto some of the appropriations bills? He didn't. He didn't use the veto pen, perhaps, enough.

Mr. HATCH. If I could—

Mr. BYRD. But, Mr. President, I was guilty. I supported Mr. Reagan on his tax cut, and to that extent I am sorry.

Mr. HATCH. I understand.

Mr. BYRD. Because that represents the major portion of the Federal debt that we owe today, the massive tax cut, the massive military buildup, and there you have it. I will repeat the figures once more and then I will take my chair.

When Mr. Reagan became responsible for his first fiscal year budget—the total debt was \$999 billion, total debt

over the period of all the years and all the administrations since the Republic began. And when the last fiscal year for which he was responsible had ended, the debt was \$2,830,000,000,000. And then when the last moment of the last fiscal year for which Mr. Bush was responsible had ended, the debt was \$4,316,000,000,000. So much for the pile of books.

Mr. HATCH. Let me just say this in response. The fact of the matter is, I do not think anybody escapes responsibility. But I know one thing, the Reagan tax cuts resulted in an increase of revenues because there was more opportunity, more investment, more creation of jobs, more people paying taxes. And we actually had more tax revenues come in by 40 percent over what was estimated.

Where Reagan got into trouble—and I was here—was in the 1981 or 1982 tax bill. In order to get the marginal tax rate reductions that all of us knew would work—and they did, and this administration is benefiting from that to this day because the tax rates were 70 percent at that time. I have to admit they are outrageously high today, but they are not 70 percent. But, in order to get that, they had to agree, the President had to agree to all kinds of congressional spending programs. He wanted the marginal tax rate so bad because he knew that would create a good economy. And it did for 8 solid years, some say longer. And it is really one of the things that is benefiting this economy today, because the tax rates are so much lower than they were before Reagan took office. But then, in the 1986 tax bill, which I voted against, he wanted marginal rates reduced again, and to get that he had to give all kinds of concessions that I think helped trigger the S&L crisis. And it was Congress that did it. It was Members of both parties in Congress that did it.

I do not think we can avoid the responsibility by just saying, well, the debt went up during the Reagan and Bush years, and now, with the biggest tax increase, it has come down as a total number. But it is still a \$107 billion deficit this year, and next year it will be more. It is going up every year for the next 4 years until we are supposed to somehow conjure up 75-percent savings to bring it down in the 2 years after President Clinton leaves office, according to his budget.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. If I can just finish? These books were created by us, these 28 years of deficits. I am saying we have to do something to help us to be responsible. If we do that, the President, whoever that President may be—whether that President is a supply-sider like Reagan, or not—will have to be more responsible. If we do not do it, we are going to have more of the same.

I have to say it was triggered long before the Great Society programs, because we have had 58 years of unbalanced budgets in the last 66 years. So it

happened even before the Great Society. But once the Great Society programs started and this move toward entitlement spending—I know my dear colleague knows that. He has to deal with it every day on the Appropriations Committee, and he deals with it very intelligently. But he is stuck because almost two-thirds of the budget is entitlements. It was not the Presidents who did that; it is us. I have to tell you, the only hope for this country to get these things under control—and I have to say I don't want my dear friend to make another mistake. He is repentant for having voted for the Reagan tax cuts. I don't think he should make another mistake that he is going to have to repent for by not voting for the balanced budget amendment.

I really am still hoping I can get him to change his ways and to come across here and help get this thing done. Because he, above all people in both bodies, knows how really irresponsible the Congress has been through these years.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. On Mr. TORRICELLI's time.

Mr. BYRD. Oh, no.

Mr. HATCH. I will, because I know how much time—how much time do I have left?

The PRESIDING OFFICER. The Senator from Utah has 26 minutes remaining; the Senator from New Jersey has 36.

Mr. HATCH. Will you mind if we do it for just a limited period of time?

Mr. BYRD. Make it 2 minutes.

Mr. HATCH. I yield 2 minutes.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Utah. Let me remind the listeners as to who was in charge in the Senate during the first 6 years of the Reagan administration. I say this because my friend has just said, well, after all, Congress has—

Mr. HATCH. Will the Senator yield on that point?

Mr. BYRD. Yes.

Mr. HATCH. Where do all money bills have to originate under the Constitution?

Mr. BYRD. In the House.

Mr. HATCH. Who was in charge during those years?

Mr. BYRD. Over here?

Mr. HATCH. No, in the House I'm talking about, where all money bills originate.

Mr. BYRD. Listen—

Mr. HATCH. Wait, it wasn't Republicans in charge. We didn't originate those money bills. Or did we?

Mr. BYRD. Listen, the Senator is trying to obfuscate something. I am not going to let him do that.

Mr. HATCH. All right.

Mr. BYRD. Those bills come to this Senate and, under the Constitution, the Senate may amend revenue-raising bills, as in all other bills, and appropriations bills. So, let us not say that the Senate escapes its responsibility.

Mr. HATCH. I am not saying that.

Mr. BYRD. But my friend, his party was in charge during those first 6 years of the Reagan administration, in charge of the Senate. That is when I made—that is when I committed my almost unpardonable sin, by voting for that Reagan tax cut.

I do not want to chew up the remainder of the manager's 2 minutes but—

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

Mr. BYRD. May we proceed 1 more minute?

Mr. HATCH. Mr. President, 1 more minute.

Mr. BYRD. The distinguished Senator from Utah says under that tax cut, under that tax cut about which I have just now begged for forgiveness for the umpteenth time—

Mr. HATCH. I forgive you.

Mr. BYRD. I have been begging forgiveness for that mistake for years. But he said, as I recall, under that tax cut the revenues were increased. I hope I didn't misstate it.

Mr. HATCH. No. They were.

Mr. BYRD. Is that what the Senator said?

Mr. HATCH. That's what I said.

Mr. BYRD. Let us take a look at what the facts show. I have a chart in my hand, which is titled "Major Causes of Increased Federal Debt, Fiscal Years 1981 to 1991."

The bar right here is the bar showing the costs of the 1981 tax cuts. They did not bring in revenues—

The PRESIDING OFFICER (Mr. STEVENS). The Senator's additional 1 minute's time has expired.

Mr. HATCH. Could the Senator from New Jersey yield additional time, because I have some other speakers coming.

Mr. TORRICELLI. I yield 2 minutes.

Mr. BYRD. The tax cuts were responsible for \$2.1 trillion in losses, the tax cut for which I voted. And other causes of increased Federal debt are likewise shown: Entitlements, defense, interest, and so on—failed S&L's.

But the Senator was wrong in saying that the tax cut increased the revenues. The tax cuts were responsible for losses to the Treasury of \$2.1 trillion over the fiscal years 1981 to 1991.

I thank the Senator for having yielded. I hope that he will allow a vote up or down on the Torricelli amendment.

Mr. HATCH. Let me just say this, I will allow a vote up or down on the Torricelli amendment. It is the only exception I am going to make. I hope my colleagues on my side will—

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

Mr. HATCH. I will do it at your request. But let me just say this, the Senator is talking about overall spending. I am talking about revenues that came from the tax cut. We actually had revenues increase 40 percent during that period of time.

Be that as it may, whether I am wrong and you are right, the fact of the matter is that the Congress, during all

of those Reagan years, was controlled by the more liberal persuasion, and all money bills originated in the House, which was controlled by the Democratic Party. Now, allegedly we did have Republican control in the Senate, but if you look at the total number of liberals versus moderate conservatives, the Senate was still liberal during those years, and we were the ones primarily responsible for these 28 years of unbalanced budgets. To lay it at the feet of Reagan, Bush, or Clinton is not right.

I yield the floor. I reserve the remainder of my time.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Thank you, Mr. President. While it is my hope to return the debate to the amendment at hand—it is my intention to yield to my colleague, the senior Senator from New Jersey—nevertheless, since our debate is in the RECORD, it should at least be accurate in this respect: I notice the Senator from Utah has the last 28 years of budgets of the U.S. Government. That means his books start in the fiscal year 1969.

Debate between the Senator from West Virginia and the Senator from Utah seemed to be on the relative merits between the Reagan and the Johnson administrations and their responsibilities for the Federal deficit. It is extraordinary that the Senator from Utah stopped there before 1969, the last year of the Great Society, the last budget written by Lyndon Johnson and the last year the U.S. Government had a surplus.

It is, I think, instructive, Mr. President, that as we assign responsibility, which is no doubt, at least as an aside, a useful exercise on this day, as someone who served in the House of Representatives during some of those years, I want the RECORD to clearly reflect one element of that responsibility. In 8 years of the Reagan administration, in all the appropriations bills passed, Mr. Reagan vetoed one. He vetoed one appropriations bill in 8 years, while the Federal deficit soared from less than \$1 trillion to \$4 trillion. And if you look at his veto message, it is because, in his judgment, spending was inadequate in that year.

We will leave it for historians to gauge whether it was the Great Society that produced this deficit problem, in spite of the fact that he left office with a surplus, or it was the Reagan administration, which talked about fiscal austerity but left the Nation with a \$4 trillion accumulated deficit and never exercised a veto of any appropriation.

But perhaps the comments of my colleagues should be punctuated simply with this: The genuine level of debt that should be of concern to every American is the debt as a proportion of our national economy. Like in our households and our businesses, it is not

whether you have a debt—the mortgage on your home, borrowing for expansion—it is your ability to pay it. Two Presidents in the last 40 years have administered the U.S. Government with a deficit under 2 percent of gross national product. One was named Johnson, and one is named Clinton. The others have exceeded that marker, which is now recognized by our friends in Asia and the European Community as the marker to which you do not want to pass.

So while I hope we can return to the issue of the balanced budget amendment and look prospectively and leave to others, the historians, the question of relative responsibility, I did want, along with my colleague from West Virginia, to ensure the RECORD was accurate.

At this time, I yield to the senior Senator from the State of New Jersey for 20 minutes.

Mr. LAUTENBERG. Mr. President, that is very generous of my colleague. I will not take 20.

Mr. President, I rise in support of the amendment offered by my distinguished colleague, the junior Senator from our great State of New Jersey, and I salute him for his initiative.

Mr. President, I want to make it clear that I strongly oppose the balanced budget amendment. But if we are going to pass it, the least we should do is include the Torricelli amendment. Without it, the underlying balanced budget amendment would forever preclude our Nation from adopting what I believe is the essential nature of budgeting and investing in America—capital budgeting.

As many of my colleagues know, I have long advocated dividing the Federal budget into separate capital and operating budgets.

This is not budget or fiscal heresy. Quite the contrary. Most States do it. Almost every business does it. It's sound government. It's sound business. It's common sense.

The balanced budget requirement that many States have affects only their operating budgets with capital budgets and pension funds excluded. Capital budgeting is a fundamental accounting principle employed by every major corporation in America. Fortune 500 companies use their borrowing power and creditworthiness to brag about their financial stability.

I must admit that I am somewhat perplexed by my colleagues who support a balanced budget amendment. On the one hand, they say that we should operate the Government like a business.

But on the other hand, they reject outright one of the most fundamental principles of operating a business—separate capital and operating budgets. Mr. President, you can't have it both ways.

I come to the Senate from the business world and that experience gives me an invaluable and unique perspective. The company I founded with two

friends, Automatic Data Processing, is the largest computing services firm in the world, and it employs 29,000 people in a number of countries.

But it wasn't always that way. We grew that company from scratch, and we didn't do it with the type of budgeting required of the Federal Government today. We borrowed money. We took out loans. We didn't make across-the-board cuts or ask someone else to take the responsibility for making cuts.

When I was CEO, I would look over my various departments, and say, I need more in marketing or more in product development or more in production.

Mr. President, we budgeted those investments the way any business does. We didn't have a unified budget like the Federal Government. We had separate capital and operating budgets. We balanced our books in terms of day-to-day operations, and cut waste wherever we found it. But we weren't afraid to take out a loan for the long term. And those investments paid off. That's how most successful businesses do it.

This is nothing radical, and it's certainly not confined to the business world. Families take out loans to finance homes and cars. Students rely on student loans to help finance their college education. States with balanced budget requirements float bonds and take on debt for capital expenditures. There's no reason why the Federal Government shouldn't do so as well.

So if Congress wants to run the Government like a business, it will pass the Torricelli amendment.

To get on the right track—the investment track—we must distinguish between short-term consumption and long-term investment spending.

So far we have failed to recognize, let alone embrace, this elementary business practice. And as Government continues to underinvest in the long term, all Americans pay a big price.

Public investment is crucial because these are investments that the private sector will not make on their own. Only Government will. The economic benefits of a first-rate education system, or a well-functioning transportation system, are spread throughout the economy making life better for all of us. These are capital investments.

At a recent Budget Committee hearing on education, I emphasized my belief that greater public investment in education is of critical importance to our Nation's economic future.

While parents fear for their children's future, and business worries about the quality of the work force, the ratio of workers to retirees is predicted to shrink to less than 2 to 1. Improving the output of our education system is not only desirable; it has become an imperative if our future work force will be able to support the growing number of retirees.

The same is true with transportation. When we invest in roads, bridges, and transit, we lessen congest-

tion and improve the efficiency of the economy for many years.

I believe that the solution to many of our long-term investment problems is to create a separate capital budget. I see no other way to do it.

So if my colleagues are serious about running this Government like a business—if they are serious about investing in America—they will vote for this amendment. If they don't, we will never have the chance to even consider capital budgeting and that would shortchange our great Nation.

Mr. President, I commend my new colleague from New Jersey for his work here thus far. I salute him for this initiative. I think it is a very wisely developed thesis that this Government ought to operate just like other entities across our country, like the largest of the businesses, like virtually all businesses. When we talk about a capital budget, it is done for a sensible business purpose—the Government recognizes it—the depreciation of the asset over its life, and it entitles companies to take the value of the asset each year, charge that off to its operating statement so that you get an accurate picture of what it is that is being done within the company. And so it ought to be here.

What we are talking about, almost forgotten in the recent debate, is the balanced budget amendment. I think it is fairly clear around here that this Senator stands in opposition to that balanced budget amendment. I have done whatever I could to assure that we are not going to permit the balanced budget amendment to become part of the Constitution. I think it would be poor judgment. I think it would be a poor tactic to have the Constitution amended to provide for a balanced budget when, in fact, if we look at the record—and that is one of the things, frankly, that astounds me at times—the record of the last 4 years has been quite spectacular when we examine the results of the Clinton leadership.

The reduction in annual budget deficit has been enormous, some 60 percent, down to \$107 billion last year. The CBO, our auditing arm, said in May that they thought we would be some \$50 billion higher. And then in February they had to change their estimate to something considerably lower in a period of 8 months, with no understanding of the fact there was a dynamic change taking place. The same thing was true in an earlier year when the misestimate was by such an enormous amount that had we had a balanced budget in place, we would have made all kinds of adjustments, and we probably could have, without meaning to, sent this country into recession.

Mr. President, the principal discussion here is how do we tell the truth to the American public about what is going on here? If we had a capital budget, I think it would be quite clear. Right now, we talk about obscure things. We talk about adjustments in

the CPI. We talk about taking Social Security and other trust funds off budget.

The fact of the matter is that we would be hamstringing ourselves with a balanced budget amendment that prevented us from responding to our national needs at any given time. Whether on the brink of recession, whether on the brink of war, whether on the brink of other national catastrophes, we would be limiting our capacity to operate. And I do not understand why we insist on doing that when, in fact, the record is good.

The President has presented a budget that will be in balance in the year 2002. As a matter of fact, it is proposed there would be a surplus of some \$17 billion at that time.

But to my colleague from New Jersey, my junior colleague from New Jersey—I am not quite used to the ranks—but I want to say that this is a very thoughtful amendment that you have developed. You have not said where, when, precisely how—do not lock us out of having a capital budget as part of our accounting process in the future.

I come from the corporate world. I ran a fairly large company—today, with 29,000 employees. I never would have dreamed of agreeing to a board of directors directive that said: OK, you can run this company, but understand what the conditions are under which you can run this company, that at the end of each year you are not allowed to be borrowing, not allowed to be doing anything else unless you prevent this company from having any kind of a deficit using an operating accounting process all the way through; when, if we erected a building, if we bought computer equipment, no matter what it was, you could not write it off over the life of the assets. Some of these assets are 40-, 50-year assets. Some of the assets we acquire in the Federal Government have lifetimes going way beyond that.

If they said to me, those are the conditions, I would say this job cannot be done. You cannot restrict yourself in advance to certain conditions at the end of a year over which you have no control. If we had to cut back on expenses, I never took a wholesale approach to it and said, OK, cut marketing, cut product development, cut production, cut facilities. You could not do it that way. Each of these things requires thought.

Here we are, 100 U.S. Senators, sent by people who elect us to represent them, unable, we are saying, unable to do it by ourselves. We need the restriction of a balanced budget amendment so we will all be good boys and girls here, so that we will remove the intuition, the judgment that we bring here from any decision we make because we want to be free of that kind of restraint. I, frankly, think that it shows very poorly in the public domain.

I think we ought to do it the old-fashioned way. I think what we ought

to do, as proposed by my colleague from New Jersey, is amend it if we can to be a better product, to amend that balanced budget amendment in case it does pass. And I hope it does not. In case it does pass, we ought to have conditions in there that permit us to operate in as free a condition as we can possibly do it.

So, Mr. President, I see it as a fairly simple thing. The first thing we should do, look at the record, see where we are. I started to say before, I am astonished by the unwillingness of our colleagues on the other side of the aisle to recognize what has been accomplished since President Clinton took over, whether it is the reduction in the deficit, the growth in jobs, the icons of American industry, companies with whom you could tie your future, never worry about another thing as long as they do work—gone, shrunken, dissolved, in many cases. The President found a way to replace many of those jobs by encouraging small business investment. We have over 11 million new jobs in this period of time. We have the lowest portion of deficit to GDP of any country. We are the envy of all the developed nations in the world.

I looked at the expectation for the future, as we look at the budget proposal. Mr. President, in the next 5 years our economy is expected to grow by \$2 trillion—\$2 trillion of GDP in the next 5 years, at the same time, expecting, based on the numbers developed thus far, that we will have a surplus in our operations for the year without a capital budget, which, again, we should have, without adjustments, in the CPI.

I think that it is imperative that we vote on the Torricelli amendment, that we give it as much support as we can.

Mr. President, I hope, perhaps contrary to the view of some very good friends here, that in the final analysis, that despite the fact that I want this amendment to pass, I hope we do not attempt to balance the budget with a constitutional amendment.

I yield the floor, and I once again commend my colleague.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I yield to the Senator from Maryland 5 minutes.

Mr. SARBANES. Three minutes.

Mr. TORRICELLI. Three minutes.

Mr. SARBANES. I will be very quick.

First of all, I commend the able Senator from New Jersey for the very thoughtful and careful analysis he made in his statement upon offering his amendment.

One of the difficulties with a balanced budget constitutional amendment generally, of course, is that it is purely symbolic. The real way to balance the budget is to do it when Congress considers and passes the budget, not by amending the constitution.

But the Senator from New Jersey has pointed out three, I think, clear difficulties with this particular version of a balanced budget amendment to the Constitution, Senate Joint Resolution 1. One is that our current Federal process does not provide for a capital budget. Every State and locality has a capital budget. Businesses have capital budgets. Private individuals have capital budgets. People do not go out and pay for a house, or an automobile, or finance a college education with cash the same year that they make these purchases. They make prudent investments in the future, and they borrow and amortize them over a period of time. State governments do exactly the same thing. It is a prudent and sensible way to do business.

I will never forget a budget committee hearing at which we had two Governors testifying in favor of amending the Constitution to require a balanced budget. They said, well, our States require a balanced budget, and, as a consequence of our States requiring it, the Governors went on to say, our States get a better credit rating, so that when we borrow in the market we get a better interest rate.

Of course, the obvious question becomes, if states have a constitutional requirement to balance the budget, why do they need to borrow money? What does a credit rating matter to these states? So I asked them that question. Of course, their response was, well, you do not understand. We have a capital budget that is separate and apart from the operating budget. We have a capital budget that we fund by borrowing—by borrowing. So I said, well, we do not have a capital budget at the Federal level. I noted that we in the Federal Government do not make a distinction between capital and operating expenses, though it is a wise distinction because then you can fund your long-term investments through borrowing, get the full benefit of the investment, and pay back the debt over the useful life of the capital asset.

The Governors' response was that the Federal Government ought to have a capital budget. I note to my colleagues that if you are really serious about trying to write a balanced budget requirement into the Constitution of the United States, the first thing you ought to do, as a minimum, is separate out operating and capital budgets—just the way State and local governments do.

So this analogy to State and local government falls of its own weight as soon as you recognize the fact that unlike the Federal Government, State and local governments have capital budgets which they fund by borrowing. We do not have a capital budget at the Federal level, but if we have a constitutional balanced budget amendment, we should.

Second, I think the emphasis which the Senator from New Jersey has made

on the necessity of being able to respond in a crisis situation involving either the national security of the country or an economic downturn is extremely important.

As regards economic conditions, we have managed to ameliorate the business cycle, not to eliminate it, but to ameliorate it. We are able to do that in part because we are now able to conduct countercyclical fiscal policy when we have an economic downturn. The balanced budget amendment to the Constitution, without a provision such as is contained in the amendment that has been sent to the desk by the Senator from New Jersey, runs the very great risk of turning economic downturns into recessions and recessions into depressions, because it will not allow us to respond to dire economic circumstances when we are confronted with them.

The same thing is true about the national security provisions of the balanced budget amendment as it has been drawn by its sponsors. These provisions are much too restrictive, much too confined, and they run the substantial risk that we will not be able to respond in a national emergency.

Now, the response made to this argument by the supporters of Senate Joint Resolution 1 is that if we confront a national emergency we will get the supermajority vote in order to waive the balancing provisions of Senate Joint Resolution 1 and there will be no problem. Well, our own history does not sustain that contention.

In 1940, the House of Representatives instituted a 1-year draft. That came up for renewal in the autumn of 1941, literally weeks before Pearl Harbor. They took a vote in the House of Representatives on extending the draft for another year. Speaker Rayburn went into the well of the House in order to plead with his colleagues to pass this extension. It passed on a vote of 203 to 202. But that vote, which is a majority, would not have met the supermajority requirements contained in the balanced budget amendment that has been brought forth from the committee by Senator HATCH. It would have fallen short because it was not a majority of the whole membership of the body, which required 218 votes, and which under this amendment is necessary to avoid the balancing requirements in Senate Joint Resolution 1. There we have a classic example of a crisis situation, right out of our own history. This is not a hypothetical. Looking at our own history, we can see that we would not have been able to respond and meet the requirements of the time, when we were facing this crisis situation, under the provisions of the balanced budget amendment as currently drafted.

I want to strongly commend the Senator from New Jersey for the very careful analysis that has brought forth these proposals pending before us. Clearly, at a minimum, if this constitutional amendment is to move forward, it requires the adoption of the Senator's amendment. I yield the floor.

Mr. ENZI. Mr. President, before I yield some time to the Senator from North Carolina, how much time remains?

The PRESIDING OFFICER. There are almost 22 minutes for the majority and almost 14 minutes for the minority.

Mr. ENZI. I yield to the Senator from Idaho for a moment.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator from Wyoming for yielding. I stand in opposition to the Torricelli amendment. I think it is critically important we maintain a unified budget to assure fiscal solvency and responsibility in this country.

I ask unanimous consent that a fact sheet be printed in the RECORD.

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

CONGRESSIONAL LEADERS UNITED FOR A BALANCED BUDGET—A CAPITAL SPENDING EXEMPTION NOT A CAPITAL IDEA FOR THE CONSTITUTION

A special exemption for "capital" or "investment" spending does not belong in the balanced budget amendment to the Constitution

A constitution deals with the most fundamental responsibilities of the government and the broadest, timeless principles of governance. It should not set budget priorities or contain narrow policy decisions such as defining a capital budget.

Whatever the merits are of making such spending a higher or lower priority than it has been, this question is best addressed in the annual budget process.

