MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 28, 1982

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

S.J. Res 58 now has 53 co-sponsors (39 Republicans and 14 Democrats). The principal sponsors are Thurmond and Hatch.

H.J. Res 350, as of Wednesday, April 28, has 201 co-sponsors (147 Republicans and 54 Democrats). The principal sponsors are Conable (R-NY) and Jenkins (D-GA).

S.J. Res 58 and H.J. Res 350 are identical.

To pass, 2/3 of those present in the Senate and House must vote "aye."

32 states have endorsed a call for a Constitutional Convention. 34 are required for a Convention. 38 states required to ratify under this approach, which is the same ratification process required under the legislative approach.

Since 1960, there has been only one balanced budget.

What S.J. Res 58 and H. J. Res 350 do:

SECTION 1: Prior to the beginning of each fiscal year, Congress must adopt a statement of income (receipts or taxes) and expenses (outlays) for the upcoming fiscal year which provides that income cannot exceed expenses. The Congress and the President are charged with ensuring this is adhered to. If the Congress wants to amend this during the year, <u>both</u> the Senate and House must concur and 3/5 of the <u>whole</u> number must support such a waiver. 261 hard votes in the House and 61 hard votes in the Senate.

SECTION 2: Provides that taxes cannot increase any faster than national income. In other words, the budget can't be balanced simply by raising taxes disproportionately. This can be amended by Congress if a simple majority of the whole number of both the Senate and House (218 Hard votes in the House and 51 hard votes in the Senate).

SECTION 3: Provides that Congress may waive the budget balancing provisions for any fiscal year in which a declaration of war is in effect.

SECTION 4: Provides that Congress may not require that the states engage in additional activities without compensation equal to the additional costs. In other words, the states are protected from the Feds shifting expensive programs to them without providing financing to support such programs.

SECTION 5: Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

SECTION 6: This article shall take effect for the second fiscal year beginning after its ratification.

On May 19, 1981, the Senate Judiciary Committee reported S.J. Res. 58 favorably 11-5. It is now ready for Senate Floor debate.

In the House, Chairman Rodino of the House Judiciary Committee, is purposely delaying committee action.

4/29 → JC - NS

Document No. 064978

WHITE HOUSE STAFFING MEMORANDUM

DATE: 4/29/82 ACTION/CONCURRENCE/COMMENT DUE BY: ------

SUBJECT: BALANCED BUDGET CONSTITUTIONAL AMENDMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	GERGEN	☐	✓
MEESE	☐	✓	HARPER	☐	✓
BAKER	☐	✓	JAMES	☐	☐
DEAVER	☐	✓	JENKINS	☐	☐
STOCKMAN	☐	✓	MURPHY	☐	☐
CLARK	☐	☐	ROLLINS	☐	✓
DARMAN	☐P	☐SS	WILLIAMSON	☐	✓
DOLE	☐	☐	WEIDENBAUM	☐	☐
DUBERSTEIN	☐	☐	BRADY/SPEAKES	☐	✓
FIELDING	☐	✓	ROGERS	☐	☐
FULLER	☐	✓	______	☐	☐

Remarks:

Richard G. Darman
Assistant to the President
(x2702)

Response:

THE WHITE HOUSE
WASHINGTON

4/29/82

TO: Dick Darman

FROM: Ken Duberstein

As we discussed, you may want to circulate this background fact sheet/ status report on the Balanced Budget Constitutional Amendment to our legislative strategy group (expanded).

CONSTITUTIONAL BALANCED BUDGET

TAX LIMITATION AMENDMENT

Cabinet Council on Economic Affairs

March 12, 1982

I. Background and Current Status

A. Background

There are two principal objectives behind the "balanced budget" amendment efforts:

- o A widespread concern about the rate of growth of Federal spending.

  - In 1980, Federal spending represented 22.6 percent of the GNP compared with 17.9 percent in 1965.

  - Between 1965 and 1980, Federal spending grew by 70 percent in real terms, far outstripping the growth in population or output.

- o A similar concern about persistent budget deficits.

  - In the 21 years since 1961, the Federal budget has been in deficit in all but one year. And this is not the result of lagging revenues.

  - In 1980, Americans paid 11.9 percent of total personal income in Federal taxes, up from 10.0 percent in 1965.

B. Current Status: Call for Constitutional Convention

- o On January 18, 1982, Alaska became the 31st State to pass a resolution calling for a Constitutional convention to draft an amendment requiring a balanced budget.

  Article V of the Constitution requires passage by 34 States before a convention must be called. Votes in Kentucky and Washington are expected soon.

- Since some of the resolutions counted among the 31 may be invalid due to a lack of similarity in words, approval by three more States might not legally require calling a convention. But, should three more States pass resolutions, it would generate significant political pressure to call a convention.

- More likely, Congress will act before the 34-State limit is reached.

