

was a short conversation. I was told that there would be no discussions at all on nuclear waste until after Mr. Peña was confirmed. Let me repeat that—no discussions at all on nuclear waste until after confirmation.

This is the message from an administration which has had its head in the sand on this issue for 4 years. They have refused to discuss or take any kind of responsible position on this issue, yet they want me and the rest of the Senate to move forward on the nominee which will have responsibility over nuclear waste policy.

A nominee, who when Secretary, would have absolutely no authority to even discuss areas of compromise.

It's no wonder Secretary O'Leary waited until she was free from the administration to articulate her support for centralized interim storage. A CQ Monitor story last week reported "O'Leary blamed * * * opposition [to interim storage] on White House officials connected with Vice President AL GORE. She said they see the issue more in political than technical terms." "You'll get more clarity from someone like me outside the system," O'Leary said. Unfortunately, we cannot wait until the next Secretary leaves office before we hear his views on this subject.

Safe nuclear waste storage should not be a political issue. It is a scientific issue and an environmental issue—and we need a solution now. Sadly, the administration has turned a blind eye and a deaf ear.

In addition to threats to the environment and safety, 20 percent of our electric generating capacity is at risk—20 percent. Starting in January 1998, there is a substantial likelihood that American taxpayers will either be paying for or be deprived of billions of dollars a year as a result of this administration's inaction. That's right, Mr. President, estimates of the Federal Government's liability under a recent lawsuit brought by the States run between \$40-\$80 billion.

Inaction is not an option. Inaction is irresponsible.

Mr. President, I have not asked the administration to change its position prior to Mr. Peña's confirmation. I would like that, but I'm trying to be reasonable. I have identified areas where S. 104 can be modified to alleviate concerns. I am working with Democratic colleagues on the committee to address some of their concerns. I would like to have the same opportunity for dialog with the administration.

Contrary to some White House leaks, that dialog has not been linked to any specific Alaska issue and it has not been about Mr. Peña's qualifications. It has been largely about the administration's lack of a plan to accept the waste by 1998. Americans have paid \$12 billion into the fund.

I look forward to working with a Secretary of Energy who can work with me and other Members of Congress on the nuclear waste problem. It is very

hard to explore compromise if one side won't talk.

It is also hard if one of the sides ducks the issue for years, and won't take a position until it is forced to.

The Vice President says no talk and no interim storage. Period. He says "Leave it where it is"—in 41 States. Other elements of the administration seem to want to be more cooperative.

It took a meeting with Mr. Bowles, a lot of other conversations, and a couple delays in the confirmation vote to get them to focus on this important safety and environmental issue. The national news attention has also raised visibility.

Now, they seem willing to face the issue. And they are beginning to sort out their real position. The current policy squabble inside the administration suggests it is finally facing up to this pressing issue.

I received a letter from Mr. Bowles. It signals that the administration is willing to engage in constructive dialog; it comes close to finally articulating a policy; and it contradicts the Vice President's non-policy policy of leaving the waste where it is until the final repository is built.

I am pleased to receive the letter. After 2 years, I think we finally may have a real dialog. The letter says Mr. Peña will have the portfolio to talk and work with Congress.

I ask unanimous consent that Mr. Bowles' letter be printed in the RECORD.

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

CHIEF OF STAFF TO THE PRESIDENT,
The White House, February 27, 1997.
HON. FRANK MURKOWSKI,
Chairman, Senate Committee on Energy and Natural Resources, US Senate.

DEAR SENATOR MURKOWSKI: The Administration is committed to resolving the complex and important issue of nuclear waste storage in a timely and sensible manner, consistent with sound science and the protection of public health, safety, and the environment. The Federal government's longstanding commitment to permanent, geologic disposal should remain the basic goal of high-level radioactive waste management policy.

The Administration believes that a decision on the siting of an interim storage facility should be based on objective, science-based criteria and should be informed by the viability assessment of Yucca Mountain, expected in 1998. Therefore, as the President has stated, he would veto any legislation that would designate an interim storage facility at a specific site before the viability determination of a permanent geological repository at Yucca Mountain has been determined.

Following confirmation, Secretary Pena has the portfolio in the Administration to work cooperatively with the Committee and others in Congress on nuclear waste disposal issues within the confines of the President's policy as stated above. Secretary Pena will also be meeting with representatives of the nuclear industry and other stakeholders to discuss DOE's response to a recent court decision on the Department's contractual obligations regarding nuclear waste.

Sincerely,

ERSKINE B. BOWLES.

Mr. MURKOWSKI. Mr. President, based on Mr. Bowles involvement and the good faith commitment by the administration to treat this as a policy and not a political issue, I am announcing the Committee on Energy and Natural Resources will vote on the nomination Thursday at 9:30 a.m.

We look forward to resolving our differences with the administration and moving forward with legislation addressing the nuclear waste crisis by the end of this month.

I look forward to working with Mr. Peña to stop the irresponsible policy of piling high-level radioactive waste at 80 locations in 41 States, near our homes and schools.

Taxpayers are being exposed to billions of dollars in liability and American ratepayers are being cheated out of the \$12 billion they have paid into the nuclear waste fund.

Let's get on with it.

RECESS

The PRESIDING OFFICER. Pursuant to the unanimous consent agreement, the Senate now stands in recess until the hour of 2:15 p.m.

Thereupon, at 12:48 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. There will now be 1 hour for debate under the control of the manager on the Democratic side with the first 20 minutes under the control of the Senator from West Virginia [Mr. BYRD].

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, would the Presiding Officer give me what the parliamentary situation is?

The PRESIDING OFFICER. Under the previous unanimous consent agreement, 1 hour of time is reserved at this point under the control of the manager on the Democratic side with 20 minutes allocated to the Senator from West Virginia.

Mr. LEAHY. Mr. President, while we are waiting for the Senator from West Virginia to arrive—and my understanding is there is not someone on the other side now asking to speak—I will, within the time on this side, continue some comments I made earlier this morning.

I talked about the fact that the amendments were, in almost lockstep fashion, knocked down by the proponents of the constitutional amendment. I was concerned about that because even many of the supporters of a constitutional amendment spoke in their testimony before the Judiciary Committee of the basic flaws in this amendment as worded.

When we go to amend the Constitution of the United States, the constitution of the greatest democracy in history, we have at least an obligation to our Nation, and certainly to the Constitution, the bedrock of our democracy, to do it in an understanding way, not as some kind of a slapdash, bumper-sticker, sloganeering fashion that raises more questions than it answers.

The amendment before us leaves wide open questions of Social Security and how that is going to be handled. It leaves wide open the questions of a capital budget.

Just before we recessed for the caucuses, a proponent of the balanced budget amendment spoke about Thomas Jefferson and how Thomas Jefferson said that he would have liked to have had a balanced budget amendment. Well, now, let us stop to think about this. Thomas Jefferson borrowed an amount that was equal to twice the budget of the United States for the Louisiana purchase. I mean, this would be like borrowing trillions of dollars today.

Had President Jefferson had a balanced budget amendment, certainly one like this, he would not have been able to do that. North Dakota would have had the chance to speak Spanish, not English. Our European-sponsored wars probably would have taken place on our continent. Certainly the United States would not be a country described as "from sea to shining sea."

These are some of the historical, as opposed to hysterical, facts in this debate.

Senator DODD offered an amendment that pointed out another serious flaw in the language of the proposed constitutional amendment. Section 5 of the proposed amendment requires the United States to be engaged in military conflict before a waiver may be obtained. Moreover, the Senate report compounded the problem by indicating that only certain kinds of military conflict may qualify. Only military conflict that involved the actual use of military force may serve as the basis for this waiver.

Senator DODD's amendment exposes the folly of this language. It would create constitutional circumstances making military spending and preparations easier only when military force is actually used and military conflict ensues. If you want to arm to deter aggression, that is suddenly no longer the preferred course. If you want to aid allies in a conflict rather than dispatching U.S. military forces, that would no longer be as viable an alternative. If you wanted to rebuild our military capabilities after conflict, you could not do it without three-fifths.

Has nobody read a history book about World War II? Does nobody know what preparations we had to undertake and the possibility that we might go into war? Has nobody read what we did to help other countries? Instead of addressing the serious and substantial concerns raised by Senator DODD's

amendment, the sponsors and proponents of Senate Joint Resolution 1 simply opposed the Dodd amendment as creating a loophole in the balanced budget amendment. The proponents did not offer alternative language to address the real military and foreign policy concerns surrounding Senate Joint Resolution 1. Instead, lockstep voting, they defeated the Dodd amendment by a vote of 64-36. And then they rejected those provisions again when they rejected the Torricelli amendment.

We have probably reached a point, Mr. President, where Senators know how they are going to vote. But I hope that they will go back and read what is in this debate. We have said over and over again that if you really want a balanced budget, just balance it. Vote to do it. This morning, I asked the distinguished Republican whip, "Where is the Republican budget?" You know, we have had this debated on the floor of the Senate, Mr. President, when I have raised the fact that we are now paying the interest on the huge debt brought up in the last two administrations—President Reagan's and President Bush's—and the fact that if we weren't paying the interest on the debt and deficits created just in those two administrations, we would actually have a surplus in our budget today, not a deficit.

Having said that, the response was, well, now it is not the President who proposes that, it is the Congress that does that. If you want to go into facts, President Reagan got 99.99 percent of everything he ever asked for. Even though he had the veto pen, he only vetoed one spending bill—only one—as each year unprecedented deficits went up, as each year his budget showed greater deficits than had ever been seen in the history of this country, and he vetoed one spending bill. Why? Was it because it spent too much money? No. He vetoed that one bill because it spent less money than he thought it should. The only spending bill President Reagan ever vetoed was one that spent less than what he wanted.

Let us assume that it is not the President's prerogative to propose a budget. Let us assume it is not the President's plan, and let us assume it is the Congress'. Then I ask, again, my friend, the Republican whip, and others, where is the budget? "Where's the beef?" On April 15, we are supposed to have a budget. Republicans control the Senate and the House. They have a majority in each House. If, indeed, they really want a balanced budget—not a balanced budget gimmick, but a balanced budget—then vote one, pass one. There are 55 Republicans in the Senate. That is a majority. There is a majority of Republicans in the House of Representatives. Just bring up the budget and pass it. Pass it. Pass the actual spending bills and tax bills.

Last year, even with a majority, they didn't even pass 13 appropriations bills on time. Mr. President, the public should not hold their breath waiting

for this to happen. The reason is very simple. It is one thing to pass on to the States a constitutional amendment, no matter how poorly drafted, and say, there, I voted for a balanced budget. You can put that on the bumper sticker on your car, you can put it on the tag line in your campaign, and you can use it in focus groups. Of course, it doesn't balance the budget. It doesn't do one thing. It doesn't change 1 cent of our national debt or the deficit, or 1 cent of the budget. But it sure makes you feel good, and it is a nice political gimmick. But if you cast the hard votes to actually bring the deficit down and actually balance the budget, then you are going to upset special interests from the right to the left. I know. I have voted for an awful lot of cuts to our budget. I voted for programs that brought down the deficit. I voted for programs that cut thousands and tens of thousands of Federal employees off of the rolls. I have voted to cut programs in my own State that closed offices in my State and in the State of the Presiding Officer, and every other place.

I think I have heard from everybody whose toes I stepped on in those cuts. It is a heck of a lot easier to vote for the constitutional amendment and say everybody is going to agree with you. It is more difficult to make the actual cuts.

My challenge is this, to all those who say you want a balanced budget. Fine, you have until April 15 to bring one up, and then start making the tough cuts. Mr. President, I guarantee you, we won't see the tough cuts being made, the real efforts to balance the budget. But you are going to hear, once this cockamamy flimflam of a bumper sticker constitutional amendment goes down to defeat this afternoon, you are going to hear everybody saying, "Oh, we lost our chance to have a balanced budget." My response to that is: You guys are in charge, go ahead and do it.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. LEAHY. Mr. President, I yield 5 minutes to the Senator from Nevada.

Mr. REID. Mr. President, I express my appreciation to the ranking member, who has done a stalwart job in managing this joint resolution in the last week or 10 days.

Mr. President, if there were ever an example of a "David versus Goliath," it is apparent in what happened this last week. All over America, ads are being run on television, radio, and in newspapers. Millions of dollars are being spent to talk about the merits of the underlying constitutional amendment for a balanced budget. These ads are full-page ads in some of the most expensive publications in the world—the Wall Street Journal, et cetera.

The people who need Social Security can't afford these ads. These people are certainly those that represent the "David versus the Goliaths." Let me

read to you a couple of letters I have received in my office:

DEAR SIR: I would like to join your fight to stop Congress from turning Social Security trust funds into a slush fund to offset Government spending. I support a balanced budget, but not one to loot the Social Security that we have paid into, and our fathers, mothers, sisters, brothers, aunts, uncles, and cousins have also supported. I want to help you in your fight to protect America's trust.
MILDRED JOHNSON.

This is not a full-page ad in the Wall Street Journal, or an ad on network television or radio stations all over America, but just the sending of a letter. This is the best she could do. It was probably hard for her to pay for the stamp on the mail.

In the State of Nevada we have a Social Security recipient who receives \$725 a month. These are the people who are supporting what we are trying to do. George Fry from Reno, NV:

Thank you for your concern, Senator Reid, for Social Security. I am 74. After working my whole life, I really need Social Security. I have a difficult time. My income is in the \$6,000 range per year. Social Security plus SSI are \$490.89 month. You are very good about helping poor old people.

He is good to send his letter with a 32-cent stamp.

Francis Salden, from Las Vegas:

Please do not let anyone take Social Security from us. We work very hard for this and sure would be lost if we wouldn't have this. My husband and I work from 7 in the morning until 11:30 at night so we would not be without this . . . Social Security.

They are not just old people who are concerned about Social Security. Young people are concerned also.

Mr. President, Social Security is an important program, one that we have to do everything we can to support and maintain. It is the most important social program in the history of the world. It is the most successful social program in the history of the world. If Senate Joint Resolution 1 passes, Social Security will be devastated.

We have heard very little talk about how Social Security wouldn't be protected. Everyone has said we want to protect Social Security. The easiest way to protect Social Security is to secure it from the confines of the underlying amendment, as we tried to do, and we got 45 votes. All we need is five other people to come and say, "We support the amendment," and follow the leadership of the courageous Senator from Arizona, the senior Senator, Senator MCCAIN, and the senior Senator from Pennsylvania, Senator SPECTER, who said, "In spite of party affiliation, we are going to vote for the amendment because it will protect Social Security."

Mr. President, the polls in America support us. When I started this debate 4 years ago, I was a lone wolf crying in the wilderness. Now, 75 percent of the American public say we want to balance the budget but we want to exclude Social Security from doing so. That will make it hard to do. The easy way to balance the budget is to use Social

Security. We want to exclude Social Security.

We have the Congressional Research Service supporting us. The Center for Budget Policy supports our position, Mr. President. We want to balance the budget, and we have voted for a balanced budget. It would be very difficult and hard to balance it if we excluded Social Security, but it will be the right way to do it.

I ask my friends from the other side of the aisle to recognize that unless we exclude Social Security, we are dooming the most successful program in the history of the world to failure.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, as I have previously emphasized, the constitutional amendment is not like a statute that we can revisit, fine tune, revise, or repeal. We have repealed only one constitutional amendment in more than 200 years of our country's history. The only constitutional amendment we have repealed was that of prohibition.

We ought to remember in this debate that we are being asked to consider an amendment to our Constitution. Before we propose to alter our fundamental charter of freedom—I might say also the blueprint for our representative democracy—we ought to step back from the political passions of the moment. We are debating a proposed constitutional amendment, not just a political slogan, a plank of a campaign platform, or partisan win or lose.

The Constitution of the United States is a good document. It is not a sacred text, but it is the best law of any that has ever been written. That is why it has survived as the supreme law of this country with very few alterations over 200 years. It has contributed to our success as a nation by binding us together rather than tearing us apart. It contains a great compromise that allowed small States and large States to join together in the spirit of mutual accommodation and respect. It embodies the protections to make real the pronouncements in our historic Declaration of Independence. It gives meaning to our inalienable rights of life, liberty, and the pursuit of happiness.

The Constitution requires due process and guarantees equal protection of the law. It protects our freedom of thought and protects our freedom to worship or not as we each choose, and our political freedoms as well. It is the basis of our fundamental rights of privacy and for limiting Government's intrusions—and burdens—into our lives.

So I oppose what I perceive to be this growing fascination in this country—and, unfortunately, the growing fascination with so many in Congress—to lay waste to our Constitution and the protections that have served us well for over 200 years. The separation of powers amendment is the power of the purse and should be supported and defended.

The most recent Republican platform endorsed six or seven constitutional

amendments, of which this is only the first. In the last Congress, the Senate debated and rejected three proposed amendments. This year that number could well double, or even triple, unless we begin to exercise some discipline and restraint.

We have only amended the Constitution 17 times since the Bill of Rights. We have only amended it 17 times since the Bill of Rights because those who walked these Halls ahead of us had enough sense that the Constitution came before their political purposes, their polls, their momentary needs. They thought, "How do we protect this Constitution, one of the shortest in the world? How do we protect it and keep it the living, breathing Constitution that it is?"

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

And of those 17 times, two of those amendments washed each other out.

Mr. LEAHY. They did indeed. As I referred to just before the Senator came on the floor, one of those amendments was, of course, to repeal an earlier amendment.

Mr. President, I see my friend from North Dakota and my friend from West Virginia on the floor. I will yield the floor with this.

When we started off in this Congress, each one of us swore an oath to support and defend the Constitution. That is our duty—all of us—to those who forged this great document. It is our responsibility to those who sacrificed to protect and defend our Constitution. It is our commitment to our constituents. It is the legacy to those who will succeed us just as it is showing our responsibility to those who stood up before us.

Mr. President, we talk about our children. My children will live most of their lives in this next century. I want them to have a constitution they can be proud of, not a constitution that fell, injured by momentary political passions.

I yield 5 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. CONRAD. Mr. President, I thank the Senator from Vermont. I especially thank my colleague from West Virginia for his courtesy.

Mr. President, we are going to vote in just a very few hours on one of the most critical issues facing this country. Mr. President, I believe deeply that we must balance the Federal budget. I believe we must do it because we are faced with a demographic time bomb that puts this Nation's future in jeopardy if we fail to act. Just as deeply as I feel about balancing the budget, I feel opposition to the balanced budget amendment that is before this body. I call it the so-called balanced budget amendment, because the most important question that we need to ask and answer today is, What budget is being balanced by this amendment?

When you pierce the veil, what you find is this isn't a balanced budget amendment at all. It does not balance the budget. It loots and raids every trust fund that this Government has in order to claim balance. That is what this amendment does.

Mr. President, as I have pointed out before on the floor of this body, if any private company sought to take the retirement funds of their employees and throw those into the pot to claim they had balanced the budget, they would be in violation of Federal law. Yet we are about to enshrine that principle in the Constitution of the United States? The greatest document in human history is our Constitution. It has made this country the greatest country in human history.

Mr. President, this amendment that is before us would take the Social Security trust fund surpluses—just over the next 5 years, \$465 billion—and raid and loot every penny in order to claim balance. The American people are for this amendment by about 80 percent until they find out how it works. When they find out it only balances by raiding and looting trust funds, then 80 percent of them are opposed to it.

Part of our responsibility is to make certain that people know how this so-called balanced budget amendment to the Constitution works. This is what it does. It raids and loots every penny of Social Security trust fund surpluses in order to claim balance.

This chart I think discloses just how fraudulent the proposal we are about to vote on is. It shows the deficits and debt in the year 2002. If this is a balanced budget amendment, then in the year 2002, in which it is fully effected, one would expect the debt would not be increasing, that it would stop deficit spending.

That is not what it does. On a unified basis, they claim balance. That is by using every penny of every trust fund of the Federal Government. But if you look at excluding the Social Security trust funds and Postal Service funds, you will find that in the year 2002 we would have a \$103 billion deficit. If you look more broadly at all of the funds, all of the trust funds, you find out that the debt would increase \$110 billion in the year it is effected.

Mr. President, this is not a balanced budget amendment at all.

Second, there is no provision for a national economic emergency. We know that right now the right policy is to cut spending and balance the budget. That was exactly the wrong policy in the midst of the Great Depression. We ought to have provision for a national economic emergency.

Third and finally, we ought not to have a circumstance that would permit unelected judges to write the budget for the United States. That would be a profound mistake. The judges know nothing about the defense needs of America. They know nothing about the budget considerations for this country. The last thing we ought to have happen

is to have unelected Federal judges sitting around the table writing the budget for the United States.

For those reasons, I am opposed to the balanced budget amendment that we will vote on in just a few hours. It would be a mistake for the country. It would not stand the test of time.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the distinguished Senator from West Virginia is here, and I will yield to him. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Vermont, on his time, has 12 minutes and 42 seconds, but the Senator from West Virginia, Mr. BYRD, has 20 minutes reserved time under the unanimous consent agreement.

Mr. LEAHY. If that is the conclusion of the Chair, it certainly is one I am very much in favor of. So that the Senator from West Virginia will have 20 minutes of his own time.

Mr. BYRD. Mr. President, I thank my friend from Vermont. May I say that if he has any problem with speakers whom he may have promised some time, if I can be of any help with my time, I would like him to let me know and I will yield some of it.

Mr. President, when the delegates gathered in Philadelphia in May of 1787, much was riding on their deliberations. No one can read the speeches and notes from the Constitutional Convention and miss the tenseness in the air as the men who gathered in May contemplated the sheer magnitude of their task. The situation in the states was critical. These men were charged with nothing less than breathing life into the promise of the beautiful prose crafted by Thomas Jefferson in the Declaration of Independence. They would be held accountable if they failed.

What happened in that room in Philadelphia was extraordinary. What emerged was a near perfect balance of order and liberty, and a careful equanimity between individual freedom and the need for the security of all. George Washington described the result as, "little short of a miracle." Indeed, one cannot read the Constitution without marveling at the genius of its sparsely worded Articles. I have often felt that surely the spirit of the Creator himself was present in the sultry air during that season in Philadelphia.

But, the amendment which the Senate has been considering for the last 11 session days would rudely disrupt the carefully balanced powers of the three branches so assiduously planned by the Framers. It would, for the first time in our history, write a specific fiscal policy into a Constitution intended to accommodate the ages. It would subjugate every endeavor, every need, every aspiration of the people of this nation to one goal—the goal of perpetually maintaining budget balance. It would turn a system which has operated well for over 200 years because of

its underlying faith in the judgment of a majority of reasonable men and women into a system that shackles that judgment to the whims and politics of a minority. And because of its unworkable rigidity, the amendment would, before long, be deliberately circumvented, thus laying the groundwork for the slow undoing of the people's reverence for their organic law.

This idea, which seems so simple on its face, has been born of mass frustration and political expediency. Ours is an age transfixed by efficiency, and the sometimes inefficient, often untidy machinations of representative democracy can seem cumbersome. Ours is an age, too, which defies certainty—an age which has great faith in our ability to quantify everything, to predict all contingencies, to deal with all eventualities in advance. In fact, much of the law which we write today seems to reflect an almost compulsive urge to anticipate, regulate, and control every human activity.

It is ironic that many who support this amendment also rail against the large hand of government control in the private sector. What is this amendment but a strange hyperextension of that same urge to try to predict and control every budget eventuality with some sort of legal restriction which will keep us in budget balance in perpetuity? Especially in the case of the budget process, our laws have already become so complicated that few in Washington truly understand them. Why would we want to compound that complexity by the addition of a constitutional amendment and all of the rigidity and danger that it poses? The answer is simply that the people are frustrated, and this amendment can serve as political cover for a time. So we all decry debt and bemoan deficits and claim that we need the amendment for discipline. It is the magic formula. It is the ultimate fix for our budget problems.

The distinguished chairman of the Judiciary Committee has, since the start of this debate, kept the budget documents for the past 28 years upon his desk. It is true that we have run large deficits during many of those years. But, let us not forget that the heavy spending that this nation undertook during the cold war certainly contributed to those unbalanced budgets.

Yes, we ran deficits, but I was here, and I can tell you that there was no significant feeling in this chamber that that money was not well spent. This body reflected a strong consensus in the nation as a whole that we needed to spend whatever it took to assure our survival as a nation, and to prevail over the Soviet Empire in the cold war. Starting in 1962 and continuing until 1982, the annual average percentage for defense spending of the entire discretionary spending pie was 60.6 percent. From FY 1983 to FY 1992, defense spending exceeded domestic spending by an annual average of 68 percent for the whole period. The rationale provided by then President Reagan was

that we would spend the Russians into the ground. Their economy was no match for ours and the Evil Empire would implode.

It was a successful strategy. The Soviets were unable to match our defense investments and begged their economy to such an extent that it was a major contributing factor to the shattering of the Soviet empire.

Was that money well spent? Did we invest wisely? You bet we did! It was one of the best investments ever made by the United States over time. Yet, it could never have been done under this amendment.

We got something invaluable for that budgetary debt. We protected our way of life and our freedoms against a foreign menace. And not only did we protect our way of life, we performed a service for millions of people around the globe by breaking the backs of the Soviets. Those annual budgets were based on an assessment of the best interests of our national needs at the time by a majority in the Congress working with the Executive. And that is exactly as the Framers envisioned.

Throughout this debate, I have heard debt and deficits portrayed as "immoral". What folly that is! While most would say that gambling debts are bad, or immoral, would anyone claim that borrowing to send a child to college or to provide a home for one's family is an evil or immoral thing? Indeed it can be immoral not to borrow. And by denying future leaders the budgetary freedom to borrow for investments for future generations, are we not depriving those future citizens of the birthright of realizing their full potential? By subjugating every other objective and every national endeavor, everything, from protecting an ally, to building up to fight a war, to conquering an epidemic, to feeding the starving, to investing in public infrastructure, to educating our children, to challenging foreign competition in the international playing field, to protecting our economy in the event of a recession, everything will be held hostage to the all supreme god, the golden calf, of balancing the budget each and every year. Is that what the American people want?

Has anyone been noticing the recent economic surge of China? Its growth rate is now around 10 percent a year. Its economy now ranks third in the world. And China has increased its military budget by 50 percent in real terms between 1988 and 1993. Surely China is fast becoming an economic power to be reckoned with. Are my colleagues completely sure that, even in the military arena, future challenges will not arise that may require us to again mount a long, steady buildup of fresh dollars for defense? We need the tools to react. We cannot anticipate every future contingency.

Yes, it is true that presently, our debt is too high. In part, we are still grappling with the residue of debt from the cold war buildup and the savings

and loan crisis. In cooperation with President Clinton, over the past several years the deficit has been coming down. We have heard the concern of the people. Our system is working in exactly the way the Framers intended. We have had the latitude to meet our challenges. We have all the constitutional power we need right now to balance the budget. We need nothing more. Adoption of this amendment will only close down our future options and invite the ingenuity of circumvention. Let no one be confused. If this amendment were ever to become part of our sacred Constitution, all of our collective energies, henceforth, would be devoted to overcoming each of the obstacles it will have erected. A thousand flowers would bloom—all of them sowing the poisonous seeds of disrespect for our law and further mistrust of Government.

Balancing the budget is, indeed, a very difficult task. It is difficult because it means inflicting pain. It means making decisions that are not popular, and it means hurting some people because of cuts to programs that matter in their lives. But we were sent here to use our judgment and to make the hard decisions. All that we have to do now is don the "velvet cloak of responsibility." We need to begin by telling the people the truth about what it will take to achieve yearly budget balance. If this is to be our goal, taxes will have to be raised and popular programs will have to be cut, because there is no other way.

Already, our lack of courage and candor has resulted in mistrust by our constituents. But, surely the answer to our political dilemma is not to make our Constitution a scapegoat. Let us not make this Constitution a scapegoat. Let us never go down the ridiculous road of saying to the people, "it's not my fault, the Constitution made me do it." That is the ultimate cop-out. The easiest thing in the world for politicians and for bureaucrats to do is to hide behind the regulations or, in this case, behind a constitutional amendment. One of the few things that continues to unite us and to command our collective reverence is our Constitution. I would hope that we would always be unwilling to risk that precious commodity, just so politicians can more conveniently duck the accountability for difficult decisions.

Public policy is often controversial, but it can only be crafted by human judgment. No process—no amendment to the Constitution, no law that can ever be devised can ever substitute for it. The dream of a somehow automatic government, completely objective and insulated from the perils of flawed human judgement, may be in vogue today because it fits neatly with our traditional fear of government, especially big government. But, automatic, mechanistic, formula approaches to governing are really the antithesis of what the Framers had in mind.

Theirs was a vision of well-motivated men, kept in check by carefully bal-

anced powers and accountability to the public, but left unfettered enough to deal with the changes and challenges of the ages. The proponents of this amendment claim that we must have this amendment or there will be no discipline to force budget balance. Consider the paucity of that argument! Remember that word, accountability. The people have all the tools they need to discipline us, simply by exercising their rights at the ballot box come election day. I believe that we can meet our responsibilities to bring this budget to balance without resorting to this ruinous encumbrance of our Constitution. But, we must all step up to our responsibilities, be accountable to our people, and put aside partisanship if we are to succeed. If we do that, then this amendment will at last be relegated to the ash heap of bad ideas where it most assuredly belongs.