The debt is the threat to capital investment

Escalating interest payments on the huge federal debt are crowding out all other priorities. According to the National Entitlement Commission's 1995 report: "By 2012, unless appropriate policy changes are made in the interim, projected outlays for entitlements and interest on the national debt will consume all tax revenues collected by the federal government." That means no money left for capital investment—or defense, education, the environment, law enforcement, science, or other domestic discretionary programs.

If states, businesses, and families can borrow, why shouldn't the federal government?

Everyone else repays the principal they have borrowed. Families take out a mortgage and then spend years paying it down. The same is true of capital investments by businesses and state and local governments. But the federal government just keeps borrowing more. And more.

Unlike state budgets or family finances, the federal budget is large enough to accommodate virtually all capital expenditures on a regular, ongoing basis

The justification that most businesses and state and local governments have for capital budgeting is that they occasionally need to make on-time, extraordinary expenditures that are amortized over a long period of time.

The federal budget is so huge—now more than \$1.6 trillion—that almost no conceivable, one-shot project would make even a small dent in it.

Even the federal Interstate Highway System, which has been called the largest peacetime undertaking in all of human history, was financed on a pay-as-you-go basis

President Eisenhower initially proposed that the Interstate System be financed through borrowing by selling special bonds. However, Congress kept it on-budget and financed it through a gas tax at the urging of then-Senator Albert Gore, Sr.

There are protections against the abuse of capital budgets in state budgeting that do not constrain federal borrowing

State and local governments have a check on their use of capital budgets through bond ratings. If a state government were to abuse its capital budget, then its bond rating would drop and it would become difficult or impossible to continue borrowing to finance additional expenditures.

In addition, many states require that bond issues be approved by the voters.

While state capital spending is often placed off-budget, so are state trust fund surpluses

According to a Price-Waterhouse study, in recent years, state budgets would have been roughly in balance if both capital expenditures and trust funds (such as retirement funds) were included on-budget.

The process of defining "capital spending" could be abused

Even a category of "capital" or "investment" spending that appeared to be tightly defined at first could become a tempting loophole to future Congresses and Presidents. For example, New York City, prior to its financial crisis in the 1970s, amortized spending for school textbooks by declaring their "useful life" to be 30 years.

Virtually any form of "capital spending" exemption would perpetuate the crisis of deficit spending

Even an exemption from the Balanced Budget Amendment for a narrow category in the President's budget, major public physical capital investment, would have allowed a deficit larger than the one that actually occurred in FY 1996 (\$116 billion vs. \$107 billion). It would result in an FY 1997 deficit that would be, at most, 9 percent lower than current CBO projections (\$113 billion vs. \$124 billion).

Allowing deficit spending for total federal investment outlays would have allowed deficits larger than those that actually occurred in 28 of the last 35 years.

These estimates, of course, assume no manipulation of definitions or accounting that would allow still larger deficits.

The concept of a "capital budget" is too poorly defined to put in the Constitution—Estimates of "capital spending" could vary widely

There is wide disagreement among policymakers about what should be included in a federal capital budget. There is no commonly accepted federal budget concept of this term. Therefore, any capital spending exemption included in the Constitution would be left open to a wide range of interpretations.

In fact, the President's budget includes several different categories of "capital" and "investment" spending. For fiscal years 1996 and 1997, these include:

(In billions of dollars)

	FY 1996	FY 1997
Major physical capital investment	\$115.9	\$113.0
Net miscellaneous physical investment	3.1	3.1
Research and development	68.4	70.3
Education and training	43.6	42.5
Total federal investment outlays	230.9	228.9

The balanced budget amendment already allows for the establishment of a capital budget—within the context of regularly balanced budgets

The amendment does not prevent the creation of separate operating and capital accounts. But extraordinary expenditures which are large enough and unusual enough to require significant new borrowing should be subject to a higher threshold of approval, such as a three-fifth majority vote.

This is consistent with the recommendations of General Accounting Office, which stated in its 1992 report, Prompt Action Necessary to Avert Long-Term Damage to the Economy: “* * * the creation of explicit categories for government capital and investment expenditures should not be viewed as a license to run deficits to finance those categories * * *. The choice between spending for investment and spending for consumption should be seen as setting priorities within an overall fiscal constraint, not as a reason for relaxing that constraint and permitting a larger deficit.”

Ms. LANDRIEU. Mr. President, I believe that we should adopt a capital budget and I strongly urge its incorporation into Senate Joint Resolution 1. This amendment offered by my distinguished colleague from New Jersey, Mr. TORRICELLI, establishes a capital budget and should receive the support of every Member of this Chamber who truly wants to see a balanced budget become a reality. A capital budget will help us achieve that end and will bring more financial accountability to the Federal level.

Many supporters of a balanced budget amendment to the Constitution believe that the Federal Government should manage its funds like many hard-working families across our Nation. Families must balance their checkbooks or they face serious financial consequences. Why, amendment supporters ask, should the Federal Government be any different?

The reason is clear, Mr. President. Families do not balance their budgets, they balance their checkbooks. They sit at the kitchen table once or twice a month to make sure that there is enough money to pay the bills. However, not all of their expenses are paid in full at the time they are purchased. Most Americans can only afford such items if they spread their payment obligations over a longer period of time, sometimes with the help of loans. People do not receive the benefits of such expenditures at one time, either—they drive their cars and live in their homes for years, perhaps decades.

Most States operate in the same manner. While almost every State has some type of constitutional or statutory requirement to balance their budgets, such limitations normally apply to a state's operating budget—like a family's checkbook. State expenses for constructing such items as roads and buildings or purchasing land do not fall within the balanced budget requirements.

The Federal Government, however, is being asked to balance its budget without a distinction between capital outlays and operating expenses. In fact,

were the balanced budget amendment to pass without providing for the establishment of a capital budget, this country would place upon itself a restriction not followed by families, businesses or States. Furthermore, such a limitation would make the United States unique among the major economic powers in the world—not a single nation among the G-7 has such budget constraints.

Federal outlays for capital investments are significantly different from outlays for operating expenses because they represent asset exchanges. When the United States spends money to purchase a building or land, the United States receives an appreciable asset in exchange for that expense. That asset will produce future streams of revenue to the United States either through the increase in the value of the property or simply as a place to conduct the Government's business. Such expenditures do not contribute to the deficit wholly because the resulting purchase or investment leaves the Government with calculations on both sides of the ledger.

Additionally, a lack of such a distinction is an inadequate way for the Government to manage the Nation's funds. To use the example provided by Bruce Bartlett, a conservative economist who served in both the Reagan and Bush administrations, a “\$10 million building that will last 30 years must be fully accounted for in a single year's budget, the same as a \$10 million outlay for airplane fuel or some other operating expense.” In Mr. Bartlett's view, in my own view, and in the opinion of hundreds of economists nationwide, “the lack of a [Federal] capital budget creates biases in the budget that lead to uneconomical decisions.”

Mr. ENZI. Mr. President, I yield 12 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator is recognized for 12 minutes.

Mr. FAIRCLOTH. Mr. President, I rise today in strong support of the balanced budget amendment to the Constitution. Quite simply, no other legislative issue the Senate will consider is more important than this one. It was true in the last Congress. It is true in this Congress. It will be true in the next one if we do not pass it.

Now, there are more reasons than I have ever heard not to balance the budget. We have heard them day after day. We just heard them, and they keep coming. But the future of the United States and the well-being of our children, grandchildren, and children yet unborn rests entirely on whether we pass this amendment or not.

Mr. President, if we fail to enact this amendment I am concerned we will never balance a budget on any sort of a continuing basis. I have heard a lot of talk on the Senate floor about the need to balance a budget. Many have said that we can balance a budget but not necessarily on a continuing basis. Talk is cheap. The real question is, what

will guarantee that we balance a budget year in, year out, and guarantee fiscal responsibility to the Federal Government, something we have not had? What guarantees will we make to our children and grandchildren and children yet unborn that we will not continue to mortgage their future with feel-good politics of the day?

There is a lot of rhetoric in this body about the need to help children—more resources for education, greater health care for children. In fact, if there is anything we really want to pass, we put children in front of it. But if we really want to help the children of this country that are here now and yet to be born we can stop piling a financial burden on them that they cannot pay. It is as simple as that.

We could give them a society, if not debt free, at least be coming out of debt, reducing it. We are already seeing the effects of the 30-year spending spree. Most two-income families have difficulty sustaining the same lifestyle as their parents and grandparents that lived on one income. Why is it that one paycheck does not go as far today? The answer is simple: Taxes and debt. The enormous tax burden that has been created because of bigger government, taxes that are everywhere, and the IRS considers taxing everything—endless taxes, Federal taxes, State, local, sales, gasoline, property, personal, estate taxes, telephone, airline, the list goes on into infinity. We are taxing ourselves to death to pay for more government that we do not need because so much of what is already collected is being spent on interest for money we have already borrowed and already spent.

Already we send \$1.5 trillion to the Federal Government each year. That is not enough. Nor will any amount ever be enough. It is an all-consuming Government and no amount will ever satisfy the appetite.

Mr. President, the debt is not going away. Today, every man, woman, and child in this country owes \$20,000. A family of four owes \$80,000, the cost of the average home. The money will have to be paid back. It will never disappear. What we have done is extremely wrong—we have ignored the reality of our time and have put the burden of the future on our children to pay for our folly.

Mr. President, I have often thought what is it about the last 40 years that has brought us into this position? Certainly, too many people believe Government is the answer to every problem. We have spent approximately \$5 trillion on Federal welfare programs since 1960, roughly the size of the debt. But we have more poverty today than we did when we started—a total failure.

Another problem has been that an active Federal Government has regulated American business too much, stifling the productivity and unduly burdening small business.

This is another unique problem that is recent: The Congress has no boundaries. The age of instant information and Congress' driven attempt to please everyone, we are never forced to choose between programs. We can be for anything and everything and against nothing and it rolls on. We are never forced to make a choice because we do not have the requirement of a balanced budget amendment. This is a fundamental flaw of the Federal Government. We have no limit on our ability to incur debt. Thomas Jefferson noted it 200 years ago. It was true then. It is true today.

Mr. President, finally let me talk about the national debt that is consuming us. It took this country 200 years to acquire a \$1 trillion debt, and we did that in 1983. Now, in just 14 additional years we have acquired an additional \$4 trillion in debt. We clearly are out of control with our spending, and if we do not constrain ourselves we will destroy the fiscal integrity of this country. By the time we balance a budget, even by most conservative figures, we will have a \$6.5 trillion debt. Every person who has ever had a debt knows that interest is a piranha and it will eat you alive. The same thing is happening to the Federal Government. Interest is eating us alive.

We spend \$366 billion on gross interest each year—that is, to the public and the Government trust funds. To put it in more real terms, when we file our tax returns on April 15, we should know that 52 percent of all income taxes that are sent to Washington will be used for the one purpose of paying the interest on the Government's gross debt.

By the year 2000, our national debt will be equal to 52 percent of the gross domestic product. In 1980, the figure was half that. Besides interest, the only thing we spend more on is Social Security. I think it is so ironic that we have heard over and over that Social Security is being used as a block to a constitutional amendment to balance the budget. If we want to ensure the future of Social Security and Medicare for the people of this country in the future, the best thing we can do is balance the budget. It is the only way we can secure the future of Social Security—with a balanced budget. It should never be considered separately.

Mr. President, if we could just control Federal spending, we might not need this amendment. But we won't control Federal spending. For 35 years we have been unable to muster the fortitude to stop or control Federal spending. The truth is, had we frozen Federal spending in 1994, we would have balanced the budget in 1997.

Mr. President, we all know what the problem is. The question is, what are we going to do about it? The answer is that we must pass the balanced budget amendment if we are going to leave our children a clean slate, not a lifetime of debt, excessive taxes, and a contingent liability of \$7 trillion.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. GREGG). Who seeks recognition?

Mr. ENZI. Mr. President, several questions have been raised through the course of this debate. I have a couple of others, as well. I appreciate the efforts that have gone into this amendment, but I am very concerned about a couple of the areas we have been talking about, the largest of which is the capital budget area in this.

When we talk about capital budget—I have read what the President had in his budget message about capital budgeting. With the definitions that I see that appear in this bill, what we are talking about is putting anything that we can call a capital investment off budget; and by putting it off budget, it removes itself from having to be a part of the formula. I would like more clarification on that term.

There is also wording on that which says that net borrowing and the disposition of major public physical capital assets would be excluded from the receipts. I am concerned about how we handle some of the disposition of major physical capital assets. One of those we are talking about is selling the spectrum. That is one-time revenue. I am very concerned that we may take one-time revenue and use it to buy recurring types of things in the budget. That is why I, too, have been asking for capital budgeting and, more important, cash flow budgeting, so that we know that when we are getting a one-time revenue, we are matching that up with a one-time expenditure.

If we have net borrowing and the disposition of major public physical capital assets excluded, what's the mechanism for handling that? What's the budget phenomenon for handling that? Everybody has to have capital budgets, as has been mentioned here today. Unfortunately, the Federal Government is the only entity that doesn't have to have oversight—unless we pass the balanced budget constitutional amendment. Then we, too, will have to have oversight.

I mentioned this morning that, as a mayor, we had capital budgeting, cash flow budgets, and performance budgets. It is very important not only to building what needed to be built, but to paying off the debt for what we built. I mentioned that the city I was mayor of is now one of the few debt-free cities in the United States. That comes from good planning.

In the debate we have had on the balanced budget constitutional amendment, we are not talking about paying off the debt that we have already incurred. We are not talking about planning to pay off what we have already incurred on behalf of the future generations—those kids and grandkids that we keep talking about, as well as the parents and grandparents that are relying on Social Security. We have to balance the budget to take care of our kids, grandkids, parents, and grandparents, as well as ourselves.

There is a lot at stake in this. Unless we build in some oversight for ourselves, something that forces us to pay back loans, then all we are doing is giving ourselves a license to spend. We are coming up with another risky gimmick that will let us slip things into a category and not have to account for them. That is not the purpose of capital budgeting. I have even heard some reference, in capital budgeting, to putting things into a capital budget that would be social investments. I don't know how you pay off the social investments any different way than you pay for any other expenditure under the budget. That, in my opinion, is not a capital budgeting thing. That is an expense budgeting item. I think there has to be a distinction made there.

I am really worried that section 7 of this bill will give us a license to move things from the normal budgeting process to a capital budgeting process and kind of forget about how we handle the payback on that. Somebody mentioned earlier that if you buy a home, you are doing capital budgeting. You are, but you have oversight. The banker sets up specific parameters for you to be able to get the loan. If you don't meet those parameters, he is not going to be a happy fellow. What we are trying to do here is set up some parameters for ourselves. Capital budgeting, cash flow budgeting, and performance budgeting need to be done. Those are part of an enabling act of a clean balanced budget amendment.

One of the problems that we have in this body, I think, is that we think of things more as a Christmas list, and I know that at Christmas time I delight in going through the catalogs that come in and seeing what things I like. There has never been a limit to the number of things that a person could pick—particularly when they are children. We talk about balancing budgets, and every one of us wants to balance the budget. Individually, we say that. It is collectively that we seem to run into the problem. The balanced budget constitutional amendment will take care of that. It will force us to uphold the Constitution of the United States. It will force us to put parameters on ourselves.

Everybody wants to buy everything, and they want to buy it right now. Good budgeting will set up some parameters that will help us with that. I am glad we are thinking about good budgeting, good accounting techniques, because we need to start setting up our Social Security trust fund under some better accounting techniques, so that we are recognizing some of the actuarial differences that are there. It is good to be thinking about that. It is a must that we do that. Right now, we are building up some incredible actuarial debts that we are not recognizing at all. We owe about \$9.3 trillion to the Social Security fund. If we put the same kind of parameters on ourselves that we put on business—we tell business they have to set up a trust fund,

and it has to have the amount of money necessary to pay for the people who are retiring at the time they retire. But we don't put that parameter on ourselves. The balanced budget constitutional amendment will put those kinds of things on the line to be done. We will have to follow the promises we made in the campaign.

When I campaigned, we talked a lot about balancing the budget. When the President talked, he talked a lot about balancing the budget. In his State of the Union speech, he said, "We need to balance the budget, but we don't need a balanced budget amendment. All we need is action." Then we got a budget that was not in balance. We did not get the action to go with the words. I made a promise during my campaign that I would vote for the balanced budget constitutional amendment. I knew what that was at the time, and I am here to do that.

The people of America want us to protect the future for our kids and our grandkids. Our kids want us to end the child abuse of taxation without representation, cosigning on notes for them without their permission. That is what we are doing by balancing the budget. I want to say that we either balance the budget—and I think we need the discipline based on these two stacks of 28 years of unbalanced budgets. We need the discipline of a balanced budget constitutional amendment. If we do not balance that budget we will be the longest running game show, and we will wind up with the lowest possible ratings.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ENZI. I retain the remainder of my time.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, may I have a counting of the time, respectfully, please?

The PRESIDING OFFICER. The Senator has 13 minutes and 40 seconds. The Senator from Wyoming has 3 minutes and 4 seconds.

Mr. TORRICELLI. Mr. President, I have listened patiently to the analysis of my amendment by Members of the minority and by Members of the majority for some time. I am also aware of the uniqueness of the moment. We are debating an amendment to the Constitution of the United States. The vote on that amendment is extraordinarily close. It is argued by my friend, the Senator from Utah, that the balanced budget amendment is as good as we can produce. Mr. President, the Constitution of the United States is as close to perfection as has ever been achieved in managing the affairs of men and women. This is one case when good is not good enough. There are those who say that providing for a capital budget and the ability to respond to international military emergencies

or national economic crises are simply amending gimmicks of a balanced budget amendment. Mr. President, meeting our historic responsibility to defend the United States in military emergencies, or dealing with economic recessions, or depressions is not a gimmick. It is a profound responsibility.

I have voted for a balanced budget amendment on other occasions, and I want to do so again. I approach it with extraordinary regret because I believe that our generation should be no less in managing the financial affairs of this country than all of those who preceded us. They did so because they cared about the future. They cared about the country, and they refused to abuse their ability and their power to borrow beyond their means. This generation has not so cared for the country.

So it is with real regret on previous occasions that I have voted for a balanced budget amendment. But I rise today to amend this joint resolution to amend the Constitution of the United States because I seek for us to meet the same high standard as those who founded this Republic and those who have cared for it through the years; not an amendment that is good enough but one that approaches perfection.

I have offered three principal changes. The first is for a capital budget. But I am told that it would be abused if we were to provide for a separate capital budget to ensure that we were building an infrastructure and maintaining a modern and productive means of commerce in the country, that it would be abused by regular spending and consumption. Yet, the Senator from Utah knows that, whether his amendment passes in its original form or with my amendment to it, enacting legislation will be required. His amendment is not operational on its face and neither is mine. This Congress would have to return after enactment by the States for enacting legislation to make it operational. And under the capital budgeting provisions we would clearly have to establish a separate and independent Government agency that would review the actions of the President and the Congress to ensure that anything in a capital budget is actually designed to enhance the productive capabilities of the country and its economy. We could not allow items of consumption to be part of a capital budget. That is the means by which every Governor operates in getting independent authority to ensure that it is a genuine bondable expenditure as I am sure my friend, the Senator from Wyoming, needed to operate as a mayor of his own community.

But at the end of the day, Mr. President, I leave my colleagues with this reality because this isn't good enough. In our understandable and justifiable efforts to balance the budget of the United States, the principal victim is long-term investment in this country—2 million miles of substandard roads, a quarter of a million bridges that are

not safe or operational, deteriorating ports, 100 billion dollars' worth of repairs needed in our schools. We are last among the industrialized nations of the world in planning for our future. Without a capital budget, the internal pressures of this institution are going to force protecting consumption and victimizing planning and investment. It is not enough to rise on in this floor and say that a capital budget might be abused but not provide an answer to this reality.

Second, we are told that a war powers exemption, the ability to deficit spend if the United States is facing an imminent military threat, could not be accommodated despite the historic analogies that I have raised in World War II, the Persian Gulf, World War I, all of which required deficit spending in advance of a declaration of war.

I am told by my friend, the Senator from Utah, that the cold war is evidence that my analogies are not sufficient because we could have used this as an excuse throughout the cold war for deficit spending unless we have agreement. In 1962, with a nation only hours away, during the worst of the cold war, during the Cuban military crisis, John Kennedy mobilized the American Armed Forces. The United States was in deficit. It was also facing an imminent threat of war. In the Berlin crisis, in succeeding crises of the cold war, the President of the United States and our military leadership needed the ability to respond immediately. The vision of the amendment of the Senator from Utah is that upon a declaration of war and a three-fifths vote we will then respond and defend the national interest. It is good. It is a good amendment. It does not approach the historic standards of the U.S. Constitution.

Finally, we are told the country has the means and the ability to respond to the vagaries of the business cycle without the need or the ability to borrow.

History teaches us a different result. This Nation has learned a painful lesson from a historic perspective when capitalism fails or goes through intense difficulties. The debate in Europe and in the United States in the 1930's was often between those who believed that the future belonged to fascism and those who believed it belonged to communism, democratic communism or fascism. Democratic capitalism, to many, was an anachronism that had failed in the depths of the Depression. Capitalism was saved by the easing of the business cycle. We learned how in times of high unemployment and deep recession to prevent the national economy from victimizing our own people. The triumph of capitalism, as certainly as it was earned on the battlefields and through ideological struggle, was also earned by our learning how to deal with the difficulties of recession, the pain of depression, by using the fiscal and budgetary powers of the U.S. Government to care for the Nation in times of real need.

The Senator from Utah says his amendment is good enough; we can have a vote to ease its restrictions. Good is not good enough. The level of perfection required to amend the Constitution of the United States requires more. These are not theoretical problems, not in another century, not even in a different generation. Each of them has been experienced in our own time—dealing with the problems of recession, the regular and serious problems of international conflict, and the deterioration of national investment.

I stand here prepared to vote to change the Constitution of the United States. It is something that I believe requires an extraordinary burden of proof. Anyone attempting to change this document must bear a higher burden than in any other Chamber and undertaking any other legislative goal because the Constitution of the United States has no peer. I am prepared to recognize that this burden would be met given the mounting problems of debt in this Nation and the need to restore some permanent fiscal responsibility, but it cannot be met unless these questions are answered.

Constitutions are not written for any one time. Laws are written for our time. Constitutions are written for all time. I need the Senator from Utah to explain to me how a generation unborn, in circumstances unforeseen, will deal with renewed military hostilities, deep recessions, with the problem of international economic competitiveness in the face of declining national investment. I offer my vote for change, will accept that this burden of proof has been met and will otherwise change a document which I believe in only the rarest of instances we ever meet the burden of change—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TORRICELLI. But that requires enactment of this amendment and answers to these questions.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wyoming has 3 minutes.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mrs. BOXER. Mr. President, if I might ask unanimous consent just to set aside the pending amendment and offer an amendment and lay that aside. I have been told by the floor staff that would expedite matters.

The PRESIDING OFFICER. The Senator from Wyoming was recognized.

Mr. ENZI. I assume that that will not come out of my time, if that were to happen.

Mrs. BOXER. That is correct.

Mr. ENZI. We are running out of time. I am sure that will not happen in my time.

The PRESIDING OFFICER. The Senator's time will not be charged for unanimous consent.

Is there objection? Without objection, it is so ordered.

Mrs. BOXER. I thank my colleague so very much.

AMENDMENT NO. 16

(Purpose: To provide Federal assistance to supplement State and local efforts to alleviate the damage, loss, hardship and suffering caused by disasters or emergencies by exempting spending that is designated emergency requirements by both the President and the Congress.)

Mrs. BOXER. I ask unanimous consent to set aside the pending amendment, and I send an amendment to the desk, and I ask unanimous consent that it be set aside for debate at a later time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 16:

At the end of Section 5, add the following: "The provisions of this article may be waived for any fiscal year in which there is a declaration made by the President (and a designation by the Congress) that a major disaster or emergency exists, adopted by a majority vote in each House of those present and voting."