C. Current Status: S.J. Res. 58 and H.J. Res. 350

- There is a resurgence of interest in the Congress in support of a tax limitation-balanced budget amendment, S.J. Res. 58 and H.J. Res. 350.

  - Reportedly, the amendment has picked up about 40 co-sponsors since Christmas, bringing the total to 173 co-sponsors in the House and 67 in the Senate.

  - The bill has been reported out of committee in the Senate, but is not yet scheduled for floor debate. The House is unlikely to act until the Senate has voted.

- Since the amendment would not go into effect until the second fiscal year beginning after its ratification, it is unlikely that it would take effect until 1986.

- There is reportedly some discussion among Senate proponents of attaching the amendment to the debt ceiling bill this spring. They argue that this would allow them to demonstrate their concern over the need for a balanced budget at the time they are voting for increasing the debt limit.

II. Provisions of S.J. Res. 58

A. Principal Features

- o In advance of each fiscal year, Congress would adopt a budget statement under which outlays would not exceed receipts.

- o The annual increase in planned or budgeted receipts would be limited to the rate of growth in national income in the preceeding calendar year.

- o As the year progressed, actual receipts would not necessraily equal budgeted receipts; but actual outlays could not exceed budgeted outlays. If implemented, this would limit the growth in Federal spending to the growth in national income.

B. Exceptions

- o In any year, projected outlays could exceed receipts (Congress could plan a deficit) on the vote of three-fifths of the whole membership in each House.)

- o The increase in planned tax receipts could exceed the rate of growth of national income by a vote of a majority of the whole membership in each House, and approval by the President.

- o The provisions of the article would be waived for any fiscal year in which a declaration of war is in effect.

III. Problems and Objections

The objective of the various balanced budget or spending limitation amendments to the Constitution drafted over the years is designed to counter what proponents see as incentives built into our system for ever-increasing government spending and deficits. The potential benefits of such an amendment are to:

- Increase fiscal responsibility; and
- Limit government spending in relation to the size of the economy, or restrain its growth.

The following sections of this paper consider the objections or concerns that might be raised with respect to such an amendment, both philosophical and practical, and some possible remedies.

A. Generic Concerns

1) Some are concerned that the Constitution is not an appropriate vehicle for economic policy prescriptions (balanced budgets) nor should it be cluttered with potentially inflexible fiscal mechanisms that may not be appropriate to unforseeable future circumstances.

2) An inflexible annual balanced budget policy rule may not be compatible with the business cycle "facts of life" which tend to produce automatic, large deficits during recessions. During FY 82, the projected deficit increased by $40 billion due to the recession-induced fall of receipts and rise of unemployment-related outlays. As written, S.J. Res. 58 requires a super majority (60 percent) to agree in advance to a deficit -- yet consensus opinion for several decades has held that recession-induced deficits are either desirable or at least tolerable.

Since business cycle contractions and expansions are inherent in a free economy, the proposed policy rule would create artificial policy choices and political conflicts on a recurring basis, i.e, whether in the face of a contracting economy to:

- o Raise taxes;
- o Radically reduce spending until recovery raises receipts; or
- o Achieve super-majorities to validate recession deficits

3) A balanced budget requirement would exacerbate pressure for indirect fiscal spending and other novel budget devices outside the scope of any settled definition of "outlays". While S.J. Res. 58 covers conventional off-budget outlays such as those incurred by the FFB, it would not cover:

- o Loan guarantees ($87.7 billion in FY 82);
- o Schemes to mandate fiscal outlays by private sector entities such as:
  - o Mandatory employer-provided health insurance
  - o Mandatory employer-provided pension benefits in lieu of Social Security expenditures
  - o Tax subsidy induced outlays to the extent that leveraging features exceed revenue loss

4) As a general matter, the annual outlay limitation needed to enforce a balanced budget rule would not be technically enforceable under the ordinary range of experience. Under a $700 billion annual outlay limitation, outlay overruns of the following magnitudes would not be technically realized until the final days of the fiscal year.

Overrun Magnitude (Billions)	Days Before October 1
$50	24
$40	19
$30	15
$20	10
$10	5

- Under most circumstances, verification of a realized overrun would not occur until the monthly Treasury cash statement was issued 20 days after the close of the fiscal year. Under almost all circumstances, no remedial action could be taken to reduce outlays in the last month.

- Enforcement of the ceiling within the fiscal year, therefore, would require either:

    - Elaborate accounting rules to monitor annualized spending rates and trigger enforcement early;

    - A de facto policy of non-enforcement which could generate political cynicism; or

    - Judicial intervention to force the creation of within-year compliance machinery.