I have fought this fight a half dozen times in the Senate since 1986. Frankly, I am weary. There is so much at stake. But, each time that I fight this amendment anew, I thank God that there are those members who are willing to risk political popularity for the dictates of their own consciences.

And they have no one to answer to but their constituents. When they take the oath of office to be United States Senator, they do not surrender their independence. They do not surrender their independence. They do not surrender their consciences to anybody in this Chamber or in this Government. And they are accountable only to the people of their States.

They have not taken the easiest course. They have chosen, rather, to go against the prevailing political winds in order to do the right thing. There can be no other motivation for such courage, but a deep and abiding love for this magnificent country of ours.

The 5th century Athenian statesman, Pericles, delivered a funeral oration to commemorate the soldiers who gave their lives at the battle of Salamis. Upon that occasion he said, "It was for such a country, then, that these men, nobly resolving not to have it taken from them, fell fighting and every one of their survivors may well be willing to suffer in its behalf." I thank God for a continuing supply of these noble men and women in our own time, "willing to suffer" on behalf of our country and its Constitution. Because of their courage, the "miracle at Philadelphia" may be preserved for yet a while longer.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, what is the time situation?

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Vermont has 12 minutes, 40 seconds remaining.

Mr. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator from West Virginia has yielded back 1½ minutes.

Mr. BYRD. I thank the Chair.

Mr. LEAHY. Mr. President, the Senator from West Virginia has stood stalwartly like the giant rock maple trees of Vermont, those trees, which have such great strength but are also the source of Vermont's sweetest product, maple syrup. I say this because we know of the kindness and gentleness toward his colleagues of the distinguished Senator from West Virginia, but we know that like the rock maple trees of Vermont, he does not bend to the attacks on the Constitution.

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

Mr. LEAHY. Of course.

Mr. BYRD. I thank my friend from Vermont whose heart is as stout as the Irish oak and as pure as the Lakes of Killarney.

Mr. LEAHY. I didn't think in 22 years I would be at a loss for words on the floor of the Senate, but that came as close, let me tell you.

Mr. President, we will come very soon to a vote. The distinguished Senator from West Virginia does deserve enormous credit for standing up each time for the Constitution. Really, that is what I am urging Senators to do. There is no question in my mind that if we took a public opinion poll, the popular thing, the easy thing would be to vote for this constitutional amendment, and we can say, then, as soon as the States ratify it, it is somebody else's problem.

If we don't stand up and do the things we need to do to protect the Constitution, if we don't stand up and do the things we need to do to bring down the deficit, if we don't stand up and cast the tough and unpopular votes, well, then, somebody can go to court and let the courts straighten it out.

Mr. President, when I first announced for the U.S. Senate in this week—this very week—in 1974, I was a 33-year-old prosecutor in the only State in the Union that had never elected a member of my party. I told the people of Vermont, "You may not always agree with me on every single thing I will do, but I will make you one pledge: I will hold your interests and the interests of the country foremost. I will follow my best judgment. I will follow my conscience. I will not allow myself to be swayed by passing polls and fancies, and I will always try to do right."

I have cast more votes in the U.S. Senate than any Senator in Vermont's history. I have cast more votes in the U.S. Senate, by far, than any Senator in Vermont's history. If I went back through those thousands of votes, I bet I could find a vote or two or three or four that might come as close. Some come to mind, because some of these votes were votes, if I could have cast it on a balance, I would have cast 51 percent one way, 49 percent the other, they were that close.

I remember the wise advice of the majority leader when I first came here, Senator Mansfield of Montana, who said, "Don't worry if maybe you have

some difficulty on a very close vote. Do what you think is right, and if later you determine maybe you made a mistake, the issue will come up again." It usually does.

So if I go back to the thousands of votes, I could find one of those 51 to 49 votes, but this is not one of those 51 to 49 votes. On this vote, I have no question in my mind what is the right vote. It is not the popular vote, but it is the right vote, and that is the vote I will cast against this amendment, because we have amended the Constitution only 17 times since the Bill of Rights, and two of those amendments crossed each other out: One was for prohibition; one was to end prohibition. All the other amendments have stayed there, because the men and women who came before us carefully considered what was best for the country, what was best for our Constitution, and even though during this time the temptation, the siren song of constitutional amendments has been heard through the Halls of the House and the Senate hundreds and hundreds of times, the siren song has been heard by those campaigning, by those elected and by those defeated, but the siren song was resisted. We are a better country for it.

This is not a time to try to manipulate the Constitution of the United States of America. This is not a time to put into the Constitution an amendment so flawed, an amendment that leaves more questions unanswered than questions answered, an amendment that may look good on a bumper sticker but stinks like a dead mackerel on the shores of the Constitution. This is not an amendment this Senate should send to the States.

Rather, what we should do, Republicans and Democrats alike, is join together and pass real budgets, pass those budgets that allow the United States to continue to have the world's strongest economy, an economy that is the envy of every other country, and an economy, incidentally, which has a smaller deficit as part of its gross domestic product than any of the rest of the industrialized world, an economy which is unmatched in recorded history, and realize that there are things that we should spend for.

Thomas Jefferson borrowed an amount, I think, equal to about twice what the whole budget of the United States was to make the Louisiana purchase. Is there anybody here who would like to see what this country would be like had we not made that Louisiana purchase, had we not had that westward expansion? If we had not been able to go out to our Western States, why, there are some Senators even currently in this Chamber today who might not have States to represent had we not had the Louisiana purchase.

I ask Senators to think back to when the Constitution was put together. Small States and large States were given an equal voice in this body so that they could maintain their identity. What a great compromise that

was, what that did to allow this country to hold together—an advantage, obviously, to my own State of Vermont. But under this constitutional amendment, on matters of spending, on matters of crises, on matters of natural disasters, we would no longer have that parity. We would be left at the whim of the minority, not of the majority.

So, Mr. President, on this vote, I am sure in my heart and soul I am voting the right way, the right way for the State of Vermont. But I must say to my fellow Vermonters, even more important, it is the right way for our country and our Constitution.

I was raised in a household brought to revere the Constitution. I have taken an oath to support it in each of my terms in the U.S. Senate, in each of my terms as a prosecuting attorney. I remember each and every time I took that oath because I stopped and thought of what I was swearing allegiance to. It is what sets us apart from all other countries on Earth. It is why we have a Constitution that every one of us should stop and read and reread periodically. It is why, if we have a matter where we want to bring down the deficits, then do it the honest, old-fashioned way, vote to bring it down, vote the hard choices, vote against the special interest groups on the right or left, vote for what is best for the country, but do not pass the responsibility off to our Constitution, to future generations, to the courts to do what we are elected to do, what we are paid to do, and, more important, what we are sworn to do for this country.

This is something that should unite Democrats and Republicans. When this debate is over and after this vote has gone by, I hope that before we go to more bumper-sticker kinds of debates, that we go to the issues where we can join. Certainly the financial status of this country is one.

Mr. President, earlier today, I was summarizing the debate that the Senate has had on this proposed 28th amendment to the Constitution of the United States. I would like to continue that discussion to complete the RECORD on this historic debate.

REID, FEINSTEIN AND DORGAN AMENDMENTS

Senator REID offered a perfecting amendment to exclude the Social Security trust fund from Senate Joint Resolution 1. Senators FEINSTEIN and DORGAN also offered substitute constitutional amendments that would have excluded the Social Security trust fund from the balanced budget mandates. The Reid, Feinstein and Dorgan amendments all focused on removing any threat to Social Security by this proposed constitutional amendment.

The Social Security Program is America's contract with its senior citizens. Were the underlying resolution to become the basis for a constitutionally-mandated budget balancing act, Social Security would be rendered just another Government program and have its place on the chopping block with everything else.

Since 1983, Congress has acted to protect Social Security from overall budget cuts. The Social Security Amendments of 1983 required Social Security to be placed off budget within 10 years. That protective legislation passed the Senate 58 to 14 with a strong bipartisan majority. In fact, Congress accelerated this process. Rather than wait 10 years, the Balanced Budget and Emergency Deficit Control Act of 1985, commonly known as Gramm-Rudman-Hollings, placed Social Security off budget beginning in 1986. This means that the congressional budget resolution in 1985 was the last time that Social Security was included in the Federal budgets that Congress approves each year.

Gramm-Rudman-Hollings permitted across-the-board spending cuts—sequestration—when budgetary goals are not achieved. By its actions placing Social Security off budget, Congress explicitly and intentionally exempted Social Security from the sequestration process. Gramm-Rudman-Hollings—with its protections for Social Security—passed the Senate 61 to 31 with a strong bipartisan majority.

The Budget Enforcement Act of 1990 reinforced earlier protections by placing Social Security even more clearly off budget. This bill, too, passed the Senate 54 to 45 with the bipartisan support of 35 Democrats and 19 Republicans.

The proposed constitutional amendment turns its back on these many years of bipartisan progress in protecting Social Security from the ebb and flow of efforts to eliminate the deficit. I believe that our senior citizens deserve better.

When the Government overestimates revenues for an upcoming year, or underestimates expenses, or something changes in the course of the year to influence either, the budget goes out of balance and, under Senate Joint Resolution 1, the Government is out of money. The amendment's mandates would make continued expenditures into constitutional violations of law. If this proposed constitutional amendment were enshrined in the Constitution, it could force the Federal Government to stop making payments for any number of obligations, possibly including payment of Social Security checks, until the budget imbalance could be corrected.

Treasury Secretary Rubin warned the Judiciary Committee of this great risk, when he testified:

[T]he amendment poses immense enforcement problems that might well lead to the involvement of the courts in budget decisions, unprecedented impoundment powers for the President or the temporary cessation of all federal payments. Any of these options could disrupt Social Security and Medicare payments.

Further, if the President and Congress reached a budget impasse under the proposed constitutional amendment, Secretary Rubin cautioned:

Some proponents have suggested that under these circumstances, the President

would stop issuing checks, including those for Social Security benefits. Alternatively, judges might become deeply involved in determining whether Social Security or Medicare checks would be stopped.

This would be a disaster for senior citizens on fixed incomes who live on Social Security and Medicare from check to check. When they miss a check, they will not have the funds to pay the rent or meet the mortgage, buy groceries, pay their utility bills, heat their homes, pay for medical care or needed pharmaceutical drugs, or meet other expenses.

That is the dilemma that the Social Security system would face if Social Security is not protected under this proposed constitutional amendment. In his recent letter to Senator DASCHLE, the President stated:

I am very concerned that Senate Joint Resolution 1, the constitutional amendment to balance the budget, could pose grave risks to the Social Security System. In the event of an impasse in which the budget requirements can neither be waived nor met, disbursements or unselected judges could reduce benefits to comply with this constitutional mandate. No subsequent implementing legislation could protect Social Security with certainty because a constitutional amendment overrides statutory law.

The 1983 bipartisan Social Security Commission headed by Alan Greenspan recommended converting the Social Security system from a pure pay-as-you-go program to one that builds up surpluses to pay for the future retirement of the baby boom generation. The Greenspan Commission recommended taking Social Security off budget in order to meet this goal without subjecting the program to the vicissitudes of Federal budgeting for other programs. Congress concurred with the Greenspan Commission's recommendations in passing the Social Security Amendments of 1983.

Just as families save for their retirements, the Social Security Program currently is building up surpluses while baby boomers are still working in order to be able to afford their retirements in the next century. This proposed constitutional amendment would encourage, even necessitate, Congress, the President, and the courts using Social Security as a way to comply with the amendment. When the trust fund begins to shrink after the year 2020, this proposed constitutional amendment would add pressure on the Government to cut Social Security rather than risk constitutional violation. Instead, we ought to be working on ways to honor our commitments and ensure the long-term solvency of Social Security.

A recent analysis from the Center for Budget and Policy Priorities is telling. It says:

The Leadership version [of S.J. Res. 1] would be virtually certain to precipitate a massive crisis in Social Security about 20 years from now, even if legislation has been passed in the meantime putting Social Security in long-term actuarial balance. To help pay the benefits of the baby boom generation, the nation would face an excruciating choice at that time between much deeper

cuts in Social Security benefits than were needed to make Social Security solvent and a much larger increase in payroll taxes than would otherwise be required. There would be only one other alternative—to finance Social Security deficits in those years not by drawing down the Social Security surplus but by raising other taxes substantially or slashing the rest of government severely. As a result, the government might fail to provide adequately for other basic services, potentially including the national defense.

Congress can balance the budget while protecting Social Security, but the sponsors of the underlying resolution tabled the Reid, Feinstein and Dorgan amendments. I do want to acknowledge Senator MCCAIN and Senator SPECTER for voting their conscience on the Reid and Dorgan amendments to protect Social Security. I respect their decisions to buck their party's no-amendments strategy on this point. Their votes not to table these amendments were, I believe, the only times Republicans voted to do anything other than march lock-step with their leadership in support of the original language of Senate Joint Resolution 1.

TORRICELLI AND FEINSTEIN AMENDMENTS

Before he announced his determination how he would vote on the underlying resolution Senator TORRICELLI offered an amendment that highlighted another serious flaw in Senate Joint Resolution 1. The underlying resolution prohibits capital budgeting.

As Senator TORRICELLI so forcefully pointed out during the Judiciary Committee deliberations on Senate Joint Resolution 1, we as a nation are suffering from a capital investment crisis. In 1965, more than 6 percent of our 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 lifespan.

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.

We must reverse this trend and make the long-term investments needed to support a strong economy. We must be able to invest in education if we are to

give our children their best chance to compete and win in the coming century.

Sections 1 and 7 of the underlying resolution prohibit capital budgeting. All expenditures, whether the equivalent of operating expenses or capital investments, are tallied the same for purposes of this 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.

Senate committee hearings in 1995 established 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 majority had the opportunity to consider amendments that would have allowed for a separate budget for capital investments, it rejected them. This was a principal thrust of the Torricelli substitute and an important aspect of the Feinstein substitute. They were flatly rejected by the majority and their no amendments approach to consideration of the underlying resolution. Both of these amendments were tabled with all Republican members who voted, voting against capital budgeting.

This inflexibility is one of the principal objections of the more than 1,000 economists who oppose Senate Joint Resolution 1. It is also one of the reasons President Clinton opposes this constitutional amendment on budgeting. As the President so clearly 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 Judiciary 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 majority. 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, our Nation's westward expansion might well have ended at the Mississippi River.

Under the underlying resolution, 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 majority ignores the fact that 42 States, most cities, and businesses exclude from their balanced budget requirements capital, enterprise, or trust funds that are financed primarily by borrowing rather than by current revenue. Moreover, most States with balanced budget requirements use capital funds that finance major capitol 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. These economists note:

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.

Having defeated all attempts to allow for capital budgeting within the underlying resolution over the last several weeks, the weekend papers are again hinting that the Republican leadership is rethinking its strategy and may be willing to reconsider whether capital budgeting can be incorporated into the underlying resolution. These vacillations by the majority illustrate why this matter is not appropriate for a constitutional amendment. The Con-

stitution cannot be made to say and require one fiscal policy one week and the opposite the next. That is not the stuff of the Constitution. These are matters of public interest that can be addressed by policy and statutes that serve the times and the needs of the American people.

BOXER AMENDMENT

Senator BOXER offered an amendment to Senate Joint Resolution 1 that again pointed out a serious and substantial flaw with this proposed constitutional amendment. The Boxer amendment would have permitted Congress to respond to emergencies and natural disasters by a majority vote.

The proposed constitutional amendment can no more prevent a recession than it can an earthquake, but it will restrict our ability to deal with the effects of both. A natural disaster, such as a large-scale flood, earthquake, or fire, could require the Federal Government to expend large sums to assist the victims and begin to rebuild the ravaged area. We need only look to the devastation suffered in Arkansas and Mississippi over the last few days to be reminded of nature's power.

The proposed constitutional amendment would make these kinds of sudden emergency expenditures impossible because they would cause an unauthorized increase in the deficit. Humanitarian efforts could and would be held hostage while the requisite supermajorities were rounded up in each House of Congress. A minority in either House could block such efforts altogether or extort other paybacks.

In recent years, the Federal Government has been called on to give critical aid to supplement State and local efforts to protect the public health and safety in response to major disasters and emergencies. Much of this aid has been paid for by supplemental appropriations because of the unexpected nature of major disasters and emergencies.

From fiscal years 1989 to 1996 Congress had to appropriate supplemental major disaster and emergency relief in every year but one. For example, in 1992, Congress passed an emergency supplemental appropriation over \$4 billion to help victims of the Los Angeles riots, the Chicago floods, and Hurricane Andrew. In 1993, Congress passed an emergency supplemental appropriation of \$2 billion to help victims of the Midwest floods. In 1994, Congress passed an emergency supplemental appropriation of more than \$4 billion to help victims of the Los Angeles earthquake.

Relief for major disasters and emergencies must be flexible. Usually, a swift response from the Federal Government is needed to aid local relief efforts. Disaster and emergency relief by constitutional mandate is a prescription for gridlock, not swift action. When your State is hit by a major disaster or emergency, do you want critical Federal assistance to hang on the whims of 41 Senators or 175 Representatives?

Our Founders rejected requirements of supermajorities. We should look to their sound reasons for rejecting supermajority requirements before we impose on our most vulnerable and neediest citizens a three-fifths supermajority requirement to provide them Federal relief from major disasters and emergencies.

Alexander Hamilton painted an alarming picture in "Federalist Paper No. 22" of the consequences of the poison of supermajority requirements. Hamilton said that supermajority requirements serve "to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority."

These supermajority requirements are a recipe for increased gridlock, not more efficient action. As Hamilton noted long ago: "Hence, tedious delays; continual negotiation and intrigue; contemptible compromises of the public good." Such supermajority requirements reflect a basic distrust not just of Congress, but of the electorate itself. I reject that notion.

I fear that a supermajority requirement will lead to some in Congress playing politics with critical relief from disasters and emergencies. Even with today's simple majority requirement for supplemental appropriations for disaster and emergency relief, we see the potential for partisan politics.

In the last Congress a multibillion-dollar disaster aid package for California was caught in the budget wars between President Clinton and House Republicans. The House Republican leadership delayed action on a request from the President for supplemental appropriations for emergency relief for victims of the California floods and Los Angeles earthquake. Fortunately, public outcry forced the House Republicans to relent. That political gamesmanship happened with only a simple majority requirement for supplemental appropriations for disaster and emergency relief. Think what would happen if Congress had to clear a supermajority hurdle to pass disaster and emergency relief.

Again, instead of addressing the serious and substantial concerns raised by the Boxer amendment, the sponsors and proponents of Senate Joint Resolution 1 simply opposed its consideration as creating a loophole in the underlying resolution. They did not offer alternative language to address the emergency and natural disaster concerns surrounding Senate Joint Resolution 1. Instead, with lock-step voting, they tabled the Boxer amendment by a vote of 60 to 40.

FEINGOLD AMENDMENT

Senator FEINGOLD offered several amendments to Senate Joint Resolution 1, including one that would have permitted the use of a "rainy day" fund. Simply put, the Feingold amendment would have allowed the use of an

accumulated surplus for necessary expenditures during any fiscal year.

Section 6 of the underlying resolution states: "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts." [Emphasis added].

What happens when these estimates of outlays and receipts fail to come true during the fiscal year? As is usually the case each year, Congress is wrong on its economic forecasts. For example, in June 1995 the Congress adopted a budget resolution that anticipated a deficit of \$170 billion in the 1996 fiscal year. In August 1995, the Congressional Budget Office anticipated a deficit of \$189 billion for the 1996 fiscal year. But the deficit for the 1996 fiscal year was actually \$107 billion.

To respond to the usual budget forecast corrections, several of the majority's witnesses during Judiciary Committee hearings recommended that Senate Joint Resolution 1 be amended to allow the Federal Government to establish a rainy day fund or stabilization fund. This fund would adjust to budget shortfalls or overruns during the fiscal year.

For example, James C. Miller III, former Director of the Office of Management and Budget during the Reagan administration, testified:

I would urge you to consider incorporating a "rainy day fund." Thus, if one year revenues fell short (or outlays ran over), you could dip into this fund without violating the balanced budget requirement.

If the experience in the States is instructive, then a rainy day fund is a necessity for any balanced budget requirement. According to the American Legislative Exchange Council, 45 States have budget stabilization funds or rainy day funds to respond to unanticipated shortfalls in revenue or overruns in outlays.

The majority, however, ignores the advice of its own witnesses and the experience in the States, and prohibits the use of a rainy day fund under this proposed constitutional amendment. Instead of adopting the Feingold amendment, the majority simply marched forward lock-step in their no-amendments strategy and tabled the Feingold amendment by a vote of 60 to 40.

KENNEDY AMENDMENT

Finally, Senator KENNEDY offered an amendment to Senate Joint Resolution 1 that revealed perhaps its most serious flaw. The Kennedy amendment was a sincere effort to confront the matters of enforcement of the underlying resolution, which would have limited the enforcement of the proposed constitutional amendment to Congress.

As James Madison wrote in *The Federalist* No. 48, "the legislative department alone has access to the pockets of the people." Our Constitution now gives Congress the primary authority, and responsibility, with regard to the raising and expenditure of outlays. The

proposed amendment would dramatically alter the allocation of powers set forth in article I, sections 7, 8, and 9.

It risks casting the Federal and State courts in the role of Federal budget czars deciding in myriad cases whether the Federal budget is impermissibly out of balance, and where it is, forbidding spending and ordering what remedies it deems appropriate for the constitutional violations occasioned by circumstances in which outlays exceeding revenues in any year without supermajority approval of the Congress.

Although the proponents of the proposed constitutional amendment have left it silent with regard to the role of the courts in its interpretation, implementation, and enforcement, that silence is deafening.

Section 1 of the amendment contains a flat prohibition on total outlays exceeding total receipts in any fiscal year, except as expressly authorized by a supermajority in each House of Congress. Having embedded this mandate in the Constitution, this proposed constitutional amendment invites the courts to become actively involved in determining when this constitutional command is being violated and how such violations are to be remedied.

In the memorable words of Chief Justice Marshall: "It is, emphatically, the province and duty of the judicial department, to say what the law is." *Marbury v. Madison*, 5 U.S., 1 Cranch, 137, 176 (1803). Since that historic decision, the Supreme Court has had the preeminent role in articulating the scope and meaning of our Constitution. The majority report concedes the fundamental obligation of the courts to say what the law is.

If the proposed constitutional amendment on budgeting were ratified, the fulfillment of this role by the Supreme Court, and other courts, could require them to address complex budgetary issues that courts are ill-suited to resolve. As de Tocqueville wrote more than 148 years ago: "Scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question." If the proposed constitutional amendment were ratified, several of its provisions would give rise to cases and controversies that the courts would be called upon to resolve.

Supporters of the proposed constitutional amendment, in fact, desire judicial involvement and enforcement of its terms. The representative from the U.S. Chamber of Commerce testified before the Judiciary Committee:

[T]here is a legitimate and necessary role for the courts in ensuring compliance with the amendment. Congress could potentially circumvent balanced budget amendment requirements through unrealistic revenue estimates, emergency designations, off-budget accounts, unfunded mandates, and other gimmickry. It is our view that the need to proscribe judicial policy making can be reconciled with a constructive role for the courts in maintaining the integrity of the balanced budget requirement.

In response to questions, the representative of the National Taxpayers Union, another advocate for the proposed constitutional amendment on budgeting in spite of its potential to lead to tax increases in order to achieve balance, observed:

We oppose denying judicial review authority, and believe that it would be more difficult to enforce the provisions of S.J. Res. 1 if Congress were to add such language to the Balanced Budget Amendment.

The representative of the Family Research Council opposed adding express language on the role of the courts, noting that they "would not object to language that would prevent judges from raising taxes" and observed:

Under our system of government, each branch has certain limited means to require legal compliance by one of the other branches. The use of this legal authority is somewhat dependent on the political will of each branch to exercise their proper authority. Each branch of government will have its prerogatives to enforce the amendment, subject to appropriate checks and balances.

Similarly, in 1995, in response to questions from me, the U.S. Chamber of Commerce noted: "The BBA would be policed by the same balance of powers that the Framers so carefully crafted in the Constitution. Thus, excesses by the Congress would be controlled by both the executive and judicial branches."

The former Government attorneys who support the proposed constitutional amendment and have been called to testify before the Judiciary Committee over the last several years on the problem of defining the judicial role have been unanimous about only one thing: Court involvement is not prohibited by the amendment.

Stuart M. Gerson, a former Acting Attorney General, and William Barr, the official he replaced at the end of the Bush administration, differed in what they regarded as the principal dangers posed by judicial intervention and in how they would seek to reduce the risks of courts involvement, but they did not say and could not say that the courts would not be involved in interpreting, implementing, and enforcing the proposed constitutional amendment were it to be ratified.

Mr. Gerson testified he thought judicial intervention would be "limited in scope" but conceded that our constitutional law "does not remove the courts from the picture entirely where there is manifest abuse or disregard of unequivocal legal pronouncements." He noted, in his written statement, that "there is a category of case—that involving whether objective statutory terms have been satisfied—which always has been cognizable and will remain so under the Balanced Budget Amendment," and, in his oral presentation, that "in those few cases where a cognizable departure from the specific terms of the amendment can be shown, courts, indeed must intervene."

He went on, in response to questioning from Senator TORRICELLI, to concede that standing for certain individ-

uals and Members of Congress is possible under this amendment:

So, the answer to your question is that I think that the standing of individuals and members of Congress is very limited. I do concede—that there is a category of cases as to which I would not deny jurisdiction to the courts to make certain that the Constitution was being enforced.

When asked by Senator TORRICELLI, as an example, whether the Senate sponsors of the proposed constitutional amendment on budgeting would have standing before a Federal court to bring a suit to compel compliance with its terms, Mr. Gerson said:

In fact, I think that situation is the most likely situation in which Congressional standing, which has never before been recognized, might be recognized and I say so in my prepared testimony. . . . That is the one situation that even Judge Bork in the D.C. Circuit recognized might allow Congressional standing.

The other witness who testified before the Judiciary Committee on questions of law and judicial review was Alan B. Morrison of the Public Citizen Litigation Group. He observed:

[I]n the absence of a clear statement of the contrary in the Amendment itself, it is likely that parties who claimed that, for example, the requirements for revenue increases in Section 4 had not been satisfied, could show sufficient injury to meet the case or controversy requirement in Article III of the Constitution. The same is true for those objecting to a Presidential impoundment.

Mr. Morrison thus concluded his testimony:

Senator, you will note that Section 1 of S.J. Res. 1 is not put in terms of the Congress shall enact and the President shall sign into law. It's put in absolute terms—total outlays for any fiscal year shall not exceed.

It seems to me that is a very unusual kind of constitutional command and that despite what the courts have done in other cases, no person sitting at this table or any place else in this country can accurately predict what the courts will do, which is the reason why I say it is so important that the Congress, in the first instance, assume responsibility, take it on, of saying what they want about judicial review and that would be enforced in the courts.

Written testimony was received by the Judiciary Committee from Dawn E. Johnsen, Acting Assistant Attorney General at the Department of Justice. In that statement, the current head of the Office of Legal Counsel indicated that "primary concern of the Department of Justice is how a balanced budget amendment would be enforced—an issue that none of the proposed amendments thus far has adequately addressed." The statement continues:

If a balanced budget amendment were to be enforced by the courts, it could restructure the balance of power between the branches of government and could empower unelected judges to raise taxes or cut spending—fundamental policy decisions that judges are ill-equipped to make.

The Department of Justice testimony also referred to prior statements by a former Solicitor General for President Nixon and Federal judge, Robert H. Bork, and another former Solicitor General for President Reagan and Har-

vard law professor, Charles Fried. Both men have observed that judicial self-restraint, based on doctrines of standing and political questions, did not overcome the possibilities of significant litigation over interpretation, implementation, and enforcement of the proposed constitutional amendment on budgeting.

The Department of Justice has not varied much from that of Robert H. Bork, 10 years ago:

In the end, there is a range of views about the extent to which courts would involve themselves in issues arising under the balanced budget amendment. Former Solicitor General Bork believes that there "would likely be hundreds, if not thousands, of lawsuits around the country" challenging various aspects of the amendment. Similarly, Professor Archibald Cox of Harvard Law School believes that "there is a substantial chance, even a strong probability, that * * * federal courts all over the country would be drawn into its interpretation and enforcement," and former Solicitor General Charles Fried has testified that "the amendment would surely precipitate us into subtle and intricate legal questions, and the litigation that would ensue would be gruesome, intrusive, and not at all edifying." Other commentators, such as former Attorney General William Barr, believe that the political question and standing doctrines likely would persuade courts to intervene in relatively few situations, but that "where the judicial power can properly be invoked, it will most likely be reserved to address serious and clear cut violations".

Former Attorney General Barr may well be right that courts would be reluctant to get involved in most balanced budget cases. However, none of the commentators, included General Barr himself, believes that the amendment would bar courts from at least occasional intrusion into the budget process. Accordingly, whether we would face an "avalanche" of litigation or fewer cases alleging "serious and clear cut violations," a broad consensus exists that the amendment creates the potential for the involvement of courts in questions that are inappropriate for judicial resolution.

The proponents and sponsors do nothing to resolve this problem. They concede that the text of the proposed constitutional amendment on budgeting is silent with respect to judicial review, contending that silence "strikes the right balance."