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I thank the Senator from New Jersey for his comments, his answers, and his passion. We share that passion for this country. I am pleased to be in the entering class with him.

I appreciate the approach that he has taken was not set on a course to scare anybody but to get something done, and I really appreciate that. I am appreciative also of the talk that we are having here on this floor about good accounting systems. That is of the utmost necessity for our country and for us.

The reason it is important for us is to know exactly where we are. I pledge I will work with the Senator from New Jersey to get those kinds of accounting procedures so that we can do the kinds of things we need to do for this United States and do it within the constraints of a balanced budget so we are not continuing to pass on things to our kids and our grandkids.

I will remind everybody that we cannot go into a capital budget situation without the clarification that we are not just creating another loophole. When I was in the legislature, one of the biggest frustrations I had was that we would propose the bill, and I knew there were people listening to that proposition who were already designing loopholes in the bill, ways to get around what we were doing and not sharing with us the ways to get around what we were trying to do. That is what we have to overcome, with the immense responsibility that we have in amending the Constitution.

I think the original amendment has that capability. I think it is important that we vote for the original amendment, not the substitute, but that under any circumstance we do have a balanced budget constitutional amendment that will preserve this country

for ourselves, our kids, and our grandkids, and make sure that we are taking care of our parents and our grandparents.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Does the Senator from Wyoming yield back the remainder of his time? He has 27 seconds.

Mr. ENZI. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 37, nays 63, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—37

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

NAYS—63

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

The amendment (No. 15) was rejected.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, under the previous order, I was to be recognized to offer an amendment.

AMENDMENT NO. 17

(Purpose: To propose a substitute amendment)

Mr. DORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. DORGAN. It is in the nature of a substitute.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] for himself, Mr. DASCHLE, Mr. FORD, Mr.

REID, Mr. HOLLINGS, Mrs. FEINSTEIN, Mr. WYDEN, Ms. LANDRIEU, and Mr. JOHNSON, proposes an amendment numbered 17.

Mr. DORGAN. Mr. President, I ask unanimous consent that the amendment be considered as read.

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

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

“ARTICLE—

“SECTION 1. 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 for a specific excess of outlays over receipts by a rollcall vote.

“SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

“SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

“SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

“SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

“SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

“SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal. 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.

“SECTION 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.”

Mr. DORGAN. Mr. President, I offer this amendment on behalf of myself, Mr. DASCHLE, Mr. FORD, Mr. REID, Mr. HOLLINGS, Mrs. FEINSTEIN, Mr. WYDEN, Ms. LANDRIEU, and Mr. JOHNSON.

Mr. President, I would like, as I offer this amendment, to describe it and begin at the beginning. I know that this issue has been debated again and again, and yet it seems to me it is probably appropriate now to describe what this is and what it is not.

Mr. President, I offer a substitute constitutional amendment. This substitute is essentially the same as the amendment offered by Senator HATCH, amended, if it would have been amended, by the amendment offered by Senator REID. Senator REID offered a perfecting amendment. It failed. So I am offering a substitute constitutional amendment to balance the budget.

Mr. President, the stack of books that has resided on that desk for some long time now is apparently designed to illustrate a number of budgets that have not been in balance. There is no one in this Chamber, I believe, who stands on the floor of the Senate trying to make a case for unbalanced budgets. I have known no one who stands up and says, “I’ve come from my office to the floor of the Senate to put in a few good words about the deficit,” or, “I come to the floor to be a champion of Federal debt.” I know of no one who says that, no one who believes that, and no one who comes and argues that on the floor of the Senate.

There is not a difference, it seems to me, about the will or the interest of Members of the Senate to see a balanced budget. This Government ought to spend within its means. It ought not keep charging consumption today to our children and grandchildren. We ought not continue to add to the Federal debt. We ought to have some fiscal policy that is in balance.

But this is not about balancing the budget. This debate is about altering the Constitution of the United States. We can alter the Constitution of the United States at 3 o’clock—that is 1 minute from now—and at 1 minute after 3, there will not have been one cent difference in the Federal debt or Federal budget deficits.

So it is about altering the Constitution. How do we do that? Should we do that? We have some people who come to this floor wanting to alter this Constitution at the drop of a hat. Some people think the Constitution is a rough draft and they have better ideas.

Last year we had three proposals to alter the Constitution offered in 1 month here in the U.S. Senate—three. We have had about 2,000 or 3,000 proposals to alter the Constitution since it was written. I do not peer around the Senate—and I do not mean this to sound disrespectful of the wonderful people I serve with—but I do not really see Madison and Mason and Franklin and George Washington. Thomas Jefferson was not at the constitutional convention. He was in Europe at the time, but he contributed greatly to the Bill of Rights and especially the first amendment. It is hard to recognize the folks here and compare them to those who wrote the Constitution. But we sure have a lot of folks who want to alter the Constitution.

Last evening I was at the National Archives, and I got to take a look at Thomas Jefferson’s original draft of the Declaration of Independence, written, I think, when he was 33 years old.

I got a chance to take a look at the Senate markup of the Bill of Rights. It is really quite remarkable when you see the documents that represent the framework of our democracy, the system of Government, created in a Constitution of the United States by some wonderful people.

Included in the Constitution is a procedure by which we can change it.

Mr. HATCH. Will the Senator yield?

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

UNANIMOUS CONSENT AGREEMENTS

Mr. HATCH. I appreciate the courtesy of the Senator.

I ask unanimous consent that when the Senate resumes Senate Joint Resolution 1 on Thursday at 11 a.m., Senator GRAHAM of Florida be recognized to offer his amendment regarding public debt; I further ask unanimous consent that there be 90 minutes for debate equally divided in the usual form, and following the expiration or yielding back of time, the Senate proceed to a vote on or in relation to the Graham amendment.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. HATCH. I ask unanimous consent that immediately following the vote on the Dorgan amendment today, the Senate resume consideration of Senator BOXER’s amendment No. 16 relating to a disaster exemption, and the amendment be limited to 30 minutes of debate equally divided in the usual form, with a vote occurring on or in relation to the Boxer amendment at the expiration or yielding back of any debate time.

I further ask unanimous consent that on Thursday, immediately following the disposition of the Graham amendment, the Senate resume consideration of Senator FEINGOLD’s amendment No. 13 under a 30-minute debate limitation equally divided in the usual form, and following that debate, the Senate resume debate on Senator FEINGOLD’s amendment No. 14 under a 40-minute time limitation equally divided, after which both Feingold amendments will be temporarily set aside, and the Senate will then begin 2 hours of debate equally divided on the Kennedy amendment No. 10.

I finally ask unanimous consent that immediately following the expiration or yielding back of that debate time, the Senate proceed to a vote on or in relation to the Kennedy amendment No. 10, to be followed by 1 minute equally divided for debate, then a vote on or in relation to the Feingold amendment No. 13, to be followed by 1 minute equally divided for debate, and a vote on or in relation to the Feingold amendment No. 14.

I further ask unanimous consent that following those votes, the Senate begin 2 hours of debate equally divided on the Bumpers amendment No. 12, with a vote occurring on or in relation to the Bumpers amendment at the expiration or yielding back of time.

Mr. LEAHY. We do not object.

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

Mr. LEAHY. Madam President, I yield to the Senator from North Dakota.

AMENDMENT NO. 17

Mr. DORGAN. Madam President, I was in the process before the unanimous-consent requests of just trying to describe exactly where we are and what we are doing here. I was talking about the Constitution of the United States. I pointed out that there is a process in the Constitution of the United States that describes how we can change the Constitution. And we have, in fact, changed it from time to time.

I was not around, but I recall that we changed it and put something called the 18th amendment in the Constitution. That had to do with outlawing drinking; it was called prohibition. And then if you go to the 21st amendment to the Constitution, it says the 18th amendment to the Constitution is hereby repealed. That is a short, little amendment. That is the 21st amendment to the Constitution. I guess because at that point the American people felt we made a mistake on the 18th amendment, so the Framers of the Constitution not only provided a method by which we could change the Constitution but also described how we might correct a mistake. It is far better, however, not to make a mistake when you are changing the Constitution of the United States. There is a right way to do it and a wrong way to do it. This is not a debate so much about whether we should balance the budget. We should, and some of us have cast tough votes to reduce the budget deficit by 60 percent. Some have not cast those tough votes. Some have just bellowed on the floor of the Senate, thumbing their suspenders and going out and puffing on their cigars and ranting to anybody who listens, how much they oppose the deficit. But would they vote to reduce the deficit? No, it was "count them out." They just wanted to talk about it.

Some of us have cast hard and tough votes and paid a price to reduce the budget deficit. The only way you can reduce the budget deficit is individual votes on taxing and spending issues. You can change the Constitution until you are purple, and it will not alter the budget deficit or the Federal debt.

Shall we, however, change the Constitution? I say that yes, there are circumstances under which I will support that, and I have supported amending the Constitution dealing with fiscal policy, because I think there is merit—especially after the last decade and a half—there is merit in suggesting that the fiscal discipline that would come from requiring a balanced budget in the Constitution would be worthy and worthwhile. So then the question is, if a suggestion to alter the Constitution to require a balanced budget has merit, how do you alter the Constitution to do that? That is the question today.

I have said before, and the Senator from Utah will not find it surprising,

that I think this amendment is terribly flawed with respect to the Social Security surpluses that it will use to claim it has balanced the budget.

Madam President, when Abe Lincoln and Stephen Douglas were involved in their famous debates, I was reading at one point that Abe Lincoln was enormously frustrated with Douglas because he could not get Douglas to understand his point. He just could not get it through. Finally, he said to Douglas, "Listen, tell me, how many legs does a horse have?" Mr. Douglas said, "Why, four of course." Lincoln said, "Yes, and now if you call a horse's tail a leg, then how many legs will the horse have?" And Douglas said, "Why, five." And Lincoln said, "You see, that is where you are wrong. Simply calling a tail a leg does not make it a leg at all."

That is what we have here. We have a tail called a leg. They say if we pass this constitutional amendment to balance the budget, the budget will be balanced. But a ninth grader with elementary math will have known the budget is not balanced because, guess what? This will enshrine in the Constitution a practice of using \$1 trillion and more of Social Security trust funds, and in the year in which they claim the budget is balanced, that neon debt clock that ratchets up the Federal debt so we can all see where it is going, that debt clock will keep going, because the very year in which the budget is supposedly balanced the Federal debt will increase by \$130 billion. The year in which the Federal deficit that is supposed to have been in balance, eliminate the deficit, 2002, the year in which those who support this will claim they have eliminated the Federal deficit, they will have to increase the Federal debt limit by \$130 billion.

I have asked why, I guess for 2 weeks now, and no one will be able to answer: Why is the Federal debt continuing to increase at a time when they claim they balance the budget? Because they will have locked in the Constitution a process that allows them to use tens and tens of billions of dollars that are needed elsewhere, that are taken from workers out of paychecks to put in a trust fund to be saved for the future. They are able to use that money over here to claim they balanced the budget even as the Federal debt continues to increase. That is the weakness and the fatal flaw of this proposal. That is why this is not a balanced budget proposal. That is why this is masquerading as a leg, when, in fact, it is not a leg at all.

Now, I want to go back to the beginning, and I know that for some this is probably a debate that provides wonderful sleep medicine. It is so filled with complexity and dates and positions and laws. But I want to go back to the beginning, in 1983. In 1983, there were no Social Security surpluses. The Social Security system was taking in almost as much as it was spending out. But we knew that, in the long term, there was going to be a real problem

because we knew of the baby boom—the largest baby crop in the history of our country. These folks would eventually find their way through the work system and go onto the retirement rolls, and we knew that at some time we would have a problem.

In 1983, the Greenspan commission convened and said, all right, Republicans and Democrats and outsiders and insiders working, here is a menu or a strategy by which we are going to respond to this problem in our country, where in the future we have the largest baby group retire, supported by the smallest working group, and we have a demographic time bomb and a problem. Here is the recipe by which we address it. That recipe included a lot of things. It included increasing the retirement age, beginning after the turn of the century, to age 67. That extends out some long while before it finally happens, but it goes to 67, the new retirement age. That was done in 1983. A series of benefits were cut from the Social Security system in 1983. In addition to that, Social Security payroll taxes were increased for workers and for employers in 1983 and beyond. And the point and purpose was that the Social Security system would accrue a surplus, year by year, to be used later when it is needed.

I would like to just show my colleagues some of these surpluses that are going to exist. This chart shows what is happening to the Social Security trust fund. The Social Security trust fund isn't contributing a penny to the Federal deficit. In fact, the taxes taken out of the workers' paychecks and the taxes coming in from business, which are being paid for the purpose of keeping the Social Security system solvent, are in this year \$78 billion more than is necessary to be spent in Social Security—just this year, \$78 billion more. But you will see from the chart, every year from 1996 on up to the year 2010—and the surplus goes on out to 2019—surpluses every single year. This program doesn't contribute a penny to the Federal budget deficit, not a penny. It is taking in far more than it is using, at this point, every single year. This year, \$78 billion more than is spent—just in this year alone—is taken in and put into the Social Security trust fund.

Now, I don't think those facts are in dispute. At least I have not heard anybody come to contest them. These are numbers from the Social Security Administration. I think the Congressional Budget Office reaffirms these numbers. Nobody is contesting that. So if these surpluses exist, why do they exist? Why are workers paying more than is needed to run the Social Security system today? Because the plan was to save it for the future when they and their children will need it.

What happens under this constitutional amendment to balance the budget? Under the majority's proposal, this money is not part of a savings account, in a trust fund. This money becomes

part of all the other money in the system. This money is no different than a dollar of income tax. It is no different than any other dollar of revenue the Federal Government has and is used as an offset against all other spending.

In 1983, I was on the House Ways and Means Committee and we largely accepted the Greenspan commission's report. That report included a whole series of steps to respond to the Social Security problem that we faced. In 1983, when the Ways and Means Committee considered this legislation, I offered an amendment and I had thought the amendment was defeated. I said that on the floor, and I was wrong. I looked it up. The amendment actually passed in the Ways and Means Committee of the House of Representatives. It was dropped out in conference with the Senate. That was before I served in the Senate, and I spoke less well of the Senate at that point. But the amendment I offered in the Ways and Means Committee was approved, and it got through the House. I want to describe the amendment, just to say that I am not on this floor as a Johnny-come-lately on this issue.

Fourteen years ago, in 1983, when we debated the Social Security reform package in the Ways and Means Committee, which was the committee of jurisdiction—that is where it all originated, and I was a member of the committee—I offered an amendment on March 1. My amendment was exactly what I am talking about here, in 1997, in the U.S. Senate, to take the Social Security system and its trust funds and the surpluses it is going to have out of the unified budget so that its money cannot be used for every other purpose in Government that some would want to use it for—take it out, separate it, make Social Security whole and make decisions about Social Security, both on spending and taxing, on the basis of whether you are going to make the Social Security System solvent. Don't make Social Security decisions on the basis of whether you want to fund the star wars program, or whether you want to fund some other program in some other agency. Make decisions about Social Security and its future based upon the merits of Social Security solvency. On March 1, 1983, I offered an amendment. The amendment would have removed the Social Security system from the unified budget effective October 1, 1988. I gave it a 5-year phase-in, so it could be removed completely in 1988. I made a statement. I will not make it today, but it is essentially what I have been saying ever since. There is a tendency for everyone to want to use those funds for purposes other than solvency of the Social Security system.

Now, when I offered that amendment, in 1983, I was supported, among others, by Congressman ARCHER, who now happens to be chairman of the House Ways and Means Committee. Congressman ARCHER made the point in 1983 that "if the Social Security funds are per-

mitted to be used in the unified budget, it will distort all of the spending and permit massive deficit spending out of the general fund." And so Congressman ARCHER supported me—a Republican, now head of the Ways and Means Committee, supported me. Congressman Gradison supported me, also a Republican on the Ways and Means Committee.

The point is, in 1983, we started down the road of doing the right thing with my amendment, and then it got thwarted. Here we are, 14 years later, building substantial surpluses in the system that we need when the baby boomers retire. This constitutional amendment—yes, every President, including this President, and every Congress, including this Congress, has used the money the same way. It is wrong. The budget deficit, last year, was not \$107 billion, as advertised by the CBO; it was \$107 billion plus the \$70 billion they used of Social Security funds. The same was true back when it was a Federal deficit of nearly \$300 billion. It was more than that, because then they were using the Social Security funds as well.

My point is, the proposal in the Senate will enshrine in the Constitution a practice that is fundamentally wrong. It says, take all these Social Security trust funds—one of the few sober things done in the 1980's, to save for the future—and just throw them in with other revenue and balance it out and measure it. If you come to zero, that is fine. But it is not fine, because nobody can answer the question I have asked: When you say you have come to zero, why does the Federal debt continue to increase? Why, in the year in which you claim you balance the budget, does the debt increase \$130 billion? Because you are not truly saving in the Social Security trust funds. That is the point of the substitute amendment I offer.

If we had done the right thing 14 years ago, in 1983, we would not even be discussing this. Well, we might. My fear back then was the tendency for those who want to get their mitts on this and use it for another purpose.

But I can't think of one Member of Congress who would come to the floor and say: I have a plan. Here is my plan. I think it is going to be really politically popular. My plan is to tell workers and their employers that we want to have them contribute to Social Security, and then take some taxes from them and call it the Social Security tax, promise them to put it in a trust fund, promise that we are going to dedicate it for one purpose, and that it will be available when it is needed in the future. And then the second part of my plan is more intriguing. The second part of the plan is that, once we get it, then ignore all the promises and throw it in a pot with all the rest of the money and use it to add up the revenue so you can say you have balanced the budget.

I would like to know of one man or woman serving in the House or Senate

who is willing to stand up and wave their handkerchief and say, "Count me in, sign me up to that, let me do that right now." Is there one? Is there one Senator? I do not think so. Yet, if you vote for this constitutional amendment, that is exactly the proposition you support, exactly. There isn't any way to argue it another way.

You can argue that pigs fly and shrimp whistle and that this piece of paper is purple and that grass is black. You can argue it in whatever way you like. But when the day is done, what you have described, under the constitutional amendment offered by the majority, is that you believe it is OK to take dedicated trust funds to the tune of over \$1 trillion and mix them up with other revenues so that you can claim you have balanced the budget.

What I offer is a substitute constitutional amendment that includes the Reid provision which, if passed, would prevent that very thing from happening. It would say that, if we are going to balance the budget, we should do it honestly. Let's do it honestly. It would say that at the end of the day when you have balanced the budget, the debt clock will not still be increasing, the debt clock will be a stopwatch, and there will be no increase in the Federal debt. Maybe we will start seeing a paydown or a drawdown on the debt. Wouldn't that be a nice thing to see happen? The proposal that is on the floor of the Senate by the majority would enshrine in the Constitution this practice which I have described. My substitute constitutional amendment would prevent that very practice. That is a pretty stark difference. Those who want a constitutional amendment, those who want a balanced budget, if they will support my substitute—I think we will have 70 to 75 votes this afternoon—we will have a constitutional amendment to balance the budget, and we will have done it the right way and we will not have misused the Social Security trust funds.

We have a law. I know Senator HOLLINGS has been over to the floor. Long after 1983 when I did what I did in the House Ways and Means Committee successfully, but then it was dropped in conference, Senator HOLLINGS in 1990 wrote a law that requires the Social Security System to be treated as off budget and not part of the unified budget. That is now the law, section 13301 of the Budget Enforcement Act. Senator HOLLINGS has talked about it a number of times. That existing law will effectively be nullified by this constitutional amendment. Senator HOLLINGS makes that point. There is no one in this Chamber who has said Senator HOLLINGS is wrong because they can't say he is wrong. This constitutional amendment will nullify Senator HOLLINGS' law. And it will enshrine in the Constitution a practice that I think is fundamentally wrong.

I said last year that we have three different arguments, and it is hard for me to reconcile them. I try to keep them straight.

There is one group who stands up and says, "What are you talking about, the Social Security trust fund? Don't you know there is no trust fund? There is no Social Security trust fund."

Then we have the second position. These are the three stages of denial. The second position is, "Yes, there is a trust fund, but we insist we are not misusing it."

The third position is, "There is a trust fund. We are misusing it, and we pledge to stop doing so in the year 2008." That was the third thing I was told on the Senate floor in the 1995 debate.

So those are the three stages of denial as best I am able to interpret them.

I don't know what people think when they hear this debate about this issue because it is so intriguing to see all of this maneuvering and movement. This is not rocket science. It is important. It is critically important. But it is not rocket science to understand that you have a certain amount of money, a certain amount of expenditure, and a certain money dedicated for a certain thing. So you have money left. Either it matches or it doesn't. Let's say that we take the amount of money dedicated for something else and bring it over here and claim it is all matched up. It doesn't take sophisticated mathematics to understand the bankruptcy of that. That is why you end up, when they say they have balanced the budget, with \$130 billion in increased debt.

The Congressional Research Service has reviewed this matter several times. I am amused actually by the folks who came rushing to the floor of the Senate with six dozen different interpretations of the Congressional Research Service missive on this issue.

But the Congressional Research Service has concluded something interesting. What they have concluded is that, under the majority's proposed balanced budget amendment, if you save this money to be used for the future, you can't spend it in the future, according to the Congressional Research Service, unless when you decide to spend it you have a corresponding tax increase or a corresponding budget cut somewhere else. You are simply, with this amendment that they are offering, prevented from spending the savings that you have accrued.

That will be interesting—when somebody shows up for their Christmas Club savings account or to cash in their bonds someplace and the bank says, "Well, the only way you can take your savings out is if you cough up a like amount yourself," people would look at them like they have been drinking all afternoon.

That is exactly what the Congressional Research Service says is required by enshrining this practice in the Constitution: save money for a specific purpose and then later call on that money to be used, what are you required to do? Raise taxes in order to use it. That is not much of a bargain,

in my judgment. That is what the Congressional Research Service says. We had people knocking each other down at the door over here trying to get through the door waving several iterations of the Congressional Research Service memos, all of which said the same thing with different language.

So they all had a chance to wrap it around on the floor, wave it, create a bunch of wind with it, and all of them said exactly the same thing. There isn't any way, with the proposal that we have before the Senate, where you can use the savings that we have promised people we would use for Social Security unless it is timely to do it. You either cut other spending or raise other taxes to do so.

There are other points that I wanted to make. But I am going to at this point conclude my remarks—there are others who want to speak on this issue—by saying this:

There have been a lot of polls cited about this issue on the floor of the Senate. Frankly, I think there are too many polls in our country, and there are too many pollsters in our country. I wish people would stop polling and stop worrying what the pollsters are telling us and do what is in their guts, but do what they think is right, do what the message somewhere between the brain and the pit of the stomach tells them is right to themselves and to their constituents of the country. I am a little tired of hearing about this poll or that poll, this cross tab and that cross tab. Yes, the polls will show that the American people want a balanced budget, that they support a constitutional amendment to balance the budget, and, yes, polls will show, if you ask them the question: "Should you enshrine in the Constitution the issue of Social Security trust fund?" those same people will say, "No; absolutely not." Seventy to seventy-five percent will say that is fundamentally wrong.

So you can find polls every way from Sunday to support every position on the floor of the Senate. The only thing that matters to the American people, in my judgment, is, are we going to make the decision to honestly balance this budget? If one of those decisions is to alter the U.S. Constitution to require more fiscal discipline, I will participate in doing so and I will vote for it. But I will not in any event vote for a proposition that alters the Constitution that will in my judgment require us to come back just as we did on the 21st amendment and repeal it because it is a dishonest budgeting practice—yes, practiced by both political parties. It is dishonest, in my judgment. It takes from those who are now paying taxes under the pretense of savings for the future when they are going to need it, and it says to them, "We will give you an IOU instead" that we are not going to be able to pay because we are going to use the money now. That engages in a practice of let us pretend that we have balanced the budget even as we increased the debt.