On the margin, monthly cash flow prediction and management is nearly impossible due to dozens of volatile outlay accounts such as:

- -- Commodity Credit Corporation
- -- Insurance funds like FSLIC
- -- Banking operations like Farmers Home Administration
- -- Grant payments mechanisms like the Departmental Federal Assistance Financing System

5) Due to the difference in lag-time between policy action and cash impact, an annual balanced budget rule by itself is, as the framers of S.J. Res. 58 realized, inherently biased toward higher taxes rather than lower spending because:

- o Cash flow changes owing to tax policy can be enacted, implemented and realized in three months (e.g., 5 percent income tax surcharge);
- o In most cases, cash flow changes owing to spending policy require three months to three years to enact, implement and realize -- or even longer.

o The inherent dynamics of Congress would delay action on the balanced budget rule until close to the applicable fiscal year -- thus steadily strengthening the case for a tax increase rather than spending cut solutions to the rule.

B. Concerns Specific to S.J. Res. 58

6) S. J. Res. 58 seeks to overcome this inherent bias by merging a balanced budget rule with a tax limitation rule. However, the specific tax limitation rule (no automatic increase in taxes in excess of the previous year's growth in national income) would have a limiting effect only in the case of an un-indexed tax system. This is shown by comparing the applicable revenue increase/national income relationships for the late 1970's and prospectively for the 1980's when indexing takes effect:

	(percent change)[1]					
Old Tax Law	FY 76	FY 77	FY 78	FY 79	FY 80	Average Annual Growth Rate
Actual receipts.................	6.8	15.2	12.4	16.0	11.6	12.5
Base year GNP[2].................	8.1	8.0	10.9	11.6	12.4	10.2
Current Tax Law - ERTA	FY 83	FY 84	FY 85	FY 86	FY 87	Average Annual Growth Rate
Projected current law receipts..	4.3	7.7	10.0	8.4	7.5	7.6
Projected base year GNP[2].......	11.5	7.9	11.5	10.2	9.7	10.2

[1] Annual rate of growth.

[2] The base year GNP growth rate under S. J. Res 58 is the growth in GNP during the preceding calendar year. For fiscal year 1983, for example, the receipt growth would be limited to the rate of growth in GNP (or some other measure of national income) during calendar year 1981.

The tax limitation rule proposed in S.J. Res. 58 is thus very limited: it amounts to shifting indexing from the IRS code to the Constitution.

7) The tax limitation and balanced budget rules in S.J. Res 58 are seriously asymmetrical:

   o Deficit creation or increases require a super-majority (60 percent)

   o Tax raising requires only an ordinary majority of the full body

   Consequently, a 41 percent minority for tax raising will have Constitutionally granted parliamentary superiority over a 59 percent majority favoring combination of spending cuts and/or deficits.

8) Given the current uncontrollability of spending for many income support programs, S.J. Res. 58 could have, but would not necessarily have, a bias against defense. By FY 86, defense outlays will account for $311 billion of projected total controllable outlays of $442 billion (excluding undistributed offsetting receipts) or 70 percent. If entitlements were not cut, the 47 percent share of controllable outlays would be the first target if outlay reductions were required to achieve the balanced budget rule or enforce the outlay ceiling within the single fiscal year time frame called for by the amendment.

9) Differences in the budget and economic outlook between the initial submission of the President's budget and the actual fiscal year results have been substantial in recent years. To offset outlay increases attributable to economic factors once the budget year has started requires draconian program cuts. This is illustrated in Appendix A.

IV. Remedial Suggestions

1) Escape clause language for within fiscal year outlay overruns attributable to economic factors (e.g. higher interest rates or recession). The following language would permit an ordinary majority to increase the outlay ceiling (create or add to the deficit) in such cases:

> "Provided that, such excess of outlays over receipts may be increased by a majority vote of the whole number of both Houses of Congress, directed solely to that subject, at any time during the Fiscal Year to which the statement of receipts and outlays is applicable, to the extent that Congress determines that such excess is attributable to actual or expected economic conditions that differ from those on which such statement was previously based."

2) Require a super-majority (60 percent) for tax increases above the national income growth rate. This eliminates the asymmetry and provides a permanent Constitutional hurdle to raising the tax claim on GNP above the rate extant at its effective date. However, it may also raise the probabilities of governmental break-down over fiscal policy. (i.e., deadlocked 41 percent minorities).

3) Line item veto power to enhance outlay ceiling enforcement.

4) Develop a package of statutory implementation tools to mitigate technical and structural flaws of S.J. Res. 58. This might include:

   - Presidential COLA suspension powers modelled after pay plan two-House veto;
   - Enhanced recession powers (two-House veto);
   - Independent Budget Concepts Commission to ensure that Amendment not circumvented (non-binding moral force opinions);
   - Contingency stabilization fund to cover unavoidable deficits;
   - Changes in civil service procedures and costs for reducing the Federal workforce.

Appendix A

Changes in economic conditions after the original budget submission can affect outlays for interest, unemployment insurance, and other programs dramatically beyond the point where compensating outlay reductions can be easily identified.