Mr. Morrison is correct to challenge the Congress to say what it intends and what it means in the text of the proposed constitutional amendment itself. Instead, the majority is leaving to the courts themselves the determination of the challenges arising under the proposed amendment and its implementation and what they will hear and determine. They are to be guided by the vagaries of general, judicially-created doctrines of justiciability.

The sponsors and proponents also suggest that Congress may revisit this issue later through implementing legislation. Not only would such subsequent implementing legislation require agreement in both Houses and signature by the President or a supermajority override of a presidential veto, but even if ultimately enacted, it may not be able to restrict constitutionally-derived judicial power and responsibility

and may itself be overridden by the commands of article III and this proposed 28th amendment. Former Solicitor General Charles Fried has testified that a subsequent legislative effort to limit judicial power, "itself might very well be unconstitutional."

Further, as Mr. Barr pointed out in 1995, the State courts are not limited by the Federal requirement of "case or controversy" and its attendant justiciability doctrines:

Before moving on, I should point out for the Committee one area that I believe does hold some potential for mischief and that Congress may wish to address. That is the area of state court review. The constraints of Article III do not, of course, apply to state courts, which are courts of general jurisdiction. State courts are not bound by the "case or controversy" requirement or the other justiciability principles, even when deciding issues of federal law, including the interpretation of the Federal Constitution. Asarco, Inc., 490 U.S. at 617. Accordingly, it is possible that a state court could entertain a challenge to a federal statute under the Balanced Budget Amendment despite the fact that the plaintiff would not satisfy the requirements for standing in federal court.

Although Mr. Gerson's written statement included the same point, almost verbatim, the proposed constitutional amendment and majority report are conveniently silent on this significant dimension of the judicial review problem. Nowhere do the proponents of this constitutional amendment confront the problem of uncontrolled judicial review by State court that has been articulated by their own witnesses on judicial review, who conclude that "the State court in such a circumstance would have the authority to render a binding legal judgment."

The proponents' dilemma may mirror that admitted by Mr. Barr at the 1995 hearings: Having acknowledged the concern that courts might order taxes raised as in *Missouri v. Jenkins*, Mr. Barr was asked by Senator BIDEN whether the proposed constitutional amendment ought not be revised to include an express limitation on court power and their authority to order certain types of remedies, Mr. Barr responded:

If I were a Senator, I would put it in the amendment. But if I felt that would mean the amendment would not pass because it would generate these arguments, oh, gee, this is sort of like Eastern Europe, then I would without hesitation support the amendment as written * * *

The proponents are refusing to confront the possibility of State court involvement and the possibility that courts in different States might reach inconsistent determinations or order contradictory remedies because it is difficult, its discussion might offend, and its solution might cost them a vote or two.

This is no way to amend the Constitution. Such ambiguity and conscious disregard of potential problems disserves the process, the proposed amendment, the American people and, possibly, the generations to come who will suffer under its unintended consequences.

In court challenges in which a constitutional violation were found by the court to exist, the question of appropriate remedy will loom large. Indeed, it is the possibility of judicially-imposed remedies to ensure compliance with the proposed constitutional amendment's command for balance each fiscal year that has raised the most concern historically as Congress considers this matter.

In 1994, Senator Danforth of Missouri successfully modified the proposed constitutional amendment on budgeting. He sought to restrict judicial involvement to issuing declaratory judgments unless Congress specifically authorized another form of relief through implementing legislation and his amendment was accepted by the floor manager.

In 1995, the Senate likewise modified the proposed constitutional amendment when the floor manager adopted an amendment proffered by Senator Nunn of Georgia on judicial review. The Nunn amendment called for restricting the judicial power of the United States to matters specifically authorized by implementing legislation.

Neither the Danforth nor the Nunn language nor anything like them was included in Senate Joint Resolution 1. Indeed, in spite of these past attempts to limit judicial remedial authority in the proposed constitutional amendment and the only successful floor modifications to its text since 1993, the proponents now reject all such efforts. Instead, the proponents choose to remain silent on the many important issues surrounding judicial involvement in the interpretation, implementation and enforcement of the proposed constitutional amendment.

They try to dismiss *Missouri v. Jenkins*, 496 U.S. 33 (1990), and the dangers it portends for this proposed constitutional amendment. In that case, the U.S. Supreme Court upheld the power of a Federal District Court Judge in Kansas City, MO, to order tax increases in order to improve the public schools. The Supreme Court upheld a district court order that a local school district levy taxes to raise funds to comply with the Court's order to remedy unconstitutional school segregation.

This case has spawned concern about what is sometimes referred to as judicial taxation and the Judiciary Committee has held hearings on the issue and on suggested legislation in the area in the last several years. Senator Danforth cited this case in the course of offering his amendment in 1994:

So after the case of Missouri versus Jenkins, decided by the Supreme Court, it is clear that under certain circumstances, the Federal courts have assumed the power to impose taxes. And my concern was that Missouri versus Jenkins could be the model for some future action by the Federal courts.

The authority of the Federal courts to remedy constitutional violations is broad, as was demonstrated in *Missouri v. Jenkins*, 495 U.S. 33 (1990). In suits

where a constitutional violation of the proposed budgeting amendment were found, courts would be left to make similar remedial decisions.

In light of the deliberate omission of limiting language like that previously included by Senator Danforth and Senator Nunn, the underlying proposal is more likely to be construed to authorize courts to enjoin spending, order taxes or issue a negative injunction maintaining the status. That will appear to be the intention of Congress. The absence of any limitations on the power of the judiciary to review and remedy violations supports the interpretation that Senate Joint Resolution 1 is intended to authorize the courts to engage in judicial review without the limitations those amendment included.

In the Federalist No. 78, Alexander Hamilton described the judiciary as "the least dangerous branch" because it "has no influence over either the sword or the purse, no direction either of the strength or the wealth of the society." He then qualified his description, quoting Montesquieu as warning "that 'there is no liberty, if the power of judging be not separated from the legislative and executive powers.'"

Adopting this proposed constitutional amendment would create precisely the peril warned against by Hamilton, because it would invite unelected judges to decide funding policy questions and exercise powers heretofore largely reserved to the legislative and executive branches. It would be a mistake of historic proportions.

This is a constitutional amendment that is being proposed. In other settings in which constitutional rights are being vindicated, when legislation enacted by Congress did not provide an effective remedy, the courts have created judicial ones. See, e.g., *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971); *Davis v. Passman*, 442 U.S. 228 (1979); *Carlson v. Green*, 446 U.S. 14 (1980). Thus, if Congress were to adopt enforcement legislation that failed to provide an effective remedy for violations, the courts might proceed on their own authority as required to fulfill their constitutional duties.

In addition, the underlying resolution would allow the President vast authority to deal with implementation, and possibly even to impound, funds obligated by Congress. The circumstances that would prevail after ratification of the proposed constitutional amendment on budgeting will not have previously existed. The President will have a lot to do with determining how the President's constitutional duties under article II, section 3, to "take care that the Laws be faithfully executed," and article II, section 7, to "preserve, protect and defend the Constitution" will be fulfilled.

Section 1 of the proposed constitutional amendment commands that "[t]otal outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the

whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote." In any fiscal year in which it becomes apparent that in the absence of congressional action, "total outlays" will exceed "total receipts," the President would determine how best to proceed and might well proceed as if required by the Constitution and the oath of office it prescribes to act to prevent the unauthorized deficit.

This common sense reading of the proposed constitutional amendment is shared by a broad range of highly regarded legal scholars. Then Assistant Attorney General (now Solicitor General) Walter Dellinger testified in 1995 before the Judiciary Committee that the proposed constitutional amendment would authorize the President to impound funds to insure that outlays do not exceed receipts.

Similarly, Harvard University Law School Professor Charles Fried, who served as Solicitor General during the Reagan administration, testified that in a year when actual revenues fell below projections and a bigger-than-authorized deficit occurred, section 1 "would offer a President ample warrant to impound appropriated funds."

Others who share this view include former Attorney General Nicholas deB. Katzenbach, Stanford University Law School Professor Kathleen Sullivan, Yale University Law School Professor Burke Marshall, and Harvard University Law School Professor Laurence H. Tribe.

This year the Secretary of the Treasury reinforced this prospect when he noted in his testimony before the Committee:

Some proponents have suggested that under these circumstances, the President would stop issuing checks, including those for Social Security benefits. . . . The President might also impound funds of his choosing. . . . All of these potential outcomes are extremely undesirable.

The impoundment power that would be conferred on the President by the proposed constitutional amendment is far broader than any the presidential line-item veto authority temporarily granted the President last year. As Assistant Attorney General Dellinger testified in 1995, the impoundment authority implied within the proposed constitutional amendment might allow a President to order across-the-board cuts in all Federal programs, target specific programs for abolition, or target expenditures intended for particular States or regions for impoundment. He testified that he would advise the President that he not only had the right but the constitutional obligation to prevent the violation of a constitutional mandate against budgetary imbalance.

The text of the proposed constitutional amendment does not address these matters. The majority report says that is not the intent of the Committee to grant the President any impoundment authority and suggests that

"up to the end of the fiscal year, the President has nothing to impound because Congress in the amendment has the power to ratify or to specify the amount of deficit spending that may occur in that fiscal year." The majority report, thus, assumes there can never be an unauthorized deficit, because Congress always has a theoretical possibility of stepping in before the last minute ending the fiscal year and ratify whatever deficit has occurred. Under this construction, the proposed constitutional amendment is a cruel joke.

Moreover nothing in the proposed constitutional amendment prevents the Executive from acting to implement its terms. A President may not be willing to withhold based on a theoretical possibility of what the President knows or has reason to believe will not occur. Moreover a President may choose not to risk having all of the expenditures undertaken by the Federal Government for a portion of a fiscal year declared to have been expended in violation of the Constitution. It is more likely that a President, sworn to preserve, protect, and defend the Constitution, would not view the Executive as powerless to prevent such a result.

Key House sponsors of the proposed constitutional amendment circulated materials on the role of the Executive that add context to the majority report's isolated declaration of intent and are consistent with this view of continuing involvement by the Executive in the implementation of the prescriptions contained within the proposed constitutional amendment. Representatives SCHAEFER and STENHOLM acknowledge that the proposed constitutional amendment is intended to create "an ongoing obligation to monitor outlays and receipts" and to require the President "at the point at which the Government 'runs out of money,' to stop issuing checks."

We also have experience to instruct us. This Administration's senior advisers have testified both in 1995 and in 1997 that their advice, against the backdrop of the proposed constitutional amendment on budgeting having been ratified and an emerging deficit, would be to terminate or delay expenditures.

James C. Miller III, former OMB Director under President Reagan, echoed that advice. He revealed legal advice from the Office of Legal Counsel of the Department of Justice that without congressional mandated spending priorities, the President could apply across-the-board reductions in outlays. Finally, he furnished a legal memorandum on presidential authority to forestall default on the public debt that was coauthored by a former Assistant Attorney General and head of the Office of Legal Counsel during the Reagan administration that asserts "the President has inherent constitutional authority to choose which non-deferrable obligations to pay in the ab-

sence of a statute specifying a priority."

A memorandum to the Attorney General dated October 21, 1995, that is now publicly available, reinforces these lines of reasoning:

Although this Office has consistently taken the position that as a general matter the President does not possess inherent authority to impound funds, we have carved out an exception to the general rule for the situation in which the President faces a debt ceiling and does not have any other feasible method of raising funds. We have said that in such a situation, because the President would be faced with conflicting statutory demands, to comply with the direction to spend yet not exceed the debt limit, he would be justified in refusing to spend obligated funds. See Memorandum from William H. Rehnquist, Assistant Attorney General, Re: Presidential Authority to Impound Funds Appropriated for Assistance to Federally Impacted Schools (December 1, 1969). We believe that the President's power to reconcile conflicting laws according to his best judgment could be derived from his ultimate power as Chief Executive "to take care that the Laws be faithfully executed."

The OLC Memorandum concludes:

Finally, at some point, after all other options have been considered, consideration should be given to a program of deferral of obligations and expenditures by the President. Such a program would provoke considerable public controversy, perhaps a constitutional confrontation with Congress, and most certainly would be subjected to legal challenge. On the last point, although we have not had an opportunity to arrive at a definitive conclusion, we believe a strong argument can be made both on statutory grounds and on the basis of his inherent authority, that the President would have the power to engage in such a program.

Similar analysis and reliance on inherent Executive authority could be expected to arise should the proposed constitutional amendment be ratified and the President faced with circumstances in which the legislative and executive branches are in gridlock over budgetary or spending matters or it appears to the President that the prediction for a balance between expenditures and revenues in any fiscal year is tilting toward deficit.

The proponents alternatively comment that Congress could specify in implementing legislation how it wanted the President to proceed in a budgetary or debt limit crisis. Reliance of subsequent implementing legislation is risky, at best. Such legislation would be subject to Presidential veto and the need for a supermajority override in both Houses. Moreover, such legislation would have to be comprehensive enough to foresee and control all possible future contingencies to be effective.

Further, the President's obligation to faithfully execute the laws is independent of Congress's. That duty is not "limited to the enforcement of acts of Congress * * * according to their express terms, * * * it include[s] the rights, duties and obligations growing out of the Constitution itself, * * * and all the protection implied by the nature of the government under the

Constitution[.]” In *re Neagle*, 135 U.S. 1, 64 (1890). If an unconstitutional deficit were occurring, Congress could not constitutionally stop the President from seeking to prevent it.

Finally, any reliance on the 159-year old case of *Kendall v. United States ex rel. Stokes*, 37 U.S. (12 Pet.) 542 (1838), would be misplaced. That case can as easily be read to support presidential impoundment authority under the proposed constitutional amendment on budgeting. In that case, Congress had ordered the Postmaster General to pay the claimant whatever sum an outside arbitrator determined was the appropriate settlement. When the Postmaster General paid a smaller amount, the Supreme Court held that the Postmaster General could be ordered to comply with the congressional directive. The Court ruled that the President, and those under his supervision, did not possess inherent authority to impound funds that Congress had ordered to be spent: “To contend that the obligation imposed on the President to see the laws faithfully executed, implies a power to forbid their execution, is a novel construction of the Constitution and entirely inadmissible.” *Id.* at 611.

If the proposed constitutional amendment were ratified and became a part of the Constitution, the President’s obligation to execute the laws would arguably have a constitutional fulcrum from which to leverage. The President could argue that when the constitutional duty to ensure fiscal year balance came into conflict with a statutory obligation to expend authorized, appropriated, or obligated funds, the constitutional responsibility had to be given priority as predicated on superior authority.

The proposed constitutional amendment’s mandate to ensure budget balance for each fiscal year specifies no role or limitation on the power of the President. The majority report concedes that implementation and enforcement will necessarily involve the Executive Branch beyond the President’s obligation pursuant to section 3 to have transmitted to the Congress a proposed budget prior to each fiscal year in which total outlays do not exceed total revenues.

The majority report noted:

Both the President and Members of Congress swear an oath to uphold the Constitution, including any amendments thereto. Honoring this pledge requires respecting the provisions of the proposed amendment. Flagrant disregard of the proposed amendment’s clear and simple provisions would constitute nothing less than a betrayal of public trust. In their campaigns for reelection, elected officials who flout their responsibilities under this amendment will find that the political process will provide the ultimate enforcement mechanism.

If this proposed constitutional amendment were to become the supreme law of the land, some future President may well choose to enforce its terms, in the absence of binding limitations in implementing authority,

to make greater use of Executive Branch discretion and authority than this Congress has taken the time to consider.

This fundamental shift in the allocation of power and authority among the Federal branches is neither wise nor necessary. It risks despotism at the very times when despots are most likely to arise and in which our fundamental guarantees of liberty and individual freedoms has been the checks and balances that the branches of our Federal Government exert over each other.

In spite of these acknowledged problems with the underlying resolution, the sponsors and proponents voted lock-step to table the Kennedy amendment without any effort to cure any of the serious constitutional flaws that it highlighted.

We cannot legislate political courage and responsibility. No amendment to the Constitution can supply the people’s representatives with these essential attributes. Indeed, the majority report concludes that the ultimate enforcement mechanism that can lead to balancing the budget is the electorate’s power to vote. That power already exists. Moreover, the underlying resolution would undercut rather than enhance our democratic principles of majority rule and separation of powers and would ultimately lead to a loss of political accountability to the electorate.

Political courage has been an essential ingredient that has helped us achieve remarkable deficit reduction over the past 4 years—recent history that the majority report seeks to ignore. We have succeeded in reducing the deficit every year of the past four. We have cut the deficit by more than 60 percent in that time while pursuing sound economic and strong fiscal policies.

Now we need to stay the course and work in a bipartisan way to make further progress. We should now be focusing our attention and energies on the strenuous tasks of building a working consensus on budget priorities and achieving agreement on how to balance the budget.

This crusade for an illusionary quick-fix by constitutional amendment only makes that job more difficult. The time and resources devoted to reconsidering a constitutional amendment on the budget merely serve as a distraction from the real task at hand.

Let us not be distracted from the true means to deficit reduction: Let us proceed to consider and adopt a budget and deficit reduction package consistent with the progress made since 1993. As Treasury Secretary Robert Rubin testified before the Committee on January 17, “politically, historically, and economically, the forces are in place to balance the budget. We are not far apart. Now we need to get the job done.”

Let us not sacrifice the Constitution or our Nation’s fiscal policies to a siren song but turn to the work needed to

continue reducing the deficit without sacrificing our Nation’s commitments to seniors, veterans, education, the environment, public infrastructure and our fundamental constitutional principles. There is no need for a constitutional amendment to achieve our goals.

The questions raised during the debate on Senate Joint Resolution 1 will not go away and cannot be ignored. They point to a series of fatal flaws in proposing to conduct our Nation’s economic and budgetary functions by means of a simply-sounding constitutional declaration. A recent editorial in the Burlington Free Press said it more succinctly: “amending the Constitution to require a balanced budget would be like using a sledgehammer to nail a picket in a fence.”

Two years ago Senator Mark Hatfield’s decisive vote against a constitutional amendment on budgeting was a contemporary profile in courage. Senator Hatfield had wisdom gained from his years as a public servant and personal fortitude and integrity that sustained him through very difficult times before and after that vote. Here was a man and a representative who was put to the test and not only survived but emerged as a powerful example for us all.

On February 8, 1995, Senator Hatfield came to this Senate floor to explain how he would vote. He said:

As I explain my thoughts on the balanced budget amendment, I want to make it very clear that I believe the deficit must be reduced and that a balanced budget is worth achieving. It is possible that I will be the lone Republican to vote against the balanced budget amendment, but I say now to my colleagues that I share my party’s goals, but happen to disagree on the means.

The debate on the balanced budget amendment is not about reducing the budget deficit, it is about amending the Constitution of the United States with a procedural gimmick. This amendment that is before Members now puts new Senate and House rules regarding voting procedures into the Constitution. It does not balance the budget and gives no indication of how this might be done. Furthermore, it will not force Congress to budget responsibly. If indeed this is an amendment requiring a balanced budget, then how can we allow Congress to essentially suspend the Constitution with a three-fifths vote? This was a dangerous idea last year, and it is a dangerous idea this year as well. What other constitutional requirements would we like to waive with a three-fifths vote? Freedom of religion? Free speech? What other civil liberties shall we waive? A balanced budget amendment would allow the Congress to ignore the requirement for a balanced budget and to ignore the Constitution. This idea of Congress suspending a constitutional requirement cuts against the separation of powers principle so crucial to the foundation of the Constitution.

A balanced budget can come only through leadership and compromise. This compromise must come from each one of us. But, most importantly, it must come from those we represent—those who do not want their taxes raised any more than we want to raise them—those who do not want their benefits cut any more than we want to cut them. In the end there is no easy answer, and there never will be. Regardless of the procedural restraint in place, where there is political

will to create a balanced budget we will create one, where there is will to avoid one, we will avoid it* * * .

As I stated during the debate on a balanced budget amendment last year, a vote for this balanced budget amendment is not a vote for a balanced budget, it is a vote for a fig leaf.

If I am skeptical about the ability of a gimmick to fix our budget, I am not skeptical about the ability of the people to demand and keep demanding that we respond to the budget challenge with real action. Real action is not a vote for an amendment to the Constitution which calls for a balanced budget by the year 2002. Real action is rolling up our sleeves and getting our fiscal house in order. Real action is working together, in a bipartisan fashion, to create a balanced budget, not to simply promise one. Real action means ending some programs—programs with popular appeal and vocal constituencies. Balancing the budget will result in an impact on each and every one of us—do we have the will to do that?

Bipartisan negotiation, leadership, and compromise have been the cornerstones upon which we have built all effective decisions on tough issues since the formation of our Government. Compromises are difficult to reach, but they are not impossible to reach. We have just received the President's budget. The ensuing debate on the budget will provide the chance for the Congress to work together to balance the Federal programs of this budget. I hope the Congress does not miss this opportunity to debate the real issue of balancing the budget. Voting for a balanced budget amendment is easy, working to balance the budget will not be.

The Congress should not promise to the people that it will balance the Federal budget through a procedural gimmick. If the Congress has the political will to balance the budget, it should simply use the power that it already has to do so. There is no substitute for political will and there never will be.

In May 1995, not long after his historic vote and after he had retained his chairmanship of the Appropriations Committee after being attacked by fellow Republicans for his vote of conscience and in defense of the Constitution, Senator Hatfield had occasion to repeat the following observations about balancing the Federal budget:

I believe that a balanced budget can come only through leadership and compromise. This compromise must come from each one of us. More importantly, it must come from those we represent. In the end, there is no easy answer. If there is a political will to create a balanced budget, we will create one, and if there is will to avoid one, we will avoid it.

I am deeply disappointed to learn that the Republican National Committee has been running attack advertisements in newspapers and on the radio over the past few days regarding the final vote on this proposed constitutional amendment. These attack ads are aimed at blackmailing specific Members of Congress to ignore their consciences and vote for this flawed constitutional amendment. It is wrong to play politics with the Constitution of the United States. It is wrong to try to punish any Member in this body who may choose to vote his or her conscience on this matter of constitutional proportion with its serious con-

sequences to our system of checks and balances. I am disgusted by it.

We should all remember the courageous example of Senator Mark Hatfield, and vote our own conscience and use our own best judgment on this matter of constitutional amendment. I commend the Senators who are not blindly voting for a poll-tested bumper sticker, but who instead are exercising their best judgment and voting to defeat a seriously flawed proposed amendment to the Constitution of the United States. These Senators are those acting with courage.

By our Senate oath of office we each commit to "support and defend the Constitution of the United States." We owe to our constituents our best judgment on matters of this importance. We owe to our children and future generations the protections of separation of powers and checks and balances from our Constitution that have served us so well without diminution for political expediency.

Mr. President, how much time remains to the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has approximately 3 minutes remaining.

Mr. LEAHY. Then what is the situation?

The PRESIDING OFFICER. Under the previous order, the Senator from Utah will control 1 hour of debate.

Mr. LEAHY. Mr. President, I have stated my disagreement with those who will vote for this. But I also know that many on both sides of the aisle are moved by their conscience in the way they will vote. I hope no one will seek to punish them. I hope they do not seek to punish Members of this body who vote his or her conscience on this matter—I was concerned to see some of the so-called independent expenditure ads over the weekend that seek to do just that—whether they have been Senators on either side of the aisle who express different views today than they might have expressed another time. I assume they have reasons for doing it.

I have tried throughout this debate for several weeks now to state my reasons. My reasons are based, as my reasons are for all votes, on what is best for the country, what is best for Vermont, what is best for the Constitution.

None of us owns a seat in this body. Each of us just passes through. Someday I will be gone, just as every other Member now serving in the U.S. Senate will be gone. But when I leave I want to be able to say to my children and my children's children, I did the best I could, and I did those things that prepared you for the future. My children will live most of their lives in the next century.

As I have said many, many times on this floor, I worry just not for those of us who are here at the twilight of this century, but those who live in the next century and the centuries after, because I expect that this Nation, having

gone through all the terrible things that it has in its 200 years, and coming back stronger every single time, will be here long after each of us is a dusty memory. I yield the floor and turn back to my good friend from Utah.

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour of debate under the control of the Senator from Utah.

Mr. HATCH. Mr. President, contrary to Senators REID, DORGAN and CONRAD's contention, exempting Social Security would severely impair the program. Let me say once again, an exemption would open up a loophole in the amendment and siphon-off revenues from the trust funds. Placing the trust funds off-budget will harm the Social Security Program.

In essence, we would have two budgets, one based on sound principles of solvency, and the other, the Social Security budget, which is 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 pork projects. This will mean the end of Social Security as we know it, turning it into the least secure of all Government accounts.

Congress could pass legislation to fund any number of programs off-budget, through the Social Security trust funds. The budget could be balanced simply by shifting programs into the Social Security trust funds.

The immediate effect of the loophole is that the trust funds would grow—as projected—but only until 2002, the date the BBA requires that the budget be balanced. Thereafter, however, the trust funds would stop growing as all annual surplus funds would be reallocated to pay for programs that have been redesignated as Social Security. So instead of growing, from 2002 to 2019, the year the trust funds are estimated to stop growing, the system will become stagnant in 2002. The result of the loophole will be the depletion of the trust fund years early. Exemption of the trust funds from the BBA, ironically, will hasten the system's difficulties.

Congress has generally been increasing the web of services provided by Social Security. Consider what will happen when politicians are faced with the choice between the pressures of budget integrity and the procrastinating appeal of a Social Security loophole.

The only other possible use for Social Security surpluses would be for the Government to pay down our staggering national debt. If projects aren't redesignated, Social Security as discussed earlier, thereby consuming accumulated Social Security surpluses, surplus proceeds would be used in the only possible manner that would avoid section 1's prohibition on outlays exceeding receipts: 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 deficit spend, from Social Security, while avoiding the three-fifths vote required in section 2 of the BBA to raise the debt ceiling. This is because the accumulated Social Security surpluses would maintain the gap between the actual debt and the debt ceiling. Such a spending device completely frustrates the purposes for which I have introduced the balanced budget amendment.

Also, let us not forget about the troubling future for Social Security. 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 Feinstein proposal, we will not be including this deficit in our budgetary planning. As a result, under any proposal to exempt Social Security from Senate Joint Resolution 1, 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.

FICA taxes have grown significantly over time. There is no reason why this increase would not be accelerated under this loophole. Nor is there any reason why new Social Security taxes could not be added, such as a Social Security income tax or a Social Security value added tax. As this process continues, the loophole created by this exemption could easily swallow both the spending and the taxing protections of the BBA.

By allowing Congress to redesignate other spending as Social Security, this loophole would make it easy to balance the budget on paper without changing anything except accounting methods.

According to Wall Street analyst David Malpass, who recently testified before the Judiciary Committee,

Financial markets would react negatively to a budget concept that ignores Social Security.

By passing a balanced budget amendment that excludes Social Security, Congress would game the system, saying, in effect, that it does not intend to balance the consolidated unitary Federal budget. For Malpass and other market analysts, this would be a decidedly negative signal for financial markets, leading to higher interest rates.

This probable gamesmanship is exactly what must be avoided. The way to avoid it is to reject this risky exemption gimmick. The best way to protect retirees and future generations is to adopt a clean strong balanced bud-

et amendment, free of loopholes. It is the best way to save our financial situation and protect Social Security.

I yield 1 minute to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Thank you very much, Mr. President.

I want to congratulate my colleague from Utah on all the great work he has done during this very, very important debate on the balanced budget amendment.

Mr. President, if recent history is any indication, we know that promises are never going to balance the budget, good intentions are never going to balance the budget, renewed commitments are never going to balance the budget, and pledges of cooperation are never going to balance the budget. Left on its own, we know that Congress itself will never balance the Federal budget.

In the 1 minute that I spend delivering this statement, the national debt will increase by more than \$500,000. In the past 24 hours, it has grown by over \$721 million. Over the last three decades, the national debt has mushroomed to more than \$5.3 trillion. The question you have to ask is, where will it stop? At what point do we say enough?

What will it take to convince Washington that we are strangling the financial future of our children and our grandchildren with the noose that is being knotted by our very own hands? Mr. President, after all the promises, intentions, commitments, and pledges have failed, our last best hope rests with passage of the balanced budget amendment. In the name of America's children, I urge my colleagues to vote yes.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my colleague and yield 1 minute to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Utah for his fine work and debate here on the floor on the balanced budget amendment. I am going to vote for the balanced budget amendment because I am going to keep my campaign promise that I made during the election. It is not a campaign promise that I made lightly.

I have voted for this very same proposal as a Member of the 105th Congress as a Member of the House of Representatives. I have served in a State that has a balanced budget requirement. I have been the owner of a business that has had to balance its budget. I have been a part of a family that has had to balance its budget.

I think it is important for the future of our children and our grandchildren that we balance the budget. The only way I see us ever eliminating deficit spending is to pass a requirement in the Constitution that says that we

have to balance the budget. For 28 years, we have heard from both Republicans and Democrats on the importance of balancing the budget. That is why I am casting my vote for a balanced budget amendment today.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my colleague and yield 1 minute to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I, too, want to urge all my colleagues to vote for the balanced budget constitutional amendment. As the only accountant in the U.S. Senate, I have been interested in the various accounting issues that have been brought up as part of this discussion. I am very disappointed that while accounting techniques are needed to know exactly where we stand and what to do, there have been a lot of sham techniques that have been brought up so that some of the people would have a hook on which to add a no vote—and that is all that they are.