When this is an honest proposal, and a proposal as I offered as a substitute that is an honest proposal that will not allow that budget practice to occur, then we will alter the Constitution. If my friends in this Chamber who are anxious to alter the Constitution will join us in doing it the right way, they will have this afternoon 70 to 75 votes for doing it and they will be able to celebrate an achievement that is significant. If not, they may not be able to alter the Constitution because there are some of us who refuse to support something that is as flawed as that which is being proposed on the floor of the Senate today.

I yield the floor. I reserve the remainder of my time.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I have appreciated the history lesson in preserving the Social Security system. I wish that the history lesson included a much better ending than where the Senator ended. I wish that the Senator's amendment included an ending for where we are going. The Senator's chart goes out to the year 2010. I think he could have carried it out to the year 2019 and had a pretty good-looking chart. It starts to curve off the other end if you get past 2010. So he is showing the best of the best, the best times for building up money that should be in a reserve for Social Security. He is leaving off the time that it starts to taper off. And the Senator is leaving off the real lie of a substitute amendment that says take Social Security off budget. The Senator is leaving out the part where we have to pay in for my generation to draw the money out. The Senator is talking about a short-term solution rather than a longer term solution. We have to have a long-term solution.

I appreciate the efforts the Senator went to when he was in the House. We have to have a long-term solution for that. And we have to do it through enabling legislation so that it doesn't just cover from now till the best of times but covers from now till the best of times through the worst of times. We need to have an accounting system for Social Security that is honest with our seniors.

One of the things I have been doing through this debate is to mention that we are not even talking about what the true cost is out there of making this system actuarially sound, of putting the same kind of requirement on this retirement fund that we have forced on every business retirement fund in this country, one that includes annual audits to make sure that we are not lying with those business pensions the way we are lying with Social Security.

We tell the businesses of this country that they are going to take their pension funds and they are going to contribute to those pension funds to the extent that the money will be there at the time that the person retires so that

they will have an annuity that lasts through the rest of their lifetime. There is a variety of them. Some of them have COLA's with them, some of them do not have COLA's with them. But there is an honest attempt by the Senate and the U.S. Government to force them to have money on hand, true money on hand, true trust funds that will pay those people through the time they expect to be paid. Then we turn around and we say, well, that is not the requirement for us. The Senator is trying to go to that in the amendment, but he does not get all the way. He only gets through the good times and we do not talk about the future times.

Mr. DORGAN. If the Senator will yield for a question, I would be happy to share the time with him on this.

Mr. ENZI. As long as it does not come out of my time.

Mr. DORGAN. I will be happy to ask the question and have the response come out of my time.

This is a chart that shows what happens to Social Security through 2035. The Senator is correct: at 2029, you run out of money; there is nothing left in the trust fund. And the purpose of this saving, incidentally, is so that you have an amount of money to cover the deficits, at least between 2019 and 2029. There are going to have to be deficits beyond 2019, no question. But with this constitutional amendment, if you do not have this money available, what you have done is you have shortened the life of the Social Security trust fund by 10 years—10 years, and that is the problem. Current law provides that the trust fund will go broke in 2029 or thereabouts. But this constitutional amendment that is on the floor would in effect make the trust fund go broke 10 years earlier, unless the Government raises taxes or cuts spending to fund the deficits between 2019 and 2029. So the question of the responsibility here on the side of saving to meet the future, the constitutional amendment that the Senator supports does precisely the opposite, and that is the point I was trying to make.

I appreciate the Senator yielding.

Mr. ENZI. Madam President, the constitutional amendment that I support recognizes the red that is out there on the end as well as the green and recognizes a need to stop doing to Social Security what that huge green there shows at the present time. I am saying that we need to start recognizing Social Security honestly, not calling it off budget so we can force things into Social Security in future years by merely naming them "Social Security" and not having to account for them in the deficit—to recognize them honestly.

Our seniors think that there is a trust fund out there, that there is money out there that will continue to fund them. I am always fascinated when I see the articles which suggest that we should privatize Social Security. If we tried to privatize it, we

would recognize that it does not have the money there; that the money is not there to be able to do it because we have this system of taking the money that is paid in now and spending it at the moment that it is paid in, with a piddly surplus. And when you look at the future of Social Security, that little green line there is not a big surplus. It is \$1.3 trillion, but that is not a big surplus. The actuarial liability on the Social Security system is \$9.2 trillion.

This is money that people expect to be there. We are giving the impression that it is there. This balanced budget constitutional amendment is not a constitutional amendment just for the next few years. It is a balanced budget constitutional amendment hopefully for the rest of the history of the United States, and it will require us to have good accounting.

As an accountant, I have been fascinated with all of the debate that we have had in this process to talk about things that we should be doing as a nation. This is the place we have to start, not by scaring our seniors but by answering our seniors, not by scaring our seniors but by setting up a system where they understand the system and where it is and help us to force the kind of accounting, the kind of disclosure that will help to assure that that money will be there, not just for the ones on the system now but for you and me and the generations to come.

I have explained before that the kids in this country, if you ask them if they are going to get Social Security, will agree that they are more likely to see an unidentified flying object, than to see \$1 of their Social Security money.

They already believe they are not going to get this money, and they are paying 7.45 percent of their paycheck, every time they get one, into Social Security. And that is being matched by their employer for another 7.45 percent. That is almost 15 percent. That would be one tidy pension fund if it were truly a pension fund.

I keep asking, if we do not have good accounting for this, beyond the year 2010, not just for the present time, will not that next generation cause a revolution in this country if they are paying, and there are estimates that they will be paying 84 percent of their wages in taxes—that includes their Social Security taxes, 84 percent of their taxes, and at a point that will only be going to pay interest on the national debt. It will not build another road that we have been talking about in capital budgeting. It will not add to the defense of this country that we have been talking about. It will not provide anything for education that we have been talking about. It will pay interest on the national debt.

Now, if you and I were paying all of our taxes, and they are not nearly as high as what we are talking about those kids paying, if we were paying all of that and it was only paying interest on the national debt, what would we do? We would say we paid into that

fund. How come we are not going to get it? Is anybody entitled to it? I am afraid there could be a revolutionary generation there. They may do it calmly and precisely by joining this body and the one down there and the Presidency and taking that away because they will be paying taxes that they have never see. That is what they already believe.

If we move Social Security off budget, if we quit having to account for it as part of the deficit—we can add more stringent requirements to the balanced budget constitutional amendment that is before us, we can add more stringent requirements to that to recognize what has been said here, and it can be done through a normal statute, the enabling act, for instance. We can put the enabling legislation in it that will take care of recognizing the surplus spending we are having now and the huge deficits we are going to have in the future.

I remember not too long ago sitting in on the President's State of the Union Message, and I was kind of surprised when he got to page 2, about halfway down the page, after he had said all the things about how we needed to be bipartisan and how we needed to balance the budget and we did not need a balanced budget constitutional amendment to do that; we just needed action, and then a couple of days later, making use of the extra time that he was given by this body and the one across the hall, he presented a budget. And was it balanced? No, it was not balanced. Did it do with Social Security what the Senator is talking about doing? No, it did not do it.

Do we need other constraints to make sure that there is good accounting for Social Security? To make absolutely sure, as all of us want to do, that there is Social Security there? No, it did not recognize that surplus from Social Security in such a way as to preserve it as a surplus.

I have said before that, individually, we all promise a balanced budget; collectively we just don't seem to be able to get there. We have to do that, for our kids and our grandkids.

And we cannot ignore the seniors in 2019. On behalf of the seniors, we do need to recognize the debt, we do need to recognize what is happening now and into the future. And we are only going to do that by legislation forced on us by a balanced budget constitutional amendment and one that goes further than what is being done here. I join in protecting Social Security, as would all the other Senators, but not through one that only solves half the problem.

I reserve the remainder of my time.

Mr. DORGAN. Madam President, I appreciate the opportunity to serve with the distinguished Senator from Wyoming. I appreciated his statement. I obviously disagree strongly with his contention that doing what he proposes to do will in any way strengthen Social Security. It will do exactly the opposite. In fact, the surpluses that we are

desiring to save are not going to be there and that is precisely my point. Let us balance the budget, but let us also do what we need to do to make sure the surpluses are to be saved for the future.

I ask my friend from Wyoming, it is probably unfair for me to ask him this, but if he is able to answer the question: Why, at a time when we have a balanced budget, presumably, by the constitutional amendment and by the mandate, in 2002, why the Federal debt will continue to increase? Is that not because the trust funds are used to show a balanced budget?

Mr. ENZI. Madam President, the reason that debt has to increase is a requirement that we be honest with those seniors. That is being honest. That is the utilization of those funds, which are a trust fund, which are an intergovernmental transfer that has to be recognized as a part of the Federal debt under the accounting system that we use. It is not an adequate accounting system to show where the money has gone.

Mr. DORGAN. If we are going to be honest with senior citizens and take the money out of the trust fund and claim you take the money over here but the Federal deficit keeps growing, isn't the purpose of limiting the Federal deficit to discontinue the building of additional debt? The whole purpose here, in my judgment, is to stop burdening the shoulders of our kids and grandkids with more debt. If we claim to balance the budget at the very time the debt keeps increasing, what have we added onto our children's shoulders? Shouldn't we, and if we should, won't you join us—shouldn't we decide we want to do two things: Balance the budget and stop the Federal debt from increasing? Are those not two goals we ought to aspire to? And if we are going to require discipline in the Constitution, shouldn't we aspire to acquire that discipline rather than say we balanced the budget even as the Federal debt keeps increasing?

I am not asking the Senator to respond for everybody on his side of the aisle, but I continue to ask the question, and will this week, because I think the Senator from Nevada and I have proposed something that will respond to both issues. Let us balance the budget and let us do so in a way that does not have the Federal debt continue to increase, even after those who claim they have balanced the budget have finished the job, according to them.

Mr. REID. Will my friend yield to the Senator from Nevada, 10 minutes?

Mr. DORGAN. I will be happy to yield to the Senator from Nevada 10 minutes and appreciate the response of the Senator from Wyoming. We obviously disagree on this, but I hope, as we move through this, maybe we will all understand. I am going to vote for my substitute, as is the Senator from Nevada. I will support a constitutional amendment, the right one and the one

that both discontinues deficits and discontinues the growth in Federal debt.

I will be happy to yield 10 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, I saw my friend this afternoon offer the amendment, my friend from North Dakota. I wanted to come to the floor for a couple of reasons. One is to express my personal appreciation for the determination and the expertise he has lent to this argument over these last several years. The Senator from North Dakota has a background in finance. He was a State tax commissioner. He served in the other body, the House of Representatives, on the Ways and Means Committee for many Congresses. So he brought that with him when he came here.

I have read with interest the numerous op-ed pieces he has written for newspapers all over this country on this issue, on the matter now before this body. I do not think there is anyone—I can say with certainty—there is no Senate delegation that has the financial expertise that the delegation from North Dakota has. The senior Senator and the junior Senator from North Dakota are people whom I, and many people in this body, look to for guidance when it comes to matters dealing with finances. So I express my appreciation, again publicly, to my friend from North Dakota for what he has done to narrow the issue and to make sure that it is an understandable issue.

Mr. DORGAN. I wonder if the Senator will yield for a moment? I deeply appreciate the compliments. There are probably too many compliments on the floor of the Senate. I suspect there are a lot of people out there who view us all as a bunch of windbags in blue suits. The fact is, people judge us not on what they think we say or do here on the Senate floor but whether the public policy we create improves their lives, whether at the end of the day we advance this country's interests, whether we have helped them find a way to send their kids to a better school, whether we have helped them find a better job, whether kids have an opportunity to breathe clean air and clean water.

Compliments aside, the real task is for us to do the right thing for the future of this country, and that is part of this debate. When you put something in the Constitution, it ought to be right for the future of this country.

Mr. REID. I say to my friend from North Dakota—a couple of things. First of all, the debate that has taken place, and this is what I wanted to add, after my compliment, the debate that has taken place has led to the ability of the American public to understand this issue. Now 75 percent of the American public agrees with us. That is not the way it was, when all this information that was not right was put out in years past. We have been able to put

this issue so the American public understands it.

That is, the amendment we are offering, the amendment that has been offered by my friend from North Dakota, of which I am a sponsor, is what I refer to as the honest balanced budget amendment. I have been struck by the statements made by those proponents of the underlying amendment who come on this floor and say we cannot balance the budget unless we use Social Security moneys. That is my whole point. I do not want to do that. I want to balance the budget in the honest way and that is the right way.

I ask a question to my friend from North Dakota. Why do we refer to this as the honest balanced budget amendment?

Mr. DORGAN. It relates to the question I asked the Senator from Wyoming a few moments ago. With the alternative that is being proposed, the majority party's proposal, we will not achieve both a balanced budget and a freezing of the debt. What we will have is an increase in public debt, building up even as those in the Chamber claim they have balanced the budget.

I come from a very small town, as I have said repeatedly: 300 people. On Main Street on Saturday night everybody would come to downtown. The barber would cut hair until midnight—a wonderful place. You could not take this proposition we are talking about here today to my hometown and take it to the barber shop or the bar and tell people about it and have them say, "Yes, that sounds OK to me." There is not anybody who says this sounds OK. You cannot take money from people's paychecks and say to them this money we are taking is for Social Security and we promise to put it in a dedicated trust fund and we will save it for you, you cannot do that and say: By the way, we have changed our mind. The trust fund doesn't exist, or the trust fund exists and we are now misusing it, or it does exist and we promise to stop misusing it in 15 years. That does not work in a small town where people think through these things a little more rationally than I think is exhibited by some of the debate in Congress.

What we are proposing is to amend the Constitution of the United States the right way, sufficient so that at the end of the day we will require both the budget to be in balance and we will stop the growth of the increase in the Federal debt.

Mr. REID. I would also hope that people would look closely at the vote yesterday on the amendment that I offered to Senate Joint Resolution 1. We got 44 votes with one Senator being ill who is here today. And we will get on this amendment, I assume, a bare minimum 45 votes. I hope there will be some people like JOHN MCCAIN. You really do not have to talk about his courage. I think that has been established. It was established even before he was confined for 6 or 7 years to a prison camp in Vietnam. He is a courageous man. I think part of his courage

was, certainly, apparent yesterday when he decided to vote with us on the amendment that I offered.

The senior Senator from Pennsylvania also voted with us.

I hope that we would get some other courageous people on the other side of the aisle to vote with us. Why? Because the balanced budget debate would be over for all time, because we would have to balance a budget. And it would be hard. We would have to make significant cuts or we would have to phase in and balance the budget, maybe by the year 2008, or maybe even 2010. But when that budget was balanced, I say to my friend from North Dakota, the debt clock would no longer continue to run.

I am willing to do that. If we are going to stop playing games with the American public, then let's balance the budget the right way, the honest way.

I had somebody come to me today and say, "Well, if you want to take the Social Security trust fund, why don't you take the other trust funds?" I told them the same thing I said on this floor yesterday. The Social Security trust fund is where the big bucks are. As Willie Sutton said when they asked him why he robbed banks, he said, "That's where the money is." The other trust funds don't mean anything in the whole scheme of things. But when you have budget surpluses that go into the trillions of dollars, that is the real money, and that is why we have to have a real honest balanced budget amendment. I hope the substitute is one that is adopted.

I read in the paper today that the majority leader had a trick up his sleeve. I hope the trick up his sleeve is they will vote for our amendment. We can have a celebration. I repeat, the celebration would be short-lived, because we would have to come back here, if the House adopts it and the States adopt it, and make some real tough decisions, but we won't be playing games with the American public. We would have a real balanced budget amendment.

Madam President, as I said yesterday, we are talking about small sums of money for millions of people. We don't have millions and billions and trillions of dollars that represent certain interests that want this Senate Joint Resolution 1 passed. We represent small numbers in dollars but large numbers in people. They are concerned about whether or not they are going to continue to be able to get their check of \$700 a month to maintain their dignity. That is why this amendment is so important. We represent the working men and women of this country, not just the seniors, people who want to maintain the Social Security system for the years to come.

Social Security is the finest social program in the history of the world. This substitute will allow this finest social program in the history of the world to continue. I support the amendment that has been offered by

my friend and would certainly ask my friends on the other side of the aisle to support it also.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, in the short time that I have been here, and this is my first year in the Senate, which means I have been here about 6 weeks, this is not even the first time we have debated and voted on this particular issue. We have had it thrown out several different ways, talked about several different ways, but it is always the same thing that we are redoing.

Of course, one of the reasons we do that and one of the reasons we exclude those other trust funds we talked about is that this is where the people are. It isn't this is where the dollars are, because we are talking about deficits in the year 2019, we are talking about people who rely on Social Security. There are people who need it badly, and they scare easily at the thought of losing it, and should. We are right there worrying about it with them, but we can't accept something that is half an answer.

I mentioned that we have voted on this three separate times. I think we talked about it most of the ways that we can, but I want to try and answer some of the questions.

Madam President, the balanced budget amendment does, indeed, require a balanced budget. Outlays must not exceed receipts under section 1 of this resolution. But it is also true that gross debt may still increase, even if the budget is balanced. That is because the Government's exchange of securities for Social Security taxes is counted as gross debt, and we had better count it somewhere. I don't think there is anybody out there who wants us to take those funds and not account for them somehow.

We passed a law that says that those Social Security funds have to be invested in the Federal Government. That is where they are. The way that we account for them is to show them as Government debt. Should we loan them and not show them as Government debt? It is merely an accounting or bookkeeping notation of what one agency of the Government owes another agency. It is analogous to a corporation buying back stocks and debentures. Such stocks and bonds are considered retired obligations that, once paid, have no economic or fiscal significance. Thus, if we enact a balanced budget constitutional amendment, the debt the United States owes to everyone, but itself, will stop growing. It will not stop growing as long as we have the Social Security funds paid out as an investment in the Federal Government.

This type of debt, termed "net debt" or debt held by the public, is legally enforceable, and it better be. But if we don't balance that budget, the funds will not be there to pay this legal debt

when the time for the legal debt comes due. Those bonds that we have in that great storeroom called Social Security, the bonds that have already been loaned to the Federal Government, have to be paid off at the time they come due. We will not be able to do that without a balanced budget.

If the debt zooms because of interest payments of debt, which last year amounted to \$250 billion, budget deficits balloon with all the dire economic consequences, and we have been talking about those economic consequences and the advantages of a balanced budget. To assure that budgets will be balanced, unless extraordinary situations arise, debt held by the public cannot be increased unless there is a three-fifths of the whole number of each House concurring.

That net debt is considered to be a far greater economic significance than the gross debt is a widely held truism among economists. Indeed, in the study "Analytical Perspectives: Budget of the United States Government Fiscal Year 1998," the Clinton administration concludes that net debt, or borrowing from the public, whether by the Treasury or by some other Federal agency, has a significant impact on the economy.

On the other hand, the study also maintains that gross debt, or debt issued to Government accounts, does not have any of the economic effects of borrowing from the public. It is merely an internal transaction between two accounts within the Government itself. We have to account for the debt. We have to account for it honestly, and we have to balance the budget more than past the year 2010. A balanced budget constitutional amendment is for all time until altered by us, and we don't do that on a regular basis. It is extremely tough.

Our forefathers did provide a mechanism for doing it. That is the process we are going through now, and they made it an extremely tough one, with a two-thirds vote and then ratification by three-fourths of the States.

If this balanced budget didn't have so much backing, would there be all of this opposition to having it? In checking, if just the Senators from the States that oppose the balanced budget did not ratify this, there would never be a balanced budget constitutional amendment. But I know from traveling out there that those States are saying we live under a balanced budget constitutional amendment. It works. We don't have to go through all of these other funny little accounting gimmicks to get there. The people know when it is balanced. You don't hear of lawsuits on a regular basis dealing with their balanced budget constitutional amendments. Consequently, they will ratify this if they can get Senators from those States to back a balanced budget constitutional amendment.

I think that in a number of years, if not right now—I do think it will happen right now. I think this is the most

important debate we could possibly be having in our lifetime because of the consequences in our lifetime and for generations to come. This is the most important thing we can be discussing. I do think if the last election didn't make the difference, the next election will make the difference, because people have promised their people at home that they will vote for a balanced budget constitutional amendment. We have to move on those promises so we can meet the expectations of the people at home, the people who voted for us, the people who sent us here with a trust in the political process. It is up to us now to fulfill that trust. I reserve the remainder of my time and yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, the views offered by the Senator from Wyoming made the point I have been trying to make so hard here this afternoon. The Senator from Wyoming indicated what the Senator from Utah has indicated before him, and others, saying that the gross debt will continue to increase even after the budget is balanced because we have to be honest about that to the senior citizens.

Gross debt will continue to increase—translated, that means that once the budget is balanced, the Federal debt will continue to increase. But they say, "Gross debt is different than net debt; net debt is different than gross debt," and it is, you know, "Honey, you're complaining about the credit card debt I owe, but you don't understand it's net debt versus gross debt. Net debt is more important than gross debt. You just don't understand."

I am sorry. Is it debt or is it not? Is it an obligation or is it not? Will it have to be paid back or won't it? We know the answer to that. Gross debt will continue to increase, the Senator says. That is the problem. That strips naked the entire proposition here and is why I hope Senators will vote for the substitute constitutional amendment I offer.

When the Senator says people have promised to vote for a constitutional amendment, they can vote for the one that I offer today, the right one, the one that at the end of the day will not have a budget in balance with gross Federal debt continuing to increase, but will have instead a budget that is in balance without an increase in gross debt. Gross or net does not make much matter to folks in my hometown. It is a debt and an obligation, it is saddling their children and grandchildren.

I will simply observe that as we discuss this, the end goal is not just to alter the Constitution of the United States; the end goal is to alter the decision-making process here in Congress sufficient so that we have done what the American people want us to do—put our budget in balance, eliminate budget deficits, and especially eliminate the increases in Federal debt.

I want to make one more point responding to something the Senator

from Wyoming said. He talked about Governors and States. I have heard all these Governors and other folks from States come here and talk about their balanced budgets. It is interesting to me that those same Governors and States who claim to have balanced budgets also have debt.

Question: Why would a State that has a constitutional prohibition against having a deficit, why would a State like that have a debt? Answer: Because they have capital budgets. If they accounted for their budget the way the Federal Government accounts for its budget, they would not have balanced their budgets.

In fact, we have had Governors come up to a table and sit there and talk about the fact that they have balanced their budgets and then talk about fiscal policy and how it impacts their credit rating in their State. Credit rating? Why do you need a credit rating? Because of borrowing money. Why are they borrowing money if they have a constitutional provision that prohibits deficits? Because they have debt. They have a capital budget. I mean, that is a fact of life. We do not, of course. We probably should. I think we should. But, nonetheless, that is a different issue. I always am constrained to respond when people talk about the States balancing their budget—balancing their budget and then ending up with a debt.

So I will just conclude my presentation—Senator CONRAD is on his way to the floor, I believe—by again pointing out there is more than one constitutional amendment being offered. I am offering one now as a substitute. Those who choose to vote for it can choose to alter this Constitution of the United States the right way.

The Constitution is just a mere, small portion of this booklet. We can alter this the right way. We can do it in a way that will not require us to come back as we did with the 21st amendment and say the 18th amendment is hereby repealed. It will happen, I guarantee you, if we pass the amendment offered by the majority party. That will not happen if we enact the amendment and send to the States the amendment I now propose as a substitute because it does the two things simultaneously. It requires the budget be in balance and does it in a way that you are not using large portions of trust funds and creating a future obligation by misusing them now so that you have claimed a balanced budget and then have increased the Federal debt.

Again, you can, until you are blue in the face, talk about gross debt and net debt and gross and net, this and that.

The question I ask is this: At the end of the day, when you claim the budget is in balance, is the Federal debt increasing? The answer is yes, and that is exactly what is wrong with this proposal.