Increase in Outlays From the Initial Budget
Submission Due to Changed Economic Factors
(In Billions of Dollars)

FY 80 (actual)	27.1
FY 81 (actual)	32.3
FY 82 (estimated)	25.9

- After even one quarter of the fiscal year has elapsed, the following annual rates of program reduction are needed (on average) to achieve a $10 billion reduction in current year outlays from controllable programs.

	Outlay Cut (B.A.)	Program Cut (B.A.)	Ratio
Defense	$10	$33	3.3:1
Defense (excluding military pay)	$10	$40	4.0:1
Non-defense	$10	$30	3.0:1

o The table below illustrates that as the year progresses, increasingly more drastic program cuts are needed to achieve fixed outlay reductions.

Illustrative
$10 Billion Reduction in
Discretionary Programs 1/
(In Billions of Dollars)

	Beginning of Year	1/4 of Year Gone	1/2 of Year Gone	Total Outlays
National Defense				
Controllable outlays 2/..........	117.4	88.0	58.7	182.8
Percent of controllable outlays affected by $10 billion cut......	8.5%	11.4%	17.0%	N.A.
Budget Authority deferred or rescinded associated with $10 billion outlay cuts..........	17.4	28.9	52.0	N.A.
Civilian Programs				
Controllable outlays 2/...........	71.5	53.6	35.7	542.5
Percent of controllable outlays affected by $10 billion cut.......	14.0%	18.7%	28.0%	N.A.
Budget authority deferred or rescinded associated with $10 billion outlay cut...........	14.1	24.1	43.4	N.A.

10) In the real world, there is probably no way to rationally enforce an S.J. Res. 58 type outlay limit if actual fiscal year outlays exceed planned ceiling outlays to any appreciable

extent. For instance, if the $695 billion outlay ceiling voted for FY 82 is taken as a test case, the January re-estimate of $729.3 billion would present the following choices and options:

Outlay Reductions Necessary	1982
Estimated FY 82 outlays..	729.0
Resolution outlay ceiling for FY 82..	695.0
Outlay reduction necessary..	34.3
To achieve necessary outlay reductions:	
Start from estimated FY 82 outlays, 2nd-4th quarter..........................	535.1
Exclude from candidate list of possible outlay reductions:	
a) Debt service requirements..	62.5
b) Outlays from prior year obligations....................................	90.2
c) UI compensation..	21.2
d) CCC -- dollars already out the door....................................	5.1
e) IRS on the grounds that massive RIFs would cause a revenue hemorrage...... f) Veterans hospital funding on the basis of the impact of cutting in such a personnel-intensive operation....................................... g) Payments for Federal prisons... h) FAA air traffic control (again a personnel intensive operation)..........	8.0
Subtotal, items that must be excluded from candidate list of possible outlay reductions...	187.0
Remaining "available" outlays for reduction................................	348.1

Policy Iterations to Achieve reductions (48% of estimated total FY 82 spending):

	1982
a) Cancel general revenue payments beginning the 2nd quarter	3.4
b) Freeze all benefit indexes for the remainder of the year	5.1
c) Medicare -- limit the annualized level to three fourths of the increase from 1981 to estimated 1982	1.8
d) Medicaid -- limit the annualized level to three-fourths of the increase from 1981 to estimated 1982	0.2
Subtotal	10.5
Remaining reductions needed	23.8
Remaining "available" outlays for reduction (gross of offsetting receipts)	156.8
Defense	-92.4
Nondefense	-64.4
Pro-rated 15.2% reduction in remaining outlays:	
Defense	14.0
Nondefense	9.9

Illustrative Impacts:

- Revenue sharing accounts for 43 percent of total revenue in Arkansas;
- Disruption of hospital cash flow (Medicare) could cause massive shut-downs;
- Dollar defense program cuts (TOA) of $46 billion would be needed resulting in grounding of ships, planes, and most other operations;
- Approximately 200,000 or about 18 percent of the Federal non-defense workforce would be furloughed;
- Most defense and civilian procurement and capital spending projects (highways, water projects, etc) would be suspended or drastically reduced;

To JAB memo R.F.

JAB: suggest you might want to just glance at this. Jim

THE WHITE HOUSE

WASHINGTON

March 12, 1982

MEMORANDUM FOR JAMES A. BAKER III

FROM: ROGER B. PORTER RBP

SUBJECT: Constitutional Balanced Budget-Tax Limitation Amendment

Late last night OMB completed revisions in the paper reviewed by our balanced budget amendment working group (Treasury, Justice, CEA, OMB, OPD) for today's Cabinet Council on Economic Affairs meeting.