We need to have good accounting. We need to protect Social Security. There is no one in this body who does not want us to take care of Social Security. The way to do that is through a balanced budget constitutional amendment. We owe it to our kids and to our grandkids. We owe it to our parents and our grandparents. We have to make sure that we have a balanced budget to keep this country going forward, with or without that amendment. I have heard promises here, but I am not so sure about promises anymore that we would balance the budget, and it is critical that we balance the budget. I will be counting on everyone to help on that. I ask for support of the balanced budget constitutional amendment.

Mr. HATCH. Mr. President, the balanced budget amendment is necessary to limit the Federal Government's power to mortgage America's future. It can protect the liberties of the American people for six primary reasons:

No. 1, our families: Passing the balanced budget amendment will improve the economic health and stability of all American families.

No. 2, our children's future: Passing the balanced budget amendment is a very clear-cut vote for our children's economic freedom, instead of their enslavement, which is what we have been doing to them.

No. 3, retirement security: It will protect Social Security, and it will stabilize the economy, which will benefit both current and future retirees.

No. 4, economic strength: The stabilizing effect the balanced budget amendment will have on the economy is clear.

No. 5, integrity: It will bring immediate credibility to our current budget negotiations, and it will restore a measure of integrity to our Government.

No. 6, the last reason is this stack of 28 unbalanced budgets. The last 28 years of our country's life have had unbalanced budgets. We need a constitutional amendment to stop this pile from growing.

Some have stated that all we need is the will to balance the budget. Well, these 28 budgets are a testament to the fact that our will just won't do it. It is that simple and that clear.

I have to tell you, one of my favorite quotes is this: "A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largess from the Public Treasury. From that moment on, the majority always votes for the candidates promising the most benefits to the Public Treasury, with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship."

The average age of the world's greatest civilizations has been 200 years. Ours is just a little bit over 200 years, and we are following that pattern of mortgaging our future, of voting largess for ourselves and the Public Treasury, and of not being able to put fiscal sanity into our house to make it a house of order. All we have is, it seems to me, the same old timeworn, wornout approaches toward the budget that we have heard for all of these 28 years. It is time to do something about it.

I yield a minute to the distinguished Senator from Idaho.

(Mr. ENZI assumed the chair.)

Mr. KEMPTHORNE. Mr. President, I thank the Chair.

Mr. President, I rise today to express my complete and unreserved support for Senate Joint Resolution 1, the balanced budget constitutional amendment.

I think it is notable that the balanced budget constitutional amendment has been designated Senate Joint Resolution 1 for the second consecutive Congress. Bringing the budget into balance should be one of the Nation's highest priorities, and this designation demonstrates the Senate leadership's recognition of that fact. It also demonstrates the knowledge that, no matter what we do to balance the budget now, we simply cannot guarantee a balanced budget to future generations unless the Constitution requires one. A requirement to balance the budget, not just in statute but in the very document which defines our Nation, will truly make the Federal Government accountable—accountable to the American taxpayer of today and to the generations who will inherit this Nation tomorrow.

Mr. President, future generations are what this debate is all about. An entire generation of Americans has grown up without ever having seen a balanced budget. My children are nearly the age I was the last time the U.S. budget did not run a deficit. In the interim, we have seen deficit spending become the norm, and, as a result, the debt has

ballooned to \$5.3 trillion or roughly \$20,000 for every man, woman, and child in this Nation. If we take the time to look beyond the immediate future, to a time when our children—and for some of my colleagues, their grandchildren—stand where we stand today, as parents and taxpayers, we will see a vision which should frighten us. Unless something is done, and done soon, interest on the debt will consume a larger portion of the budget than all the domestic discretionary programs combined.

Some opponents of the balanced budget constitutional amendment have said all we need to do is stop deficit spending. This is true, and in a perfect world it would also be an easy goal to achieve. But we all realize we do not live in a perfect world. We live in a nation populated by more than 260 million people, many with dramatically different expectations of what, if anything, their Federal Government should do for them. And they elect us to represent those interests. Unfortunately, for the last 28 fiscal years too many have tried to please all of those interests at the same time, all too rarely asking, "What will be the result down the road?"

Mr. President, as I have mentioned, we are now living that result. The debt has spiraled out of control and a balanced budget has become a highly desired goal rather than a regular, expected occurrence. While we are slowly getting closer to achieving that goal, we must not stop there. Even if we balance the budget by 2002, a timeframe to which even President Clinton has now agreed, what happens next? What happens when the names of the 105th Congress become mere memories in our Nation's history? Who will ensure that balanced budgets will continue 5, 10, 20, even 50 years down the road?

While I would like to believe that balancing the budget in 2002 will result in all future budgets being balanced, I simply cannot. Balancing a budget is hard, as many of us who must balance our own personal budgets well know. Future leaders will be sorely tempted to deficit spend in order to meet the desires of the people. And much like a generation ago, they will find it easy to appease everyone. They will find it easy to say, "We'll balance it next year." The result may well be another 28 years of unbalanced budgets and increasing debt. To quote the Spanish philosopher George Santayana, "Those who cannot remember the past are condemned to repeat it." Without a balanced budget constitutional amendment, we leave future generations to the mercy of whether or not their leaders will remember the past.

Mr. President, over the Presidents' Day work period, I had the opportunity to speak with numerous Idahoans. They are good people who are very concerned about the future of the United States. During my week in the State, they overwhelmingly expressed to me that passage of the balanced budget constitutional amendment was one of their biggest concerns.

The people of Idaho know how serious the issue of balancing the budget is, because, like most Americans, they have lived under a State balanced budget requirement for years. It has forced tough decisions and, in some cases, prevented Idaho from doing some things the people wanted to do. But, it has worked. More importantly, for all the difficult decisions it has required, Idaho has kept it. They have shown they are willing to make tough decisions in order to keep the budget balanced. In the process, Idaho has also made sure that its more important resource, its children, are protected. A recent report released by the Children's Defense Fund notes that Idaho is below the national average for the percentage of children living in poverty, below the national average for the number of uninsured children, and above the national average in child support enforcement. You see it is possible to balance the budget and have the government do those things which the people expect it to do. As a nation, we would be wise to heed Idaho's example.

As I mentioned before, the people of my home State have shown they can and will live within a limited budget—on both a personal and governmental level. The members of the Idaho State Legislature stand for election every 2 years and must reflect the attitudes of the citizens of their communities. As in the past, they have passed a memorial asking Congress to approve the balanced budget constitutional amendment and send it to them for ratification. Their words bear repeating as we consider action on this significant step to restore the confidence of our people:

Whereas, the annual federal budget has not been balanced since 1969, and the federal public debt is now more than five trillion dollars, or twenty thousand dollars for every man, woman, and child in America; and

Whereas, continued deficit spending demonstrates an unwillingness or inability of both the federal executive and legislative branches to spend no more than available revenues; and

Whereas, fiscal irresponsibility at the federal level is lowering our standard of living, destroying jobs, and endangering economic opportunity now and for the next generation; and

Whereas, the federal government's unlimited ability to borrow raises questions about the fundamental principles and responsibilities of government, with potentially profound consequences for the nation and its people, making it an appropriate subject for limitation by the Constitution of the United States; and

Whereas, the Constitution of the United States vests the ultimate responsibility to approve or disapprove constitutional amendments with the people, as represented by their elected state legislatures; and the opposition by a small minority repeatedly has thwarted the will of the people that a Balanced Budget Amendment to the Constitution should be submitted to the states for ratification.

Now, therefore be it resolved, by the members of the First Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Congress of the United States expeditiously pass, and propose to the

legislatures of the several states for ratification, an amendment to the Constitution of the United States requiring, in the absence of a national emergency, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

The call for fiscal responsibility is nothing new, it has been sounded for years. President Andrew Jackson said, "Once the budget is balanced and the debts paid off, our population will be relieved from a considerable portion of its present burdens and will find not only new motives to patriotic affection, but additional means for the display of individual enterprise."

More recently, the American people heard the following words: "We must act now to protect future generations from government's desire to spend its citizens' money and tax them into servitude when the bills come due. Let us make it unconstitutional for the Federal Government to spend more money than the Federal Government takes in."

This sound advice came from President Reagan on the event of his second inauguration. His words were true then, and they are even more so now. For since he made that call for a balanced budget amendment to the Constitution, we have had a dozen more years of unbalanced budgets, a dozen more years of deficits, a dozen more years of telling our children and grandchildren that they will have to discover a way to do what we did not have the courage to do.

Mr. President, when I was mayor of Boise, I not only had to balance my own personal budget, but I also had to ensure that the city's budget remained balanced as well. It was a responsibility that required tough decisions, both on my part and on the part of the good people of Boise. Together, we had great expectations for our city. We wanted to build new parks, hire more police officers, build a new fire station, and do numerous other things to make the city an even better place to live. At the same time, however, we had to face the fact that we could not have all our wants, we would have to focus on our needs.

So what did we do? We prioritized and lived within our means. And in the process we built some wonderful parks, we modernized our firefighting equipment, and we lowered the crime rate. I would add, Mr. President, that we did all this and either held the line or decreased the property tax levy the final 2 years I was in office. As a result of our efforts, we were voted one of the most livable cities in the Nation by a national magazine, which called Boise, "A great place to raise a family."

Mr. President, we did all this, and balanced our budget, because we had to do so. It forced us to be frugal, but more importantly, it required us to find better and more efficient ways to meet our goals. And we still met our goals. We managed to do more with less. You see, a balanced budget does

not mean we deny ourselves the ability to do those things which need to be done. It simply means we must do those things as efficiently as possible, and not waste time and resources trying to do things which are not truly important.

Mr. President, before concluding my remarks today, I would like to address the concerns which have been raised about Social Security. During my tenure in the Senate, I have supported several efforts to assist Social Security recipients. It is based on my support for the Social Security system, and those who depend on the system now and in the future, that I opposed the maneuvers to add "specific exemption" language to the balanced budget constitutional amendment. Doing so, I believe would have proven to be detrimental to the long-term security of the Social Security Program.

First, because Social Security is defined in statute, its definition may be changed by statute. A Social Security exemption to the balanced budget constitutional amendment would then create an inviting target, far too inviting in my view, to those who do not want to truly balance the budget. The Congress, potentially, would be able to change the definition of Social Security so as to include economic stimulus programs, health care programs, or any other program which caught the fancy of the majority of the Congress. These areas could then be funded by draining the Social Security trust fund while the budget, technically, remained balanced. The net result would be a rapid depletion of the trust fund which would endanger benefits for future retirees.

Second, I think we must look at what a Social Security exemption would not do. Contrary to what some have claimed, it would not provide any more protection for the trust fund than now exists. It would not prevent the trust fund from running a deficit beginning in 2019, just as it is currently on pace to do. In fact, it would not extend the solvency of the trust fund by a single day—Social Security would still be bankrupt by 2029. The Social Security exemption would not do one thing to save the Social Security trust fund. Only balancing the budget—and I believe only a constitutional amendment will guarantee a balanced budget—and reducing the debt, will ensure that we are able to pay off the Government securities in which the law requires the Social Security surplus to be placed.

Mr. President, the balanced budget constitutional amendment is designed to make the Federal Government do something it has not done in nearly 30 years—take responsibility for its actions now, rather than passing the buck to our children and grandchildren. In the end, it is that simple. Are we going to continue to mortgage our children's and grandchildren's future for the sake of political expediency, or are we going to accept our responsibility to make the difficult decisions which come with balancing the budget?

I believe there is only one way to answer that question. We must act now. It is time for the Federal Government to cut up its credit cards, prioritize the real needs, ignore the "wants" list, learn to do more with less, and balance its budget. It will not be easy and it will not be pretty, but it must happen—and we cannot guarantee it will happen without a constitutional amendment. After 28 years of unbalanced budgets, we owe future generations the promise that they will not be forced to live with the results of our mistakes. Passing the balanced budget constitutional amendment is our downpayment on that promise.

Mr. President, in the 1,697 votes I have cast as a U.S. Senator, the vote today at 5:15 is the most critical. How critical? The last time this Nation had a balanced budget, I was 17 years old. Today, I have a son who is 16. He will be 17 this year. It has been a generation since we have had a balanced budget. I wish that when I was a 17-year-old, there had been a law that said you are going to have a balanced budget.

In the State of Idaho, we have a balanced budget requirement in the Constitution, and what's the upshot of that? After a century, our books are balanced in Idaho. We have 28 years of unbalanced books here in the United States. It is time for a balanced budget amendment. I cast my vote today not only as a Senator, but as a father trying to do the right thing for my kids.

I yield the floor.

Mr. HATCH. Mr. President, I yield 1 minute to the Senator from Tennessee.

(Mr. KEMPTHORNE assumed the chair.)

Mr. THOMPSON. Mr. President, our generation inherited the freest, strongest, most prosperous country in the history of civilization. Within one generation, we are changing that. When historians look back and ask the question, "When did the decline of the United States begin," they will point to our generation, because we are the first generation to spend the fortune of our grandchildren and great-grandchildren.

But we are told that we don't need to worry about it because we are in the process of balancing the budget, as evidenced by the President's latest so-called "balanced budget." But when the analysis comes out, we see that we are looking at another \$69 billion in deficit, and this so-called "balanced budget" is supposed to make all the cuts. But 98 percent of the cuts are in the last 2 years—after the President leaves office. We know that this is a sham. We know that even if, for a nanosecond, we did balance the budget in the year 2002, it would not account for the baby boomers who are going to be retiring in 2010. Can't we look forward for our Nation's future?

I support the balanced budget amendment and urge immediate passage.

Mr. HATCH. Mr. President, I yield 1 minute to the Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I thank the distinguished Senator from Utah. I rise in strong support today of the balanced budget amendment to the Constitution. I have three sons. My twin boys, today, are celebrating a birthday. They are 23 years old. I have an 18-year-old.

In 1984, when I first ran for political office—the Arkansas State Legislature—I was asked, “Why would you get into politics?” I had three reasons: Jeremy, Tim, and Josh. I didn’t know whether I could make a difference, but I was gravely concerned about the direction our Nation was going in and, particularly, the way our Nation was growing in deficits, chronic deficits, and a massive national debt. I wanted to be able to look them in the eyes and say, “I did what I could to give you a nation as good and as prosperous and with as much opportunity as I have had.”

Well, in less than 2 hours from this moment, I will have an opportunity to cast a vote. We may not succeed in this balanced budget amendment, but I will have a clear conscience, and I will be able to look my sons in the eyes and say that I did what I could to bring a fiscal sanity to our Nation again.

I thank the Chair and yield the floor.

Mr. HATCH. Mr. President, I thank my colleagues for their words here today. We are talking about trying to save our country. Frankly, after 58 of the last 66 years of unbalanced budgets, I think it is time we do something about it.

I yield 1 minute to our distinguished friend, the Senator from Michigan.

Mr. ABRAHAM. I thank the Chair. Mr. President, I rise in support of the amendment. As I have said on the floor numerous times during the debate, families of this country are hurt to the extent that we don’t balance the budget. Interest rates are higher. That means that loans, whether it is for a new car or house, a student, or anyone else, are affected directly by this failure in Washington to balance the budget.

Most importantly, children are hurt. We have a newborn baby in our family. He was born 5 months ago. The day he was born, he inherited a responsibility to pay \$187,000 in Federal taxes just to pay his share of the interest on this national debt. That isn’t just unfair for my son, it is unfair for all the children in this country.

Passage of this amendment has to happen. It has to happen now in order to end the red ink and set us on the right course for fiscal integrity in the future.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Alabama.

Mr. SESSIONS. I thank the Senator from Utah. I appreciate the leadership he has given to this effort. I think that this issue is very, very important to our Nation. I think, fundamentally, it is one of integrity. It is integrity in spending. We have to deal with those

issues day after day. How do we get an unbalanced budget? What happens? Senators and Congressmen get together and each have their own priorities. Each believes deeply that some project ought to be funded, and they cannot agree on which ones should be funded and which ones should not. So, they get together, they fund them all, and they pass on the debt to our children.

Some say we don’t need a balanced budget—that we should not amend the Constitution. We have a series of 33 out of 34 years where we have failed to balance the budget. We have a systemic problem, and we need a systemic solution. This amendment will bring integrity to the finances of the United States. I think it is absolutely crucial that we pass it. I can’t believe anything more important will come before this body than this amendment, and I am in support of it.

Mr. HATCH. Mr. President, I yield a minute to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, today I will vote to pass the balanced budget amendment. This is a vote for a stronger America, for responsible Government, and for our children.

In 1982, I approached the constitutional amendment with a certain degree of skepticism. My vote against the amendment at that time reflected my belief that Congress could and would correctly eliminate our budget shortfall. Since that time, however, we have come to a point of national financial crisis. In 1982, we had a Federal debt of less than \$1 trillion. This year, we have more than \$5 trillion in Federal debt. This debt is crippling our Government’s ability to solve our difficult problems.

Like many, I wish there was a way to make Congress and the administration balance the budget without amending the Constitution. But we have tried, over and over and over, and we have failed. These measures have always fallen short.

We must have in Washington what we take for granted in Montpelier, VT, and State capitals across the country—a balanced budget.

This Congress must be remembered as the one that made life better in America.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I thank the distinguished Senator for yielding to me.

The question has been asked many times during the day: Do you have the votes? There are 55 Republican Senators who have given their word that they would vote for a balanced budget constitutional amendment. There are a number of Democrats who have campaigned for this balanced budget amendment. If they keep their word,

we will pass this constitutional amendment.

What is to be gained as a result of doing this? The benefits are to our constituents. We believe that \$125 a month could be the benefit derived from a constitutional amendment through lower interest rates, more affordable mortgage loans, more affordable student loans, cheaper automobile loans, and so forth.

Mr. President, if we were to pass this constitutional amendment, we would finally put some kind of outside restraint on the ability of Congress to spend the taxpayers’ dollars. We need to do that. We have failed 28 years in a row. It is time to get it done.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Nebraska.

Mr. HAGEL. Mr. President, this is about leadership. The balanced budget amendment to the Constitution is about the future of this country. It is about bold leadership. It is about stepping up to the challenges that face our Nation and what kind of country we are going to leave to our children and to our grandchildren.

This is about doing the right thing. This is not about esoteric, theoretical, and academic issues. This is not about deferring more of the same that we have deferred for almost 50 years in this country. This is about stepping up to the real challenges that affect real people that will have a lasting impact on this country. If we do not provide the bold, dynamic leadership that this country requires, then we will pay a heavy price in the future for our inaction. Our children and our grandchildren will pay a very high price. They will pay a price that will restrict their opportunities, restrict their future, and restrict the future of our Nation and the good this country can do for the rest of the world and for our people over the next 25 to 50 years.

For those reasons, I strongly support this constitutional amendment to balance the budget.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Alabama.

Mr. SHELBY. Mr. President, thank you.

Mr. President, as we debate the balanced budget amendment, we would be wise to listen to the words of one of our Founding Fathers, Thomas Jefferson. Mr. Jefferson once wrote that “the question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.”

Mr. President, I agree with Thomas Jefferson: It is morally wrong for one

generation to burden a future generation with its debts. Yet, that is exactly what has happened during the past 27 years in America. The Federal budget has not been balanced since 1969, and as a result, our national debt has grown to more than \$5 trillion. In fact, a child born in America today begins life with a \$20 thousand share of the national debt. During his or her lifetime, that child can expect to pay \$187 thousand in taxes just to cover the interest payments on this debt—debt he had nothing to do with creating, but debt which will substantially limit his opportunities in life.

Mr. President, just look at the strain current interest payments are putting on our national resources. Interest payments consume about 15 percent of the Federal budget, and they are now the third largest item in the budget—only Social Security and defense are larger. Last year, we spent a record \$241 billion on interest payments to service the national debt. That is more than double the amount of money the Government spent on education, training, crime, and transportation combined.

Mr. President, we cannot afford to continue wasting the taxpayers money in this fashion. This must stop, and the balanced budget amendment will help stop it by ending deficit spending and the growing interest payments on the national debt.

However, the opponents of a balanced budget amendment have put forth many false arguments to try to confuse the issue. I want to address several of these arguments one by one.

The most deceptive argument opponents of a balanced budget amendment use is that this amendment will hurt the Social Security system, unless Social Security is specifically exempted from the amendment. Mr. President, nothing could be farther from the truth. If the Social Security system is left as the only area of the budget which does not have to come into balance, then future Congresses will have a tremendous incentive to take the FICA revenues, which currently fund the Social Security system, and use them to help fund all other areas of the budget which must be balanced. That would leave the Social Security system in serious financial trouble.

Second, exempting Social Security from the balanced budget amendment would further threaten Social Security by allowing Congress to move programs out of the area of the budget which must be balanced and into the exempt Social Security system. This would be a heavy drain on the money originally collected for Social Security.

Finally, the whole point of the balanced budget amendment is to put an end to deficit spending. But, as the Social Security trustees tell us, there are massive deficits projected in the system in just a few short years. Therefore, while the rest of the budget is balanced, the Government will still be

borrowing huge sums of money to pay its liabilities in the Social Security system. Moving Social Security off-budget is just another sham put forth by those who do not want to face the reality that we must stop piling debt on our children and grandchildren.

The truth is the balanced budget amendment will protect Social Security by reducing its biggest threat—massive interest payments. If left unchecked, these payments will dramatically reduce the money available for Social Security benefits. A balanced budget amendment will keep interest payments from increasing and will allow more money to be spent on meaningful programs, including Social Security.

Another argument put forth by opponents of a balanced budget amendment is that it will transfer power over the purse strings to the judicial branch of government. This is a serious concern, but one which is misplaced. One of the reasons why the courts will not become unduly involved in the budgetary process is the doctrine of “standing” contained in article III of the Constitution. The doctrine of standing requires that a plaintiff has a direct and specific, personal stake or injury. A “generalized” public grievance, such as a taxpayer adversely affected by macroeconomic decisions, will not be recognized. Moreover, the courts will owe deference to Congress under both the “political question” doctrine and section 6 of the amendment itself which gives Congress the enforcement authority.

Another objection to the balanced budget amendment is that it does not provide for a capital budget. The argument here is that just as most families need to borrow money for large purchases, such as a home, the Federal Government should also have the ability to borrow money for capital investments. Those who hold that view, point out that if families had to live under the same circumstances imposed on the federal Government by a balanced budget amendment, no one would be able to purchase a home.

Mr. President, comparing the Federal Government to the typical family purchasing a home is a very misleading comparison. The Federal Government has an annual budget of more than \$1.6 trillion and the ability to increase its income at will by raising taxes. There is virtually no project conceivable which the Federal Government could not afford to finance without incurring debt. Just consider that we built the entire interstate highway system on a pay-as-you-go basis. The price of a home can easily be three times as much as the annual income of a family, which is why they need to borrow money to purchase it. By comparison, if the Federal Government wanted to undertake a project three times the amount of its annual income, the project would need to cost \$4.8 trillion in 1 year. That is simply ludicrous. The truth is that with the amount of re-

sources at the disposal of the Federal Government, there is simply no need for a separate capital budget.

The final objection I will address is that the balanced budget amendment will hamper the Government's ability to stimulate to the economy during a recession. Mr. President, the truth is that the Federal Government does not have a very good track record when it comes to trying to stimulate our economy. Bruce Bartlett of the National Center for Policy Analysis, points out that since November of 1948, there have been seven recessions, followed by “anti-recession” legislation. In each instance, the recession the legislation was designed to end was over by the time the legislation was finally passed. In fact, Bartlett concluded that “Without exception, stimulus programs have failed to moderate the recessions at which they were aimed, and have often sowed the seeds of the next recession.”

Part of the reason for this is that Government jobs are very expensive to create. President Carter's budget director testified before the Joint Economic Committee in 1980 that public works jobs cost between \$70,000 and \$198,000 per job per year. The truth is, Mr. President, Congress should not be in the business of trying to micro-manage our economy. If Congress cannot even balance its own books, why do opponents of the balanced budget amendment believe Congress can manage the entire economy?

Mr. President, the decision before us is a simple one. It is a choice of fiscal responsibility or fiscal foolishness. It is a choice of protecting our children's financial future or destroying it. It is a choice of allowing the 50 States to have a say in this matter or denying them that freedom. In the end, Mr. President, it is a question, as Thomas Jefferson said, between right and wrong, and I urge my colleagues to do the right thing and vote for the balanced budget amendment to the Constitution.

Mr. President, the decision before us today is the most important one that this Senate will make in the 105th Congress. Let there be no doubt about it. Since the last balanced budget in 1969, deficit spending has become a permanent way of life in Washington. The result, as we all know, is a \$5.3 trillion national debt. This debt is costing the taxpayers of America a quarter of a trillion dollars each year in interest payments alone. The reality is that without a balanced budget amendment, deficit spending will continue as usual and our children and our grandchildren will be left to pay the bill.

Mr. President, now that the debate is over and all of the smoke has cleared, we are faced with a simple choice between fiscal responsibility or fiscal foolishness, a choice of protecting our children's financial future or destroying it, a choice of allowing 50 States to have a say in the matter or denying them that freedom.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the economic arguments for this constitutional amendment were eloquently stated—lower interest rates, more jobs, and a higher standard of living for Americans in the future.

I want to emphasize that the moral arguments favor this constitutional amendment. Mr. President, it is simply morally wrong for us, year after year after year, to consume the services of government and to send the bills to our children and to our grandchildren, who have not had a voice in this body. We must be responsible enough to see to it that what we want from government today we pay for today. The fact is that we will not do it without a constitutional amendment, as evidenced by the heavy stack of unbalanced budgets in front of the leader of the debate on this issue.

This balanced budget is for our children and our grandchildren.

Mr. HATCH. Mr. President, I yield 1 minute to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Thank you, Mr. President. I thank my friend and colleague, Senator HATCH, who has put so much effort into this issue.

Mr. President, as the Senate prepares for the final vote on the balanced budget constitutional amendment, I again offer my support for the passage of this critical piece of legislation.

Over the course of the last several weeks, I have listened to many of my colleagues as they have come to the floor to debate the merits or the detriments of the amendment. I have listened to many of my constituents during my travels through Colorado, most recently at town meetings in Colorado Springs, Trinidad, Longmont, Greeley, and Golden. I also have reviewed mail that has come into my office here in Washington, DC, addressing this important issue. And I must say I am greatly pleased by the large number of people who support the balanced budget constitutional amendment.

As I've indicated, I have been conducting a series of town meetings in my home State of Colorado. When the discussion turns to balancing the budget, the majority of Coloradans realize that we can only begin to address this issue with constitutional authority. I have also received numerous letters from special interest groups located here in Washington, DC, asking me to vote against the will of the American people and against the amendment. Well, I am not going to do that. I support the balanced budget constitutional amendment and have supported it since becoming a Member of Congress back in 1987.

I believe this amendment is in the best interest of the future of this country, and I become frustrated to hear

some of the arguments against this amendment, such as in the letters I receive from special interest groups. For instance, opponents claim that the amendment would limit the Federal Government's ability to address short-term economic crises or threats to our national security. Well, we have heard this argument on numerous occasions over the past few weeks, as well as over the years. Many of my colleagues have addressed this issue, and in fact, we have even voted on several amendments relative to these concerns.

Section 1 and section 5 of the amendment, as it is currently written and was reported by the Committee on the Judiciary, provide Congress with the ability to waive the requirements of the amendment, so I do not find this argument against the amendment to be particularly compelling.

Another often repeated argument against the amendment claims that Congress can balance the budget on its own without passing the balanced budget constitutional amendment. Well, folks, I have been a member of this institution for 10 years now, and I have yet to see a balanced budget or one that even approaches balance. In fact, there has not been a balanced budget since 1969. Congress has even passed deficit-reduction legislation on numerous occasions in an effort to achieve a balanced budget, and we still cannot get to a balanced budget.

This constitutional amendment will make the Federal Government accountable to the Constitution when formulating a budget, and by doing so, this amendment will force the Federal Government to behave in a fiscally responsible manner just as more than half of the States are already required to do.

Again, opponents argue that a balanced budget constitutional amendment will only lead to devastating cuts to many federally funded programs. Well, I certainly do not argue that this amendment will not force Congress and the administration to make some tough choices. Tough choices need to be made in order to balance the budget. But what is the alternative?

Because of our inability to balance the budget, we continually run a deficit each year. Our country currently has a national debt of over \$5.3 trillion—and it is growing—and each and every year the Federal Government pays interest on this debt. In fiscal year 1996, this Government spent \$344 billion on interest costs, roughly 15 percent of the entire Federal budget for that year. Let me repeat this. The Federal Government spent \$344 billion on interest costs last year, and of this \$344 billion, not \$1 of it went to education, law enforcement, highways, or even healthcare. At 15 percent of the Federal budget, interest costs are our third largest expenditure, and it continues to grow.

What does this mean? It means that our national debt is strangling the rest of the budget. My friend and colleague,

Senator HATCH, has been on this floor each and every day of this debate arguing in favor of this amendment, and I believe he best put this whole issue of interest payments in perspective. If my colleagues will indulge me, I would like to reiterate some of my colleague's comments from a couple of weeks ago because I think they need to be continuously repeated in order to drive home the importance of balancing the budget and ending the escalation of our national debt.

As my friend from Utah stated once before, the Federal Government spent more money last year on net interest payments than it did for the combined budgets of the Department of Commerce, the Department of Agriculture, the Department of Education, the Department of Energy, the Department of Justice, the Department of the Interior, the Department of Housing and Urban Development, the Department of Labor, the Department of State, and the Department of Transportation. Our inability to balance the budget over the years has contributed to an enormous debt which requires more money to service annually than we are able to put toward the combined budgets of ten departments within the Federal Government.