The answer will not be yes if this Senate adopts my substitute. The ques-

tion will be: At the end of the day, is the Federal debt continuing to increase? The answer will be no. The budget will have to be in balance and there will be no further increases in Federal debt. I yield the floor and reserve my time.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Chair recognizes the Senator from Wyoming.

Mr. ENZI. Mr. President, I feel compelled to speak a little bit on debt. That seems to be what we are talking about here today. We have talked about the Social Security debt for quite a while. There does not seem to be a lot of willingness to agree on some of the basics on it.

Again, I want to explain that if we are paying our Social Security in and that money is being invested in the U.S. Government, if we do not recognize it as debt, we are lying to the people right now. We have to admit what we have and what we are using.

The solution that is suggested by this substitute amendment is one that wants to take the Social Security numbers and just recognize them while there is this surplus, but really only recognize them while there is a surplus, to scare people about Social Security. We really ought to be worrying about Social Security.

Debt is really a difficult thing to explain unless it is your own. Then it is even scarier. We heard a little explanation of State debt here a moment ago. State debt is a whole lot different than this Federal debt we are talking about, because in every State that has a balanced budget, they are expected to pay the debt back.

We have yet to talk about paying debt back. We have a national debt, but I do not recall us saying that we are going to start budgeting not only to balance it, but we are going to balance it and pay back some of the national debt. We put that kind of requirement on the States. The States put that kind of requirement on themselves. They agree that if they borrow money, they have to agree to pay it back by a time specific.

They have covenants. They have to meet covenants on those bonds, which means they put a little extra away. Sometimes they have to fund things up front. So when they are talking about capital debts, they are talking about a whole different ballgame than we are talking about. They are talking about the same one that that mortgage lender is doing when he enters into a home loan. When you go out and buy a house, you do not just ask to pay the interest and expect to get a house loan. You do not expect to be able to buy two or three houses, if you feel like it, and just pay the interest. The banker expects you to pay the loan back.

I talked about municipal governments this morning. They are expected to pay the loans back. They are forced to pay the loans back. Many of them are forced to have a balanced budget. It

is kind of interesting how their balanced budget estimates work. Theirs are a little more conservative than ours. They say, unless you can show that the economy has declined and you will not get as much revenue as last year, you will use last year's revenue estimates. That is pretty conservative.

If we had to say that in a growing economy we had to use last year's numbers, we would be able to pay back some of the national debt with what was left in a growing economy. We would be putting aside some in the good times to take care of the bad times.

That is the kind of an accounting system that we have to get to. That is the kind of budgeting that we have to get to if we are going to be fair, not only with today's generation alone, but with the ones of the future. We cannot keep buying the things out of the Christmas book that we want to have and expect our kids and grandkids to pay for it.

That is what we are doing at the moment. Any way we try and phrase Social Security so that we only want to recognize the money through the good times, not adjust for it in the bad times, we are not properly accounting for Social Security. We have to take care of it past 2010. The amendment before the Senate only takes care of it through 2010 and then allows us to lie about it, to ignore it, to not have to worry about it.

That is when the bonds come due. That is when the debt comes due from raising the debt limits over these years. I want to protect my seniors. I want to be sure there is money there in the year 2019 as well.

I yield the floor but retain the balance of my time.

Mr. CONRAD. I yield myself 8 minutes off the time controlled by the Senator from North Dakota.

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

AMENDMENT NO. 18

(Purpose: To protect the Medicare Health Insurance Trust Fund)

Mr. CONRAD. Mr. President, I ask unanimous consent that the pending amendment be set aside so Senator ROCKEFELLER's amendment can be called up.

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

Mr. CONRAD. I now send to the desk that amendment, and immediately after it is reported, I ask unanimous consent Senator ROCKEFELLER's amendment be set aside.

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

The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] for Mr. ROCKEFELLER proposes an amendment No. 18.

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

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of out-

lays and receipts. Medicare outlays shall not be reduced in excess of the amount necessary to preserve the solvency of the Medicare Health Insurance Trust Fund.

AMENDMENT NO. 17

Mr. CONRAD. Mr. President, we have heard a novel argument just now from the other side with respect to Social Security. The argument is that the only way we can save Social Security is to raid it. The only way we can secure the future of Social Security is to loot it.

Now, that is an argument that does not stand up to much scrutiny. The argument of the Senator on the other side is that if we take every penny of Social Security surplus funds as this balanced budget amendment that is before the body now contemplates, that once we have done that, we are then faced with a circumstance in which Social Security goes into deficits.

Let me just say the one thing we know for sure is that we are running those surpluses. The one thing we know for certain is that each and every year we are taking in more money on Social Security than we are spending. That was designed so that we would save those funds to be ready for when the baby boomers start to retire. Instead, what we are doing is taking every penny and spending it on other programs. What we are going to find when the baby boomers start to retire is that there is a cupboard there, but the cupboard is bare, and the only thing in it is an IOU. The problem with that is then we are going to face draconian choices.

Our friends on the other side who are defending this balanced budget amendment to the Constitution say that is OK. It is OK if we raid every penny of Social Security surplus between now and the year 2019. We take \$1.8 trillion of Social Security surpluses to claim we have balanced the budget because later on in the sweet by-and-by when this thing starts to go negative, we will be including that, as well.

That is an argument that frankly does not stand up very well because we cannot wait until Social Security goes negative. We cannot ever permit that to happen, not to the degree they have discussed on the other side, because you would never be able to meet your responsibilities and the promises that have been made. Those who have been taxed have been taxed in a regressive payroll tax in order to secure the promise that has been made. So the Congress is going to have to act and it is going to have to act soon to get our long-term fiscal imbalances addressed.

What our friends on the other side are doing in the short term—and by short term I mean the next 20 years—is to take every penny of Social Security surplus, every penny, throw it into the pot, and claim they have balanced the budget. That is not a balanced budget. That would not qualify as a balanced budget in any organization that I know of. That would not pass the laugh test in any corporate board room

in America. If in any corporate board room in the United States had a circumstance in which the chief executive officer came in and said, "You know what, we have a little problem in the operations of this company, and what I am proposing is that we take the retirement funds of our employees, throw those into the pot, and call it a balanced budget," well, if you tried to do that, he would be in violation of Federal law. No. 2, he would be in violation of every accounting principle known to any financial expert in America.

I say to my friends when you hear the sweet siren song that they are going to balance the budget, you better ask this question, you better ask this question: What budget is being balanced? Because what you will find, as shocking as it may seem, is that they are not talking about a real balanced budget at all. They are talking about taking every fund in sight, every trust fund known to man, and taking the income from those and throw them into the pot and then say they balanced the budget.

As I said the other day, out in North Dakota we say you can call a pig a cow but it does not make it a cow. It does not make it a cow to call a pig a cow. You can call this a balanced budget. You can call it anything you want. It does not make it so.

In fact, if you look, here is what you will find. They will take in 1998 \$81 billion of Social Security surpluses, they will take every penny, throw it in the pot, and say they balanced the budget. By 1999, \$169 billion, and by the year 2002 they will take \$465 billion of Social Security surpluses to claim they have balanced the budget. They have not balanced the budget. They just said they did.

That is exactly what people are tired of in Washington. That is Washington talk. You say something, you put a label on it, it does not matter if it is a true label, it does not matter if that really fits the description, but we just say it. That is what is wrong in Washington. We say things that do not mean what anybody understands them to mean in common parlance.

All we have to do is look to the year 2002 to see how misleading this whole argument is. If we look at the year 2002, the year that they are claiming there is a balanced budget, they are claiming no deficit in the year 2002, but you pierce the veil, you look a little further, and what do you find? The on-budget deficit that excludes Social Security and postal service accounts is in deficit by \$103 billion. The gross debt of the United States is going to increase in the year 2002 by \$110 billion. They are claiming they balanced the budget. They are claiming they balance the budget and the debt is increasing by \$110 billion. Senator DORGAN had a chart that shows \$130 billion. That is last year's budget resolution. This is this year's budget numbers for the year 2002. That is the difference between them. The principle is identical.

This, I think, shows how fraudulent this whole balanced budget amendment that is before the Senate now really is, because what they are trying to enshrine in the Constitution of the United States is the definition of a balanced budget that could not stand the light of day in any financial institution in America. There is not a single one that could take the retirement funds of their employees, throw those into the pot, and claim they have balanced their budgets. That is not a balanced budget.

We ought to be straight with the American people and straight with ourselves as to what is happening. The best way for us to deal with what is before the Senate is to draft a balanced budget amendment that deals with the fatal flaws of this one. No. 1, define a balanced budget in an accurate and honest way. Let us say clearly to the American people, we are not going to loot every trust fund in sight. We are not going to raid every single surplus trust fund in America in order to claim a balanced budget. That is the kind of fire-sale approach that is just going to dig us a deeper hole for the future—in fact, a hole so deep we would never dig out.

Mr. President, I yield myself another minute of my colleague's time. Won't he be surprised when he returns.

Mr. President, let me just conclude by saying there is a better way. We have to deal with the fatal flaws. We don't loot trust funds. That ought to be principle No. 1. No. 2, we ought to provide for national economic emergencies. No. 3, we ought to have a circumstance that makes certain that the Justices of the Supreme Court don't write the budget of the United States.

As I said yesterday, I can look through those doors and I can see a corner of the Supreme Court of the United States. Our forefathers never intended that Justices sitting around a table at the Supreme Court would write the budget of the United States. We ought to make certain they do not.

The proposal by Senator DORGAN would address the first problem—the raiding of the Social Security trust fund to claim balance. I hope my colleagues will support it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Ms. SNOWE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. SNOWE. Mr. President, I yield as much time as he may consume to the Senator from Utah.

The PRESIDING OFFICER. The Chair recognizes the honorable Senator from Utah [Mr. BENNETT].

Mr. BENNETT. Mr. President, during this debate, we have heard time and again from some of the opponents to the balanced budget amendment to the Constitution that we are getting toward balance without a constitutional amendment. The President has proposed a balanced budget by the year 2002. The Republicans have called for a balanced budget by the year 2002. Why do we need a constitutional amendment when we have the result before us?

I wish to point out that we do not have this result before us. We have the same kind of rhetoric about the balanced budget that we have had for years and years. I will focus primarily upon the President's proposal for a balanced budget by 2002 and express why I do not believe that it will achieve that result and why we need the discipline and the balanced budget amendment in the Constitution to get that result. We are not getting it now.

If I may, Mr. President, I will show some charts. Here are the levels of deficits outlined in the President's budget. If you look at that chart all by itself, it looks fine. It shows a downward trend. What it does not show is that, in the first year of the President's budget, in 1997, he calls for the deficit at \$125 billion, up sharply from fiscal year 1996. So if we are going to have a balanced budget, we start by increasing spending from last year to this year, we start by going from \$106 billion, up to a deficit of \$125 billion. We stay in that neighborhood through 1998. We stay in that neighborhood in 1999. We don't start coming back to the level of where we are today, at \$106 billion, until the year 2000, and we do not see a significant reduction in the deficit from its present level until the year 2001.

Now, there will be cynics among us who will say that it's not a coincidence that the year 2001, which is the first real year of reduction from where we are now, happens to be the first year that Bill Clinton will be out of office, and the deficit reduction will come only under his successor and successive Congresses.

We have seen examples of how serious the President is about these out-year budgets. Outyears, Mr. President, is a term that we in Washington use for the future. Folks back home don't understand the term "outyears," and so maybe they don't understand what we mean when we say this problem will come in the outyears, or we will get it solved in the outyears. What they really mean is we will deal with that tomorrow. I have said on this floor before that I am afraid when it comes to budget matters, the theme song for this administration comes from the musical *Annie*: "Tomorrow, tomorrow, I love you tomorrow, you're always a day away." That is what we see here in this deficit level proposed under the President's budget. It will come tomorrow. It will come after the President has left office. It will be future Con-

gresses that will have to deal with that.

Now, I sit on the Appropriations Committee, Mr. President. As a member of that committee, I see the budget requests that come from members of the executive branch. Last year, I sat on the subcommittee chaired by the Senator from Missouri, Senator BOND, and we had coming before us on that subcommittee a number of agencies that talked about their budgets. One of them was the Veterans' Administration. I have here what Secretary Brown of the Veterans' Administration had to say formally and on the record with respect to his budget. Senator BOND, the chairman of the subcommittee, questioned him about the drastic cuts in the outyears, and asked the question: "What is going to happen when you have to make these drastic cuts?" We got an answer from Secretary Brown that says, "I am not going to have to make those cuts. The President has assured me that I will not."

Reading along, Senator BOND said, "So you are saying that these outyears mean nothing. It is all going to be negotiated in the future. So we should not worry about the President's budget plan. He does not intend to hold you to those significant decreases in spending. This 7-year budget plan is a sham. It has no substance is what you are saying. You are not planning to live with that budget."

That is the statement from the chairman of the subcommittee. This is the response from the Cabinet-level officer in the President's administration to that statement. He says, "I am not planning to live with it. I am not planning to live with your budget * * * nor am I planning to live with the President's line."

If the Cabinet officers are not planning to live with the budgets laid down by the President, what credibility should the Congress give to the budget laid down by the President?

The Secretary said—lest we think the Secretary is speaking on his own, I am quoting from his testimony—the Secretary said, "The President understands that. I talked with him personally about it, and that is one of the reasons why he gave me his personal commitment that he was going to make sure that the Nation honors its commitments to veterans and that he will negotiate the budget each and every year. So the main point that is realistic up there is the President's 1996 budget and his 1996 budget request. We all know what is going to happen to that, but the outyears and the tough decisions will be made each and every year."

He said on the record to the Appropriations Committee of this Congress that the only number he was willing to live with was the President's number in 1996 and the rest of it would be left to the future. If I may, tomorrow we will deal with that. Tomorrow, and tomorrow is always the day away.

Lest you think this was an isolated incident, I take you to another hearing

that occurred in that same subcommittee on which I sat. This has to do with NASA. I am a great supporter of NASA. I believe we get our money back tenfold that we spend in NASA in terms of the technology spinoff that takes place, the jobs that are created. I think NASA is a place where we should continue to spend money. It is the same thing. NASA was going to have a nice budget for the near term, the present budget, and then there would be drastic cuts in the outyears.

Senator BOND said to Dr. Goldin, Administrator of NASA, "Now, I understand you have been told that the numbers should be expected to change for the outyears, so there is no need to defend any specific funding level in his budget, nor any likely programmatic consequence of such funding levels. Is that your understanding?" Dr. Goldin, Presidential appointee, Administrator of NASA, said, "Yes, and based upon assurances I have had by discussions with the administration, I expect that as the clarity comes into focus, the outyear budgets will change."

We all know which way they will change. They will go up. As I say, I am delighted by that because I am a strong supporter of NASA. But I am not delighted by the sleight of hand that occurs in the overall budget figures which we saw in the first chart where the President says, overall, yes, we can continue spending at a level higher than we are spending today for all of the years that I am in office and then we will project that the savings will come. This is what we are being told is the budget. This budget proves that we do need a budget amendment. This budget shows we do need the discipline which would come from writing something into the Constitution.

Mr. President, I have one other chart that I want to share with you and others who may be watching which puts this whole debate into a different perspective. I have used this chart on the floor before. It is a slightly different chart than many we have seen. This is not a chart of the debt in absolute terms. This is a chart of the debt in relative terms.

Frankly, to me, as a former businessman, the relative terms make more sense. If you take the debt as an absolute number and do not have anything to compare it to, it frankly doesn't mean much. I have used this analogy on the floor before. But I have learned since I have been in the Senate that there is no such thing as repetition. So I can use it again with a perfectly clear conscience.

Taking a business with which I was involved before I came to the Senate, when I went to work for this business as its chief executive officer it had debt of \$75,000. That debt, given the size of the company, was sufficient to sink the company. They were doing a total of \$250,000 in business, a total volume \$250,000 a year, and they owed \$75,000 in debt. They were in serious trouble. There was no way they could pay that

debt off with \$250,000 in total volume because their margin on that total volume that they could keep after they bought the raw materials for their product was relatively small. They were in deep trouble at \$75,000 in debt.

When I left the company prior to my run for the Senate, that company had \$7.5 million in debt. And if all you looked at was a chart that showed \$75,000 to \$7.5 million, you would say this company is clearly going broke, and what terrible stewardship Mr. Bennett provided as the chief executive officer of the company if he allowed the debt to rise from only \$75,000 to \$7.5 million in only 6 years. When we had \$7.5 million in debt, the company was doing \$80 million in annual revenue and we happened to have about \$20 million in cash. You say, "Well, why would you have any debt if you had \$20 million in cash?" It was left over from the period of time when we had to mortgage some of the buildings in order to get some built and there were prepayment penalties on the mortgages. So it made more sense to the shareholders for us to keep the cash than to pay the prepayment penalties on the mortgages. So the size of the debt frankly was not the key issue. The question was, how big a debt do you have compared to the financial strength of the company? And \$7.5 million in debt compared to the financial strength of the company when I left it was frankly nothing at all to be concerned about, whereas the \$75,000 in debt when I began there was threatening to destroy the company.

So I have taken the national debt and expressed it not in absolute terms, not in the debt where it was in this year and how rapidly it has risen to where it is now, but as a percentage of the economy, gross domestic product, the total production of goods and services in a year. And you will see that the greatest time of debt in the history of this country as a percentage of gross domestic product, or GDP as we abbreviated it, was at the height of the Second World War. This is 1945. Our debt stood at 130 percent of our total year's output of goods and services.

Now, you will notice that at the end of the war the debt as a percentage of GDP started falling and kept falling fairly dramatically, and kept falling and kept falling and it bottomed out in the mid-1970's. It got down to about 30 percent of GDP, from 130 down to 30, and then something started to happen. And then something started to happen. It started to happen before Ronald Reagan became President. It started to happen before the defense buildup under Caspar Weinberger. It started to happen before the tax cuts that were passed by this Republican Senate in the early 1980's. The debt started during the Jimmy Carter years, and it started back up. And for the first time in our history we saw the debt increasing as a percentage of GDP during peacetime. Prior to that, the debt always came down during peacetime, and only went up during wartime, as a percentage of GDP.

What happened? Was it Jimmy Carter's fault? Was it the Republican Congress' fault? Frankly, it was the kicking in of the automatic increases of entitlements in an aging population that started the debt to increase as a percentage of the gross domestic product. No politician was responsible for it, and no politician can take credit for having solved it until we muster the courage and the strength on this floor to address the issue of the automatic nature of entitlement increases.

We have been unable to do that. We have talked about it, but we have been unable to muster the necessary political courage. We meet in the cloakrooms, we meet in the dining room where we talk to each other, and we tell each other this is what we have to do, and then we do not muster the majorities to do it. There is one way to make sure we will muster the majorities to do it and start this back down, which is where it needs to be moving. The way to do that is to write into the Constitution, the basic document that governs all of our activities, the requirement that we balance the budget, and have no deficit. As the economy grows, even if the debt stays exactly where it is, it will diminish as a percentage of GDP as it did in the 30 years between the end of the Second World War and the time when it started back up. We can go back to that downward trend if we just keep the debt where it is. And the only way we keep the debt where it is is to balance outlays with income every year. I say the time has come to put the requirement that we do that into our basic document, the Constitution, at which point we will then have a balanced budget.

Mr. President, there are many other things I could say about all of the debate that has gone on on this floor. Frankly, much of what I have heard in the debate on this floor I think is irrelevant to the core issue. I can comment on the various amendments to the balanced budget amendment that have been raised. I will not because these issues have been dealt with by my colleagues in great depth, and I see no point in repeating all of that.

I am a reluctant convert to the idea of a balanced budget amendment. I have made that point clear before. I do not like amending the Constitution. I have voted against amendments to the Constitution that many of my colleagues thought were meritorious simply because I think the Constitution is so significant a basic document that we should exhaust every other remedy before we consider amending it.

It is with great reluctance that I make an exception to that position with respect to the question of the balanced budget. If we do not have the discipline written into our basic document dealing with this issue, our past history shows that we cannot control the impact of the entitlement increase on future generations.

So for that reason, I announce, with all my misgivings about amending the

Constitution, that in this case the issue is so important, the challenge is so significant that an amendment to the Constitution is called for. That is why I intend to vote for the amendment that is before us, why I have voted and will continue to vote against any crippling amendments to that amendment and hope that the rest of the Senate and ultimately the rest of the country will come to realize that the only way to start these yellow lines going back down again in a significant, historic trend is to write a basic requirement into the Constitution of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine has 13 minutes remaining.

Ms. SNOWE. I thank the Chair.

Mr. President and Members of the Senate, I certainly compliment the Senator from Utah for his very compelling statement on the necessity of having a constitutional amendment to balance the budget. He rightfully points out the fact that if we fail to place this amendment in the Constitution, then there is no guarantee of providing fiscal stability for this country in the future.

As we have made the case time and time again in this body, there is no issue more central to competitiveness, to security, to stability of America's future than the issue of a balanced budget. It means more jobs; it means increased wages; it means a better standard of living; it means less taxes; it means lower interest rates, all of which will benefit the American people and future generations.

The overwhelming majority of people in America today are pessimistic about the future when it comes to their children and what kind of life they will enjoy. That is the essence of this issue. This issue points to the fact that we need to do all we can to reduce the Federal deficit, to reach a balanced budget, and begin to grapple with the burgeoning debt that we have compiled for generations. The fact is the next generation will be required to pay an 82-percent tax rate and a 50-percent reduction in benefits to manage and to finance the debt that we leave behind.

I do not think that is the kind of legacy we want to bequeath the next generation.

We have had this debate in this body in 1995 and on many previous occasions, and in fact when I served in the House of Representatives I can remember we had this debate in 1982, and we had it many times thereafter. We heard the same rationale each and every time, that we should be able to have a balanced budget without a constitutional amendment. In fact, the President himself said it in the State of the Union. He said we do not need to rewrite the Constitution; all we need is your vote and my signature.

We as Republicans worked very hard in the last Congress to design a balanced budget plan with specifics and in

great detail, without gimmicks. We presented it to the President of the United States, so he got our vote, but, unfortunately, we did not get his signature.

I think the reason is that without a constitutional amendment, it does not force consensus on all sides and between both branches of Government. So ultimately there is no will and there is no self-discipline to reach a consensus on balancing the budget without a constitutional mandate.

We have heard many reasons today as to why Senators cannot support this particular amendment. We have had many amendments that proposed exemptions to this amendment, all of which were designed and disguised as a rationale for avoiding supporting a constitutional amendment.

Nothing could be further from the truth than suggesting that exempting the Social Security Program from this balanced budget amendment would protect the benefits of Social Security retirees. There is nothing in that amendment that would suggest that. In fact, quite the contrary. The Social Security trust fund, since its inception, has been on budget. We have always addressed the shortfalls. We have prepared for the future by redesigning the program, as was the case in 1983, with a bipartisan commission that was chaired by the head of the Federal Reserve Board, Chairman Greenspan, to address those concerns.

We have no idea, we have no track record to know what would happen to the Social Security trust fund off budget. No one has presented us a plan for how the surpluses would be used. The surpluses on budget are invested in Government-backed bonds. But no one has told us, those who presented amendments exempting the Social Security trust fund, how these surpluses would be invested off budget. Would they be used and invested in private securities with a privatized Social Security? That is a major issue, and certainly I think it represents a consequence of placing the Social Security trust fund off budget. Would the Social Security trust fund off budget be diverted for other purposes? That is a real possibility, that those funds could be used for programs other than Social Security. So, if I were a retiree—and I will be one long after the turn of the century—I would be very much concerned about how those trust funds would be used.

We have also heard and we know that, by exempting the Social Security trust fund from this amendment, we will have to further reduce Federal expenditures by \$295 billion over the next 5 years, between now and the year 2002, in addition to the more than \$250 billion that is required to reach a balanced budget in the year 2002. In addition to that, we would also be required to reduce the budget another \$709 billion between the year 2002 and the year 2007. That represents \$1 trillion in additional cuts above and beyond what will

be required to reach a balanced budget. Again, I think we have a right to know, from those who propose this exemption, as to how they would reach that target, with an additional \$1 trillion in cuts? In fact, if you carry it further, to the year 2019, it would be \$1.9 trillion—\$1.9 trillion in additional cuts.