The paper begins by giving the current status of the call for a constitutional convention and of S.J. Res. 58, then briefly outlines the principal features and exceptions embodied in S.J. Res. 58 as it is now written, then considers the objections or concerns that might be raised with respect to such an amendment, and finally outlines some possible remedies to these objections.

The paper has not been distributed in advance to Council members, in large part because of its sensitivity, but will be handed out at the 10:00 meeting this morning.

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1/Annual rate of growth.

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The tax limitation rule proposed in S.J. Res. 58 is thus very limited: it amounts to shifting indexing from the IRS code to the Constitution.

7) The tax limitation and balanced budget rules in S.J. Res 58 are <u>seriously asymmetrical</u>:

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- o Tax raising requires only an <u>ordinary majority</u> of the full body

Consequently, a <u>41 percent minority</u> for tax raising will have Constitutionally granted parliamentary superiority over a <u>59 percent majority</u> favoring combination of spending cuts and/or deficits.

8) Given the current uncontrollability of spending for many income support programs, S.J. Res. 58 could have, but would not necessarily have, a bias against defense. By FY 86, defense outlays will account for <u>$311 billion</u> of projected total <u>controllable</u> outlays of <u>$442 billion</u> (excluding undistributed offsetting receipts) <u>or 70 percent</u>. If entitlements were not cut, the 47 percent share of controllable outlays would be the first target if outlay reductions were required to achieve the balanced budget rule or enforce the outlay ceiling within the single fiscal year time frame called for by the amendment.

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1) Escape clause language for within fiscal year outlay overruns attributable to economic factors (e.g. higher interest rates or recession). The following language would permit an ordinary majority to increase the outlay ceiling (create or add to the deficit) in such cases:

> "Provided that, such excess of outlays over receipts may be increased by a majority vote of the whole number of both Houses of Congress, directed solely to that subject, at any time during the Fiscal Year to which the statement of receipts and outlays is applicable, to the extent that Congress determines that such excess is attributable to actual or expected economic conditions that differ from those on which such statement was previously based."

2) Require a super-majority (60 percent) for tax increases above the national income growth rate. This eliminates the asymmetry and provides a permanent Constitutional hurdle to raising the tax claim on GNP above the rate extant at its effective date. However, it may also raise the probabilities of governmental break-down over fiscal policy. (i.e., deadlocked 41 percent minorities).

3) Line item veto power to enhance outlay ceiling enforcement.

4) Develop a package of statutory implementation tools to mitigate technical and structural flaws of S.J. Res. 58. This might include:

   - Presidential COLA suspension powers modelled after pay plan two-House veto;
   - Enhanced recession powers (two-House veto);
   - Independent Budget Concepts Commission to ensure that Amendment not circumvented (non-binding moral force opinions);
   - Contingency stabilization fund to cover unavoidable deficits;
   - Changes in civil service procedures and costs for reducing the Federal workforce.

Appendix A

Changes in economic conditions after the original budget submission can affect outlays for interest, unemployment insurance, and other programs dramatically beyond the point where compensating outlay reductions can be easily identified.

Increase in Outlays From the Initial Budget
Submission Due to Changed Economic Factors
(In Billions of Dollars)

FY 80 (actual)..	27.1
FY 81 (actual)..	32.3
FY 82 (estimated)....................................	25.9

o After even one quarter of the fiscal year has elapsed, the following annual rates of program reduction are needed (on average) to achieve a $10 billion reduction in current year outlays from controllable programs.

	Outlay Cut (B.A.)	Program Cut (B.A.)	Ratio
Defense...........................	$10	$33	3.3:1
Defense (excluding military pay)...	$10	$40	4.0:1
Non-defense.......................	$10	$30	3.0:1

o The table below illustrates that as the year progresses, increasingly more drastic program cuts are needed to achieve fixed outlay reductions.

Illustrative
$10 Billion Reduction in
Discretionary Programs 1/
(In Billions of Dollars)

	Beginning of Year	1/4 of Year Gone	1/2 of Year Gone	Total Outlays
National Defense				
Controllable outlays 2/..........	117.4	88.0	58.7	182.8
Percent of controllable outlays affected by $10 billion cut......	8.5%	11.4%	17.0%	N.A.
Budget Authority deferred or rescinded associated with $10 billion outlay cuts..........	17.4	28.9	52.0	N.A.
Civilian Programs				
Controllable outlays 2/...........	71.5	53.6	35.7	542.5
Percent of controllable outlays affected by $10 billion cut.......	14.0%	18.7%	28.0%	N.A.
Budget authority deferred or rescinded associated with $10 billion outlay cut...........	14.1	24.1	43.4	N.A.