If we do not get a handle on the budget, we will continue to add to our national debt. In the long-term this debt, and the costs that accrue in interest, will endanger the funding for those programs that truly need, deserve, and require Federal funding. Of course, as this problem continues to escalate, it will be our children and our children's children who will be forced to deal with this problem. It will be they who will be hurt by low levels of funding—all because we did not seize the opportunity to pass the balanced budget constitutional amendment.

And yet, there are still those who oppose the balanced budget constitutional amendment—who think that Congress can balance the budget on its own. Well, we have not done so in the last 28 years, and without this amendment I see no possible way that we can do so. If we were able to pass a budget plan this year which would balance the budget by the year 2002, without the constitutional requirement there is nothing to stop future Congresses and future administrations from implementing unbalanced budgets.

And each year we fail to balance the budget, we run a deficit. These deficits will continue to add to the debt, increasing it and the size of the interest payments on the debt we leave to our children. It is estimated that in the year 2002 the interest payments will be \$412 billion. It will continue to increase thereafter unless we find the fortitude to control our spending.

You know, as legislators we should realize that our constituents expect certain things of us and of the Federal Government, and they rightly should. They trust us when we pledge our support for legislation such as this, and

they have a right to expect our support when the time comes to vote. All of us meet with constituents and constituency groups, and barely a day goes by that we do not hear someone asking for our support for funding for certain programs or to work to increase funding for others. However, the fact of the matter is that money is scarce, and if we continue to run deficits and add to the national debt, it is going to become increasingly difficult to fund programs at the level they need and deserve.

This body is going to vote on the balanced budget constitutional amendment, and it makes me angry to think it may fail to pass—once again by possibly only one vote. It makes me angry because this legislation and all of the same debates will continue to come up in future Congresses until one Congress has the good sense and courage to pass this measure and send it on to the States where it rightly belongs for ratification. As Members of the United States Congress, we often think that we know best on every single issue. Well, this is an issue we should send to the States and the American people, to finally provide them with the opportunity to debate the merits of this amendment and allow them to have the final decision.

Mr. President, for 3 weeks we have seen every chart, we have viewed every graph, we have heard every point of view, and in some cases we have looked for every hole in which to hide in an effort to scuttle the balanced budget amendment.

In my view, the American people are not buying any more excuses, nor should they. The American people know that their elected leaders, just like the wage earner in their household, cannot spend themselves into prosperity. Regardless of our own personal and varying views in this Chamber, one inescapable question remains. That question is: Do we trust the people of this Nation? By not passing this amendment we are telling them that we do not trust them, that we don't trust them to do the right thing in making decisions that will affect our lives. We, from our lofty perch in the U.S. Senate, will relieve them of the decision by not letting them discuss the balanced budget amendment in their State legislatures and in their hometowns. No one knows if the necessary 38 States would actually ratify the balanced budget amendment. But to not even allow the citizens of our home State the opportunity to review it, I find rather arrogant on our part. Let's not insult our constituents with that denial. They do not take this issue lightly any more than we do. But they also know that eight balanced budgets out of 66 years simply isn't good enough for America.

Let's pass this important bill and give this Nation a chance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Georgia.

Mr. COVERDELL. Mr. President, any time a contemporary generation is engaged in the business of consuming the resources of generations yet to come, they are in the business of abrogating the freedom of generations yet to come. This democracy was formed in a war for economic freedom and independence. As you look to the children yet to come, we are in the business of robbing them of the choices and the freedoms we have known as American people. The balanced budget amendment to the Constitution is an act that must be engaged in in order to preserve the freedoms that we have known as Americans for all those generations yet to come.

My mother and father kept 80 percent of their wages to raise their family. My sister will keep 46 percent, and her children will keep 16 percent. They will not be free as we know it.

We need to pass the balanced budget amendment to the Constitution.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 or 2 minutes to the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I thank the Senator for yielding and compliment him on his leadership on this very important issue.

Here we are having the same debate on the same issue and the same reversal of positions by Senators who have previously supported this amendment—the same excuses and the same problems. We don't have a balanced budget amendment. Two years ago the opponents of the balanced budget amendment said a constitutional amendment isn't necessary in order to achieve a balanced budget; that, in fact, the constitutional amendment is only an enforcement mechanism, but it isn't the balanced budget plan itself. They admonished Republicans by saying, "Show us your plan. Show us your plan." The President, in the State of the Union Address in February, expressed the same sentiment. He said, "Rewriting the Constitution isn't necessary to balance the budget. All we need is your vote and my signature." Exactly, Mr. President. Republicans delivered a balanced budget plan last year statutorily. We delivered a plan. We delivered it to the President of the United States. The President demonstrated with the swift stroke of the pen the need for a balanced budget amendment because he vetoed that legislation.

History has proven that a force greater than politics is necessary in this institution in order to achieve a balanced budget. History has proven the repeated failures of statutory attempts to balance the budget. The last time we had a balanced budget was in 1969. We have only had a balanced

budget five times since 1950. In fact, we have debated this amendment, in the last two decades, in 1982, 1986, 1990, 1992, 1994, 1995, 1996, and now here in 1997. And guess what? We don't have a statutory balanced budget. The fact is the opponents of the balanced budget amendment understand that you can't have a constitutional amendment without achieving a balanced budget.

Mr. KYL. Mr. President, it now appears that the balanced budget amendment will pass or fail by a single vote. If the amendment is defeated, I would venture that there is a greater chance that UFO's will land on Earth tomorrow than there is that the Federal Government will actually balance its books by the year 2002. It is unlikely that Congress and the President will ever balance the budget without a constitutional requirement to do so.

Two years ago, President Clinton vetoed a balanced budget—the first balanced budget to pass Congress in 26 years. Not one Senate Democrat voted for the plan. And of course, since it would have taken 67 votes in the Senate to override the President's veto, the balanced budget never became law.

President Clinton now says he has changed his mind—that he is for a balanced budget, but once again his support is conditional: we have to wait until after he leaves office to make 98.5 percent of the savings required to get there. Until then, it is business as usual. The President would create six new entitlement programs, costing at least \$60 billion over the next 5 years. He would have us increase total Federal outlays by \$827 billion over that period. We can do all this, yet somehow the deficit magically disappears in 2002.

I am reminded of the old Peanuts cartoon when Lucy promises time and again to hold the football still for Charlie Brown, only to pull it away at the last minute. Every Republican Senator will vote for this amendment. A few Democrats will vote for it, too. An overwhelming majority of the American people want us to pass it. Yet President Clinton and most Senate Democrats ask us to trust them—they do not need a constitutional amendment to balance the budget.

How do we know that, in 3 or 4 years, when it finally comes time to get serious about deficit reduction under the Clinton budget, they will not yank away their support for a balanced budget again?

Mr. President, we must pass the balanced budget amendment.

Mr. HATCH. I thank my colleague.

I yield 1 minute to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, the last time we had a balanced budget in this country, as my colleague from Maine has pointed out, was 1969. I happened to be at that time a senior in college. I turned 50 this year. It has been a long time. A lot of things have happened

since 1969. The one thing that has not happened is for this Congress and the President to balance the budget.

It is, frankly, time that we stopped spending our children's money. It is time we stopped spending our grandchildren's money and great-grandchildren's money. We need to balance the budget. Within the next 2 hours, I intend to cast a "yea" vote for a balanced budget amendment to the Constitution.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair. I thank the Senator from Utah.

I will quote Ronald Reagan, who said in 1985:

Almost 50 years of deficit spending has finally brought us to a time of reckoning. We have come to a turning point, a moment for the hard decisions. If not us, who? If not now, when? Let us make it unconstitutional for the Federal Government to spend more than the Federal Government takes in.

A very simple notion. Ronald Reagan, our President, said this in 1985. It is 1997, and we have not yet taken the action the American people have asked us to take, to make it unconstitutional to mortgage the futures of our children and grandchildren. That is the vote today. The Republicans are going to keep their promise. We will be back again until we win this fight so that when we leave this place, we will know we have done our duty to protect the future of this great country that so many people have died to defend.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my colleague from Texas.

I yield 1 minute to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I thank the Chair.

I think this is a very significant day. We had a very blessed event over the weekend at my house. We had our fifth grandchild. And when little Mollie Elizabeth Inhofe was born, I say to Senator THURMOND, she inherited a \$20,000 personal debt. I remember it was only a year before when little Jase, our fourth grandchild, was born. He inherited a \$19,000 debt. So it is going up every year.

When I look over, I see Senator HAGEL from Nebraska. You do not have to go back just to the Reagan administration. If you go back long before that, one of our very fine Senators, Carl Curtis, had an idea that he would balance the budget by getting the States to preratify it. It was an ingenious idea, and it did not work, even though in the State legislature, I was the first State legislator to get it preratified.

So we have something we are faced with today that we have been fighting

for 20 or 25 years. This is our opportunity to do it. If we do not do it now, I do not think we will be able to do it in the near future. This is a moral issue, Mr. President, we have to meet.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my colleague for his excellent statement.

I yield 1 minute to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. I thank the Chair. I appreciate that.

I am honored to be able to address this body today once again on the importance of a balanced budget amendment to the Constitution.

Balancing the budget is simply no longer an option. The future of our children literally hangs in the balance. Every day we spend debating this issue, we add billions of dollars to the deficit. We have to give ourselves the tools to be able to assure that we can stay in balance.

This is an astounding fact, but in the February issue of Nation's Business they state that unless Government spending policies are altered, the average—the average—net tax burden on Americans born between 1960 and 1993 will soar from the current 34 percent to 85 percent of their lifetime incomes. That is 85 percent lifetime income going to taxes. It is thoroughly reprehensible to allow our children to be taxed at this rate simply because we do not have the courage to do what is right.

How can we do this to our children? It is imperative that we pass a balanced budget amendment to the Constitution for the kids.

I thank the Chair. I yield back my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield a couple of minutes to the distinguished Senator from Idaho, who has led the fight for this amendment in the House, along with Congressman STENHOLM and, of course, played a pivotal role in leading the fight for it each time we brought it up in the Senate as long as he has been here, Senator CRAIG.

The PRESIDING OFFICER. The senior Senator from Idaho is recognized.

Mr. CRAIG. I thank the Chair. I thank the senior Senator from Utah for his tremendous leadership on this issue and the hours of debate he has conducted in the Chamber in behalf of the passage of a balanced budget amendment to our Constitution.

Mr. President, I feel compelled to rise one more time to discuss how the Social Security trust funds would be treated under the balanced budget amendment, Senate Joint Resolution 1.

Unfortunately, day after day, we hear reference made to what the Congressional Research Service supposedly said about this subject.

It is about time to put these issues to rest, once and for all.

Therefore, Congressman CHARLIE STENHOLM and I submitted several more questions to CRS.

We asked CRS to compare, in several areas, the impact of two different kinds of balanced budget amendments: One that excluded Social Security from budget calculations, as several amendments to Senate Joint Resolution 1 would have; and one that counts all Federal spending in the budget, as does Senate Joint Resolution 1 as reported.

I ask unanimous consent that a table summarizing the results of this memo be printed in the RECORD.

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

SUMMARY OF CRS MEMO TO SENATOR CRAIG AND CONGRESSMAN STENHOLM, FEBRUARY 26, 1997

CRS Analyzed five Balanced Budget Amendment proposals: S.J. Res. 1/H.J. Res. 1 (consensus bipartisan) which requires government-wide budget calculations; S.J. Res. 12/H.J. Res. 50 (Dorgan/Pomeroy) and the Reid Amendment, which would exclude Social Security from budget calculations. CRS conclusions:

EFFECTS OF BBA PROVISIONS ON SOCIAL SECURITY

	S.J. Res. 1/ H.J. Res. 1	S.J. Res. 12/ H.J. Res. 50/Reid
Change the current method of investing Social Security surpluses in Treasury securities? ...	No	No
Allow the drawdown (as planned in the 1983 law) of Social Security trust funds to pay for promised benefits?	Yes	Yes
Repeal current statutory "firewalls" protecting Social Security balances?	No	No
Protect Social Security by requiring a 3/4 vote to change the law and deplete Social Security balances?	Yes	No

Mr. CRAIG. There are compelling reasons for not excluding Social Security from budget calculations. Some Senators may feel there are good reasons for that exclusion. Some Senators may feel there are good reasons to vote against Senate Joint Resolution 1.

But this table and the CRS memo it summarizes convincingly show that several of the reasons offered for voting against Senate Joint Resolution 1 simply do not stand up.

In three key respects, S.J. Res. 1 and the amendments to exclude Social Security, such as the Reid and Dorgan amendments, would operate identically.

First, neither approach would change the way Social Security surpluses are invested in Treasury bonds. Some have called that raiding the trust funds. But the Social Security Act required that from the start, because Treasury bonds are the safest investment in the world.

If the Social Security trust funds are being raided today, and if that so-called raiding continued under Senate Joint Resolution 1, then it would also continue under the Dorgan, Reid, and Feinstein amendments.

Those amendments don't change the law in this area.

So there's no reason here to vote for those amendments and against Senate Joint Resolution 1.

Second, consistent with its two previous memos, this new CRS memo confirms again that the following is equally true for both approaches: The Treasury will redeem Treasury bonds held by the Social Security trust funds; the Treasury will repay cash borrowed from the trust funds; and the trust funds will pay out benefits as promised.

I want to emphasize the consistency of CRS here.

The February 5 CRS memo was misunderstood and misrepresented. Some continue to make the misstatements today.

CRS clarified that misunderstanding in a February 12 memo. But the misstatements continue.

This newer CRS memo makes it clear that, if there were a problem drawing upon Social Security surpluses in the future under Senate Joint Resolution 1—and there is not—then the same problem would exist under the Reid and Dorgan amendments.

So there's no reason here to vote for those amendments and against Senate Joint Resolution 1.

Third, neither version would overturn the current law that protects the balances of the Social Security trust funds.

Under the Budget Enforcement Act of 1990, there are points of order—a 60-vote point of order in the Senate—against any legislation that would change trust fund outlays or receipts in a way that would erode the balances in the trust funds.

So there's no reason here to vote for those amendments and against Senate Joint Resolution 1.

Fourth, in a fourth key area, one version, Senate Joint Resolution 1, would take the current, statutory process of protecting the Social Security balances, and elevate it into the Constitution.

Senate Joint Resolution 1 prohibits any change that would increase deficits or reduce surpluses—including those in the Social Security trust fund balances.

The Dorgan, Feinstein, and Reid amendments, by contrast, would allow the Social Security trust funds to run unlimited deficits.

Whether you have been for or against amendments excluding Social Security from the budget calculations, those amendments did not pass.

Now, if you really care about Social Security, you will still vote for Senate Joint Resolution 1 on final passage.

Under the status quo, we will add another \$3 trillion to the national debt over the next 10 years.

Does anyone think that adding nearly another \$3 trillion to the debt is good for Social Security?

The debt is the threat to Social Security. The debt is the threat to our children and their standard of living.

Passing the balanced budget amendment, Senate Joint Resolution 1, is the answer.

I ask unanimous consent that the following be included in the RECORD: A

copy of the CRS memo we recently received and bipartisan materials we distributed analyzing the various CRS memos.

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

CLUBB—CONGRESSIONAL LEADERS UNITED FOR
A BALANCED BUDGET

CRS—THE REST OF THE STORY

Social Security Trust Funds and the BBA

The Congressional Research Service has prepared a memo in response to questions from Rep. Stenholm and Sen. Craig, comparing several key operations of the Social Security trust funds under two different kinds of balanced budget amendment to the Constitution.

The February 26 CRS memo compared S.J. Res. 1 (and its companion, H.J. Res. 1) on the one hand, with S.J. Res. 12 (and its companion H.J. Res. 50, as well as the Reid amendment #8). S.J. Res. 1 requires a balanced "unified" budget (i.e., total federal outlays would not exceed total receipts), while S.J. Res. 12 would exclude Social Security from budget calculations.

The CRS memo confirms that the treatment of the Social Security trust funds would be identical in several key ways under both versions.

Neither version would change the current law requirement that trust fund surpluses must be invested in U.S. Treasury securities. Under either version (as well as under current law), that requirement could be changed by amending the Social Security Act.

Neither version would affect the legal obligation of the Treasury to repay these borrowings to the trust funds when the appropriate time came to draw down trust fund surpluses and make promised benefit payments. (This would occur when Social Security is projected to start running annual deficits in 2019, while it still retains an accumulated surplus.) This is the issue raised in connection with the much-discussed and disputed CRS memo of February 5.

Neither version would change or overturn provisions in the Budget Enforcement Act of 1990 that protect the balances in the trust funds. The BEA includes points of order—including a 60-vote point of order in the Senate—against any legislation that would change trust fund outlays on receipts in a way that would erode trust fund balances.

The CRS memo pointed out one difference in the impact of the different amendments:

S.J. Res. 1 essentially would elevate the BEA protections to constitutional status, by requiring a 3/5 vote to approve any change that would increase deficits or reduce surpluses, including those in the Social Security trust fund balances.

The February 26 CRS memo should put some issues to rest, once and for all

Whatever preference one may have on any other basis, the "drawdown" issue is not a reason to prefer S.J. Res. 12, nor a reason to vote against S.J. Res. 1.

The February 5 CRS memo was incorrectly cited as saying that, beginning in 2019, S.J. Res. 1 would make it harder to draw down accumulated trust fund surpluses in order to pay promised Social Security benefits. No matter how that memo is interpreted, CRS has now made it crystal-clear: Both S.J. Res. 1 and S.J. Res. 12 (Dorgan-Reid) would have exactly the same impact on Social Security drawdowns and benefit payments.

Whatever preference one may have on any other basis, the issue of the Treasury borrowing the Social Security surpluses is not a reason to prefer S.J. Res. 12, nor a reason to vote against S.J. Res. 1.

This process has been variously characterized as "raiding the trust funds" versus "investing Social Security surpluses in the safest investment in the world". But either way, one thing is clear: Neither S.J. Res. 1 nor S.J. Res. 12 would change in any way the process of investing trust fund surpluses in Treasury securities.

The DEBT is the threat to Social Security—and to other priorities and to our future standard of living. Under current trends, over the years 2002–2007 (the first 6 years in which the Balanced Budget Amendment would be effective), the amount of federal debt held by the public will increase by \$1.47 trillion. No one can argue that another \$1.47 trillion in debt is good for Social Security.

Reasonable persons can disagree over which version, overall, offers the better protection for Social Security. But the only way to ensure any protection for Social Security is for Congress to pass a strong, effective Balanced Budget Amendment and send it to the states for ratification.

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,

Washington, DC, February 26, 1997.

From: David Koitz, Specialist in Social Legislation, Education and Public Welfare Division, and Johnny H. Killian, Senior Specialist in American Constitutional Law, American Law Division.

Subject: Treatment of Social Security under the Balanced Budget Amendment.

This memorandum is in response to four specific questions you and Representative Charles Stenholm raised with regard to five pending legislative measures to adopt a constitutional amendment requiring a balanced federal budget. These measures include H.J. Res. 1 and S.J. Res. 1, both of which prescribe a "unified" balanced federal budget that would count all receipts and outlays of the federal government. H.J. Res. 50 and S.J. Res. 12, and an amendment to S.J. Res. 1 by Senator Reid, offered on February 24, 1997, would not count the receipts and outlays of the Social Security trust funds for purposes of satisfying the requirements of the balanced budget amendment. Your questions and our responses follow.

Question #1: What differences, if any, would the different amendments mentioned above have on the ability of the Social Security trust funds to invest annual surpluses in Treasury bills?

Answer: The five measures all include the same language requiring approval of "three-fifths of the whole number of each House" to increase the portion of the federal debt held by the public. However, none of the bills places a limit on raising the government's gross federal debt, which includes both debt held by the public and debt held in government accounts such as the Social Security trust funds, or on the portion of the debt held in government accounts. Therefore, there would be no restrictions beyond those of current law that would explicitly limit the investment of surplus Social Security income in the Social Security trust funds.

Current law (P.L. 104-121) does place an explicit limit of \$5.5 trillion on the government's gross debt, and this potentially could constrain the Secretary of the Treasury from purchasing additional federal securities for the trust funds with surplus Social Security income if the amount of outstanding gross federal debt bumps against this ceiling. Whether this explicit limit on gross federal debt would be continued, raised, or abolished in the event of passage of any of the pending measures to create a constitutional limitation on publicly-held debt is a matter of conjecture.

Question #2: What differences, if any, would the amendments have on the obligation of

the federal government to redeem the Treasury bills held by the Social Security trust funds?

Answer: Section 201 of Title II of the Social Security Act provides for a drawdown of the Social Security trust funds to pay for benefits and administrative expenses of the program. None of the five bills explicitly hinders the operations of this section of law.

Question #3: What differences, if any, would the different amendments mentioned above have on the ability of the federal government to increase the limit on the debt held by the public in order to borrow money to redeem Treasury bills held by the Social Security trust funds if the receipts of the federal government other than Social Security revenues are not sufficient to cover the outlays of the government other than Social Security and redeem Treasury bills held by the Social Security Administration.

Answer: The five measures all include the same language requiring approval of "three-fifths of the whole number of each House" to increase the portion of the federal debt held by the public. Hence, if it were necessary to borrow money from the public over and above this limit in order to cover non-Social Security outlays and make good, as well, on government securities held by the Social Security trust funds, all five measures set forth an identical prohibition.

As with any debt ceiling limitation set by law, if the government's income were less than its outlays and the Treasury Department had reached a legal limit on borrowing set forth by one or another of the proposed constitutional amendments, the operations of the federal government as a whole would be jeopardized. How any single program or function of the government would be affected is a matter of conjecture. Although there appears to be some flexibility under current law with respect to continuing certain essential services in the event of a debt ceiling impasse, there is nothing in the five pending measures or in current law that would prioritize expenditures to be made from the Treasury in that event. Whether the enactment of any one of these five proposed constitutional amendments would best facilitate attaining the necessary three-fifths approval of both Houses to increase the publicly-held portion of the debt or the passage of tax increases or spending reductions (or both) to obtain the resources to make good on the liquidation of Social Security trust fund securities also is a matter of conjecture.

Question #4: What differences, if any, would the different amendments mentioned above have on the ability of Congress to enact legislation increasing outlays from the Social Security trust funds or reducing revenues into the trust funds without obtaining a vote of three-fifths of the whole number of both Houses as required under the amendment.

Answer: H.J. Res. 1 and S.J. Res. 1 would require a vote of three-fifths of the whole number of both Houses to enact legislation to reduce federal receipts or increase federal outlays, including Social Security receipts and outlays, in any year (in the absence of offsetting measures). These limitations would not apply under H.J. Res. 50, S.J. Res. 12, and the amendment by Senator Reid since the definition of total receipts and total outlays under these measures would exclude the receipts and outlays of the Social Security trust funds.

However, none of the five measures would preclude the operation of the so-called Social Security "firewall" rules enacted in Budget Enforcement Act of 1990 that permit points of order to be raised against measures that would erode the balances of the Social Security trust funds. Presumably, they would act as an impediment, as they do today, to legis-

lation that would reduce Social Security receipts or increase expenditures (without offsetting measures). Although in the House a simple majority may override any objection raised against such measures, it takes three-fifths approval of the whole Senate to do so.

Mr. CRAIG. Mr. President, last week several Senators and Representatives held a bipartisan, bicameral press event on the Capitol Grounds. Among other things, we received a letter, signed by more than 250 economists, endorsing the balanced budget amendment to the Constitution. The letter was put together by the American Legislative Exchange Council, the largest bipartisan individual association of State legislators in the country.

These economists, from both sides of the political aisle, have signed an open letter to Congress, asking us to approve the balanced budget amendment. Both Republicans and Democrats, conservatives and liberals, they have based their support of the balanced budget amendment upon sound reasoning and a concern that America's future will be crippled if Federal deficits are allowed to continue. Among the signatories are James Buchanan, a Nobel laureate in economics, as well as William E. Simon, who served as Secretary of the Treasury from 1974 to 1977.

The balanced budget amendment is not a partisan issue—it is an economic and moral issue. We need to recognize that through deficit spending we are selfishly spending on ourselves today the earnings that will be confiscated from future generations without their consent or knowledge.

The balanced budget amendment to the Constitution imposes procedural constraints on the making of budgetary choices. It doesn't take away the power of the Congress to spend or tax. The amendment requires only that the Congress and the Executive spend no more than what they collect on taxes.

The effects of the balanced budget amendment would be real as well as symbolic. Elected politicians would be forced to act responsibly and make fiscal choices within meaningfully constructed boundaries. Congress would be faced with important decisions regarding the financial fate of programs sooner rather than later. In its simplest terms, the balanced budget amendment amounts to little more than honesty in budgeting.

It is time to acknowledge that mere statutes that claim to control Federal spending or deficits have failed. It is time to adopt constitutional control through a balanced budget amendment.

I ask unanimous consent to print in the RECORD the letter that was signed by over 250 economists who believe that Congress must place constitutional restraints on spending.

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

AMERICAN LEGISLATIVE
EXCHANGE COUNCIL,
Washington, DC.

An Open Letter to Congress from U.S. Economists.

It is time to acknowledge that mere statutes that purport to control federal spending or deficits have failed. It is time to adopt constitutional control through a Balanced Budget Amendment. In supporting such an amendment, Congress can control the federal government's spending proclivities by setting up control machinery external to its own internal operations, machinery that will not be so easily neglected and abandoned.

Why do we need the Balanced Budget Amendment now, when no such constitutional provision existed for two centuries? The answer is clear. Up until recent decades, the principle that government should balance its budget in peacetime was a part of our effective constitution, even if not formally written down. Before the Keynesian-inspired shift in thinking about fiscal matters, it was universally considered immoral to incur debts, except in periods of emergency (wars or major depressions). We have lost the moral sense of fiscal responsibility that served to make formal constitutional constraints unnecessary. While we can't legislate a change in political morality; we can put formal constitutional constraints into place.

The effects of the Balanced Budget Amendment would be both real and symbolic. Elected politicians would be required to make fiscal choices within meaningfully-constructed boundaries; they would be required to weigh predicted benefits against predicted tax costs. They would be forced to behave "responsibly," as this word is understood by the citizenry, and knowledge of this fact would do much to restore the confidence of citizens in governmental processes. Important decisions (such as the fate of entitlement programs facing financial insolvency) would be faced sooner rather than later.

It is important to recognize that the Balanced Budget Amendment imposes procedural constraints on the making of budgetary choices. It does not take away the power of the Congress to spend or tax. The amendment requires only that the Congress and the Executive spend no more than what they collect in taxes. In its simplest terms, such an amendment amounts to little more than "honesty in budgeting." If we as people want a certain program, we—not future generations—should pay for it.

Of course, we always pay for what we spend through government, as anywhere else. But those who pay for the government spending that is financed by borrowing are taxpayers in future years, those who must pay taxes to meet the ever-mounting interest obligations that are already far too large an item in the federal budget. The immorality of the intergenerational transfer that deficit financing represents cries out for correction.

Opponents of the BBA often suggest that Congress and the Executive must maintain the budgetary flexibility to respond to emergency needs for expanding rates of spending. This prospect is fully recognized, and the Balanced Budget Amendment includes a provision that allows for approval of debt or deficits by a super-majority vote of those elected to each house of Congress.

Opponents also make the case that the BBA in no way accounts for needed capital spending which is more appropriately funded through debt finance. In the ideal non-politicized world that BBA opponents imagine, it may be correct to include a capital budgeting provision. But just as politics intruded to destroy the Keynesians' vision of using deficits and surpluses to rationally counter the business cycle, so too politics would intrude

here. In this case, we can well imagine all sorts of creative accounting and politicking to make non-capital expenditures be labeled as such.

The past four decades demonstrate that debt finance is simply a way to fund short-term, not long-term benefits. Since the early 1960s, while deficits have risen tremendously, long-term federal investments (excluding defense) have remained at about 6 percent of GNP. But short-term federal benefits have risen from about 6 percent of GNP to more than double that. Politicians have used the trillions in deficit financing over the past decades to finance short-term benefits, not long-term.

When all is said and done, there is no rational argument against the Balanced Budget Amendment. Simple observation of the fiscal record of recent decades tells us that the procedures through which fiscal choices are made are not working. The problem is not one that involves the wrong political leaders or the wrong parties. The problem is one where those whom we elect are required to function under the wrong set of rules, the wrong procedures. It is high time to get our fiscal house in order.

We can only imagine the increase in investor and business confidence, both domestic and foreign, that enactment of a Balanced Budget Amendment would produce. Perhaps even more importantly, we could all regain confidence in ourselves, as a free people under responsible constitutional government.

(Signed by 253 economists.)

Mr. CRAIG. Mr. President, recently, the citizens of Idaho, through their elected representatives in the State legislature, called upon the Members of the U.S. Congress to pass a constitutional amendment requiring a balanced budget. This is further proof that Idahoans are acutely aware of the devastating impact 28 deficits in a row and 36 unbalanced budgets in 37 years have had on our country.

If asked, the overwhelming majority of Idahoans would say it is not right to saddle every child born today with nearly \$200,000 in additional taxes just to pay interest on the national debt.