Mr. President, 2 years ago when we were having this debate, an amendment was offered by the minority leader that was called the right to know amendment. It says if you are going to propose a constitutional amendment to balance the budget, then, indeed, Members of this body have the right to know and are entitled to know as to exactly how we would accomplish balancing the budget. The same is true here today. We have a right to know exactly how these additional cuts will be accomplished over and above the cuts that already will be required in achieving a balanced budget between now and the year 2002 and then, of course, beyond. I repeat, it would require \$1 trillion more in additional reductions in order to accomplish that. Yet, again, we do not have a plan as to how, exactly, that would be achieved.

In the final analysis, it gets back to the central issue, the central question in this constitutional amendment. That is whether or not we are truly committed to engaging in fiscal responsibility so future generations can have a secure future. We have an obligation, as one generation to the next, to provide a better standard of living. I think it is regrettable that we in this Congress decide to pursue a direction that accepts budgets that suggest, somehow, that higher taxes, a lower standard of living, sub par growth and anemic recovery are acceptable in a global economy as we approach the 21st century. It is certainly not what I want for future generations.

So, I hope we would consider this amendment for what it is. In reality, it is a way of avoiding the passage of this constitutional amendment because, in the final analysis, it does nothing to guarantee the benefits for Social Security retirees. In fact, I would say, quite the contrary, it raises a great deal of concern as to exactly what will happen to this trust fund, what will happen to the benefits for retirees, because we have no plan from the proponents of this amendment as to exactly how the off-budget program would work for Social Security and exactly how the surpluses would be used and whether or not this program, the trust fund, would be used for other purposes other than for Social Security benefits.

So, I hope this body will reject this amendment. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, Senator DORGAN's substitute, simply put, would add to Senate Joint Resolution 1 language that would exempt Social Security from the requirement that "total outlays for any fiscal year not exceed

total receipts for that fiscal year," unless three-fifths of each House concurs. In essence, the Dorgan substitute's exemption for Social Security is identical to the Reid amendment, which we fully debated yesterday. As such, we are all familiar with the arguments—pro and con—of the effect of removing Social Security from the safeguards of the balanced budget amendment.

It is my fervent hope this renewed debate over the proposed exemption of the Social Security funds from the requirements of Senate Joint Resolution 1 will convince my colleagues to support the balanced budget amendment. As Justice Brandeis so eloquently wrote in the 1927 case of *Whitney versus California*, "[i]t is the function of speech to free men from the bondage of irrational fears." I truly believe that many of my well-meaning colleagues' desires to exempt the Social Security Program is based on unfounded fears. I hope to allay those fears and demonstrate that far from harming Social Security, including the program within unified budgets subject to the amendment, will help to preserve the program. Moreover, ironically, by exempting Social Security from the amendment, the very fears of some of my colleagues may come about because the program will certainly be weakened if we agree to to remove it from the unified budget.

Before I directly address my colleagues concerns, it is helpful to put this debate in a larger context. Today, the accumulated national debt is nearly \$5.4 trillion. Interest payments on this debt consume \$250 billion annually, which the *Washington Times* recently estimated, is more than the combined budgets of the Departments of Commerce, Agriculture, Education, Energy, Justice, Interior, Housing and Urban Development, Labor, State, and Transportation. This means that the share of the debt for every infant born today is about \$20,000.

There is a crying need for sound fiscal reform. Unless we do something, this Nation will continue to have stagnant economic growth with less jobs. Unless we do something, the interest payment on the debt will continue to devour capital that could be otherwise used for investment or Federal programs. Let's not kid ourselves that Washington politicians will remedy this problem; the blunt truth is that no balanced budget deal has worked in the past, that is why we need to amend the Constitution to provide for fiscal sanity.

Yet opponents of Senate Joint Resolution 1 argue that Social Security should be removed from the protection of the balanced budget amendment. But to do as they request would be a risky gimmick that would harm Social Security and open a loophole in the constitutional amendment.

THE DORGAN SUBSTITUTE IS UNWORKABLE

Mr. President, the Dorgan substitute suffers from the same disease as the Reid amendment. It is not workable. Let me tell you why.

First, as I discussed during the debate on the Reid amendment, it is necessary to include Social Security in any balanced budget plan. Obviously, without including Social Security, other programs must be cut far more than they really need to be. The proponents of this amendment have not told us which programs they will cut in order to come up with the approximately \$100 billion per year that the total exclusion of the Social Security surpluses will cost us—astoundingly, this figure is greater than our combined annual expenditure on education, the environment, transportation and infrastructure. In fact, between 2002 and 2019, when Social Security outlays will exceed receipts, the trust fund is expected to earn more than \$1.9 trillion. Where do supporters of the Dorgan substitute propose to come up with money necessary to cover this self-imposed shortfall? Show me the money.

Let's put this in perspective. Discretionary spending savings from last year's budget resolution, which were described as draconian, were only \$291 billion. The Dorgan substitute would require that Congress cut spending or raise taxes more than six times this amount. Similarly, the projected revenues from the 1993 Clinton tax increase—the largest tax increase in history—were only \$241 billion. The Dorgan substitute would require that Congress cut spending or raise taxes over eight times this largest tax increase in history. These levels of spending cuts and tax increases are clearly unworkable, and the adoption of the Dorgan substitute would kill any chance the balanced budget amendment has of being ratified.

Indeed, as I alluded to, the Clinton administration uses Social Security surpluses in formulating its own budgetary numbers, and has done so for the past 4 years. Secretary of the Treasury Rubin admitted to and defended the practice during hearings before the Judiciary Committee on January 17: "We will include it * * * I believe that with respect to budget policy that the view of the Congress and the view of the President to include Social Security is correct."

Similarly, in a recent press conference, President Clinton noted that Social Security receipts are used in his budget and admitted that neither he nor the Republicans could balance the budget without including the Social Security surpluses. The fact is that all administrations in recent memory have relied on a unified budget calculation of surpluses, and it is good budgetary policy.

Second, exempting Social Security from the mandates of the BBA for any considerable period of time will probably result in the demise of the Social Security Program years early. Such an exemption will create a powerful incentive to redefine spending programs as "Social Security" and pay for them through what could become a giant loophole in any attempt to balance the budget.

Opponents of the BBA incorrectly contend that including present-day Social Security surpluses in a unified budget would raid the trust funds. This is a complete misnomer because the surpluses are nothing more than an accounting reference. Social Security FICA taxes are deposited with all other revenues. Interest bearing securities are purchased equal to the amounts of Social Security receipts. This debt provides a safe investment. This safety, however, would be wrecked if Social Security were removed from the protection of Senate Joint Resolution 1's balancing requirements. In fact, the very fears of the advocates of the Dorgan substitute will be realized. Their exemption of Social Security would really cause the trust funds to be raided.

Why? Because under the Dorgan substitute, trust fund receipts would be used to finance other costly programs that would be relabeled as Social Security. With the loophole proposed by this exemption in place, there will be an irresistible impulse for future Congresses to redefine unrelated programs as Social Security. This, in turn, would create an incentive for Congress to include costly programs as part of Social Security. Congress has not been able to restrain itself from either wasteful spending or increasing this web of services provided by Social Security in the past—what would prevent combining them in the future? Are we willing to let future Congresses roll the dice with the financial security of America's seniors?

Passing an exemption loophole, accordingly, would essentially create two federal budgets, one based on sound principles of solvency, and the other, the Social Security budget, which would not. One budget will be required to be in balance unless a supermajority votes to allow a deficit, the other—the Social Security budget—would be raided and bloated with unrelated spending projects. Taking Social Security off budget will subject its funds to Washington's special interest scavengers. When you have rats in your house, you need to plug up all the holes. If you do not, they'll 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 devour it. This loophole would not only blow a hole in the BBA, but it would also seriously harm Social Security. This, in turn, will mean the end of Social Security as we know it, transforming it into the least secure of all Government accounts.

Under the Dorgan substitute, the other possible use for Social Security surpluses would be for the Government to pay down our staggering national debt. Thus, if there are any surpluses left over after programs are redesignated "Social Security," the remaining surplus would be used to make debt repayments. This sounds wonderful, but

in fact, creates a dangerous mechanism for the Congress to continue deficit spending. By paying down the debt, the Congress would provide itself a debt cushion—that is, a gap between the statutorily limited debt ceiling and the actual paid down debt. Congress could therefore use this gap to continue to deficit spend, thus avoiding the three-fifths vote required in section 2 of the BBA to raise the debt ceiling. The surpluses used for the purpose to pay down the debt will have been squandered as the debt ceiling is reached with a new gorge of spending equal in amount to the surplus that was used to pay off debt. Such a spending device completely frustrates real purposes for which I have introduced the balanced budget amendment—achieving sound fiscal policy and a healthy economy.

Consequently, the net effect of the loophole will be the depletion of the trust funds years early, with no protection for the benefit checks owed our seniors. How ironic. This is exactly what the Dorgan substitute was designed to avoid. But the Dorgan substitute does absolutely nothing to protect the Social Security trust funds. Let's just look at the language—is there anything in this amendment that prevents Social Security from being cut? Of course there isn't.

I believe that the gamesmanship and gimmickry that the Dorgan substitute will engender is exactly what must be avoided. The way to avoid it is to reject such exemptions. The best way to protect retirees and future generations is to adopt a clean and strong balanced budget amendment, free of loopholes.

Third, let's not forget about the troubling future for Social Security. The Dorgan substitute does absolutely nothing to protect Social Security and, in fact, will make it extremely difficult—if not impossible—to achieve balanced budgets. The Social Security Board of Trustees estimates that by the year 2070, Social Security is expected to run an annual \$7 trillion deficit. If we include Social Security in our balanced budget calculations, we will be able to prepare for and budget these massive shortfalls. Under the Dorgan substitute, we will not be including this deficit in our budgetary planning. As a result, under the Dorgan substitute, in order to raise revenue and increase the debt ceiling sufficient to cover the expected Social Security shortfalls in the next century, we will have to dramatically increase taxes or cut spending in other important programs, or face an annual three-fifths vote fiscal crisis to avoid financial default by raising the already staggering \$5.5 trillion debt ceiling.

Fourth, Mr. President, the Dorgan substitute should be rejected because the language of the exemption is confusing and its application may harm the Social Security program—the very thing the Dorgan substitute claims to protect. The substitute exempts the Social Security trust funds from Senate Joint Resolution 1's balancing re-

quirement. But it also includes the proviso, as and if modified to preserve the solvency of the funds.

Explicitly exempting Social Security by placing it in the Constitution may constitutionalize the program in perpetuity unless a subsequent constitutional amendment provides for the program to be altered or abolished. As a result of the Dorgan substitute, do minor technical changes to Social Security every year require amendments to the Constitution? The constitutional amendment process is a long one; indeed it was designed by the Framers to be lengthy to prevent specious changes to the Constitution. If we must go through this time-consuming process for every change to Social Security—even minor technical alterations—I fear that major needed reforms to Social Security will come far too late.

Similarly, does the proviso language require the solvency of the Social Security system or does that language merely allow Congress to take steps to assure the solvency of the trust funds? And if the answer is that Congress must take measures to assure solvency; does this require tax increases or benefit cuts?

Frankly, this proviso language strands us in uncharted territory. We do not know exactly how this language will be interpreted. It could also very well mean that the scope of Social Security, as a constitutional provision, could be amended by statute. For instance, in 1965, Social Security was broadened by statute to include portions of Medicare. My question is this: if, under the Dorgan substitute, Social Security can be similarly modified by statute, would we be constitutionalizing a massive loophole, through which we could constitutionally enforce spending on any program redesignated as Social Security? If, on the other hand, we can only modify Social Security by constitutional amendment, won't that require a two-thirds Senate vote, approval of 37 States and a 7-year delay to enact even the most minor changes?

All this demonstrates the danger that the Dorgan substitute as a whole creates—that Congress ought to be responsible and not amend the Constitution to include specific statutory programs like Social Security. A constitutional amendment should be timeless and reflect a broad consensus, not make narrow policy decisions. We should not place technical language or overly complicated mechanisms in the Constitution and undercut the simplicity and universality of the balanced budget amendment. Explicitly exempting Social Security may constitutionalize the program in perpetuity unless a subsequent amendment provides for the program to be altered or abolished. It would also invite gaming and endless litigation as the terms of the program are altered.

Former Assistant and Acting Attorney General Stuart Gerson and attor-

ney Alan Morrison have both had extensive experience litigating constitutional issues and testified in a Judiciary Committee hearing on Senate Joint Resolution 1. Although the two disagree about the wisdom of the balanced budget amendment, they agree that exempting Social Security is a bad idea, and both strongly opposed exempting Social Security from the balanced budget Amendment.

According to Alan Morrison, a litigator with Public Citizen who opposes the balanced budget amendment and 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.

RESPONSES TO OPPONENT'S ALLEGATIONS

Supporters of exempting Social Security argue that section 13301 of the 1990 Budget Enforcement Act [BEA] literally exempts the Social Security trust funds from the President's and the Congress' budget calculations. They claim that the balanced budget amendment would change this because it requires a unified budget. These critics of the balanced budget amendment are wrong on both counts.

Under section 13301(a) of the BEA, the receipts and outlays of the Social Security trust funds are indeed not counted in both the President's and Congress' budgets—but only for certain specific reasons. The primary purpose for this exclusion was to exempt Social Security from sequestration by the President under the Gramm-Rudman-Hollings procedures and from the act's pay-as-you-go requirement. In addition, as added protections, sections 13302 and 13303 of the BEA also created firewall point-of-order protections for the Social Security trust funds in both the House and Senate. All of this is made clear by the conference report accompanying the 1990 act. Indeed, the 1990 Budget Enforcement Act does not preclude both Congress and the President from formulating a unitary budget—that includes Social Security trust funds—for national fiscal purposes. Surely, the opponents of the balanced budget amendment are not suggesting that the President of the United States and the Congress have been flouting the law when they include the Social Security trust funds in their respective budget calculations?

Look, we all know that Social Security will need reform if it is to continue to be viable over the long haul. But the problem is not the inclusion of Social Security funds in the budget. The problem is that with the retirement of baby boomers, there will not be enough FICA taxes to fund their retirement. Moreover, the surplus Social Security taxes being collected today will not cover the future costs of the system. Most of current Social Security taxes are used to cover benefit

payments to present retirees. Outlays will exceed receipts of the system in about 2019. The guarantee of future benefits, therefore, will depend on the Federal Government's future ability to pay benefits.

Not including Social Security in the budget would harm the program. Congress could rename social programs—as they have done before—as Social Security and use the FICA taxes to fund these programs. Then you'll really see the program raided. The problem that the Dorgan substitute raises—in reality—is not with the BBA, but with the problems the Social Security program faces. We need to fix that and adopting the balanced budget amendment is a good start.

Mr. President, in a related argument that seeks to justify the exemption, some have argued that the balanced budget amendment will override the existing statutory protections for Social Security.

Contrary to this assertion, it is clear that the current statutory protections for Social Security would not be eliminated by the amendment. Of course, the supremacy clause of the Constitution provides that any legislation contrary to a constitutional provision must fail. As the great Chief Justice John Marshall held in the landmark 1803 decision of *Marbury versus Madison*, “[a]n act of the legislature, repugnant to the constitution is void.” But what critics fail to mention is that there is absolutely nothing in the balanced budget constitutional amendment that is inconsistent with the current statutory schemes. The Social Security statutory protections are not legislative acts repugnant to the Constitution as amended by Senate Joint Resolution 1. Congress under the balanced budget amendment can also create statutory protections for the Social Security program.

Further, the Dorgan substitute has absolutely no protection against Social Security benefit cuts. The plain fact is that the best thing we can do for Social Security, the best thing we can do for retirees, and the best thing we can do for all Americans is to enact the balanced budget amendment without loopholes or exemptions, and bring fiscal sanity and a little common sense back to Government.

Finally, opponents of the Senate Joint Resolution 1, in arguing for a Social Security exemption, contend that the balanced budget amendment will not in reality produce a balanced budget because gross debt will still rise. This is clever, but misleading.

Mr. President, the balanced budget amendment does indeed require a balanced budget. Outlays must not exceed receipts under section 1 of Senate Joint Resolution 1. But it is also true that gross debt may still increase even if the budget is balanced. That is because the Government's exchange of securities for incoming FICA taxes is counted as gross debt. It is merely an accounting or bookkeeping notation of

what one agency of Government owes another agency. It is analogous to a corporation buying back its stock or debentures. Such stock and bonds are considered retired obligations that once paid have no economic or fiscal significance. Thus, if we enact the BBA, the debt the United States owes to everyone but itself will stop growing.

This type of debt—termed net debt or debt held by the public—is legally enforceable and is what is economically significant. If net debt zooms—because of interest payments of debt—which last year amounted to \$250 billion—budget deficits balloon with all the dire economic consequences. To assure that budgets will be balanced unless extraordinary situations arise, debt held by the public cannot be increased unless three-fifths of the whole number of each House concur.

That net debt is considered to be of far greater economic significance than gross debt is a widely held truism among economists. Indeed, in the study “Analytical Perspectives: Budget of the United States Government Fiscal Year 1998,” the Clinton administration concludes that net debt or “borrowing from the public, whether by the Treasury or by some other Federal agency, has a significant impact on the economy.” On the other hand, the study also maintains that gross debt, or debt issued to government accounts, “does not have any of the economic effects of borrowing from the public. It is [merely] an internal transaction between two accounts, both within the Government itself.” *Analytical Perspectives* at 218-219.

It is true that a balanced budget amendment does not by itself reduce the \$5.3 billion national debt. But what it does do is to straighten-out our national fiscal house. Passage of Senate Joint Resolution 1 will increase economic growth and allow us to run surpluses. With this, our national debt may be decreased if Congress desires to do so in the interest of national economic stability and prosperity. Without Senate Joint Resolution 1, this will be an impossibility.

The Dorgan substitute, on the other hand, adds nothing to protect the trust funds from accumulating debt. In fact, by creating this loophole, the Dorgan substitute may cause the trust fund to dry up sooner and run deeper deficits. Thus, the Dorgan substitute is a risky gimmick that endangers Social Security.

Mr. President, the 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 BBA, but in all probability

will also cause the Social Security trust funds to run out of money sooner than it would have without an exemption.

Benjamin Franklin, moments after the Philadelphia Constitutional Convention adjourned in 1787, was asked what type of government was established. He replied, “[a] Republic if you can keep it.” Franklin knew his history. The judgement of history has always been that republics and democracies were frail entities prone to collapse because of the greed and envy of an unchecked majority. It would take a citizenry imbued with civic virtue to prevent that collapse. Indeed, a wise philosopher once opined that without that virtue a democracy cannot last as a permanent form of government:

It can only exist until the voters discover that they can vote themselves largesse from the public treasury. From that moment on the majority always votes for the candidate promising the most benefits from the public treasury with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship.

The fundamental question facing the American Republic in the coming millennium is how our Nation deals with the future fiscal crisis born of a volcano of rising debt. The success of our Republic depends on the virtue and morality of America—on the willingness of her people to eschew largesse that we simply cannot afford. We need to get our fiscal house in order. And to do that, past Congresses have proved that this Nation needs to place within our Constitution a balanced budget amendment.

Finally, Mr. President, I compliment my colleague for her excellent remarks. She has been a stalwart on this balanced budget amendment, and rightly so. She has been an inspiration to me, and I personally want to express my gratitude.

Mr. President, we have only 1 minute left. This is the Reid amendment revived. There is only one reason for this amendment and that is because they do not want the balanced budget amendment. I guess they want to continue just the same 28 years of unbalanced budgets; 58 out of the last 66 years.

Let us just be honest about it, this amendment, along with most of the others, is what I call a downright phony amendment. First of all, I cannot imagine why anybody in their right mind would believe you could take the largest item out of the Federal budget and put it out there to drift aimlessly on its own where anybody could amend it, anybody could redefine it, anybody could add any program, anybody could use the surplus for additional spending rather than trying to balance the budget, and to argue that it is raiding the trust fund when, in essence, we are going to continue to put money into U.S. Government securities and bonds regardless of what happens.

What they do not tell you is that unless we have a balanced budget amendment, we are not going to be able to

pay off those bonds. When the baby boomers come, and maybe even before—and I suggest it is going to happen before—we are going to hit the skids where we are not going to know what to do for our seniors because of the games that are played on the balanced budget amendment.

I am not going to accuse anybody of insincerity, but I can say this: There is no question that there is a desire on the part of many who like to spend and tax to kill this balanced budget amendment, no matter what it takes. If they can hide behind something they can demagog later, they will do it. That is what this whole game is about.

This amendment is not a good amendment. This amendment is something that anybody in their right mind would say, "My gosh, how can you even present it as an amendment that might do some good in this country?" In fact, the only thing that will do good is the balanced budget amendment.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from North Dakota has 2 minutes.

Mr. DORGAN. Mr. President, the Senator from Utah is overanxious.

"Phony," "demagog," he uses the words with great abandon. Phony? You show me a plan that says I have balanced the budget but my debt is still increasing, that is what I call phony. That is what the folks in my hometown call phony, a plan that says we have balanced the budget but the debt goes up.

You say, why is that the case? Is that the case?

Oh, yes, you don't understand, it is debt held by the public, and net debt is more important than gross debt. Tell that to the folks who are going to bear the burden of the debt.

I have watched people make sausage and try to sell it as tenderloin. I see what is going on. We have a stack of books, a Tower of Babel here about balanced budgets. The way we are going to balance the budget is to make taxing and spending decisions. We had one big chance to do that in 1993. I signed up, and I said, "Count me in." Some of the folks now speaking the loudest said, "Count me out; I'm out the door because I want to vote no and tell the folks back home that what they did back there was unpopular."

It is not popular to make the tough decisions to really balance the budget. I suppose it is popular to suggest we should alter the Constitution and then not want to describe to the American people why, after we boasted we balanced the budget, we are still increasing the Federal debt. They may have some popularity from this, but it's not the right way to alter the Constitution, and it will not ultimately balance the Federal budget.

Let's alter the Constitution the right way, and let's balance the budget the right way. At the end of the day, when the dust has settled, let's decide we are not increasing the Federal debt and we

are not continuing to saddle our children and grandchildren with additional debt.

Mr. President, this is a substitute constitutional amendment to balance the budget. I intend to support it, as I have in the past, and those who want a constitutional amendment to balance the budget to pass in this Chamber, and to do so with 70 or 75 votes, should decide to support this substitute constitutional amendment to balance the budget.

Mr. President, I yield the floor and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HATCH. I move to table the amendment 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 amendment No. 17, offered by the Senator from North Dakota [Mr. DORGAN]. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 59, nays 41, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—59

Abraham	Faireloth	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Murray
Bennett	Gramm	Nickles
Bond	Grams	Robb
Brownback	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Roth
Campbell	Hatch	Santorum
Chafee	Helms	Sessions
Coats	Hutchinson	Shelby
Cochran	Hutchison	Smith, Bob
Collins	Inhofe	Smith, Gordon
Coverdell	Jeffords	H.
Craig	Kempthorne	Snowe
D'Amato	Kerrey	Stevens
DeWine	Kyl	Thomas
Dodd	Lott	Thompson
Domenici	Lugar	Thurmond
Enzi	Mack	Warner

NAYS—41

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Glenn	McCain
Bingaman	Graham	Mikulski
Boxer	Harkin	Moseley-Braun
Breaux	Hollings	Moynihan
Bryan	Inouye	Reed
Bumpers	Johnson	Reid
Cleland	Kennedy	Sarbanes
Conrad	Kerry	Specter
Daschle	Kohl	Torricelli
Dorgan	Landrieu	Wellstone
Durbin	Lautenberg	Wyden
Feingold	Leahy	

The motion to lay on the table the amendment (No. 17) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. SANTORUM. I move to lay it on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 16

Mrs. BOXER. Mr. President, thank you very much. I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment before the Senate is amendment No. 16, proposed by the Senator from California. There are 30 minutes of time to be equally divided. The Senator from California will have 15 minutes, and the Senator from Utah will have 15 minutes.