10) In the real world, there is probably no way to rationally enforce an S.J. Res. 58 type outlay limit if actual fiscal year outlays exceed planned ceiling outlays to any appreciable

extent. For instance, if the $695 billion outlay ceiling voted for FY 82 is taken as a test case, the January re-estimate of $729.3 billion would present the following choices and options:

Outlay Reductions Necessary	1982
Estimated FY 82 outlays	729.0
Resolution outlay ceiling for FY 82	695.0
Outlay reduction necessary	34.3
To achieve necessary outlay reductions:	
Start from estimated FY 82 outlays, 2nd-4th quarter	535.1
Exclude from candidate list of possible outlay reductions:	
a) Debt service requirements	62.5
b) Outlays from prior year obligations	90.2
c) UI compensation	21.2
d) CCC -- dollars already out the door	5.1
e) IRS on the grounds that massive RIFs would cause a revenue hemorrage f) Veterans hospital funding on the basis of the impact of cutting in such a personnel-intensive operation g) Payments for Federal prisons h) FAA air traffic control (again a personnel intensive operation)	8.0
Subtotal, items that must be excluded from candidate list of possible outlay reductions	187.0
Remaining "available" outlays for reduction	348.1

<u>Policy Iterations to Achieve reductions</u> (48% of estimated total FY 82 spending):

	1982
a) Cancel general revenue payments beginning the 2nd quarter................	3.4
b) Freeze all benefit indexes for the remainder of the year.................	5.1
c) Medicare -- limit the annualized level to three fourths of the increase from 1981 to estimated 1982..	1.8
d) Medicaid -- limit the annualized level to three-fourths of the increase from 1981 to estimated 1982..	0.2
Subtotal..	10.5
Remaining reductions needed...	23.8
Remaining "available" outlays for reduction (gross of offsetting receipts)	156.8
Defense...	-92.4
Nondefense..	-64.4
Pro-rated 15.2% reduction in remaining outlays:	
Defense...	14.0
Nondefense..	9.9

<u>Illustrative Impacts</u>:

- o Revenue sharing accounts for <u>43 percent</u> of total revenue in Arkansas;
- o Disruption of hospital cash flow (Medicare) could cause massive shut-downs;
- o Dollar defense program cuts (TOA) of $46 billion would be needed resulting in grounding of ships, planes, and most other operations;
- o Approximately 200,000 or about 18 percent of the Federal non-defense workforce would be furloughed;
- o Most defense and civilian procurement and capital spending projects (highways, water projects, etc) would be suspended or drastically reduced;

THE WHITE HOUSE

WASHINGTON

March 8, 1982

MEMORANDUM TO JAMES A. BAKER III
MICHAEL K. DEAVER
EDWIN MEESE III

FROM: RICHARD S. WILLIAMSON

SUBJECT: BALANCED BUDGET AMENDMENT

Attached is a memorandum which sets forth the status of the call for a constitutional convention to develop an amendment requiring a balanced budget. It outlines the status within the state legislatures as well as the congressional status.

In light of various discussions on this topic, I thought you would find the enclosed information useful.

Attachment

cc: Edwin L. Harper
Roger B. Porter
Richard G. Darman
Craig L. Fuller
David R. Gergen
Ed Rollins
Kenneth M. Duberstein

THE WHITE HOUSE

WASHINGTON

March 3, 1982

F Y I

MEMORANDUM FOR RICHARD S. WILLIAMSON

FROM: JUDY F. PEACHEE Judy

SUBJECT: STATUS OF CALL FOR A CONSTITUTIONAL CONVENTION TO DEVELOP AN AMENDMENT REQUIRING A BALANCED BUDGET.

BACKGROUND:

31 States have passed resolutions (34 are needed) which direct Congress to establish a constitutional convention to draft an amendment requiring the federal budget to be balanced (list attached).

Congressional status: Congress has never passed legislation setting up the implementation procedures for calling a constitutional convention pursuant to Article V, although Senator Ervin had proposed legislation addressing this subject which was passed twice by the Senate. Senator Helms and Rep. Hyde introduced versions of this legislation in the 96th Congress. Since it is Congress that must call a convention pursuant to Article V upon receipt of applications from two-thirds of the legislature, Congress will have to determine the method of convention delegate selection.

The legislation to implement procedures is now at this point:

1. In the Senate, there are two bills: S.R. 600 (introduced by Helms) and S.R. 817 (Hatch and DeConcini). S.R. 600 has gone nowhere. S.R. 817 has been reported out of the Subcommittee on the Constitution, and has been debated by the full Judiciary Committee. No further action is scheduled at this time.

2. In the House there is H.R. 600 (Hyde). It is in the Subcommittee on Civil and Constitutional Rights, but no action has been taken.

<u>The Constitutional Amendment</u> (Summation of attached <u>Wall Street Journal</u> article): Section I is supported by the National Taxpayers' Union. It wouldn't actually require a balanced budget. It requires Congress to adopt a "statement" of planned outlays and receipts prior to the beginning of each fiscal year. A planned deficit would require a three-fifths vote of each house. But an unplanned deficit would be possible in weakening economy.