Most Idahoans would say it is not right to rob future generations of the opportunity to participate in a vibrant, growing economy. They understand the implications of the Congressional Budget Office's words, that without changes in current tax and spend policies, the Federal "debt would exceed levels the economy could reasonably support."

Most Idahoans can see the debt is the threat to Social Security and that no program, no matter how important, can survive the squeeze of increasing interest payments on the debt—\$344 billion in fiscal year 1996.

Idahoans have known for years that balancing the budget would have an immediate positive impact on American families. In 1982 I was encouraged by Idahoans to vote for BBA. If the BBA would have passed then, the national income would be at least 5 percent higher today, according to a study by the Federal Reserve Bank of New York.

Idahoans understand passing the BBA would put more than \$1,500 a year into the pockets of American families—per DRI-McGraw-Hill, and others.

The citizens of Idaho are hard working, wise, and astute in their understanding of the need for the BBA. They know you don't need to be clairvoyant to see what the future holds if our current course of fiscal irresponsibility is maintained.

Mr. President, I would ask unanimous consent that a copy of Idaho Senate Joint Memorial No. 102 be printed in the RECORD at the end of my statement.

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

(See Exhibit 1.)

Mr. CRAIG. Idaho is not the only State in the Union with wise citizens who have requested Congress send them a balanced budget amendment to the Constitution. Yesterday, along with a bipartisan group of Senators and Representatives, I accepted a letter delivered by the bipartisan American Legislative Exchange Council in which nearly 600 State legislators from across the country urge Congress to approve a Federal BBA.

These State representatives have eloquently articulated the momentous nature of, and need for, the BBA. They state that we "will be faced with many historic opportunities to advance the American dream of freedom, opportunity and prosperity. But none will be as significant as enacting and sending to the states for ratification a Constitutional Balanced Budget Amendment."

Mr. President, I would ask unanimous consent that a copy of the American Legislative Exchange Council's Open Letter from State Legislators to Congress be printed in the RECORD at the end of my statement.

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

(See Exhibit 2.)

Mr. CRAIG. As is pointed out in this letter, congressional passage is just the first step—next, during ratification, in State capitols and coffee shops, the American people would begin one of the greatest debates ever, one of the greatest civics lessons ever, on the size and scope of their Federal Government.

Mr. President, 70 to 80 percent of Americans are calling on the Congress to pass the BBA and provide them with the opportunity to, once and for all, put our fiscal house in order. It is unconscionable for us to ignore that call.

The wisdom of our Founding Fathers is evident in the construction of our Constitution. They reached a delicate balance by creating a document strong enough to ultimately hold the States, with all their competing interests, together, yet with a mechanism allowing the flexibility necessary for future generations to deal with the unforeseen circumstances they knew would develop.

The Constitution of the United States vests the ultimate responsibility to approve or disapprove constitutional amendments with the people, as represented by their elected State legislatures. Mr. President, it is time that

Congress tap into the wisdom displayed by Idahoans, the Nation's State legislators, and our country's Founding Fathers by passing Senate Joint Resolution 1 and sending the balanced budget amendment to the Constitution to the States for ratification.

[Exhibit 1]

LEGISLATURE OF THE STATE OF IDAHO, SENATE
JOINT MEMORIAL NO. 102

Whereas, the annual federal budget has not been balanced since 1969, and the federal public debt is now more than five trillion dollars, or twenty thousand dollars for every man, woman and child in America; and

Whereas, continued deficit spending demonstrates an unwillingness or inability of both the federal executive and legislative branches to spend no more than available revenues; and

Whereas, fiscal irresponsibility at the federal level is lowering our standard of living, destroying jobs, and endangering economic opportunity now and for the next generation; and

Whereas, the federal government's unlimited ability to borrow raises questions about fundamental principles and responsibilities of government, with potentially profound consequences for the nation and its people, making it an appropriate subject for limitation by the Constitution of the United States; and

Whereas, the Constitution of the United States vests the ultimate responsibility to approve or disapprove constitutional amendments with the people, as represented by their elected state legislatures; and opposition by a small minority repeatedly has thwarted the will of the people that a Balanced Budget Amendment to the Constitution should be submitted to the states for ratification; now, therefore, be it

Resolved by the members of the First Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, That the Congress of the United States expeditiously pass, and propose to the legislatures of the several states for ratification, an amendment to the Constitution of the United States requiring, in the absence of a national emergency, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and be it further

Resolved, That the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, the congressional delegation representing the state of Idaho in the Congress of the United States, and to the Secretary of State and the presiding officers of both houses of the Legislatures of each of the other states in the Union.

[Exhibit 2]

OPEN LETTER FROM STATE LEGISLATORS TO
CONGRESS

DEAR MEMBER OF CONGRESS: As members of the American Legislative Exchange Council (ALEC) we would like to take this opportunity to welcome the 105th Congress. It is both an exciting and challenging time to be an elected official in this great nation.

During the next few years, you will be faced with many historic opportunities to advance the American dream of freedom, opportunity and prosperity. But none will be as significant as enacting and sending to the states for ratification a Constitutional Balanced Budget Amendment.

As state legislators who must balance our state budgets each year, we understand the

difficult choices you will face. Unfortunately, as the past 29 years have shown, it has been impossible for past Congresses to withstand the political pressure of special interests and make the tough choices necessary to balance the budget. Clearly, the federal budget process is broken and needs fixing. As the experience in the states shows, balanced budget amendments work, and a federal Balanced Budget Amendment is the only way to guarantee the fiscal integrity of this nation and a solvent future for our children and grandchildren. Therefore, we call on you to exercise the courage and fiscal responsibility to stand up to the special interests who are willing to place their interests ahead of the nation's future.

We hope that the 105th Congress will make the Balanced Budget Amendment its first priority. The nation cannot afford to wait. The federal government cannot continue to borrow from future generations to pay for current consumption. If deficit spending is not curbed now, when it can be done sensibly and gradually, it will have to be done under desperate circumstances. The only way to ensure that programs like Social Security and Medicare are there for us and our children is to set a course of fiscal responsibility today.

As you may know, ALEC is the nation's largest bipartisan, individual membership association of state legislators, with nearly 3,000 members. ALEC is dedicated to the Jeffersonian principles of individual liberty, limited government and the free enterprise system. We believe that reducing the devastating \$5 trillion national debt is central to these principles and critical to the strength of the nation's economy.

The historic opportunity to provide a brighter, more prosperous future lies in your hands. We in the states are up to the challenge and ready to ratify the Balanced Budget Amendment. This is not about whether you are a Democrat or Republican or a liberal or conservative—this is about what you must do for the future of this great nation. It is up to you to make the right choice for this country, the fiscally responsible choice—pass a Balanced Budget Amendment. (Signed by 572 State Legislators.)

Mr. CRAIG. Mr. President, years ago, we changed our Constitution to assure that never again in this Nation would we have human bondage. We changed our Constitution to allow women to vote. Today, we are asking this Senate to allow the American people to once again change the Constitution to step away from fiscal bondage or the risk of a bankrupt Government, to take off the backs of our children and grandchildren the burdensome, overpowering debt that we are causing them to accumulate.

Yes, it is time once again that we ask the American people to change their Constitution to require us to balance the budget, to bring fiscal sanity to our Government, and to ensure the stability of this country, its economy, and the American dream for future generations.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 1 minute to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I thank my friend from Utah, Mr. President.

Mr. President, the old words come back to haunt us almost during these

times of debate, especially over the issue of a balanced budget. I quote the words of Thomas Jefferson when he was speaking to the Framers of the Constitution. He expressed these words of his concerns regarding debt:

We, Congress, should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves.

Why is it so hard to understand that the Federal Government should balance the budget when State governments and county governments and city governments do? Why is it that we cannot accumulate or mandate to carry reserves in each line for a rainy day? That is not too hard to understand, and that is what we are talking about here, responsibility and the integrity of Government to function.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I now yield 2 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. I thank the Chair.

Let me, too, thank the leaders who have been in the Chamber for some time.

Again we are asked to vote on a balanced budget amendment. This is the most important and vital action that any of us will take this year if we are to be financially and fiscally responsible. This is more than just a balanced budget. This is more than just arithmetic. It is more than numbers. It has to do with character. It has to do with our willingness to face up to the realization that you cannot keep spending more than you take in.

It has to do with debt. We now have a debt of \$5.5 trillion, which we have put on our credit card for young people to pay. Our card is maxed out. It has to do with interest payments. Probably, next year, the largest item on the budget will be interest on the national debt—\$270 billion a year in interest.

It has to do with priorities in the Government. We have not had to choose what we think is most important for Government. We have simply said, "Let's do it and put it on the tab." That is not responsible for any of us.

It has to do with smaller Government. There is a relationship between how much money you spend and how much Government you have. I can tell you, the folks in my State would like to have less central Government, less activity. It has to do with savings for families, if we can reduce the interest payments on their cars and on their kid's college.

It is the right thing to do. I am proud of the 55 Republicans who will vote "aye" and 11 Democrats who will join them to vote "aye" on this issue. I am proud of the fact that Members of this institution have talked the talk, and now are ready to walk the walk. That is important for us to do.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I now yield 1½ minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I, too, would like to pay tribute to our Republican leadership in this great battle, this epic battle where we try to achieve some financial stability for future generations, more especially the Senator from Utah, Senator HATCH.

There were some comments that were made by a scholar over 200 years ago about the fall of the Greek Republic. It was prefaced by this statement:

When historians look back upon great civilizations, they invariably identify a time when society chose growth or decay.

Such is the time today in this body. And this scholar said this about the fall of the Greek Republic:

The average age of the world's greatest civilizations has been 200 years. These nations have progressed through the following sequence: From bondage to spiritual faith, from spiritual faith to great courage, from courage to liberty, from liberty to abundance, from abundance to complacency, from complacency to apathy, from apathy to dependency, from dependency back again into bondage.

And then he made this prediction, which I think applies to the vote that will be forthcoming:

A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largess from the Public Treasury. From that moment on, the majority always votes for the candidates promising the most benefits, with the result that a democracy always collapses over a loose fiscal policy, always followed by a dictatorship.

I think those are sobering thoughts. Can our American system meet the challenges of future generations? We will have that vote this afternoon. The voters did not vote for a majority to continue down that path that was followed by the Greek Republic. That is why we need the balanced budget amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I yield 2 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I thank and commend the able Senator from Utah for his outstanding leadership in this matter. Why do we need a constitutional amendment? We have not balanced this budget but one time in 36 years, eight times in 64 years. The Congress has failed to perform its duty. Therefore, we need a constitutional amendment that will make the Congress balance its budget. That is the only way I know to do it. A constitutional amendment will demand—demand—that the Congress balance the budget.

Several years ago, when I was chairman of the Judiciary Committee, I authored a similar amendment and got it

through the committee and passed it through the Senate and sent it to the House. And who killed it? The Speaker of the House, Mr. O'Neill, and the Democratic leader of the House, Mr. Wright, led the movement to kill it. The Democrats don't seem to want it—certainly a majority of Democrats.

There are some good Democrats, and I ask them to join us, pass this constitutional amendment, and protect the people of the United States. We cannot keep on going like this. We are going in debt, debt, debt. The only way to stop it is to pass a constitutional amendment to make the Congress balance the budget.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I now yield 1 minute to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I support the constitutional amendment. I know you have a hard time seeing me over the big stack of budgets which have not been balanced. I support this amendment because I think Congress needs the discipline, the discipline itself to live within its means.

The Commonwealth of Pennsylvania, the city of Philadelphia, the ARLEN SPECTER household, all have to live within their means. If I don't, I end up in a bankruptcy court. Regrettably, the history of our Government has been that we have spent more than we have taken in and have run up deficits, and that is why the discipline is necessary.

I think it is very useful to have the pendency of the balanced budget amendment, which has led many to say, "Well, we don't need the amendment. We can balance the budget without the amendment." And if that provides an incentive to balance the budget without the amendment, that is all to the good.

But even if we do balance the budget, and, so far, the signs are not very promising based upon what the President has submitted, it is fine. But the discipline is necessary in the long run, and that is why I support this amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I now yield 1 minute to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I rise today to lend my voice to the chorus of support for adding a balanced budget amendment to the Constitution.

For a generation, this Government has spent billions more than it has received, all the while talking, always talking, about the urgent need to balance the Federal budget. History has borne out the facts: No matter how well-intentioned the debate, Congress has failed for the past 28 years to balance the budget.

Since coming to the Senate 12 years ago, I have listened to those who oppose a balanced budget tell the American people that all we need is courage to get our fiscal house in order. Yet, year after year, Congress runs up billions upon billions on the public credit card that must be paid for by future generations. What right do we have to ask our children and grandchildren to pay for today's excesses?

Mr. President, the time for talk has passed. Now is the time for action.

Like most Americans, I am outraged that interest on the debt has become the third largest item in the Federal budget. According to the President's budget for fiscal year 1998, the U.S. Government will spend \$250 billion in net interest costs, which makes up nearly 15 percent of the total budget. That means, we spend four times more on interest than we do on education, training, and employment combined. We spend 10 times more on interest than we spend on the administration of justice.

We are the greatest Nation on earth, and yet we spend more retiring debt than we do on educating our children? This is madness and it must stop.

Mr. President, it does not have to be this bad. If we pass a balanced budget we can give families relief by reducing interest rates on borrowing for items like home mortgages and school loans. A typical family would save \$1,500 per year in interest payments. Think of how that money could be put to better use: saving for a college education, investing in a secure retirement, or maybe enjoying a long anticipated vacation.

Sadly, the path to a balanced budget is now being blocked by determined and enthusiastic partisan gamesmanship. Opponents of a balanced budget have decided to play on the fears of seniors. In words which recall last year's shameless medicare campaign, the balanced budget amendment is attacked and misrepresented—all while the national debt whirs wildly out of control.

Mr. President, I will spend exactly one sentence answering this Social Security red herring. The best way to ensure the solvency of the Social Security Program is to balance the budget now. Clever legislative shell games will not add a single day to the life of Social Security, only a balanced budget will do that.

So the decision is ours. Do we want to balance the budget or not. And if not now, when? Our children want to know.

Mr. President, I urge my colleagues to support the balanced budget amendment.

Mr. President, the American people are rightfully skeptical that this Congress will balance the budget, not only in 7 years but for every year thereafter. Why are they skeptical? For a generation, for a generation we have failed our children and grandchildren by piling up a mountain of debt to the tune

of over \$5 trillion. So the American people are saying, "If you need some assistance in doing the job, why don't you mandate—so that you have no discretion—mandate that we have a balanced budget in the future?" It is the only way to protect our country. It is the only way to have a country fit to live in for our children and their children.

We all know what has happened. The debt is the third largest item in the Federal budget. We are spending more on retiring the debt than we are on educating our children. It is time to call it to a halt, to get our fiscal affairs in order.

Mr. President, a constitutional amendment to require us to do the job each year, for the future, is the only way to achieve this goal.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I yield 1 minute to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFFEE. Mr. President, when the Federal Government spends more than it collects in tax revenue, then it must borrow the difference. And when it keeps borrowing, that adds to the debt.

When we have run up, as we currently have, a \$5 trillion national debt, what we are really saying is that is a bill we are passing on to our children and our grandchildren to pay. Currently, for a family of four, the national debt amounts to \$80,000, namely \$20,000 for every individual in that family, all four individuals.

As has been mentioned, the interest on the debt is now the third largest item in the Federal budget. This means that money we are spending on interest on the debt is not available for Head Start or health care or better education or improving our parks or all the things we want.

So, Mr. President, this amendment, balanced budget amendment, which we are voting on will not solve all our problems, but it will be a big step forward, and I hope it passes.

Ms. SNOWE. I yield 1 minute to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. Mr. President, I thank the Senator from Maine for yielding. I take this opportunity to thank Senator HATCH for his tremendous leadership, day after day, on the floor of the Senate, leading the battle on behalf of the American people and for the future generations of America who are going to have to pay the price if we don't get this done. If we lose this vote today by one vote, which is what the predictions are, and projections, then the headline tomorrow should be: "It Was Business as Usual in Washington Again. The American People Lost."

Mr. President, 80 percent of the American people want the budget balanced. If you think, in 1969, the last

time we had a balanced budget, the year after that the debt was \$369 billion, and the people said then, "We don't need an amendment, all we need to do is get the job done, have the courage to do it." The debt is now \$5.3 trillion.

The President says we do not need an amendment; we just have to have the courage to do it. He submits a budget to us out of balance which will add half a trillion dollars to the debt in the next 5 years, \$70 billion out of balance in the last year. It is business as usual in Washington.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Oklahoma.

Mr. INHOFE. Madam President, I now yield to the junior Senator from Maine for 1 minute.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I rise to urge Senate approval of the balanced budget constitutional amendment. Some have argued that a constitutional amendment is not needed to ensure a balanced budget, but history clearly demonstrates that, despite good intentions, we will not get the job done absent the constitutional requirement.

Every President during the past two decades has pledged to balance the budget. In 1970, President Nixon said that he would recommend a balanced budget by 1971. President Ford pledged to achieve a balanced budget in 1976. In 1978, President Carter pledged to move rapidly toward a balanced budget. In 1983, President Reagan talked of achieving a balanced budget by the end of the decade. The list goes on and on.

The simple fact is that the road to our huge national debt has been paved with good intentions. The old saying that "we have met the enemy and it is us" has never been more applicable.

I know the pressures on Washington to spend money, even borrowed money. By and large, each Congress sets out to be fiscally responsible, but our national debt still grows. The truth is that experience has taught us that even in good times, we need the discipline of a constitutional amendment.

Thank you, Madam President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I now yield 2 minutes to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I thank the Senator from Oklahoma very much. Let me say to all the Senators on our side who are here, I am very proud to be here with you, and I am exceptionally proud that every single Republican Senator is going to vote for this constitutional amendment. I think the American people ought to make note of that.

I also call to your attention, in case you wonder why we are losing this amendment today—if we do—that 72 sitting Senators, 72 out of the 100 who sit, have voted for this constitutional

amendment, or one just like it. Now, isn't it intriguing that at one time or another, 72 could vote for it, but today only 66 will find their way clear to vote for it?

It seems to me games are being played with the American people, without any question. If 72 voted for it before, I say to Senator COCHRAN, how come only 66 today? Are we better off? Are we more apt to get a real balanced budget today? Has our President sent us some budget that should renew our faith and our hope that we will do it ourselves?

The budget the President sent us starts with a deficit of \$106 billion, and our accounting department tells us, when we are finished with 5 years of cuts under his budget, the deficit is still \$70 billion. What a dramatic budget. It should renew our hope and our faith that we can do it and that Presidents can lead us, right? Wrong. It means that we ought to have a constitutional amendment, there is no question about it. We won't do it.

For a nation that was born in tax revolutions where we said, "No taxation without representation," I close this debate by saying, why should we tie the hands of our children and leave them a legacy of debt when they cannot be represented because we refuse to pay our own bills? That is why we need a constitutional amendment. We should not burden our children with a legacy that says no prosperity, no growth, a life of taxation to pay our bills, because 72 Senators heretofore have voted for a constitutional amendment like this.

But games are being played so that today, it will lose, once again.

I close with, isn't it a curious turn of events that it loses by one vote each time? Perhaps those watching this debate might wonder, how does that happen? Well, I tell you how it happens. Members of the Senate on that side of the aisle tell their voters one thing, and when it gets right down to voting, either a President or their own leaders talk just enough of them out of it to make us lose by one vote. We ought to be proud we are not on that team.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I now yield 2 minutes to the senior Senator from Florida, Senator GRAHAM.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Madam President, I want to express my disappointment that we are apparently on a path which will lead to yet another defeat of a balanced budget amendment. This could be seen as a lack of commitment to balance the budget.

My hope is that it will be seen instead as a message that a significant minority in Congress does not think a balanced budget amendment is necessary to achieve a balanced budget.

That without the discipline of a balanced budget amendment, the Presi-

dent and Congress will redouble our efforts to get to balance in 2002 and to remain in balance in future years.

I agree with critics who say we can balance the budget by 2002 without a constitutional amendment. That same statement could have been made at virtually any time since our last balanced budget in 1969. We have not done so.

CBO projections indicate that without changes in our current budget policies, the deficit will rise to \$280 billion by 2007, nearly reaching the levels we experienced during the late 1980's and early 1990's.

The President's budget as submitted for the next 5 years and analyzed by CBO, projects that the deficit will jump from our 1996 level of \$107 billion to \$145 billion in 1998. The deficit will stay near that level until 2001.

This trend line is not a reassuring trumpet blast of commitment to a balanced budget. I hope that my colleagues are correct in saying we can keep the budget balanced without a constitutional amendment.

We are about to be put to the test.

Most States have a constitutional requirement for a balanced budget.

As Governor, I operated under a balanced budget. I can say with experience that it has served my State well. It would also serve our Nation well.

There are numerous State legislatures asking that we in Congress submit a balanced budget amendment to them.

In the short time that State legislatures have been in session this year, 4 have passed resolutions asking Congress to approve a balanced budget amendment; another 21 States have introduced resolutions asking for a balanced budget amendment to the Constitution.

We owe the States an opportunity to decide whether we should amend the constitution to put an end to the growing Federal debt that this country has been building.

And although we have made tremendous progress over the past 4 years, we still have a large and expanding annual deficit.

Our national debt is expected to reach \$5.4 trillion at the end of this fiscal year.

One concern that many of my colleagues have expressed is their concern for how Social Security would fare under a balanced budget amendment.

My personal feeling is that establishing the principal of a balanced budget during normal periods, such as most of the years since 1982, would strengthen the Social Security system.

If we had passed a balanced budget amendment in 1982, the first year in recent history that one was considered and defeated, we would have \$2.9 trillion less in debt held by the public than we do today.

The interest on this portion of the Federal debt alone totaled \$190 billion in 1996. Last year, that amount was more than enough to pay for all Medicare expenses. Instead this money was dissipated on interest payments.

That same \$190 billion in interest payments on the additional debt accrued since 1982 could have paid for over half of all the money the Federal Government spent last year on Social Security retirement benefits.

Let us look at Social Security from another angle—in 1982 the total interest on the Federal debt was \$85 billion. In that year, all Social Security benefits were \$156 billion.

The interest payment equaled about half of the Social Security benefits for that year.

In 1996, the total interest in the Federal debt was \$241 billion and Social Security retirement benefits were \$350 billion.

The interest payment in 1996 equaled about three-quarters of the entire outlay for Social Security retirement benefits.

Yearly interest payments are growing faster than yearly Social Security payments. This trend is not good and we must put an end to it now.

Passing the balanced budget amendment now is critical to the future health of our Social Security system.

Let me ask you—would our country be better off spending tax dollars to service the Federal debt or for needed programs like Social Security?

I believe the money would be better spent on Social Security.

The budget deficit has become a permanent fixture in our Nation's fiscal policy.

While there are those who say Congress can, without a constitutional amendment, balance the budget, history has shown this not to be the case.

A disturbing example of the lack of resolve to balance the budget occurred last Thursday evening when we extended the aviation tax to September 30—ignoring losses of \$5 billion in Federal revenue for the aviation trust fund because of lapses in the aviation tax during 10 of the last 14 months.

Five billion dollars lost for American aviation safety.

We extended the tax to September 30 knowing that a report on whether the current tax should be replaced by a user fee system is not due to Congress until October 1997.

We voted to terminate the ticket tax on September 30, raising the strong possibility of another lapse at the end of this fiscal year with the excuse that we should wait for the report. Why did we do this?

We did it for budget scoring purposes.

By allowing the tax to expire on September 30 before reinstating it, our Budget rules will claim to create almost \$6 billion in "new" revenue every year after September 30, 1997, for a total of over \$30 billion between then and September 30, 2002.

It is for this kind of creative accounting that we send people to jail in the private sector.

Some 40 percent of the revenue increases in the President's budget from 1997 to 2002 come from this scoring gimmick.

The President and the Congress must be strong in their resolve to achieve balance through tough decisions rather than through creating fictional new revenue or spending cuts.

This archaic and destructive maneuver is exactly what undercuts public confidence in our ability to balance the budget with real numbers and rational policies.

With failures like this in mind, and after witnessing numerous attempts by Congress to enact legislation to force itself to tighten its fiscal belt, my conclusion is that we must pass an amendment to constitutionally mandate a balanced budget. It is imperative that we not lose this opportunity.

Madam President, the failure to pass a balanced budget amendment today would be a grave mistake.

For too many years we have delayed the hard decision until tomorrow.

Well, Madam President, tomorrow has come. It is our generation's duty to ensure that we pay our national bills rather than asking our children and grandchildren to do so.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I thank the Senator from Florida for his valiant fight on his side of the aisle to help make this a reality. We really appreciate him and honor him today.

I yield 1 minute to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, first, I commend the distinguished Senator from Utah for his great leadership on the floor of the Senate in support of this resolution to require a balanced budget.

Let me just say, we have heard Senators come to the floor and point out that this puts in jeopardy the Social Security beneficiaries of America. We have heard others claim that this amendment forces us to consider investments in capital spending the same as operating expenses, as a matter of budget policy. We have heard one thing after another used as excuses for voting against this resolution.

But let me say, I am for protecting Social Security beneficiaries. I am for doing whatever we need to do to help ensure that those who depend on Social Security can be confident that they are going to get the benefits to which they are entitled, whether this resolution passes or not. And for budget policy, you just have to look at the plain language of this resolution. It says:

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

We are not giving away the power to decide budget policy and mechanics and whether you have a capital budget or another kind of a budget. The point is, this is national policy, if this passes, that we will live within our means. It is just as simple as that and just as nonsensical as that.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I call on the distinguished chairman of the Appropriations Committee, my friend and colleague from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I believe we need to have this balanced budget amendment adopted by the Senate. As I see what is happening now in terms of the controllable expenditures of the United States, I see that next year we will spend about as much money for interest on the national debt as we will to maintain our defenses.

There is pressure on us across the whole spectrum for control of expenses. We need a Coast Guard. We need the National Park Service. We need the FBI. Think of all of the controllable expenses in the departments that we fund. Every year we have to say cut more, cut more. Why? Because the interest continues to mount on the national debt, until we get it in balance.

So, if for no other reason than that, I believe the Senate should pass this amendment so that we can get a handle on the interest we must pay on the national debt. It continues to go up because the deficit continues to go up. That must be controlled, Madam President. I am proud to join my friend, Judiciary Chairman HATCH of Utah, in supporting this amendment.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I yield to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Madam President, thank you very much.

I want to thank my colleague, the Senator from Utah, for his outstanding leadership on this issue. He has brought to the floor of the U.S. Senate the budgets from 28 years of unbalanced budgets. They represent about, oh, I would say, close to 8 or 9 feet of a stack of papers that has really impaired the capacity of this Nation to move forward.

But I would like to mention another problem with that barricade of paper. Whenever you can just displace the cost of doing government to the next generation, you are not forced to make the innovations and improvements that you need to make.

Most of us have noted that, in the recent years, the most dynamic and workable solutions to our problems have come from the States. It is because they operate with balanced budgets. They cannot just spend money they do not have and pass the bill to the next generation.

Necessity being the mother of invention, the discipline of a balanced budget improves the quality of Government we get. It not only makes sure that we have liberties which would otherwise

be forfeited if we grow bigger and bigger Government, but it also improves the quality of what Government does by saying we have to constantly look at what we are doing. We have to innovate and create instead of appropriate just to get better service with limited resources.

So the quality of our life now, the quality of Government we receive, and the integrity of the next generation is at stake. We must pass a balanced budget amendment to the Constitution to add discipline to our system which would drive creativity and improvement in what we do.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 1 minute to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I thank the Senator for yielding.

Madam President, what message does it send to the American people when we vote "no" on the balanced budget amendment?

First, it says that Congress prefers its own judgment over the judgment of the people. This is not a vote to enact the balanced budget amendment. This is a vote to send it to the people to see if they want a balanced budget amendment. Why should we put our judgment ahead of the people?

Second, it is an exercise in political power that says that political power is more important than the desires of the people. Clearly, 80 percent of the American people have said they want fiscal responsibility and believe it can only be achieved through a balanced budget amendment.

Third, it continues a system that allows us to vote public benefits to the very people who keep us in office while placing the burden of paying for those benefits on people who cannot vote for us. Therefore, it gives us the natural inclination to vote for those benefits and pass on the obligations to people in the future.

Finally, we avoid the moral tradition of sacrificing for posterity. Instead, we ask posterity to sacrifice for us. That is wrong.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, in the last hour we have had 37 Senators for the balanced budget amendment who have spoken here on the floor. I think that sends about as powerful a message as we can. But I would like to end with our remaining time going to the distinguished chairman of the Budget Committee who deals with these matters all the time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time do I have?

The PRESIDING OFFICER. One and one-half minutes.

Mr. DOMENICI. I thank my good friend from Utah for yielding the wrapup minutes to me.

Frequently we use a word to describe what we are all for—that is "freedom." I would like to suggest that the constitutional amendment is about freedom, because to the extent that Government grows and grows, freedom diminishes and diminishes. To the extent we tax and tax, the freedom of our people diminishes.

It has been said that all significant achievement occurs because a man or a woman is free. That is why America is so great. That is why we have achieved so much.

So it seems to me that today we have a very historic vote. I honestly believe those who have twisted the last arm and got this where we will lose by one vote once again are those who are frightened about the concept of less Government rather than more. They are the ones who want more Government rather than less or at least they want the opportunity to have more Government rather than less. For they see Government as the achiever rather than individuals who maintain more of their freedom if they are taxed less and if Government is smaller.