Mrs. BOXER. Thank you, Mr. President. I yield myself 10 minutes.

Mr. President, as a member of the Budget Committee and now of the Appropriations Committee, I am keenly aware of the benefits of a balanced Federal budget. I have voted for three balanced budget plans—the Conrad plan, the Bradley plan, and the bipartisan Chafee-Breaux plan. As a Member of the House, I voted for a balanced budget statute.

While I have very serious reservations about a balanced budget amendment, which I spoke about on this floor—as do, by the way, 1,100 economists, including Federal Reserve Chairman Alan Greenspan—I believe if we are to have a balanced budget amendment, however, which we cannot predict today if we will or not, it should be flexible enough to respond to emergencies which occur as a result of natural disasters.

Now, Mr. President, I hope that Members of this U.S. Senate will understand that it is not one State of the Union that gets all of the natural disasters, although sometimes I feel, certainly, that my State gets far more than its fair share. I can tell you, if you look at this natural disaster risk profile that was put out by the U.S. Geological Service, you can see that there are tremendous risks for natural disasters all over this country. The light blue is the low risk, the darker greenish blue is the high risk, and this is the medium risk. Almost all over the country we have serious risks. This hatched area shows the extreme risk of tornado in the midsection of our Nation, and hurricanes, the extreme risk of hurricanes, as my friends in the Gulf States know so well, which are also on the Atlantic.

Clearly, in California we run the risk of earthquakes. That is our biggest risk. But we have many other risks, as well: such as volcanos and floods. Floods occur all over the country.

I say to my friends in the Senate that I pray that none of us ever has to come to the floor of the Senate asking for help in times of emergency. I will say under this amendment if you do that and you have hundreds of millions of dollars or billions of dollars of damages—as we have seen in Florida, as we have seen in California, as we have seen in the Midwest, as we have seen in many other parts of the country, in order to get this aid under this particular balanced budget amendment, you need to get 60 votes in this U.S. Senate.

I will tell you right now there is no certainty of that.

So what we do in our amendment, Mr. President, is simply say that when there is a declaration of a natural disaster, and that declaration is supported by a simple majority vote in both Houses of Congress, we will be able to move by a simple majority vote, not a 60-vote majority, and send the aid that is needed.

Mr. President, I want to remind you by way of some photographs of some of these disasters that we have seen in my State. Here is a picture of the damage to a freeway in Northridge in 1994 where basically the freeway completely collapsed, people were killed, and we had to act very, very fast. In that particular earthquake, Mr. President, due to the kindness, the kindness of the Clinton administration and this Congress, we were able to pump into the Los Angeles area in excess of \$11 billion to repair lives, to repair homes, to make sure that people had shelter—children, families. And I will tell you, Mr. President, if we had to find that \$11 billion elsewhere in the budget or we needed to come up with 60 votes, I think it would be a very difficult thing to do. A supermajority is wrong in any case. It is wrong to give so much power to a minority when a natural disaster is a question of life or death.

Here is another photograph, Mr. President. This is from this year. These are homes, and you can barely tell that because they are buried in water. That is the kind of flooding we had when levees broke—very similar to the Midwest. We need to move quickly when these disasters hit.

Here is a photograph of Yosemite this year, Mr. President. You can't even pass through the road here. The communities that rely on tourism are in deep trouble.

If Senators had to go to the floor and cut other parts of the budget to meet the needs of these emergencies, I will tell you, it would be very difficult. So I am very hopeful that we will not put this U.S. Senate into a straitjacket. This Senate already defeated some very important amendments to protect Social Security. They defeated, with a block of votes, amendments that would have allowed us to react in a serious recession or depression. Those 1,100 economists said that what the Senate is doing is dangerous. It is dangerous to put this Government into an economic straitjacket. And Alan Greenspan, whom so many of my friends on the other side of the aisle credit with this economic recovery—they turn away from his advice.

But I say to them, here we are talking about life or death. Here we are talking about shelter for people who get hurt in a disaster. Here we are talking about a serious problem where we must act and we must act swiftly. And if we have to do it with 60 votes, or if we must cut corresponding amounts from the rest of the budget, I am saying this as sure as I am standing here—

and I am proud to be standing here—we may leave Americans in dire straits because we are handcuffing our ability to react.

There are some people here who obviously have no trust in their colleagues. They are calling for a supermajority. They don't trust their colleagues. They want a minority to be able to hold back a very important vote, perhaps to save people in my State, or people even in their own States. I think this is wrong. I said, when I came on to this floor several days ago at the beginning of this debate, I believe this is a very radical proposal.

I believe the evidence is in and that those people who are following this debate now understand that we don't need this amendment to balance the budget. All we need to do to balance the budget is cast the tough votes. What is extraordinary to me is that most of the people voting for this balanced budget amendment weren't there when the tough votes were taken and when we were able to reduce this deficit—4 years in a row—from \$290 billion down to \$107 billion. Where were those people? So they offer up this fiscal fig-leaf, and it will put us in a straitjacket. It will tie our hands. We won't be able to protect Social Security or protect jobs in a depression or a severe recession. And now, without my amendment—and I am not that hopeful that we will win this because we have not won any of these amendments—a minority of the Senate, or a minority of the other body, could hold up desperately needed disaster aid.

I will reserve the remainder of my time to respond to my good friend from Utah, and I am hopeful that Members will look at this and support the Boxer amendment, which is also supported by Senator DURBIN and Senator MURRAY.

Again, I reserve my time.

Mr. HATCH. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. There are 15 minutes for the Senator from Utah, and 5 minutes 17 seconds for the Senator from California.

Mr. HATCH. Mr. President, I listened to my colleague, and I know she is sincere. But I have to point out that her amendment, like all of the others, is just another way of making sure the balanced budget amendment has no effect. Let me read it to the people:

At the end of section 5, add the following: "The provisions of this article may be waived for any fiscal year * * *"

That means for the whole fiscal year.

* * * in which there is a declaration made by the President (and a designation by the Congress) that a major disaster or emergency exists, adopted by a majority vote in each House of those present and voting.

This amendment is simply a permutation of the amendment we voted on today, the Feinstein amendment, which was rejected by 67 Senators just a few hours ago. It would have provided for a waiver of the balanced budget requirement for any fiscal year in which the United States is experiencing a se-

rious economic emergency or major natural disaster. I was one of the 67 Senators who opposed that amendment. But I have to say that I actually prefer that amendment to the one being offered now by my friend from California. For one thing, the spending loophole created by this amendment is even more gaping than the one in the amendment we voted down this evening. As Senator ENZI said, you can "sail an aircraft carrier through the loophole created by the Feinstein amendment." If so, then you can sail an entire fleet through the loophole this amendment would provide. This would provide for a waiver of the balanced budget requirement in any fiscal year in which Congress and the President declare there is a major disaster or emergency. Unlike earlier amendments, this amendment does not even require that the disaster be a natural disaster or that the emergency be an economic one. That being the case, I wonder what exactly qualifies as a disaster and an emergency under this amendment.

According to the language of this amendment, a disaster is whatever Congress says it is. I think the worst disaster we are facing are these continual, piled-up unbalanced budgets every year. That is what we are trying to resolve here. Just think of all the things that a creative Congress, bent on deficit spending, could categorize as a disaster or emergency in order to justify more borrowing. Does this amendment mean to say that a drop in SAT scores can be deemed an emergency by Congress and thereby be used as a basis for borrowing to increase educational funding, without having to abide by the strictures of a balanced budget amendment?

The fact is that, under this amendment, just about anything can be classified a disaster or emergency and serve as a springboard for continued deficit spending.

For one thing, Mr. President, this is precisely the type of behavior that has put us into the \$5.3 trillion of national debt. These unbalanced budgets for the last 28 years demonstrate that. They demonstrate the sad result of such loosely defined exemptions from borrowing or spending limits. For another thing, this amendment does nothing more than preserve a distorted version of the status quo.

Under this amendment, a waiver of the balanced budget requirement may be obtained by a declaration made by the President and a similar declaration by Congress. But the precise procedure is not clear. Does this mean that the President must first declare an emergency or disaster by Executive order before the Congress acts to ratify or adopt that declaration? Does it then need to be signed by the President? Or, if that is not what this amendment means, then perhaps, in effect, it means that Congress must declare an emergency or disaster—by a joint resolution or some other legislative vehicle—adopted by a simple majority vote

and then signed by the President. That is what we have been doing when we came up with these 28 straight unbalanced budgets. That is also what we've done in piling up unbalanced budgets in 58 of the last 66 years. That sounds more familiar to me. Indeed, it is familiar to me because it is exactly how we operate today. It is exactly how we have gotten our Nation into a \$5.3 trillion national debt and have produced unbalanced budgets for every one of the last 28 years.

Mr. President, Senate Joint Resolution 1 is a clear, concise amendment carefully drafted over several years with input from Members on both sides of the aisle. I heard earlier in the day one of our colleagues say that this is a Republican amendment. Give me a break. Yes; all 55 Republicans are supporting it. But there are 11 courageous Democrats supporting this. I wonder what CHARLIE STENHOLM thinks about remarks like that, another courageous Democrat from the House who has helped to work on this. And Senator BRYAN, Senator GRAHAM, Senator ROBB, and so many others who have played a pivotal role in this.

The three-fifths waiver contained in section 1 strikes an important balance in that it is both sufficient to answer the concerns raised by the Senator's amendment and strong enough to keep the balanced budget amendment meaningful.

The simple fact is that in actual circumstances of disaster or emergencies, Congress has had little difficulty achieving the supermajority vote required under the balanced budget amendment. I have done some research on the disasters in this Nation during the past 7 years with the help of the Congressional Research Service. I found that in virtually every circumstance, emergency spending bills placed before the House and Senate passed with supermajorities, even when no such requirement was in place.

For example, in fiscal year 1995 the House and Senate voted on H.R. 1944, which provided \$7.2 billion in disaster aid, mostly to help with recovery efforts in Los Angeles from the 1994 earthquake. The bill passed the Senate with a vote of 90 to 7—well over the supermajority requirements of Senate

Joint Resolution 1. In the House, the bill passed by 276 votes—also a supermajority.

The 1994 fiscal year disaster supplemental appropriations bill, H.R. 3759, received similar treatment. That bill, to provide nearly \$10 billion in new appropriations for emergency expenses of the Los Angeles earthquake, humanitarian assistance and peacekeeping activities, as well as for Midwest flood assistance, and highway reconstruction from the San Francisco earthquake, passed the House by a vote of 337 to 74—some 75 votes more than would have been necessary under Senate Joint Resolution 1's supermajority requirement. The same measure passed the Senate by a vote of 85 to 10.

Mr. President, I could go on, but I will summarize by saying that in the past 7 years we have voted many times on emergency disaster funding. I count only two situations where a supermajority was not reached—this despite the fact that no supermajority was needed. The reality is that when there are truly meritorious circumstances the general three-fifths waiver will not stand in the way of what is best for the American people. What will stand in the way is the kind of frivolous expenditures and disregard for the financial well-being of future generations that has plagued our budget process for each of the last 28 years, exemplified by these two stacks of unbalanced budget books.

Mr. President, we are here to instill in the budget process the fiscal discipline that has been lacking for much of this century. I will say once again that what we need to do is pass a balanced budget amendment free of loopholes and gimmicks. Unless we do, we will never rein in the out-of-control spending habits that have brought us to where we are today.

I urge my colleagues to join me in opposing the Boxer amendment, and hopefully we will move quickly to pass the balanced budget amendment.

Mr. President, there was a discussion earlier today on whether or not the Reagan tax cuts enacted by Congress caused the debt we now have or whether it was congressional spending that has run up our debt. I would like to add some more concrete figures to illu-

minate that discussion. I believe the facts are clear—the Reagan tax cuts increased revenues. But spending increased faster.

Let me explain further:

Excessive spending and not tax cuts are responsible for increased deficits during the 1980's.

Even with tax cuts, Federal tax revenues continue to increase.

In fact, Federal revenues have continued to grow in every fiscal year after the 1981 tax cuts. The only exception to this was fiscal year 1983, after the recession of 1982.

This increase in Federal revenues was consistent through the sources of Federal receipts—individual income taxes, corporate income taxes, Social Security insurance taxes and contributions, and other taxes.

Total receipts went up by the following percentages: 1980-1986: 48.7 percent; 1981-1986: 28.8 percent; 1981-1987: 42.5 percent. The middle percentage from 1981 to 1986 is probably the most representative of the effects of the Reagan tax cuts.

Further, tax revenues grew faster after the Reagan tax cuts than they have following the Bush and Clinton tax increases. From 1983 to 1989, tax revenue grew at a real rate of 8.7 percent compared to a 5.9-percent growth rate from 1990 to 1996.

Similarly, President Kennedy knew the growth effects of lower taxes. During the years of the Kennedy tax cuts revenues increased 6.4 percent a year.

As President Kennedy said in his address to the American people concerning his tax proposal:

Prosperity is the real way to balance our budget. * * * By lowering tax rates, by increasing jobs and income, we can expand tax revenues and finally bring our budget into balance..

To further illustrate these points, I ask unanimous consent to have printed in the RECORD two tables from the 1996 Economic Report of the President.

For further detail, I also refer my colleagues to the Joint Economic Committee report on taxes and long-term economic growth, dated February of 1997.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE B-74.—FEDERAL RECEIPTS, OUTLAYS, SURPLUS OR DEFICIT, AND DEBT, SELECTED FISCAL YEARS, 1929-95

(In billions of dollars; fiscal years)

Fiscal year or period	Total			On-budget			Off-budget			Gross Federal debt (end of period)		Addendum: Gross domestic product
	Receipts	Outlays	Surplus or deficit (-)	Receipts	Outlays	Surplus or deficit (-)	Receipts	Outlays	Surplus or deficit (-)	Total	Held by the public	
1929	3.9	3.1	0.7	3.9	3.1	0.7				116.9		
1933	2.0	4.6	-2.6	2.0	4.6	-2.6				122.5		56.8
1939	6.3	9.1	-2.8	5.8	9.2	-3.4				48.2	41.4	87.8
1940	6.5	9.5	-2.9	6.0	9.5	-3.5	0.5	-0.0	0.5	50.7	42.8	95.4
1941	8.7	13.7	-4.9	8.0	13.6	-5.6	.6	.0	.7	57.5	48.2	112.5
1942	14.6	35.1	-20.5	13.7	35.1	-21.3	.7	.1	.8	79.2	67.8	141.8
1943	24.0	78.6	-54.6	22.9	78.5	-55.6	1.1	.1	1.0	142.6	127.8	175.4
1944	43.7	91.3	-47.6	42.5	91.2	-48.7	1.3	.1	1.2	204.1	184.8	201.7
1945	45.2	92.7	-47.6	43.8	92.6	-48.7	1.3	.1	1.2	260.1	235.2	212.0
1946	39.3	55.2	-15.9	38.1	55.0	-17.0	1.2	.2	1.0	271.0	241.9	212.5
1947	38.5	34.5	4.0	37.1	34.2	2.9	1.5	.3	1.2	257.1	224.3	222.9
1948	41.6	29.8	11.8	39.9	29.4	10.5	1.6	.4	1.2	252.0	216.3	246.7
1949	39.4	38.8	.6	37.7	38.4	-.7	1.7	.4	1.3	252.6	214.3	252.7
1950	39.4	42.6	-3.1	37.3	42.0	-4.7	2.1	.5	1.6	256.9	218.0	265.8
1951	51.6	45.5	6.1	48.5	44.2	4.3	3.1	1.3	1.8	255.3	214.3	313.5
1952	66.2	67.7	-1.5	62.6	66.0	-3.4	3.6	1.7	1.9	259.1	214.8	340.5
1953	69.6	76.1	-6.5	65.5	73.8	-8.3	4.1	2.3	1.8	266.0	218.4	363.8

TABLE B-74.—FEDERAL RECEIPTS, OUTLAYS, SURPLUS OR DEFICIT, AND DEBT, SELECTED FISCAL YEARS, 1929-95—Continued

(In billions of dollars; fiscal years)

Fiscal year or period	Total			On-budget			Off-budget			Gross Federal debt (end of period)		Addendum: Gross domestic product
	Receipts	Outlays	Surplus or deficit (-)	Receipts	Outlays	Surplus or deficit (-)	Receipts	Outlays	Surplus or deficit (-)	Total	Held by the public	
1954	69.7	70.9	-1.2	65.1	67.9	-2.8	4.6	2.9	1.7	270.8	224.5	368.0
1955	65.5	68.4	-3.0	60.4	64.5	-4.1	5.1	4.0	1.1	274.4	226.6	384.7
1956	74.6	70.6	3.9	68.2	65.7	2.5	6.4	5.0	1.5	272.7	222.2	416.3
1957	80.0	76.6	3.4	73.2	70.6	2.6	6.8	6.0	.8	272.3	219.3	438.3
1958	79.6	82.4	-2.8	71.6	74.9	-3.3	8.0	7.5	.5	279.7	226.3	448.1
1959	92.5	92.2	-12.8	71.0	83.1	-12.1	8.3	9.0	-7	287.5	234.7	480.2
1960	94.4	97.7	-3	81.9	81.3	.5	10.6	10.9	-2	290.5	236.8	504.6
1961	94.4	97.7	-3.3	82.3	86.0	-3.8	12.1	11.7	.4	292.6	238.4	517.0
1962	99.7	106.8	-7.1	87.4	93.3	-5.9	12.3	13.5	-1.3	302.9	248.0	555.2
1963	106.6	111.3	-4.8	92.4	96.4	-4.0	14.2	15.0	-.8	310.3	254.0	584.5
1964	112.6	118.5	-5.9	96.2	102.8	-6.5	16.4	15.7	.6	316.1	256.8	625.3
1965	116.8	118.2	-1.4	100.1	101.7	-1.6	16.7	16.5	.2	322.3	260.8	671.0
1966	130.8	134.5	-3.7	111.7	114.8	-3.1	19.1	19.7	-.6	328.5	263.7	735.4
1967	148.8	157.5	-8.6	124.4	137.0	-12.6	24.4	20.4	4.0	340.4	266.6	793.3
1968	153.0	178.1	-25.2	128.1	155.8	-27.7	24.9	22.3	2.6	368.7	289.5	847.2
1969	186.9	183.6	3.2	157.9	158.4	-.5	29.0	25.2	3.7	365.8	278.1	925.7
1970	192.8	195.6	-2.8	159.3	168.0	-8.7	33.5	27.6	5.9	380.9	283.2	985.4
1971	187.1	210.2	-23.0	151.3	177.3	-26.1	35.8	32.8	3.0	408.2	303.0	1,050.9
1972	207.3	230.7	-23.4	167.4	193.8	-26.4	39.9	36.9	3.1	435.9	322.4	1,147.8
1973	230.8	245.7	-14.9	184.7	200.1	-15.4	46.1	45.6	.5	466.3	340.9	1,274.0
1974	263.2	269.4	-6.1	209.3	217.3	-8.0	53.9	52.1	1.8	483.9	343.7	1,403.6
1975	279.1	332.3	-53.2	216.6	271.9	-55.3	62.5	60.4	2.0	541.9	394.7	1,509.8
1976	298.1	371.8	-73.7	231.7	302.2	-70.5	66.4	69.6	-3.2	629.0	477.4	1,684.2
Transition quarter	81.2	96.0	-14.7	63.2	76.6	-13.3	18.0	19.4	-1.4	643.6	495.5	445.0
1977	355.6	409.2	-53.7	278.7	328.5	-49.8	76.8	80.7	-3.9	706.4	549.1	1,917.2
1978	399.6	458.7	-59.2	314.2	369.1	-54.9	89.4	89.7	-.4	776.6	607.1	2,155.0
1979	463.3	504.0	-40.7	365.3	404.1	-38.7	98.0	100.0	-2.0	829.5	640.3	2,429.5
1980	517.1	590.9	-73.8	403.9	476.6	-72.7	113.2	114.3	-1.1	909.1	709.8	2,644.1
1981	599.3	678.2	-79.0	469.1	543.1	-74.0	130.2	135.2	-5.0	994.8	785.3	2,964.4
1982	617.8	745.8	-128.0	474.3	594.4	-120.1	143.5	151.4	-7.9	1,137.3	919.8	3,122.2
1983	600.6	808.4	-207.8	453.2	661.3	-208.0	147.3	147.1	.2	1,371.7	1,131.6	3,316.5
1984	666.5	851.8	-185.4	500.4	686.0	-185.7	166.1	165.8	.3	1,564.7	1,300.5	3,695.0
1985	734.1	946.4	-212.3	547.9	769.6	-221.7	186.2	176.8	9.4	1,817.5	1,499.9	3,967.7
1986	769.1	990.3	-221.3	568.9	806.8	-238.0	200.2	183.5	16.7	2,120.6	1,736.7	4,219.0
1987	854.1	1,003.9	-149.8	640.7	810.1	-169.3	213.4	193.8	19.6	2,346.1	1,888.7	4,452.4
1988	909.0	1,064.2	-155.2	667.5	861.4	-194.0	241.5	202.7	38.8	2,601.3	2,050.8	4,808.4
1989	990.7	1,143.2	-152.5	727.0	932.3	-205.2	263.7	210.9	52.8	2,868.0	2,189.9	5,173.3
1990	1,031.3	1,252.4	-221.4	749.7	1,027.6	-278.0	281.7	225.1	56.6	3,206.6	2,410.7	5,481.5
1991	1,054.3	1,323.4	-269.2	760.4	1,081.8	-321.4	293.9	241.7	52.2	3,538.5	2,688.1	5,676.4
1992	1,090.5	1,380.9	-290.4	788.0	1,128.5	-340.5	302.4	252.3	50.1	4,002.1	2,998.8	5,921.5
1993	1,153.5	1,408.7	-255.1	841.6	1,142.1	-300.5	311.9	266.6	45.3	4,351.4	3,247.5	6,258.6
1994	1,257.7	1,460.9	-203.2	922.7	1,181.5	-258.8	335.0	279.4	55.7	4,643.7	3,432.2	6,633.6
1995 ²	1,350.6	1,514.4	-163.8	999.5	1,225.7	-226.2	351.1	288.7	62.4	4,921.0	3,603.3	7,004.5

¹ Not strictly comparable with later data.

² Estimates for 1995 from Final Monthly Treasury Statement, October 1995, except GDP calculated using quarterly seasonally adjusted data.

Note.—Through fiscal year 1976, the fiscal year was on a July 1–June 30 basis; beginning October 1976 (fiscal year 1977), the fiscal year is on an October 1–September 30 basis. The 3-month period from July 1, 1976 through September 30, 1976 is a separate fiscal period known as the transition quarter.