Section 2 is the spending limitation section pushed by the National Tax Limitation Committee. It requires that government revenues not increase greater than the growth of the GNP.

NTU and NTLC don't care for each other very much, but they have agreed to a shotgun marriage for the amendment.

So far, 31 states have applied for a convention, and NTU predicts that the last three states will be signed on by mid-April.

The mood in Congress seems to be that this is a chance to vote against deficits in an election year.

<u>Status of states with resolutions pending</u>:

<u>Washington</u>:

Senate	Resolution is in Ways and Means Committee. Not moving. Senate is waiting for House to act.
House	Vote should come this week on H.J.R. 1. They are 4 to 5 votes short of passage but there is possibility of picking up votes needed.

<u>Missouri</u>:

Senate	S.C.R. 14 is before the Rules Committee which meets Wednesday to decide on reporting out. (Committee has 2 Reublicans and 5 Democrats.)

Kentucky:

Senate	Holding hearings. Senate committee chairman supports. Should go to floor in a week or two.
House	Third day in Rules Committee. Come to vote next week. H.C.R. 2.

Illinois:

Senate	No resolution introduced at this time.
House	H.J.R. CA 3. Executive Committee, House. No committee hearing held at this time.

Connecticut:

Senate	No resolution.
House	No resolution.

Maine:

Senate	No resolution.
House	No resolution. (There are 22 days before filing deadline.)

Massachusetts:

Senate	HB. 3465 (resolution). No hearings scheduled. Committee must report every bill with favorable or unfavorable report.

New Jersey:

Senate	S.R. 4 which also provides for line item veto. Does not appear to have committee support.
House	No resolution.

<u>Rhode Island</u>: No resolution.

<u>Vermont</u>: No resolution.

<u>West Virginia</u>:

Senate	No resolution.
House	H.C.R. 5 in Rules Committee but not on calendar.

<u>Michigan</u>:

Senate	S.J.R. N in Senate Committee on Administration and Rules. No action at this time.
House	No resolution.

<u>Ohio</u>:

Senate	S.J.R. 1. Introduced January 7, 1981. Passed Senate February 10, 1981.
House	S.J.R. 1. Is in House Economic Affairs and Federal Relations.

<u>Minnesota:</u>

Senate	No resolution.
House	No resolution. (Still have two weeks in session with no deadline for filing.)

States which we have not heard back from:

Hawaii
Montana
New York
Wisconsin

Attachments:
1. List of states that passed resolution.
2. Copy of <u>Wall Street Journal</u> article for Friday, February 26, 1982.

Attachment 1

STATES THAT HAVE PASSED RESOLUTIONS

Alabama
Alaska
Arizona
Arkansas
Colorado
Delaware
Florida
Georgia
Idaho
Indiana
Iowa
Kansas
Louisiana
Maryland
Mississippi
Nebraska
Nevada
New Hampshire
New Mexico
North Carolina
North Dakota
Oklahoma
Oregon
Pennsylvania
South Carolina
South Dakota
Tennessee
Texas
Utah
Virginia
Wyoming

Constitutional Ploy

Congress Pushes a Balanced-Budget Amendment With Spending Limits, to Beat States to the Punch

By JAMES M. PERRY
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—Congress is bracing itself to pass a constitutional amendment this year establishing, as a future fiscal norm, a balanced budget and a curb on spending growth.

"It's got a full head of steam behind it," says Rep. Barber Conable of New York, the ranking Republican on the Ways and Means Committee and the amendment's lead sponsor in the House.

Pushing the Congress into action are the huge deficits proposed by President Reagan and the specter of the states, on their own initiative, calling the nation's second constitutional convention.

So far, 31 states have applied for a constitutional convention to take up a balanced-budget amendment. That is three short of the number required. George Snyder, the president of the National Taxpayers Union, predicts that the last three states will be signed on by mid-April.

But Congress may beat the states to the wire.

Two Tactical Advantages

The amendment has "two things going for it," Mr. Conable says. "First, the members of Congress are terribly upset by the size of the budget deficit, and this gives them a chance to show they oppose big deficits. Second, many of us are quite nervous about the idea of a constitutional convention. It could turn into a circus for the single-interest people."

There are two ways to amend the Constitution: by a convention—used only once, to write the original document, in 1787—and by a vote of two-thirds of both houses of Congress and ratification by three-quarters of the states.

The amendment was passed, 11 to 5, last May by the Senate Judiciary Committee. It probably will come before the full Senate in April. The most recent count shows 51 Senate sponsors, nine short of the number needed for passage.

Sen. Edward Kennedy sums up the case against the amendment when he calls it an "unprecedented and unwise" way "to deal with these complex economic problems." The Massachusetts Democrat argues that such an amendment "might well impose a straitjacket on the economy that would prevent a future Congress or administration from responding appropriately and rapidly to an unforeseen domestic or foreign emergency."

But, faced with a projected deficit of at least $91.5 billion in fiscal 1983, members of Congress are looking for ways to demonstrate in an election year their opposition to red ink. "This is a perfect vehicle to register that distaste" says one Senate staffer—even though the amendment wouldn't take effect until at least fiscal 1986.

Hardly anyone doubts that the amendment will carry the Republican-controlled Senate.

Its proponents concede that the battle will be joined in the Democratic-controlled House. There, the amendment is locked firmly in the Judiciary Committee, whose chairman, Rep. Peter Rodino of New Jersey, opposes it.

The trouble, Rep. Conable says, "is that five-sixths of the Republicans and one-third of the Democrats are conservatives, but the chairmen of most of the committees in the House are liberals. And they are out of phase with the rest of the Congress and the country." (President Reagan is on record in favor of an amendment, but his administration hasn't actively pushed for it.)

To the proponents, the future looks something like this:

In the next week or two, the state of Washington becomes the 32nd state to join the call for a constitutional convention. Missouri moves to become the 33rd. Then, says the National Taxpayers Union's Mr. Snyder, "States start jockeying to see who will put it over the top." A possibility: Kentucky.

The Senate, increasingly fidgety, calls up the amendment and passes it—tossing the ball to the House.

"We may have to blast it loose from the House Judiciary Committee," says William Shaker, executive vice president of the National Tax Limitation Committee. Rep. Conable expects proponents to circulate a petition to discharge the amendment from the Judiciary Committee. To succeed, that would require 218 signatures. At last count, the amendment was sponsored by 155 House members.

Search for Sponsors

"It isn't as hard as it looks," Mr. Conable says. "We haven't even come out and tried to sign up sponsors. We'll start doing that now."

It takes 218 votes to get an amendment to the House floor. It takes 290 votes to win passage.

The National Tax Limitation Committee's Mr. Shaker says his group "will drop 50,000 pieces of mail" to influential constituents of Congressmen who might be wavering in support of the amendment. Enough members will vote for it, Mr. Shaker predicts, "Because it's the only chance they'll have before the election to say, 'Hey, I'm for fiscal responsibility.'"

And, if the amendment is passed by both houses, it goes to the states for ratification. That would require the approval of 37 states, just three more than the number of states that called for a convention in the first place.

And, if all that happened, what would the amendment do?

First of all, it wouldn't take effect until at least the fiscal year beginning Oct. 1, 1985.

And it wouldn't actually require a balanced budget.

Two Sections

Section 1 is the balanced-budget section, the one supported for so long by the National Taxpayers Union. Section 2 is the spending-limitation section, pushed for so many years by the National Tax Limitation Committee. The two groups don't care for each other very much, but they have reluctantly agreed to what is essentially a shotgun marriage, for which the parson was Sen. Orrin Hatch of Utah, the chairman of the Judiciary Committee's subcommittee on the Constitution.

Section 1 requires Congress to adopt a "statement" of planned outlays and receipts prior to the beginning of each fiscal year. The statement would have to say that the outlays don't exceed planned receipts. Members would be required to vote on it. A planned deficit would require a three-fifths vote of the membership of each house, and the size of the planned deficit would have to be stated.

But an unplanned deficit would be possible. "An unexpectedly weaker economy typically will generate actual receipts" below the level fixed in the statement, the Senate Judiciary Committee's report notes. That would be tolerated. On the other hand, given a robust economy, receipts could go over the top set by the statement. The extra money would be used to retire the national debt or, possibly, for tax relief.

The amendment presumes, in the words of the committee report, that "the Congress is expected to act reasonably" in carrying out its duties under the amendment.

But supporters worry that Congress might jiggle the figures or impose increased costs on the private sector through rules and regulations or mandate additional responsibilities to state and local governments.

Mr. Snyder of the Taxpayers Union concedes that the amendment isn't as tough as he would like. But he says the final arbiter will be the voters. "The people out there won't tolerate it," he says, if the Congress acts unreasonably.

Curb on Receipts

Section 2 says the federal government's receipts shall not increase by a rate greater than the rate of national income in the calendar year preceding the fiscal year in question. Say, for example, the rate of national income, presumably the gross national product, grew 5% in 1984. That would prohibit the government from planning to take in more than 5% in additional receipts in fiscal 1986, beginning in October 1985—even if inflation was running much higher. Congress could permit a more rapid growth in receipts only upon a recorded vote of a majority of the membership of both houses.

Section 2 is aimed at curbing the annual, automatic increase in tax receipts that result from "tax bracket creep."

Sponsors of the amendment sum it up this way:

"Actual outlays cannot exceed statement outlays, which cannot exceed statement receipts, which cannot grow faster than the economy."

The members may not understand all this in precise detail, but, in an election year, they get the drift.