So to me, it is a very interesting philosophical debate. Those who will vote for it say we trust—we trust—people, we trust families, we trust States, we trust individuals, and we trust decisionmakers at the home level. The others are saying, we are not sure of that. We want to reserve the option to continue to incur debt and let Government grow and grow. I believe it is clear. I wish we would win today. I am sorry we will not. I think I understand why. I hope the American people do. I yield the floor.

The PRESIDING OFFICER. There now will be 30 minutes under the control of the Democratic leader or his designee.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished minority leader.

PRIVILEGE OF THE FLOOR

Mr. DASCHLE. Madam President, I ask unanimous consent that Michael Carrasco, of the Judiciary Committee staff, be permitted privileges of the floor during the duration of the debate on Senate Joint Resolution 1.

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

Mr. DASCHLE. Madam President, I want to begin by complimenting the distinguished ranking member of the Judiciary Committee, the Senator from Vermont, for his extraordinary leadership on this debate over the last several weeks. His effort on the floor is appreciated by all of the Members of our caucus. While I am not surprised at his demonstration of leadership and his work on this legislation, as he has demonstrated on so many occasions, we are deeply indebted to him.

I must also express my gratitude to the senior Senator from West Virginia, Senator BYRD, and Senator DORGAN, Senator REID, and many others who have done so much to represent our

concerns time and time again over the course of the last 4 weeks of debate on this particular issue.

I had hoped, Madam President, that the next time Congress voted on a balanced budget amendment to the Constitution, I could support it. Instead, we are faced with the same deeply flawed amendment that was rejected last year.

This did not have to be. We had scores of opportunities to fix it, to protect Social Security, to provide for the possibility of a capital budget, to build into this amendment the flexibility to protect our Nation in times of war, disaster, or regional or national economic emergency. But every one of those opportunities—every one—was rejected along party lines. I have been astonished during the debate to hear some of my colleagues say they will vote for this amendment even though, in their words, it is not perfect.

In fact, one of my colleagues came up to me recently to say, "We shouldn't let the perfect be the enemy of the good when we legislate." Well, that is often true in other matters. But when it comes to the Constitution of the United States of America, Madam President, we should demand perfection. This is not a campaign position paper we are talking about changing. It is the most inspired, the most important political document in the history of this country.

People have died to defend our Constitution. Every Senator here has taken an oath to protect it. We may rarely achieve perfection. After all, we are human. But when we are dealing with the Constitution of the United States of America, we should never knowingly settle for anything less—not now, not ever. No, this amendment is far from perfect. Under this amendment, we now know that Congress would be required—not just permitted, but required—to raid the Social Security trust funds to run the Government. That isn't my opinion; that is the conclusion of the nonpartisan Congressional Research Service and the Office of Management and Budget.

Social Security is now running huge surpluses because of the 1983 bipartisan agreement that rescued the program. We all look back with a great deal of satisfaction at that particular vote and the actions taken, on a bipartisan basis, by the Congress at that time. The heart of that agreement was a plan to set aside funds for the baby boomers' retirement that we know are going to be needed. This year, that surplus is \$78 billion. By the year 2002, it will reach \$104 billion. By 2019, when many of the baby boomers start to retire, the Social Security trust funds will have built up a \$3 trillion surplus, which will be desperately needed to pay those retirees, including this Senator.

But if we pass this version of the balanced budget amendment, none of those funds will be available to pay those Social Security benefits—not \$1. Social Security could be paid only

from taxes raised in the same year, not from surpluses built up years before. That means when the baby boomers retire, Congress would have to raise taxes dramatically or slash Social Security benefits deeply, or both, to accommodate the circumstances that we will be facing at that time.

Madam President, this isn't conjecture; this is the analysis given to us by virtually every credible budgetary source to whom we have gone for counsel and advice on this important matter. So what was our response? Well, our response was to offer amendments to resolve that problem. Our amendments said if we are going to build up that trust fund to \$3 trillion and know full well that we are going to have to draw down that trust fund at some point in the future, let's take every precaution to ensure that it will be there. We offered amendments to protect it.

Now, our Republican colleagues defeated every single amendment as it was brought up in committee and on the floor. Again, our Republican colleagues argued that this is not something we should really worry about. Misusing the Social Security trust funds to pay for other Government programs is not just bad accounting, it's bad faith. Combining the Social Security trust funds with the rest of the budget doesn't pay off the deficit; it just masks its size. It allows us to claim that the budget is balanced when we know really it isn't. When they claim we have a balanced budget in the year 2002, we are going to increase our debt by \$130 billion.

Madam President, this isn't the way we ought to legislate. This isn't simply a question of making perfect the amendment. It becomes clear that this amendment is not perfect in any fundamental way when one analyzes how it would work.

In my view, this amendment, as it is presented right now, is duplicitous. Social Security has never been a day late or a dollar short. It is the most successful social program in the history of our country. For millions of older Americans, it is the difference between living in dignity and living in fear and poverty. A balanced budget amendment should not force us to break that historic contract. It should be honest in how it accounts for and uses the Social Security trust funds.

While misuse of the Social Security trust funds is my gravest concern, I am also deeply troubled that this amendment would limit, for all perpetuity, how Congress can treat large-scale capital investments. Let there be no misunderstanding here. If this amendment passes, any proposal to create a capital budget would be declared unconstitutional. If a project could not be paid for in one year, it could not be undertaken. Capital investments, such as roads, bridges, and water projects strengthen our economy for the future. It seems to me that it would be profoundly unwise for us to pass an

amendment that forbids even consideration of a capital budget. It would threaten the very economic competitiveness that we all say we desire. Again, we offered amendments to correct this flaw, to allow for the possibility of a capital budget, and, again, they were defeated—every single one along party lines—in committee and on the floor.

The majority leader suggested a willingness to provide for a capital budget, only after it was clear that he didn't have the votes without it. While I welcome such sudden openness, we have not yet seen any solid proposals from the other side in this regard.

Madam President, I just ask the question: If virtually every State recognizes the importance of distinguishing between a capital budget, long-term investments, and operating costs, why is it that we don't see the need to do so as well? If every family and every business were required to pay off every mortgage and investment every year, I question whether any of them could sustain that kind of requirement or that kind of an economic procedure. Yet, that is exactly what we are suggesting must be our course of action, for all perpetuity, for the Federal Government. We can't even consider the possibility of a capital budget under the amendment as it is drafted right now.

Another serious flaw with this amendment has to do with our national security. Section 5 of this amendment jeopardizes our ability to prepare for situations that we know will require intervention, such as in the Persian Gulf. For Congress to waive this amendment, the United States "must be engaged in military conflict." Let me restate that. For us to be eligible for the exception under this constitutional amendment, we already have to be fighting a war in order to tap resources that may be required to fight that effort. In Desert Shield, we needed to build up before the conflict. We stipulated that the conflict was imminent. As a result, we were able to be prepared when the conflict came in Desert Storm. To say that there has to be a conflict before we can provide legislative support, in my view, is extraordinarily poorly worded and ill-founded.

None of us, today, would want to look the men and the women we sent to the Persian Gulf in the eye and say that we want you to go fight first, and we will support you later. We want you to go put your lives on the line and, at some point after you start fighting, we will get around to providing you with the necessary resources.

Madam President, that is exactly what this amendment says. I hope that everybody will think very carefully about whether or not we want to commit to section 5 of this constitutional amendment. No, this amendment isn't perfect, and it is not as good as it could have been, and it is clearly not good enough to include in the Constitution of the United States of America. So I,

with many of my colleagues, am left with the inescapable conclusion that we must vote against it.

At the same time, I think it is imperative that we redouble our efforts to actually balance the budget, rather than just talk about it. Madam President, in the last couple of days, I have been dismayed at some of the remarks made by some on the other side with regard to the budget process. I thought we had an understanding that we were going to work toward a budget agreement that would allow us to meet our deadlines by April 15.

Instead, now we are playing politics on the other side with a budget agreement, telling the President to come forth with a second budget agreement, prior to the time those who are complaining have even come with a first one.

I hope we can quit playing political games with the budget process and get in that room and do what we are supposed to do in the Budget Committee to balance the budget. Let's start working through this budget process tomorrow. Let's start meeting the deadlines set into law. The committee hasn't met in 2 weeks. I think it is high time to demonstrate some real leadership here. When it comes to the budget process, that ought to start with a date certain for a markup on the budget itself.

We have come a long way. We have a record now that we can look back on with some pride, having reduced the deficit from \$290 billion in 1993 to \$107 billion this year. We need to go the rest of the way, and we can do so only if we continue to reduce spending as successfully and aggressively in the next 5 years as we have in the recent past.

I am troubled, frankly, not only with the fact that we have not seen any proposal on the part of Republican Members with regard to a budget itself, but by the tax proposal being proposed now by the majority leader. It would create a deficit of over \$1 trillion in the next 20 years to pay for new tax breaks that overwhelmingly benefit those who don't need them at all. If these new tax breaks were to pass, they would cost \$500 billion over the first 10 years and \$750 billion over the next 10 years, at a time when we ought to be reducing the deficit, reducing the debt, and coming together in a bipartisan way to resolve our differences.

It must be difficult for South Dakotans to understand how some of those who argue that we need to pass a constitutional amendment to balance the budget can turn around and offer tax breaks that add more than \$1 trillion to the deficit.

I might remind my colleagues that, even if we balance the budget, we have a \$5.5 trillion accumulated debt that we have not yet paid down. Eliminating the deficit is only the first step. We still have the debt. If Senators continue to complicate our situation by offering tax measures that contribute massively to the deficit we are facing

over the next few years, it is hard to believe that they are really serious about fiscal responsibility.

My expectation today is that this amendment will fail. But if I am wrong, if somehow it passes, then I am confident that it will fail when it is sent to the States for ratification. As Americans learn more about the consequences of this ill-considered proposal, I hope that Congress will ultimately resolve to work through the many deficiencies in this amendment, and correct it in ways that we have suggested time and again on the Senate floor.

David Ramsey was a member of the Continental Congress that adopted our Declaration of Independence. He said, "The adoption of the Constitution was a triumph of virtue and good sense over the vices and follies of human nature."

It was, in fact, that rarest of events, the triumph of the perfect over merely the good. For 208 years, Congress has defended that triumph of the perfect over the good when it comes to the Constitution. It is our solemn responsibility now to uphold that standard.

When it comes to the Constitution, we should settle for nothing less than perfection.

Madam President, I yield 5 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I appreciate the comments of the Senator from South Dakota.

Madam President, for those who want to know where this Constitution was written, it was written in a small room in Constitutional Hall called the Assembly Room. Fifty-five white men wrote the Constitution over 200 years ago. George Washington's chair is still at the front of the room because he presided over the writing of the Constitution. His chair is still there if you want to go see where George Washington sat as they drafted the framework for our form of government. George Washington was the fellow who was reported to have said, "I cannot tell a lie" about cutting down the cherry tree.

I was thinking about his chair when I saw it in this room, and about the cherry tree, and lies, and about political wafflers when we get involved in a discussion of this type. This is a very, very important discussion.

In the debate in the last couple of hours, one would think it is about balancing the budget. It is not that. It is about altering the Constitution of the United States. It is now 4:32. If, by some magic, we could by 4:35 amend the Constitution just like that, at 5 o'clock nothing would have changed with respect to this Government's deficit or debt.

This is about altering the Constitution. The question is, shall we do it? And, if so, how shall we do it?

We voted on a constitutional amendment last week to balance the Federal

budget. I offered it. It got 41 votes. Almost all—except two—on that side of the aisle voted against it. Had they voted for it, we would have had a constitutional amendment to balance the budget passed by this Chamber. It was identical to the one they offered, with one exception: It said you can't count the over \$1 trillion in Social Security trust funds to pretend you have balanced the budget.

Based on all the crowing that I hear, one would think, if a constitutional amendment to balance the budget is passed, the budget will be balanced. Of course, that is not the case. The budget will be balanced when you make individual spending and taxing decisions to balance the budget.

In 1993, I cast a vote on the floor of the U.S. Senate for a deficit reduction package. It was a hard vote. The politically easy vote was to say, "I am gone. I am on vacation. Count me as no because I do not want the baggage that comes with having to vote to reduce the budget deficit."

We passed that by one vote. And we didn't get one vote from that side of the aisle—not a bit of help, not a bit of help from the people who now stand on this floor and crow about how much they want to balance the Federal budget. And the budget deficit came down 60 percent.

We paid an enormous price for casting that vote. It was a price I was willing to pay. I am glad I cast the vote. And that is the way you reduce the budget deficit.

How do you eliminate the budget deficit? Well, amending the Constitution, if you do it the right way, will help. And I am willing to do that. We had a vote on it last week. I offered the substitute that would have amended the Constitution the right way. But I refused to alter the Constitution in a way that will allow the Federal debt to keep increasing when they say it is in balance.

I have asked repeatedly, and there is no answer to it, why do the managers of this constitutional amendment pretend to the American people that if they pass it and then pass a budget that accomplishes it—when they pass this budget and then claim the budget is in balance—why will the Federal debt keep increasing? Why, in the very year that they claim the budget is in balance, will they be required to increase the Federal debt limit by \$130 billion, in that year alone? Why? Why, if the budget is balanced, will the Federal debt keep increasing?

I have asked that a dozen times, and no one has answered it. Why has no one answered it? Because it is a fiction. This constitutional amendment, the way it is crafted, is a fiction. It misuses over \$1 trillion in Social Security trust funds to pretend they are balancing the budget, and, in fact, it is not balanced. In fact, the Federal debt will keep increasing. That is why they can't answer the question.

It is one more chapter in a book of fiction. But this is a chapter of fiction

that they intend to put in the Constitution of the United States.

In North Dakota they want a balanced budget. I have voted for balanced budgets. But in North Dakota they understand the virtue of, if you are going to do something, doing it the right way. There is the right way and the wrong way. The proposal here is the wrong way.

This is a country that seems obsessed sometimes with instant gratification and quick fixes.

Madam President, I ask for 30 more seconds.

Mr. DASCHLE. Madam President, I yield such time as he may consume to the Senator from North Dakota.

Mr. DORGAN. There is a mentality that would have us believe sometimes that instant gratification is paramount—quick fixes, fast foods, Minute Rice, instant coffee, instant pudding, Jiffy Lube. Hook the budget to the Constitution and pretend you have balanced the budget, but have the Federal debt keep increasing. It fits right in with the whole genre of quick and easy fix—no trouble at all.

The American people know better. There is the right way to do things and the honest way to do things. Yes, we ought to balance the budget. And when we have taxing and spending decisions on the floor of the Senate to do that, join us and help us to it.

I am amazed that those who come here speaking the loudest about this issue will come on one of the largest spending bills that will come before this body, the defense appropriations bill, and say, "No, we are not spending enough. We want to add \$10 billion more, and we insist that you spend it."

I am amazed that those who come to this floor and talk about balancing the budget are also the ones who come and say, "And, by the way, we want \$500 billion in tax breaks." They propose plans suggesting \$30,000-a-year tax breaks for those that have \$250,000 a year in income. Why? I guess they think we can afford it. Do you know that every dollar of tax break will be borrowed and will add to the Federal debt in that plan? These are the people who are now suggesting we alter the Constitution the wrong way in order to pretend that we have balanced the budget.

Madam President, we ought to balance the budget. Yes. Last week I even offered a constitutional amendment to do so drafted the right way, drafted in a way that it will not misuse the Social Security trust funds. But we ought not, no matter what the price—any of us—ought not stand up and say, "Well, it doesn't matter. We are just amending the Constitution of the United States. It may not be perfect. Yes, it may cause some problems for Social Security. But let's do it anyway."

The 55 people who wrote the Constitution of the United States provided for a way that it might be amended. But they always assumed, I suspect, that we would do the very best we

could to make sure this document is perfect, or is as near perfect a document for the governance of this country as is possible.

This is the greatest democracy on the face of this Earth. I get a little tired of people talking about how awful this place is. Most people around the globe want to come here because they understand the torch for freedom and the beacon of hope in this country still burn brightly for all the rest of the world. It is a remarkable place. And when we alter the Constitution—and I am prepared to do so—let us make certain we do it the right way.

I appreciate very much the Senator from South Dakota yielding.

Mr. DASCHLE. Madam President, I yield the remainder of my time to the ranking member, the senior Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I want to thank the distinguished Democratic leader for yielding me a few minutes of time as we finish up the debate on this important constitutional question.

By our Senate oath of office we each commit to "support and defend the Constitution of the United States." That is our paramount duty and a responsibility that I certainly cherish in this opportunity to represent the people of Vermont here today.

A constitutional amendment on the budget poses dangers to Vermont and threatens the constitutional principles that have sustained our democratic form of Federal Government over the past 200 years. Separation of powers, checks and balances, and majority rule are not constitutional guarantees to be altered without serious deliberation.

The real question this year is not whether to reduce the deficit, but by how much and what cuts to make in order to bring the budget into balance. That is the hard work that lies before us.

As President Clinton declared in his State of the Union Addresses: All we need to balance the budget is for Congress to pass a bill and for his signature. We do not need to change the Constitution of the United States.

The time and resources devoted to re-considering a constitutional amendment on the budget merely serve as a distraction from the real task at hand. Let us not be distracted, again, from the true means to deficit reduction: Hard work, hard choices, and bipartisan cooperation with the President.

Political courage has been an essential ingredient that has helped us reach the level of deficit reduction that has been achieved over the past 4 years. We cannot legislate political courage. We must summon that ingredient from ourselves.

In addition to being unnecessary, there are six key reasons why adoption of this proposed 28th amendment to the U.S. Constitution would, in the words of Treasury Secretary Rubin, "be a terrible, terrible mistake."

RISKS TO THE ECONOMY

First, this amendment could be economically ruinous.

During recessions, deficits rise because tax receipts decline while various Government payments, like unemployment insurance, increase. By contrast, the amendment would require disastrous raises in taxes or cuts in countercyclical spending during a recession or depression.

As Treasury Secretary Rubin testified: "a balanced budget amendment could turn slowdowns into recessions, and recessions into more severe recessions or even depressions."

Our economic policy—especially as we attempt to compete and adjust in an increasingly global economy—must be flexible enough to allow each generation of Americans and each Congress and President to deal with changing economic conditions as they see fit in serving the best interests of the Nation and our citizens. Yet, this proposal would impose an inflexible prescription on all future generations of Americans in perpetuity.

IT INCREASES THE RISKS OF GOVERNMENT SHUTDOWN AND DEFAULT

Second, this constitutional amendment would vastly raise the stakes and risks to taxpayers and all citizens of a Government shutdown and default. We now have the experience of a year ago to gauge just how great these risks would be to our economy.

Under the supermajority requirements in the proposed amendment, a minority of Members, either from a particular region or sharing a political philosophy, could force the U.S. Government into default unless they got their way—just like a handful of House Members in 1995 tried to force President Clinton to accept their balanced budget plan by refusing to vote to raise the debt limit.

This proposed constitutional amendment would prevent the Treasury from taking the same measures it did during the 1995 budget crisis to avoid a default. Without that flexibility, the Government also would be unable to ensure on-time Social Security checks or Medicare and veterans benefits.

AN INVITATION TO CONSTITUTIONAL CRISIS

Third, this proposed constitutional amendment risks seriously undercutting the protection of our constitutional separation of powers.

No one has yet convincingly explained how the proposed amendment will work and what roles the President and the courts are to play in its implementation and enforcement. Constitutionalizing the budget and economic policy would inevitably throw the Nation's fiscal policy into the courts, the last place issues of taxing and spending should be decided under our system.

The effect could be to toss important issues of spending priorities and funding levels to the President or to thousands of lawyers, filing hundreds of lawsuits in dozens of Federal and State courts. If approved, the amendment

would let Congress off the hook by kicking massive responsibility for how tax dollars are spent to the President or to unelected judges.

IT ERODES THE FUNDAMENTAL PRINCIPLE OF MAJORITY RULE

Fourth, this proposed constitutional amendment undermines the fundamental principle of majority rule by imposing a three-fifths supermajority vote to adopt certain budgets and to raise the debt limit.

Our founders rejected such supermajority voting requirements on matters within Congress' purview. Alexander Hamilton described supermajority requirements as a "poison" that serves "to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority." These supermajority requirements are a recipe for increased gridlock, not more efficient action.

The amendment's supermajority requirements would permit minority factions to extort pork barrel projects or extreme legislation as their price for avoiding a Government shutdown and default. Do we really want to allow 40 percent plus one of the Members in either the House or the Senate to hold the budget hostage to their demands?

IT IS A PIG IN A POKE

There is much truth to the axiom that the "devil is in the details." This proposed constitutional amendment uses such general terms that even its sponsors and proponents concede that implementing legislation will be necessary to clarify how it will work.

What will this implementing legislation say? We will not find out until we see this implementing legislation. The questions raised that still lack satisfactory answers are many: What programs will be off-budget? What role will the courts and the President have in executing and enforcing the amendment? What will be considered compliance with the amendment? How much of a deficit may be financed and carried over to the next year? Many other questions still await answers going to core matters that are critical to our understanding of what this amendment means.

Congress should not be asked to amend the Constitution by signing what amounts to a blank check. Nor should any State be asked to ratify a pig in a poke.

In the interests of fair disclosure, Congress should first determine the substance of any implementing legislation, as it did in connection with the 18th amendment, the other attempt to draft a substantive behavioral policy in the Constitution.

IT FAILS TO PROTECT BASIC COMMITMENTS TO OUR CITIZENS

Sixth, this proposed constitutional amendment fails to live up to the commitments we have made to our citizens. It uses the annual surplus in the Social Security trust fund to mask the

true size of the Federal budget deficit for years to come. This is wrong.

In addition to using the Social Security trust funds, this proposed constitutional amendment could short-change our seniors who depend on Medicare, our veterans who depend on service benefits, and our children who depend on nutrition programs. We have made commitments to our seniors, our veterans, and our children. But this amendment fails to honor our commitments. This is unacceptable.

CONCLUSION

We Vermonters pride ourselves on being able to apply Yankee common sense in sorting the sensible from the fanciful, and this proposed constitutional amendment lacks common sense, Yankee or otherwise.

One of the newspapers in my State observed: "Amending the Constitution to require a balanced Federal budget would be like using a sledgehammer to nail a picket in a fence. The picket might stand, but at great risk to the fence."

Even the short span of 2 years since the last debate on this amendment has brought forward changed fiscal and budget circumstances and new insights into the implications of amending the Constitution in this way.

Let us not proceed with a view to short-run popularity, but with a clear vision of our responsibilities to our constituents and the Nation in accordance with our venerable and venerated Constitution.

Madam President, for the last 4 weeks, I have been saying over and over again to Senators, think about what we are doing. This country, which has a Constitution the envy of all other democracies on Earth, has amended that Constitution only 17 times since the Bill of Rights. In that 17 times, one of those amendments was to repeal an earlier mistake, the amendment on prohibition.

Madam President, during that time, we have had civil wars, invasions of our Nation, the War of 1812, terrible world wars, Korean war, Vietnam war, depressions, recessions, earthquakes, natural calamities, expansion of our Nation. With all these changes, most of which were far, far greater than anything we see today, we resisted the temptation to amend the Constitution. We resisted the temptation to tinker with our Constitution, and we always came out a stronger nation.

We hear talk about Thomas Jefferson. Thomas Jefferson borrowed twice the budget of the United States for the Louisiana Purchase. Can you imagine what this country would be like had he not had the foresight to do that? Or can you imagine what this country would be like had he had the same constitutional amendment and not been able to borrow the money for the Louisiana Purchase? Where would this Nation be?

I hear one Senator come in the Chamber and talk about Senators who appear to change their position. I

would point out that I heard no criticism from him of the three Senators who had opposed this constitutional amendment and now support it.

I hear a Senator come in the Chamber and say we need this to balance the budget, and yet that same Senator has done nothing to bring out of his own committee a budget, even though the law requires him to do so, within the next month.

Madam President, we do not need a bumper-sticker, sloganeering constitutional amendment to balance the budget. We can just have enough courage to face up to the special interest groups of the left and the right and balance the budget ourselves. That is what we need.

So many of those who are hollering for this sound like the lion in "The Wizard of Oz." They are seeking courage. If we do not have the courage to do what is right, then we do not belong here. But I am afraid that some who want this are simply looking for something that will reflect the passing poll of the moment. The Constitution of the United States is not a passing poll of the moment. The Constitution of the United States is the bedrock of this Nation. It is why we have the strongest democracy in the world. It is why, incidentally, we have the strongest economy in the world.

Instead of running down our economy, instead of running down our Constitution, instead of adding something that looks good on a public opinion poll but does not look good on the test of time, we ought to do what is right: bring down the deficit by the hard votes, not by tinkering with our Constitution. Let us not slap this bumper sticker on the greatest Constitution ever written. It is beneath the Senate. It is beneath the House of Representatives. But, more importantly, it does great disservice to the finest Constitutional democracy we ever had.

Madam President, am I correct that the time of the Democratic leader has expired?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I thank the Chair.

The PRESIDING OFFICER. There will now be 30 minutes under the control of the majority leader or his designee.

The Chair recognizes the distinguished majority leader.

Mr. LOTT. Madam President, I yield myself such time as I may consume of my 30 minutes, but I do want to reserve the closing 5 minutes for the distinguished chairman of the Judiciary Committee. So after 25 minutes, if I am still going, I hope the Chair will give me that notification.

I should like to begin, Madam President, by expressing my appreciation to all the Members of the Senate. We have been debating this issue now for a month or more. It has been a good debate. Every Senator has had an opportunity to express himself or herself, and I think the debate for the most

part has been good—troublesome to me sometimes and discouraging in some of the things I have heard said, but still the Senate has worked its will in terms of having the time that we needed to debate this very important issue and to offer amendments.

I thank particularly the chairman of the Judiciary Committee, Senator HATCH of Utah, for the great work he has done, for the long hours, in fact—yes, hours—he has spent in this Chamber speaking in response to comments from other Senators, commenting on the amendments that have been offered. He has done an outstanding job. If for no other reason, I hope we would pass this amendment because of the great work and the commitment he has to this effort and to this constitutional amendment. I thank him for his great work.

Also, Senator CRAIG of Idaho, Senator CRAIG THOMAS of Wyoming, Senator BRYAN of Nevada, a Democrat who has been involved, and 10 other Democrats who have been committed to this constitutional amendment requiring a balanced budget, who have had the courage of their convictions to stand up and support this constitutional amendment and make speeches in behalf of it.

Senator COVERDELL has done an outstanding job in working with the people from all over this country, through the land, who are interested in supporting this amendment. Senator SNOWE has done a great job in helping make sure that we had Senators who were aware of the time who would come to the floor and make their statements. Many others have done a great job. I wish to recognize the work they have done because a lot of time, a lot of thought, a lot of great speeches have been made as we have come to the conclusion of this debate on the constitutional amendment for a balanced budget.

Thomas Jefferson has been mentioned a lot here in the debate. As a matter of fact, as I just came from the majority leader's office, I was thinking about the fact that it was in that very room—yes, that very room—that the House of Representatives met in 1801 and took 36 ballots—36 ballots, would you believe it—to elect Thomas Jefferson of the United States over Aaron Burr. How close they came to making a mistake.

I think that this, too, is of such historic significance. We should not make a mistake here today and not pass this amendment. We should vote for it. And the impact would be monumental—perhaps not as monumental as electing Thomas Jefferson, but certainly would have impact on the future of all Americans for years and years to come. It is historic.

I am very proud that we have kept our word to the American people that we would fight for this amendment, that we would bring it to a conclusion, and that we would try to get it added to the Constitution so that we would

have the guarantee, the additional leverage, the backbone that is needed to have in fact a balanced budget. So we have kept that commitment, and all Americans will have a brighter, more prosperous future when we pass a constitutional amendment requiring a balanced budget.

I noted the comments earlier today that 55 people wrote the Constitution. Well, 55 Republican Senators, every Republican Senator, will vote for this amendment today, and a minimum of 11 Democrats. It is bipartisan. We do know that this needs to be done. We need to get that additional vote that would give us the 67, and I think maybe that is still possible before all is said and done on this constitutional amendment.

Just yesterday, we had additional proof of the need for this constitutional amendment. Six Presidents, over 1,400 Members of Congress, and approaching 1,000 Senators over the years have made an effort to get a balanced budget agreement, but through 28 years and all these Congressmen and Senators—and I want to make sure I have the exact number on the Senators. I think that number is high. We have had well over 1,500 Congressmen and Senators who said we should have a balanced budget, but we have not had one. We have not achieved one in 28 years—good intentions by men and women, but it has not happened. It looks like we will not have it for at least a couple of more years, at the most not until the year 2002. And, yet, in the President's budget that was sent to us, we find deficits do not go down, they go up by over \$25 billion in the next fiscal year.

We find that, instead of having tax relief for working Americans, you have a net tax increase in the President's budget. And, worst of all, 98 percent of his so-called budget savings, or spending restraints, would come in the last 2 years, after the year 2000, after the turn of the century, after this President is gone—proof positive, once again, that there is not yet a sufficient commitment by the President to get a balanced budget agreement. Without this constitutional amendment, I still have my doubts as to when it will happen.