TABLE B-76.—FEDERAL RECEIPTS AND OUTLAYS, BY MAJOR CATEGORY, AND SURPLUS OR DEFICIT, 1940-95

(In billions of dollars; fiscal years)

Fiscal year or period	Receipts (on-budget and off-budget)					Outlays (on-budget and off-budget)								Surplus or deficit (-) (on-budget and off-budget)		
	Total	Individual income taxes	Corporation income taxes	Social insurance taxes and contributions	Other	National defense										
						Total	Department of Defense, military	Inter-national affairs	Health	Medicare	Income security	Social security	Net interest		Other	
1940	6.5	0.9	1.2	1.8	2.7	9.5	1.7	.....	0.1	0.1	.....	1.5	0.0	0.9	5.3	-2.9
1941	8.7	1.3	2.1	1.9	3.3	13.7	6.4	.....	.1	.1	.....	1.9	.1	.9	4.1	-4.9
1942	14.6	3.3	4.7	2.5	4.2	35.1	25.7	.....	1.0	1.0	.....	1.8	1.1	5.4	-20.5	.....
1943	24.0	6.5	9.6	3.0	4.9	78.6	66.7	.....	1.3	1.1	.....	1.7	2.2	15.7	-54.6	.....
1944	43.7	19.7	14.8	3.5	5.7	91.3	79.1	.....	1.4	2	.....	1.5	2	6.6	-47.6	.....
1945	45.2	18.4	16.0	3.5	7.3	92.7	83.0	.....	1.9	2	.....	1.1	3	3.1	-47.6	.....
1946	39.3	16.1	11.9	3.1	8.2	55.2	42.7	.....	1.9	2	.....	2.4	4	4.1	-15.9	.....
1947	38.5	17.9	8.6	3.4	8.5	34.5	12.8	.....	5.8	2	.....	2.8	5	4.2	8.2	4.0
1948	41.6	19.3	9.7	3.8	8.8	29.8	9.1	.....	4.6	2	.....	2.5	6	4.3	8.5	11.8
1949	39.4	15.6	11.2	3.8	8.9	38.8	13.2	.....	6.1	2	.....	3.2	7	4.5	11.1	.6
1950	39.4	15.8	10.4	4.3	8.9	42.6	13.7	.....	4.7	3	.....	4.1	8	4.8	14.2	-3.1
1951	51.6	21.6	14.1	5.7	10.2	45.5	23.6	.....	3.6	3	.....	3.4	1.6	4.7	8.4	6.1
1952	66.2	27.9	21.2	6.4	10.6	67.7	46.1	.....	2.7	3	.....	3.7	2.1	4.7	8.1	-1.5
1953	69.6	29.8	21.2	6.8	11.7	76.1	52.8	.....	2.1	3	.....	3.8	2.7	5.2	9.1	-6.5
1954	69.7	29.5	21.1	7.2	11.9	70.9	49.3	.....	1.6	3	.....	4.4	3.4	4.8	7.1	-1.2
1955	65.5	28.7	17.9	7.9	11.0	68.4	42.7	.....	2.2	3	.....	5.1	4.4	4.9	8.9	-3.0
1956	74.6	32.2	20.9	9.3	12.2	70.6	42.5	.....	2.4	4	.....	4.7	5.5	5.1	10.1	3.9
1957	80.0	35.6	21.2	10.0	13.2	76.6	45.4	.....	3.1	5	.....	5.4	6.7	5.4	10.1	3.4
1958	79.6	34.7	20.1	11.2	13.6	82.4	46.8	.....	3.4	5	.....	7.5	8.2	5.6	10.3	-2.8
1959	79.2	36.7	17.3	11.7	13.5	92.1	49.0	.....	3.1	7	.....	8.2	9.7	5.8	15.5	-12.8
1960	92.5	40.7	21.5	14.7	15.6	92.2	48.1	.....	3.0	8	.....	7.4	11.6	6.9	14.4	.3
1961	94.4	41.3	21.0	16.4	15.7	97.7	49.6	.....	3.2	9	.....	9.7	12.5	6.7	15.2	-3.3
1962	99.7	45.6	20.5	17.0	16.5	106.8	52.3	50.1	5.6	12	.....	9.2	14.4	6.9	17.2	-7.1
1963	106.6	47.6	21.6	19.8	17.6	111.3	53.4	51.1	5.3	15	.....	9.3	15.8	7.7	18.3	-4.8
1964	112.6	48.7	23.5	22.0	18.5	118.5	54.8	52.6	4.9	18	.....	9.7	16.6	8.2	22.6	-5.9
1965	116.8	48.8	25.5	22.2	20.3	118.2	50.6	48.8	5.3	18	.....	9.5	17.5	8.6	25.0	-1.4
1966	130.8	55.4	30.1	25.5	19.8	134.5	58.1	56.6	5.6	2.5	0.1	9.7	20.7	9.4	28.5	-3.7
1967	148.8	61.5	34.0	32.6	20.7	157.5	71.4	70.1	5.6	3.4	2.7	10.3	21.7	10.3	32.1	-8.6
1968	153.0	68.7	28.7	33.9	21.7	178.1	81.9	80.4	5.3	4.4	4.6	11.8	23.9	11.1	35.1	-25.2
1969	186.9	87.2	36.7	39.0	23.9	183.6	82.5	80.8	4.6	5.2	5.7	13.1	27.3	12.7	32.6	3.2
1970	192.8	90.4	32.8	44.4	25.2	195.6	81.7	80.1	4.3	5.9	6.2	15.6	30.3	14.4	37.2	-2.8
1971	187.1	86.2	26.8	47.3	26.8	210.2	78.9	77.5	4.2	6.8	6.6	22.9	35.9	14.8	40.0	-23.0
1972	207.3	94.7	32.2	52.6	27.8	230.7	79.2	77.6	4.8	8.7	7.5	27.6	40.2	15.5	47.3	-23.4
1973	230.8	103.2	36.2	63.1	28.3	245.7	76.7	75.0	4.1	9.4	8.1	28.3	49.1	17.3	52.8	-14.9
1974	263.2	119.0	38.6	75.1	30.6	269.4	79.3	77.9	5.7	10.7	9.6	33.7	55.9	21.4	52.9	-6.1
1975	279.1	122.4	40.6	84.5	31.5	332.3	86.5	84.9	7.1	12.9	12.9	50.2	64.7	23.2	74.9	-53.2
1976	298.1	131.6	41.4	90.8	34.3	371.8	89.6	87.9	6.4	15.7	15.8	60.8	73.9	26.7	82.8	-73.7
Transition quarter	81.2	38.8	8.5	25.2	8.8	96.0	22.3	21.8	2.5	3.9	4.3	15.0	19.8	6.9	21.4	-14.7
1977	355.6	157.6	54.9	106.5												

TABLE B-76.—FEDERAL RECEIPTS AND OUTLAYS, BY MAJOR CATEGORY, AND SURPLUS OR DEFICIT, 1940-95—Continued

(In billions of dollars; fiscal years)

Fiscal year or period	Receipts (on-budget and off-budget)					Outlays (on-budget and off-budget)									Surplus or deficit (-) (on-budget and off-budget)	
	Total	Individual income taxes	Corporation income taxes	Social insurance taxes and contributions	Other	Total	National defense		International affairs	Health	Medicare	Income security	Social security	Net interest		Other
							Total	Department of Defense, military								
1982	617.8	297.7	49.2	201.5	69.3	745.8	185.3	180.7	12.3	27.4	46.6	107.7	156.0	85.0	125.4	-128.0
1983	600.6	288.9	37.0	209.0	65.6	808.4	209.9	204.4	11.8	28.6	52.6	122.6	170.7	89.8	122.3	-207.8
1984	666.5	298.4	56.9	239.4	71.8	851.8	227.4	220.9	15.9	30.4	57.5	112.7	178.2	111.1	118.6	-185.4
1985	734.1	334.5	61.3	265.2	73.0	946.4	252.7	245.2	16.2	33.5	65.8	128.2	188.6	129.5	131.8	-212.3
1986	769.1	349.0	63.1	283.9	73.1	990.3	273.4	265.5	14.2	35.9	70.2	119.8	198.8	136.0	142.1	-221.2
1987	854.1	392.6	83.9	303.3	74.3	1,003.9	282.0	274.0	11.6	40.0	75.1	123.3	207.4	138.7	125.9	-149.8
1988	909.0	401.2	94.5	334.3	78.9	1,064.1	290.4	281.9	10.5	44.5	78.9	129.3	219.3	151.8	139.4	-155.2
1989	990.7	445.7	103.3	359.4	82.3	1,143.2	303.6	294.9	9.6	48.4	85.0	136.0	232.5	169.3	158.8	-152.5
1990	1,031.3	466.9	93.5	380.0	90.9	1,252.7	299.3	289.8	13.8	57.7	98.1	147.0	248.6	184.2	203.9	-221.4
1991	1,054.3	467.8	98.1	396.0	92.3	1,323.4	273.3	262.4	15.9	71.2	104.5	170.3	269.0	194.5	224.5	-269.2
1992	1,090.5	476.0	100.3	413.7	100.5	1,380.9	298.4	286.9	16.1	89.5	119.0	196.9	287.6	199.4	173.9	-290.4
1993	1,153.5	509.7	117.5	428.3	98.0	1,408.7	291.1	278.6	17.2	99.4	130.6	207.3	304.6	198.8	159.7	-255.1
1994	1,257.7	543.1	140.4	461.5	112.8	1,460.9	281.6	268.6	17.1	107.1	144.7	214.0	319.6	203.0	173.8	-203.2
1995 ¹	1,350.6	590.2	157.1	484.5	118.9	1,514.4	272.2	259.6	16.4	114.8	159.9	220.2	335.8	232.2	162.9	-163.8

¹ Estimates.

Note.—Through fiscal year 1976, the fiscal year was on a July 1–June 30 basis; beginning October 1976 (fiscal year 1977), the fiscal year is on an October 1–September 30 basis. The 3-month period from July 1, 1976 through September 30, 1976 is a separate fiscal period known as the transition quarter. Refunds of receipts are excluded from receipts and outlays.

Data shown in this table are from *Budget of the United States Government, Fiscal Year 1996*, February 1995, except 1995 data are from *Final Monthly Treasury Statement*, October 1995.

Mr. HATCH. I reserve the remainder of my time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I want to respond to my friend's comments. And I hope he can stay on the floor because I think he raised some important points, some of which I agree with.

He said this isn't a partisan issue. I agree with my friend from Utah. Alan Greenspan, who is the hero of many on the Republican side of the aisle—indeed, when we say the President's policies have brought us millions of new jobs and the lowest misery index, they always say it is Alan Greenspan. Alan Greenspan, Republican, opposes this amendment to the Constitution.

I will give you another voice, Jean M. Ross of the nonpartisan California Budget Project, wrote that a balanced budget amendment would limit the Federal Government's ability to help States needing economic assistance. I can say to my friend that economic assistance to States is not only needed during the recessions, which my friend thought was a big loophole, but it is certainly needed in times of disaster.

If you look at this map, you can see almost the entire country is under some risk for disaster.

My friend says we can never balance the budget. He has all these budgets up there. I was glad to see Senator BYRD point out that the biggest deficits occurred in the 1980's in those books because of trickle-down economics, and a huge military buildup. We didn't pay for it. Those are what those books say.

My friend says we are never going to have a balanced budget until we have a balanced budget amendment to the Constitution. We will never have a balanced budget until we vote for a balanced budget, and I have done that three times. I voted the tough votes, and the deficit is going down. I feel standing up here is quite fiscally responsible because of those votes. But when you put this country in an economic straitjacket, I think it is dangerous.

My friend says he doesn't understand my amendment. I find that extraordinary because I offered it the last time we voted on this balanced budget. No one had problems understanding it. It is the same amendment. But let me read to my friend the purpose as written in my amendment, in case he doesn't understand it. The purpose is to provide Federal assistance to supplement State and local efforts to alleviate the damage, loss, hardship, and suffering caused by disasters or emergencies by exempting spending that is designated emergency requirements by both the President and the Congress.

The point is that it is very clear that the President will declare a disaster or emergency. The Congress will then take a look at it. The Congress will then act. And, if the Congress agrees that this is a disaster or an emergency, then the 60-vote requirement is waived.

My friend says it is easy to get 60 votes in an emergency. I would like to tell my friend a story. We had an earthquake in San Francisco and a freeway collapsed. It was called the Cypress Freeway. It is in Oakland, and it was destroyed. I am very familiar with this because my husband crossed that freeway an hour before it went down. So I am very familiar with the Cypress Freeway. We are rebuilding the Cypress Freeway.

And one of my colleagues on the other side of the aisle—as a matter of fact, it was the then majority leader, Bob Dole, who decided that he didn't like the rebuilding plan and brought the issue before us. And I had to fight for my life, along with Senator FEINSTEIN, to keep the rebuilding of the Cypress Freeway on the floor and alive and fulfill our obligations to the people of Northern California. We forced a vote on it. We got 53 votes, and we were able to move forward. We did not get 60 votes. Had this balanced budget requirement been in place we would not have been able to finish building the Cypress Freeway.

So for anyone who comes on this floor and thinks that it is easy to get

60 votes when politics plays a role in some of it, and budget deficits will play a role in it, I would just say to them, please don't give that kind of power to a minority of the U.S. Senate. Let us vote a simple majority vote in case of natural disasters.

There is no confusion about this amendment. If my friend has confusion, all he has to do is read the purpose. It is clear what we are talking about.

I will just show one more picture again of what we are talking about. We are talking about flooding and storms that cause roads to shut down. We are talking about houses being buried in the water because of floods. It is real simple, I say to my friend. Let's not tell people it is confusing. It is pretty clear.

I yield the floor. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, in spite of the sincerity of my colleague from California, I think I have said all that needs to be said on this. I yield back the remainder of my time, and I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. SESSIONS). The question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 60, nays 40, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—60

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

NAYS—40

Akaka	Feingold	Levin
Biden	Feinstein	Lieberman
Bingaman	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Breaux	Harkin	Moynihan
Bryan	Hollings	Murray
Bumpers	Inouye	Reed
Byrd	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Conrad	Kerrey	Torricelli
Daschle	Kerry	Wellstone
Dodd	Landrieu	Wyden
Dorgan	Lautenberg	
Durbin	Leahy	

The motion to lay on the table the amendment (No. 16) was agreed to.

Mr. KYL. Mr. President, the Senate has had before it several amendments that include provisions their proponents say will exempt Social Security from the balanced budget amendment. I do not doubt the Senators who propose the amendments are sincere in their desire to protect Social Security; none of us wants to harm Social Security, which is so important to so many older Americans. I have to say, though, that well-intentioned as their amendment may be, I cannot think of a greater threat to Social Security.

Consider for a moment what it would mean to exempt Social Security from the balanced budget amendment. In effect, Social Security would become the only Federal program—the only program—where deficits would be permitted. The rest of the Federal budget would be required to be in balance.

How on earth does allowing Social Security to be in deficit protect our seniors? Quite the opposite. If a balanced budget is good for other programs, why is it not good for Social Security? There is no greater protection for seniors than having the money to take care of our obligations. In fact, we have been able to provide for seniors precisely because Social Security has usually been in balance or surplus; it is the rest of the budget that has been plagued by big, chronic deficits.

Now, at the very time it appears we are near consensus about how detrimental deficits are, some are proposing that we allow deficits to begin to infect the retirement program. In fact, the amendments to exempt Social Security would establish a constitutional presumption that Social Security will be in deficit. Why else would the pro-

gram be exempt from a balanced budget requirement?

Mr. President, we have always made sure that Social Security is actuarially sound. When Social Security faced problems back in the early 1980's, Republicans and Democrats came together in a bipartisan way to rescue the program and make sure that the benefits of current retirees were protected and paid on time.

On a bipartisan basis, we have abided by rules in the Senate that make it virtually impossible to pass a budget that adversely affects the Social Security surplus; it would take a supermajority vote to pass such a thing. On a bipartisan basis, we made sure that Social Security was exempt from the across-the-board spending cuts required by the Gramm-Rudman-Hollings deficit-reduction law in the 1980's. The Republican budgets of the last 2 years proposed ways of achieving balance without touching Social Security, and I assume President Clinton's new budget will not touch Social Security, either.

So the reality is that Republicans and Democrats have worked together every step of the way to protect the integrity of the Social Security system.

Why? Because there is general consensus in the country that Social Security must be protected. It has broad bipartisan support in Congress and around the country. It is supported by people young and old, rich and poor. It works. And unlike other programs run by our Government, it works because we have made sure that it has always operated in balance or with a surplus to cover unforeseen circumstances or expected future needs. That commitment to sound budgeting would be upheld by the balanced budget amendment—and applied to the rest of the budget as well.

Mr. President, I want to speak for a few moments about what I believe are some of the misperceptions about the balanced budget amendment and the Social Security exemption that is being proposed.

First, there is nothing in the balanced budget amendment that requires cuts in Social Security benefits. In fact, the budgets that Congress passed during the last 2 years would have achieved balance without touching Social Security, so obviously it can be done without harming the retirement system.

Second, there is nothing in the exemption that is being proposed that would prevent Congress from cutting retirement benefits, means-testing benefits, reducing cost-of-living adjustments, or raising payroll taxes. The exemption would not prevent the expenditure of Social Security funds for other purposes; in fact, it would do just the opposite. Given that the exemption would allow Social Security to run a deficit, Congress will in all likelihood simply shift spending that cannot be accommodated within a balanced budget to the Social Security budget.

Since Social Security is a program defined in statute—and Congress can

amend that statute at any time by simple majority vote—Congress would be free to call virtually anything Social Security—whether it be Medicare, Medicaid, education, infrastructure development, or welfare—and thereby extend the exemption to cover those programs, too. The incentive would be to raid the trust funds for any project or program that might otherwise bust the Federal budget, and that would endanger the solvency of what today constitutes the Social Security Program. It would also mean that a provision of the Constitution could be amended by a simple majority vote—by just amending the statute that is referred to in the constitutional exemption. That, of course, would directly contradict the amendment clause of the Constitution itself.

Third, there is nothing in the exemption that precludes the Social Security surplus from being invested in Government securities and, in turn, being used to cover general operating expenses, just as it is now. Even those using Social Security as a pretext for opposing a balanced budget know that Congress has always made sure that the debt to the Social Security trust fund has been repaid—repaid with interest.

Mr. President, the fact that the Social Security surplus is invested in government securities and used for general operating expenses does not mean beneficiaries are being shortchanged of any benefits due them. The surpluses do not exist for current retirees, but to help cover the cost of benefits when the baby-boom generation retires years down the road.

So, the only relevant question regarding the safety and soundness of Social Security is whether, when it comes time to pay those benefits to future retirees, the Federal government will be able to cover its IOU's to the Social Security trust fund. That, in turn, depends on how deeply in debt the Federal government is.

Mr. President, the Congressional Budget Office projected just last month that the budget deficit will reverse course and begin to rise again—from \$107 billion in 1996 to \$124 billion in 1997—and it will keep rising to \$278 billion in 2007. Debt held by the public will increase 55 percent in just the next 10 years. The more debt that accumulates, the harder it will be for the Government to repay Social Security in the future while also meeting all of the Nation's other needs—for example, in law enforcement, education, the environment, and health care. The balanced budget amendment will help minimize the accumulation of debt and the threat to future retirees that is inherent in it.

If Congress does not balance the budget—if it does not constrain the national debt—the temptation will ultimately be to monetize the debt—that is, pay it off by printing more money. And that would lead to rampant inflation. No industrialized nation has ever

reached the level of debt that our country is expected to face in the next century without monetizing the debt, printing more money, and experiencing destructive, rampant inflation.

If inflation drives the cost of basic goods and services beyond the reach of most Americans—if, for example, bread costs \$100 a loaf—it will not matter that a retiree's \$1,000 Social Security check arrives promptly in the mail. The worst enemy of those on fixed incomes is inflation.

So the exemption neither guards against cuts in benefits nor ensures that the government has the ability to repay its debts to the trust fund to cover future benefits. It is a false promise to the millions of Americans who depend on Social Security to meet their most basic of needs.

Leaving Social Security under the balanced budget amendment will, however, make sure that the retirement system remains safe, sound, and balanced. And that is important because, while the system is running annual surpluses now, it will soon begin running huge deficits. Beginning in 2012, Social Security will begin spending more than it collects in payroll taxes. By 2029, benefits will amount to more than all payroll tax revenue, accumulated surpluses, and interest—meaning that the trust fund will have neither sufficient income nor savings to meet then-current obligations. If allowed to continue operating in deficit, the Social Security Program will rack up \$7 trillion in debt by 2070. These deficits are the greatest threat to the Social Security system.

Mr. President, the exemption will not protect benefits or guarantee repayment of IOU's to cover future benefits. It will not even ensure that Social Security surpluses are invested in something other than government IOU's. But it will make it far more difficult to balance the rest of the budget by not allowing the amounts invested in Government securities to be counted toward a balanced budget.

That would mean Congress would have to cut spending, raise taxes, or both by an additional \$706 billion over the 5-year period 2002 through 2007 beyond what would be necessary to balance a unified budget.

The exclusion would force deep spending cuts—an additional across-the-board reduction of 10 percent—in education, the environment, Medicare, law enforcement, and other discretionary spending programs. Or, it would require huge tax increases—up to 12 percent higher than they are today.

To put that into perspective, President Clinton's 1993 tax increase amounted to \$241 billion. Last year's congressional budget resolution proposed slower Medicare-spending growth to provide savings of \$158 billion, and discretionary spending savings totaling \$291 billion.

The \$706 billion in additional deficit reduction that would be required by

the Social Security exemption would amount to more than the Clinton tax increase and those two sources of savings combined. It would obviously be very difficult to find any consensus for such huge reductions, and therein lies the rub. I am very concerned that the Social Security issue—that older Americans—are being made the scapegoats for a vote against the balanced budget amendment.

Mr. President, if proponents of the exemption are serious about wanting to balance the budget, excluding Social Security, then they should lay out how they will deal with tomorrow's Social Security deficit as well as how they intend to cover the \$706 billion gap in the short term.

Or they should simply admit that they do not support a balanced Federal budget.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

Mr. GRASSLEY. Mr. President, without losing my right to the floor, I yield 2 minutes to the Senator from Texas.

FRANK M. TEJEDA POST OFFICE BUILDING

Mrs. HUTCHISON. Mr. President, I thank the Senator from Iowa, because it is very important that we pass a bill tonight. It is for a fallen colleague on the other side of the rotunda. We lost the Congressman from San Antonio a few weeks ago at the age of 51 to a battle with cancer.

Frank Tejada was a great Congressman, he was a great friend, and he was a patriot for this country. He left high school at the age of 17, joined the Marine Corps, came back and graduated from St. Mary's University. He then went on to distinguish himself and earn degrees in law from U.C. Berkeley and Yale, as well as a masters in public administration from Harvard.

Frank Tejada was a hero. He earned the Bronze Star for valor, and received the Purple Heart for wounds sustained in combat in Vietnam. But most of all, he never forgot where he was from—south San Antonio, TX. As a leader in his community and as a public servant, Frank always remembered the people he represented and was always there for them.

For that reason, Mr. President, my colleague Senator GRAMM and I want to name the Postal Service facility being constructed at 7411 Barlito Boulevard in San Antonio, TX, as the "Frank M. Tejada Post Office Building." So I am going to make two unan-

imous-consent requests to discharge H.R. 499, which passed unanimously in the House of Representatives on February 5, 1997, in order to complete the naming of this post office for a great patriot, a great friend, and a wonderful Congressman from Texas.

Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 499; and further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 499) to designate the facility of the United States Postal Service under construction at 7411 Barlito Boulevard in San Antonio, Texas, as the "Frank M. Tejada Post Office Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRAMM. Mr. President, I am honored to join my colleague, Senator KAY BAILEY HUTCHISON, in offering a tribute to our late colleague, Congressman Frank Tejada.

Frank will be remembered as a man who dedicated his life to serving America. He was widely admired for his friendly common sense, but in particular for the special place that he kept in his heart for the men and women who wear the uniform of our country.

In his short tenure, Frank Tejada left his mark on our country, on the people of Texas, and most personally on the people of San Antonio, who knew him best. It is most fitting that we designate the Post Office facility to be constructed in San Antonio as the "Frank M. Tejada post office Building," not to remind people of who Frank was, for they do not need to be reminded. We designate the facility in Frank's name to recall for future generations that a man, whose life was too short, made a difference and will live in our hearts.

The Frank M. Tejada Building will stand as a monument for dedication, commitment, and for the precept that with God-given talents and the will to work, we can do anything we set out to do in America. Frank Tejada epitomized those qualities in his life and we honor him.

Mrs. HUTCHISON. Mr. President, on behalf of Senator PHIL GRAMM and myself, I ask unanimous consent that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 499) was deemed read the third time and passed.

Mrs. HUTCHISON. Thank you, Mr. President. We have now finally passed the bill in both Houses of Congress that will name a post office for Frank M.