Now, the Senator from North Dakota commented earlier about how he had voted for a budget that reduced the deficit. Look, if everybody will agree just to raise taxes and keep raising taxes, I guess you could reduce the deficit. Of course, at some point there is a point of no return. When I hear from my own son, who calls me and says, "Dad, look, I am working hard, I have 55 people working for me, but 50 percent of everything I make is going to taxes, why is that? What are you going to do about it?" You know, that has an impact on me. The solution to balancing the budget is not to raise more taxes, as happened in 1993; it is to control spending for the interests of our children and for all Americans.

Social Security—when all else fails, bring up Social Security. I have heard it for years. I have been worried about it over the years, and I have cast some votes that made it clear that I do not want Social Security to be threatened or abused in any way. This amendment will not do that. In fact, the only thing that we could do that would threaten Social Security is that we not get a balanced budget. That is how we would get in trouble with Social Security.

By the way, if it is so critical, if it is, in fact, something that should not be included in the budget, why does the President, year after year, including this year, include Social Security in his budget? This is absolutely a diversion, and it is unfair to the seniors in this country that we try to scare them by indicating in any way that this would affect Social Security. The reverse is true. I will take my stand and stake my defense of Social Security against anybody's record in this body.

Americans support this constitutional amendment. That is why you hear all these diversions. That is why you hear, "Well, but for this," "Yes, but," "Maybe, but I cannot do it unless you do that." The American people are overwhelmingly for this.

Senator COCHRAN, my colleague from Mississippi, and I are for it and our constituents are for it; in my State, over 80 percent. So it is relatively easy for us. But we are also for it because we believe increasing debt is the wrong thing to do.

Let me just read some of the excuses we have heard over the years. The truth of the matter is there are a few Democrats who do not want a constitutional amendment for a balanced budget. They just do not want it. But they have said: "Well, I would be for it except we want a Republican Congress to show their plan first," or, "We want to wait until after Republicans have passed a budget plan," or, "Only if you exempt Social Security," or, "Yes, you must exempt emergency spending, you must exempt veterans, you must exempt housing." How about an amendment by Senator WELLSTONE to exempt all education, health, and welfare; exempt all college aid and training? They would exempt all law enforcement, exempt the Tennessee Valley Authority, and highways, bridges, dams, roads, buildings, ice skating warming huts, and pork. They would exempt 77 percent of the nondefense, noninterest budget, if you went through that. And the list goes on, one excuse after another.

Anybody who is looking for an excuse not to be for a balanced budget, looking for an excuse not to be for a balanced budget amendment, they can find it, they can find something to hide behind. But the American people, I believe, see through that. They have watched for years. They know that it has not been happening. They are worried about the interest on the national debt. They are worried about the future of the economy in our country. They know this should be done.

I do think that a constitutional amendment requiring a balanced budget is an amendment that is worthy of going into the Constitution. Surely, Thomas Jefferson objected, back in the beginning of our great country, and would object now, to the debt we are building up—trillions of dollars. If we do not get a balanced budget—in fact, even if we do get a balanced budget agreement—the debt will probably still go up by close to \$1 trillion. When will it end?

It brings to my mind the statement we have heard before, "If not now, when? If not us, who?"

If we are not prepared to step up and pass this constitutional amendment now, we are admitting, based on what we have seen from the President's budget proposal this year, it is not going to happen any time soon. The deficits annually will begin to build up and to build up again, and so will the debt.

We are stealing from the future of our children. They are the ones who are going to pay the price for this, and I feel very strongly that, if we put this in the Constitution with the protections that are there so that if we do have economic problems or if we have a national emergency, there is a way to get out. There is the three-fifths vote—60 votes. We get 60 votes around here quite often.

We want to make it tough. If you make it so easy that you can just have a vote and it will all just be wiped aside, you know Congress will do that. Congress has proven time and time again they will do that.

In the past, we have tried to pass statutes that would guarantee that we get a balanced budget, and it has not happened, because what has happened? We come along and we say we are going to exempt all these various and sundry things. Or, if it really gets tough, like we did with the Gramm-Rudman-Hollings, we just move the date. We just pass another statute. As long as it is just a bill, as long as there is a way to avoid the tough decision, I fear the Congress will take advantage of that.

We have proven here in this body, in the past 6 months, we can work together. We can be bipartisan. We can be civil to each other. And, when we work in a bipartisan way, when we put our minds to it, we can produce results.

Last year, there we were passing these issues, many of them that had been in the making for years, like telecommunications and welfare reform, health insurance reform. We did not pass them by narrow margins. We passed them by wide margins. Once we made up our mind we would, we did it in a bipartisan way. That is one of the lessons I learned. I am glad this is bipartisan. But I note also we must get one more of the 34 Democrats in order to pass this constitutional amendment.

A second lesson I have learned recently is good intentions just have not worked. It is not enough. You need this additional leverage.

So, I urge my colleagues here today, be proud of what we have done. Make sure we are going to live up to the commitments that we have made to the American people. Join the American people. I want us all to have the courage of our convictions and be prepared to vote yes or vote no, if that is what we think is right. But I do think we also should take some lessons from our constituents. They have it figured out. They support a constitutional amendment for a balanced budget overwhelmingly. Why can we not get it through this institution?

I believe the House will take this issue up in the next month or so, and I believe they will pass it. Some people have their doubts about that, but I still have confidence they will. And when they do, we will take another look at considering this issue if, in fact, it does not pass this afternoon. But this is an issue that will not go away.

In fact, if you look at the Constitution, the last amendment that was added to the Constitution was actually pending for, I think, 200 years; the 27th amendment to the Constitution. It was language for years and years. Finally the State of Michigan ratified it and it became the 27th amendment. I hope we do not have to wait that long for this amendment, but we are going to pass this amendment and, if we do or we do not, I am going to work with the distinguished chairman of the Budget Committee. We are going to try to find a way to get a balanced budget agreement. But I believe that this additional requirement in the Constitution will guarantee that we will do that job.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank the majority leader for his leadership on this particular issue. He has been a leader on this issue ever since I have been working on it, I have to say, both in the House and in the Senate. I am proud of him.

Look, we have heard from the minority and the minority leader that the perfect balanced budget amendment would exempt all capital expenses, however defined; Social Security, however defined; military responses or buildup, however understood, crime control; times of economic downturn; national disaster or emergency; education; nutrition programs, and so forth and so on. Gee, what is left under this proposal, under the minority leader's proposal? It is pretty apparent they don't want a balanced budget amendment. They do not want a fiscal mechanism that will make it more difficult for them to increase taxes, to pay for more expensive programs or to increase the debt to pay for more expensive programs. What's left? Just interest expenses? Well, that's a perfect balanced budget amendment if you want to keep spending.

It was admitted today that if we had a "capital budget exemption," we would have a "balanced budget" today.

I guess that's so. That's perfect. If you want to keep spending and borrowing, that's perfect. In other words, if you want to keep the status quo, that is the way to do it: Just hide everything in a loophole, and then you can say you "balanced" the budget. No, we don't need this kind of perfection. What we need is a real-world solution, one that will make a difference.

I have to say, I am doggone tired of the demagoguery on Social Security. You would think these people here on the other side against this amendment are the only ones who care about Social Security. Let me tell you something, I care about it. I watched what it did for my folks. I know exactly what it does, and I don't want to ever see it hurt, and neither does anybody else who is voting for this amendment, and that is the vast majority of people in this body.

You are doggone right we like Social Security, and we are tired of the demagoguery. Every time they are losing, they try to bring up a Social Security amendment to hide behind, because they don't want to cast the right vote, and they know it, we know it, and, ladies and gentleman out there in the country, you know it, too. I am tired of it. It is not right for them to continually hide behind these phony issues. Can you imagine having Social Security cast aside outside of the balanced budget amendment and its protections, standing there all alone so that anything could be called Social Security? Once that game starts, forget Social Security.

These people who are arguing that are the foes of Social Security. If they really cared for Social Security, by gosh, they would be passing this balanced budget amendment and getting spending under control. It is about time to get rid of the demagoguery, and I am tired of it.

Let me also say, I was quite upset today to hear in the closing remarks the minority leader come out here again and start using a distortion of the Congressional Research Service. I was asked outside, "Have you lost confidence in the Congressional Research Service?" by one of the leaders in the media. Of course we have not, because they made it clear that the interpretation was not as the minority leader has been saying. As a matter of fact, we made that clear on the floor. There should not even have been a question about it.

The CRS memorandum dated February 5 that my colleague was alluding to did not conclude in any way whatever that the balanced budget amendment would harm Social Security. All the CRS memorandum concluded was that assuming the Social Security surplus survived to the year 2019, the year Social Security would start running annual deficits, this previous accumulated surplus could be used to help pay for future deficits, but only if it is offset by revenues or budget cuts. Of course, we could also vote to suspend

the balanced budget rule for a year if that was truly necessary. That is a considerably different position from what has been demagogued throughout this debate.

Despite what my friend asserted, under the balanced budget amendment, assets of the Federal Treasury could be drawn upon to ensure payments to beneficiaries when the system starts running annual deficits. Senators DOMENICI, MACK, and I also received a letter from the CRS supporting my provision. The nonpartisan Concord Coalition, founded by the late Paul Tsongas, a Democrat, and Warren Rudman, a Republican, has also addressed this issue. In a memorandum dated February 18, 1997, the coalition concluded that the Senators' position that if the balanced budget amendment does not exempt Social Security it will somehow nullify the trust fund surpluses and prevent payment of benefits to retired baby boomers is nonsense.

Let me quote further. This is what the Concord Coalition says:

What the BBA would do is to raise national savings and thus make Social Security, along with a myriad other claims on tomorrow's economy, more affordable. It would be ironic, indeed, if concern about funding Social Security, whether real or pretended, turns out to be an issue that sinks the balanced budget amendment. Let's be clear, the balanced budget amendment would in no way honor the status of the Social Security trust funds.

The real issue here is, how are we going to fund the Social Security trust funds when the system becomes insolvent around the year 2019, 2029 for sure? The answer depends on the national debt. It is the size of the national debt that threatens the Social Security program, and, I might add, we are adding to that national debt one more unbalanced budget, and that is the one for fiscal year 1998. That is it. This is the President's budget on top of these 28 other unbalanced budgets that we have been pointing out throughout this debate.

Only if we pass the balanced budget amendment will we preserve Social Security, and that is the truth in this debate, and I am tired of the demagoguery.

Just think about this national debt. Forty-six days ago, when the Judiciary Committee began the debate on the balanced budget amendment in the 105th Congress, I used a debt clock ticking off thousands of dollars each second to illustrate the magnitude of our country's growing debt. As we have debated Senate Joint Resolution 1 for the past 46 days, that clock has continued to run, and our national debt has increased in that period of time, that 46 days, \$25 billion, while these folks are talking about "we just have to have the will to do it." Tell me where the will is in the last 29 years, including next year's budget. That is the President's budget. It is unbalanced, by the way.

Madam President, I don't know about other States, but in Utah, 25 billion

bucks is a lot of money. In fact, with that money, we could send every man, woman, and child in Utah to the University of Utah, pay their tuition, room, board, and books.

To give you the magnitude of that debt, let me give you an idea of how much money we are talking about. With \$5.3 trillion, which is our national debt today, you could paper Washington, DC, with 100 dollar bills corner to corner with enough left over to give a block grant to every State of about \$6.3 billion. You could also purchase every new automobile ever sold in the United States and still have enough left over to purchase every airline ticket ever sold for travel in the United States.

The U.S. Bureau of Printing and Engraving and U.S. Mint would need 37½ years at its current rate of printing to print and coin enough money to equal \$5 trillion.

Madam President, \$5 trillion stacked in pennies would reach all the way to the planet Jupiter. Give me a break, will you?

All disposable personal income in the United States does not approach \$5 trillion—all disposable income.

If all the home equity in the United States was applied to the national debt, there would still be a half trillion dollars of debt left over. That is what a mess this is, and we have these people saying, "Let's just do it and the President will sign it."

Give me a break. Here is the President's budget right there, on top of the other 28 other unbalanced budgets.

Madam President, \$5 trillion would consume all the wages and salaries earned by every American for 18 months.

Unfortunately, without the constitutional discipline offered by Senate Joint Resolution 1, the downward deficit spiral is likely to continue. The point is underscored by CBO's most recent projection that in the year 2002, total Federal debt will exceed \$6.8 trillion. Come on, it's time to wake up. I wonder what some people are thinking, I really do.

Well, I don't mean to demean the Senator from Vermont who has had to make almost every argument against it today by himself. He did have two or three others come over.

Mr. LEAHY. If the Senator would yield, it would be OK if I win, though. I will not lie.

Mr. HATCH. He said we won 14 or so votes, it is time for him to win one.

The PRESIDING OFFICER. The majority leader has 5 minutes remaining.

Mr. LOTT. I yield the remainder of my time to the Senator from Utah.

Mr. HATCH. I thank my colleague.

I heard this language, by one of the Members of the Senate, that we are just interested in a quick and easy fix, like instant rice, like Jiffy Lube, like instant coffee. A quick and easy fix, my foot. We do not believe that the only way to solve problems is by increasing taxes every time, which is exactly what happened here when this

President took over. That is not the way to do it.

This stack of books is a wall standing between us and fiscal responsibility and balanced budgets. The bricks in this towering wall are the unbalanced budget submissions for the last 28 years, 28 years of strapping debt on to the backs of our children, a towering wall of overspending the hard-earned money of the American people, a towering wall that demonstrates that the score for special interests is 28, the American people zero.

Some people say, all we need is the will. Well, this towering wall represents 28 straight years of the failure of will and the failure of responsibility—now, 29. It is higher than I am, and that is two stacks, not one. Before we are through, if we do not do something about a balanced budget amendment, these will go all the way to this ceiling. The President's actions, evidenced by his budget submission and his allies' work in defeating the balanced budget amendment here in the Senate, suggests that we are just putting another brick on this wall.

Frankly, I believe we will never get past this wall without a constitutional requirement to balance the budget.

Mr. NICKLES. Will the Senator yield?

Mr. HATCH. Yes.

Mr. NICKLES. You just placed the President's budget for this year on top. Am I correct in saying that last year the deficit was \$107 billion, forecasted for 1997 to be \$116 billion, and then in 1998, under the President's budget—this is by the Congressional Budget Office—

Mr. HATCH. His budget.

Mr. NICKLES. It goes to \$145 billion, and then in 1999 to \$142 billion, and the year 2000 to \$135 billion? Isn't that the report that we just had from the Congressional Budget Office? We have 4 years of deficit increases under the President's proposal?

Mr. HATCH. That is correct. In the last 2 years we are going to cut 98.5 percent in order to get to a balanced budget by the year 2002. Anybody believes that, boy, do I have something to sell for you.

Mr. NICKLES. Will the Senator yield further?

Mr. HATCH. Yes.

Mr. NICKLES. Isn't it correct that under the President's budget, actually the deficit next year, according to the Congressional Budget Office, will be \$24 or \$25 billion more than if we did not pass a budget? In other words, his budget actually increases the deficit for the next 4 years in relationship to present law?

Mr. HATCH. If we did just what we are doing now, the Senator is right, we would be a lot better off than the President's next 5-year budget. He is saying that is a balanced budget. I do not believe we will get all the way to a balanced budget and stay there without a constitutional requirement. I think this stack of books proves it.

Every time somebody says, "Let's just do it"—I have heard that for 21 straight years now, ever since I came to the Senate. I will tell you something; we are not just doing it.

To all those who say we can balance the budget without the constitutional requirement, I say to Democrats and the President that this towering wall of irresponsibility is limiting our young people's future. I am convinced we cannot do it without putting a fiscal mechanism in to cause us to stand up and vote to do what is right. It is a wall of irresponsibility that is limiting our young people's future. We must do something about it now.

Mr. President, you fought against the balanced budget amendment. I have to say, this big wall here is going to cause us pain through the rest of our lives unless we pass a balanced budget amendment. I am saying to the President right now, and to our colleagues on the other side, let us tear down this wall of unbalanced budgets and let us do what is right. If we will, everybody will benefit from it.

Mr. LOTT. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 66, nays 34, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—66

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

NAYS—34

Akaka	Dodd	Hollings
Bingaman	Dorgan	Inouye
Boxer	Durbin	Johnson
Bumpers	Feingold	Kennedy
Byrd	Feinstein	Kerrey
Conrad	Ford	Kerry
Daschle	Glenn	Lautenberg

Leahy	Murray	Torricelli
Levin	Reed	Wellstone
Lieberman	Reid	Wyden
Mikulski	Rockefeller	
Moynihhan	Sarbanes	

The PRESIDING OFFICER (Mr. BROWNBACK). The galleries are advised that expressions of approval or disapproval are not permitted in the Senate Chamber.

On this vote, the yeas are 66, the nays are 34. Two-thirds of the Senators voting, a quorum being present, not having voted in the affirmative, the joint resolution is rejected.

The joint resolution (S.J. Res. 1) was rejected.

Mr. DASCHLE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I am disappointed with the Senate vote. I am disappointed for the American people, especially younger Americans, and our children and grandchildren. They were the ones who lost in this defeat. I hope our younger voters will take notice of who was on their side and who was not, the next time they vote.

The sad reality is that the bridge to the 21st century is likely to be washed out in a flood of debt. I hope I am wrong and that we will now work to enact a real plan to get to a balanced budget. I hope that those who have killed the balanced budget amendment this time will actually work to balance the budget. But I must admit, I am not too hopeful that we will get to balance and stay there without the force of a constitutional requirement to do so. This year we will add another budget to this mounting stack of fiscal irresponsibility.

When we began this Congress, less than 2 months ago there, were 68 Senators who had either previously voted for this amendment—the exact same amendment, or who had promised during their recent campaign to support it. I believed that we could count on them to keep their promises. Yet, only moments ago, only 66 votes were cast in favor of fiscal discipline. Those two missing votes are the difference between passing the balanced budget amendment and adding still more failed budgets to this pile of 28 straight years of deficits.

As disappointed as I am, however, I am also very proud of my colleagues who stood up and were willing to vote to protect our children and grandchildren from worsening the crushing burden of debt that has already been loaded on their backs. Senate Joint Resolution 1 began this Congress with 62 cosponsors, Mr. President. That is an all-time high. We have now had two consecutive Congresses in which the Senate missed approving the balanced budget amendment by a single vote. There can be no doubt that support for this much-needed measure is growing.

I am particularly proud of, and grateful to, the 11 courageous Democrats

who did the right thing and voted for fiscal responsibility and accountability in spite of President Clinton's opposition. Among them, Senators BRYAN, GRAHAM, ROBB, MOSELEY-BRAUN, KOHL, BREAU, and BAUCUS deserve special recognition as they are all original cosponsors of the balanced budget amendment. Let me also recognize Senator BIDEN, the former ranking member of the Judiciary Committee who also voted for the amendment, and Senators HARKIN, LANDRIEU, and CLELAND.

As you can see, Mr. President, the balanced budget amendment is a bipartisan effort. The 11 courageous Democrats joined with all 55 Republicans in the Senate to support what we understand is necessary if the budget is to truly be brought into balance. Unfortunately for the American people, the 34 Democrats who voted against the balanced budget amendment were just enough to defeat it.

Two years ago I stood here after a very similar vote and promised that we would not give up the fight for our children's future. This year we returned stronger than ever. And so I make the same promise again, we will be back! We will be back and we will continue to gain strength until we enact the balanced budget amendment and finally, after decades of excuses, broken promises, and more deficits, we will balance the budget.

Mr. President, an effort such as the one we have been involved in over the past month requires the time, talent, and commitment of a large number of people. While I cannot name them all, I would like, at this time, to extend my gratitude to the Senators and staff who were so instrumental.

Let me first thank our majority leader for his pivotal role. Senators CRAIG, THURMOND, and DOMENICI of course, have my admiration and thanks. I am also especially grateful to Senators NICKLES, COVERDELL, MACK, GRASSLEY, GRAMM, SNOWE, ABRAHAM, and THOMAS. Last, but certainly not least, I would like to thank our new Republican colleagues: Senators ENZI, HAGEL, HUTCHINSON, ALLARD, COLLINS, SESSIONS, BROWNBACK, and ROBERTS. The energetic support of the newest Members of the Senate bodes well for the future prospects of the balanced budget amendment.

Let me also thank Senator LEAHY, the new ranking member on the Judiciary Committee and the minority floor manager during this debate, for his cooperation and courtesy.

Finally, I would like to single out some of the staff members who worked so long and hard on this matter: Damon Tobias with Senator CRAIG; Bill Hoagland, Austin Smythe, and Jim Capretta of Senator DOMENICI's Budget Committee staff; Tom Geier with Senator SNOWE; Bryan Reardon with Senator ABRAHAM; Mitch Bainwol with Senator MACK; Doug Badger and Hazen Marshall of Senator NICKLES's majority whip office; Kyle McSlarrow and Carl Parks with Senator COVERDELL;

Andy Vermilye with Senator BRYAN; Russ Sullivan, Mike McGinn and Barbara Ramey with Senator GRAHAM; and Rob Brazil with Senator ROBB; and last but certainly not least, David Hoppe, Alison Carroll and Keith Hennessy in the majority leader's office. Let me also thank Bruce Cohen and Ed Pagano of Senator LEAHY's Judiciary Committee staff.

Last, Mr. President, I would like to thank the very special people who have worked with me on this issue: Manus Cooney, Sharon Prost, Shawn Bentley, Larry Block, Paul Larkin, Steve Tepp, Paul Joklik, Troy Dow, Eric Sampson, Jennifer Carrico, Allison Vinson, and Irosha Ratnasekera. Many staffers have worked long and hard in the most dedicated fashion, I thank them all for their devotion to duty and to our country.

Mr. LEAHY. Mr. President, I want to acknowledge the distinguished manager of the resolution and chairman of the Judiciary Committee. The Senator from Utah is a tough opponent and one who I know is committed to and sincerely believes in this proposed amendment to the Constitution. He has certainly done everything that he could and spared no effort to persuade the Senate to pass this proposal.

As the ranking Democrat on the Judiciary Committee, I look forward to working with him on important legislation and nominations through the remainder of this Congress.

I want to thank the distinguished Democratic leader, Senator DASCHLE for his leadership on this issue. He helped set the tone of the debate early on, when he articulated the standard that we should apply when considering a proposal to amend the Constitution.

I want to thank the distinguished senior Senator from West Virginia. We all owe a debt of gratitude to Senator BYRD. I said in my opening statement at our first Judiciary Committee hearing on January 17 that we would be privileged to have Senator ROBERT C. BYRD with us during this floor debate to instruct all of us on these historic matters. Senator BYRD did not disappoint. Indeed, his challenge to the proponents to explicate their proposal and their failure to do so provided the fulcrum on which this debate has turned.

I want to commend those Members who had the courage to look behind the title of the proposal and help us focus on its dangers and vagaries. In particular, I thank all those who came forward with such thoughtful amendments. Senators KENNEDY, FEINSTEIN, FEINGOLD, DURBIN, and TORRICELLI from the Judiciary Committee, and Senators BOXER, WELLSTONE, REID, BUMPERS, and DORGAN each offered amendments that raised important issues and added greatly to the debate.

I want to thank Senators LAUTENBERG, SARBANES, CONRAD, and GLENN for their contributions and their full participation in this historic debate.

I commend those cosponsors of the resolution who nonetheless offered

amendments, spoke in favor of various amendments, or voted not to table the amendments that were offered. I hope that they will continue to think about the problems that have been raised with the proposed constitutional amendment.

I want to thank the organizations that have provided invaluable information and insights into this debate. In particular, I would like to thank Charles Loveless and Edwin S. Jayne, of the legislation department at AFSCME, who spearheaded the Coalition on Budget Integrity, and Robert Greenstein and Ellen Nissenbaum, of the Center on Budget and Policy Priorities, who spearheaded the Center's research on this proposed constitutional amendment. I also thank Eugene Lehrmann for his important testimony on behalf of the American Association for Retired Persons. I commend the 150 organizations that made up the Coalition on Budget Priorities for the hard work of each of their representatives and all of their volunteers.

I also commend Professors Robert Eisner of Northwestern University, Robert M. Solow of MIT, and James Tobin of Yale University and the 1,060 economists from around the country who came forward with a joint statement to condemn the proposed constitutional amendment.

Finally, I thank the Senate staff for its dedication and professionalism during the debate on this proposed constitutional amendment: Larry Sein and Jonathan Adelstein from Senator DASCHLE's staff; James English and Peter Kiefhaber from Senator BYRD's staff; Caroline Chambers and Jeremy Bates from Senator DORGAN's staff; Michael Myers and Melody Barnes from Senator KENNEDY's staff; Kevin Cronin from Senator FEINSTEIN's staff; Sumner Slichter and Michael O'Leary from Senator FEINGOLD's staff; Tom Faletti from Senator DURBIN's staff; Eric Shuffler from Senator TORRICELLI's staff; JIM RYAN FROM SENATOR REID's staff; Bill Dauster and Jodi Grant from Senator LAUTENBERG's staff; and Julie Kehrl and Carlos Angulo from Senator SARBANES' staff. From Senator HATCH's staff, I would like to thank Manus Cooney, Sharon Prost, Shawn Bentley, Paul Larkin, Larry Block, Steve Tepp, and Troy Dow. I was assisted, in particular, by Ed Pagano and Michael Carrasco.

As in so much that I do, my counsel Bruce Cohen was indispensable.

This effort would not have been successful, however, without the attention and efforts of hundreds and thousands of concerned Americans who want to balance the budget while preserving the Constitution and the guarantees that it provides. Their calls and letters made the difference. This is their victory.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a pe-

riod for the transaction of morning business, with Senators permitted to speak therein for up to 5 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Monday, March 3, the Federal debt stood at \$5,358,956,534,107.64.

Five years ago, March 3, 1992, the Federal debt stood at \$3,830,561,000,000.

Ten years ago, March 3, 1987, the Federal debt stood at \$2,260,323,000,000.

Fifteen years ago, March 3, 1982, the Federal debt stood at \$1,051,000,000,000.

Twenty-five years ago, March 3, 1972, the Federal debt stood at \$424,645,000,000 which reflects a debt increase of nearly \$5 trillion (\$4,934,311,534,107.64) during the past 25 years.

TRIBUTE TO WILLIAM G. DAUSTER

Mr. HOLLINGS. Mr. President, I rise today to pay tribute to a most valued staff member of the Senate Budget Committee who will leave the committee this Friday to join Senator KENNEDY at the Labor and Human Resources Committee as general counsel and deputy staff director.

I am speaking of Mr. William G. Dauster, known to every Democratic Senator who ever had a question on the budget, an amendment to the budget resolution, or a budget point of order, simply as, "Bill."

You could see Bill Dauster on the Senate floor, late at night, at the side of Budget Committee Chairmen Chiles or Sasser, or Ranking Minority Member Jim Exon. He was the best right hand and the finest counsel these Senators could seek.

As the longest serving member on the Budget Committee, I have known Bill since he first walked in the door almost 11 years ago after working in private practice as a litigator with the New York City law firm of Cravath, Swaine & Moore. Bill Dauster served on the committee, first as chief counsel from December 1986 to November 1994, and then rose to the position of Democratic staff director and chief counsel.

I saw Bill grow into one of the most respected and expert voices on the budget. His advice and guidance made him an invaluable resource to all Democratic Senators. I think he taught a few lessons to some of our colleagues on the other side of the aisle as well. But they respected him, too.

Bill Dauster took on more thankless tasks than any reasonable man could ask for, including some of the most arcane issues and twists and turns of budget process imaginable. And he did it with enormous dedication, consummate patience, an abundance of affability, and a large dose of excellent humor. Bill doesn't take himself seriously. He takes the issues seriously.

Bill Dauster leaves behind him a string of accomplishments of which few can boast, and of which many would envy. He has participated in Congress' reception of 11 Presidential budget submissions and 11 years of budget hearings.

He had a strong hand in drafting 8 budget resolutions, the Budget Enforcement Act of 1990, the 1987 revision of Gramm-Rudman-Hollings, at least a few amendments to the balanced budget amendment, and amendments exposing the weaknesses of entitlement caps.

During that time, Bill also wrote 3 editions of a budget process law book, 3 budget law review articles, numerous speeches, and more than 20 op-ed pieces that have appeared in the Los Angeles Times, the Washington Monthly, Roll Call, the Hill and the Sunday Journal newspapers of suburban Washington, DC. He can be justifiably proud of all of them. Bill's keen wit, nimble mind, and ability to turn a phrase are as evident and legendary as his extensive library and e-mail list. The Budget Committee may have afforded Bill a wealth of opportunities, but this body is the richer for it.

Bill's résumé, however, does not do justice to the enormous contributions he has made, not just to the budget process, but to our fellow citizens as well. He personifies a true servant, not only of this great institution, but of the people we serve.

Blessed with enormous intellectual skills, Bill has also exhibited great compassion for the less fortunate among us, especially America's children and the disabled. Bill has toiled tirelessly on their behalf. And his source of inspiration has always been his family—his wonderful wife Ellen Weintraub and their three children, Matthew, Natanya, and Emma—to whom Bill is devoted.

I certainly don't want to make this sound like a eulogy, since Bill will be just down the hallway from the Budget Committee. And I trust Senator KENNEDY will still let us call or visit with Bill to benefit from his counsel. So this is not farewell, but merely thank you, Bill, for a challenge well met and a job well done.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S.J. Res. 19. Joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated: