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Balanced budget measure 3 votes shy in the Senate

*Republicans focus
on reassuring Nunn*

By Karen Hosler

Washington Bureau of The Sun

WASHINGTON — The centerpiece of the Republican reform agenda in Congress — a balanced budget amendment to the Constitution — heads for a showdown in the Senate today three votes short of the 67 needed for approval.

Republican leaders scrambled last night to address the concerns of Sen. Sam Nunn, a Georgia Democrat, and two other senators who hold the decisive votes on the constitutional amendment. But they remained unwilling to go so far as to change the amendment as Mr. Nunn wants.

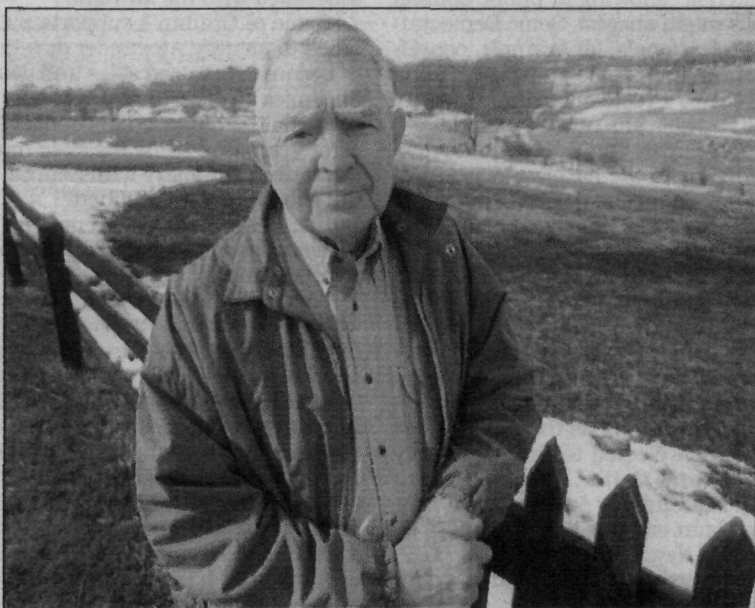
"If I have my way, people are going to have to stand up and vote" on the amendment as it is, said Utah Republican Orrin G. Hatch.

If the tally falls short today, Mr. Hatch predicted, blame would fall on the Democrats, whose votes are needed to make up the two-thirds majority necessary to pass a constitutional amendment before it can be sent on to the states for ratification.

Five Democrats are listed unofficially as uncommitted, but Mr. Hatch described Mr. Nunn's vote as critical to winning the three votes needed.

But Mr. Nunn, whose objections have been echoed by two colleagues previously expected to support the amendment, sounded just as determined to hold his ground. He said that he was willing to consider a Republican plan to address his fears about giving judges too much power over the budget process in a separate bill, but that he had "grave doubts" that he would find such a compromise acceptable.

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PATRICK SANDOR/SUN STAFF PHOTO

James Clark Jr., shown at his Ellicott City farm, retired from the state legislature in 1986 after serving 28 years.

Former Md. legislator among issue's 'pioneers'

Clark has sought measure for 20 years

By James M. Coram

Sun Staff Writer

There is a lightness in his step as former state Senate President James Clark Jr. walks about his Ellicott City farm these days.

The goal he has pursued for 20 years — passage of a federal balanced budget amendment — seems nearly within his grasp. "It's center stage, isn't it?" he says proudly.

Last month, the U.S. House of Representatives for the first time passed a bill calling for the amendment, and the measure goes to a

Senate vote today, and a close vote is expected.

Even if the measure fails today, it is considered to have a good chance of passing later. If the measure passes, it will have to be ratified by 38 of the 50 states to become law.

For two decades, Mr. Clark has been traveling around the country working to get states to do just that. He has succeeded with 32. Getting six others to go along "will be awful hard," he concedes. But with a few breaks, it could hap-

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Mr. Nunn said he feared that the amendment, as passed by the House, would allow the federal courts to step in and force Congress to raise taxes or cut spending if Congress fails to balance the budget or cannot produce the three-fifths majority needed to run a deficit.

"These federal judges are great folks . . . but they're not elected," Mr. Nunn said at a news conference yesterday in Atlanta.

A Senate defeat today of the balanced budget amendment — which has already passed the House by an overwhelming margin — would be the first major setback for the House Republicans' "Contract with America," as well as for the broader mission of the new Republican-led Congress.

Congress 'centerpiece'

"This is sort of the centerpiece of what this Congress is all about," Senate Majority Leader Bob Dole, a Kansas Republican, said of the constitutional amendment, which would require the federal budget to be balanced by 2002 or within two years of ratification by 38 states.

Even if the amendment is approved by Congress, it is likely to face rough going in the state legislatures. State lawmakers already are watching with concern as the Republican House begins to hack away at federal programs that the states would have to pay for or do without.

President Clinton remained mostly out of the battle, until last weekend, when he attacked the proposed amendment on several occasions, warning that the Republicans' plan was to "make war on kids." But the president has offered little more than background noise to a high-pitched lobbying campaign that is focused on individual senators, particularly those Democrats facing re-election next year.

Five of the 47 Democrats are considered uncommitted. But until late last week, two of them, John B. Breaux of Louisiana and Byron Dorgan of North Dakota, were being counted as leaning in favor. After Mr. Nunn announced his concerns about the amendment Thursday night, Senators Breaux and Dorgan raised similar objections.

In fact, Mr. Dorgan surprised supporters of the amendment by declaring on the Senate floor last night that he would vote against the proposal if his concerns were not addressed. His



ASSOCIATED PRESS

Sen. Sam Nunn, D-Ga., voices opposition to amendment at a news conference in Atlanta.

comments were characterized by some senators as a standard last-minute bargaining tactic, but his new position threatened to cloud the amendment's prospects seriously.

Kent Conrad of North Dakota and Wendell H. Ford of Kentucky are being counted with the opponents of the amendment.

All four have joined with Mr. Nunn in trying to win a change in the amendment that would bar the federal courts from interfering with the budget process.

One out of 53

Of 53 Republican senators, the only opponent of the proposed amendment is Mark O. Hatfield of Oregon, chairman of the Senate Appropriations committee.

The Senate is scheduled to vote on Mr. Nunn's proposed change today before a formal tally on the amendment itself. But the Republican leadership is resisting any changes in the amendment because that would require it to be returned to the House for a second vote and slow its momentum before the states can vote on ratification.

Instead, Mr. Hatch sent Mr. Nunn written promises yesterday from Mr. Dole and House Speaker Newt Gingrich to address his concerns in separate legislation that would be taken up later this year. The Republican leaders also submitted to the Georgia senators a draft version of the proposed bill.

Mr. Nunn said he would consider the offer, "but lawyers and all the experts that I've talked to say that

N.J. jumps gun on budget bill

Associated Press

TRENTON, N.J. — New Jersey lawmakers were in such a rush to ratify a balanced budget amendment yesterday that they didn't wait for the U.S. Senate.

The state Assembly voted 54-11 in favor of the measure that the U.S. Senate was expected to take up today.

Last month, the House of Representatives approved the plan.

Law professors said New Jersey's vote was premature. The state Senate is expected to vote in favor on Thursday.

"I don't know how you can ratify something that has not yet been ratified by Congress," said Eric Neisser, a professor of constitutional law at Rutgers Law School in Newark.

"They may have, in their rush to be first, slowed themselves down. I think they're going to have to do it again."

you cannot pass the constitutional amendment and then come back with a simple law and take away any jurisdiction that has been conveyed, implicitly or otherwise, with the constitutional amendment.

"I understand there's some worry about submitting this back to the House," Mr. Nunn added. "But everybody I've talked to says that this amendment will strengthen the vote in the House rather than weaken the vote in the House."

Mr. Nunn's public worries have pulled Congress back into a decades-long debate over Congress' power to limit the authority of federal courts. Mr. Nunn argues that Congress could put the courts off-limits as interpreters of the amendment's terms only by putting a ban on court action in the amendment itself. The GOP version of the bill does not include such a clause. If Congress and the states approved an amendment that restricted court power, there would be no doubt that that would be the last word.

Sun staff writer Lyle Denniston contributed to this article.

CLARK: Ex-legislator 'pioneer' on issue

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pen.

"Jim is the pioneer of the balanced budget amendment, not a populist latecomer," says Rep. Benjamin L. Cardin, a 3rd District Democrat who was speaker of the state House of Delegates when Mr. Clark was state Senate president. "He said way back when that we were following the wrong course. He is [still] a credible force — very, very sincere."

But Mr. Clark — who during 28 years in the state legislature was often out front and sometimes alone on social issues — will not feel "comfortable" with many current supporters of the amendment, Mr. Cardin predicts. "He truly believes in bringing down the deficit," unlike some current supporters who want to use the amendment as a way to cut social welfare programs, he says.

Congress "has tried statutes and everything else and always disregarded them," Mr. Clark says. But "if it's in the Constitution, they can't disobey it."

"The Constitution is a powerful thing — invented by man to protect the governed from the excesses of those who govern," Mr. Clark says. "All this debt is one of the greatest excesses you can imagine — borrowing against the future."

There are only three ways to get rid of debt, Mr. Clark says. "Repudiate it, service it or deflate [the value of the currency] — which is the course government most often takes. We may be observing the greatest country on earth destroying itself. It's a mathematical certainty unless we change course. We've done about all the maneuvering we can."

Mr. Clark set out 20 years ago to try to force Congress to change its ways — primarily by using the threat of a constitutional convention. It was a tactic that had been used successfully earlier this century to force Congress to allow direct election of senators, he says. Previously, U.S. senators had been elected by state legislatures.

Mr. Clark quietly included the call for a constitutional convention in a balanced budget amendment resolution passed by the Maryland General Assembly in 1975. His resolution urged Congress to pass a balanced budget amendment or call a convention for the purpose of requiring a balanced budget amendment.

Constitutional amendments require ratification by three-fourths of the states — 38 of 50 — but a constitutional convention can be called by two-thirds of the states, 34 of 50. Mr. Clark's goal was to line up 33 — one short of the number needed, but

enough to force Congress to act to avoid a convention.

He enlisted the help of James Dale Davidson, chairman of the National Taxpayers Union, and together they began a nationwide lobbying effort. Soon, the Maryland resolution was being copied throughout the United States. But the drive stalled one state short of 33.

"Not many of his colleagues were as prescient as he," Mr. Davidson says of Mr. Clark. "He was right on target. What he said was right, what he did was right, what he forecast was right. He provided the prime impetus to get [the amendment drive] going. He energized it."

"He put the issue simply. I tend to take his simplicity and make it complex. But one of the simple things he said to me years ago really struck me: 'If you don't put it in this Constitution, it will be the first thing put in the next one.'"

In the 1980s, Mr. Clark's goal expanded from getting states to pass the balanced budget resolution to keeping them from rescinding it. Opponents feared that if a convention was called, the Constitution could be completely rewritten, potentially jeopardizing the Bill of Rights and other civil liberties.

But Mr. Clark, who retired from the state Senate in 1986, says that would never happen. Congress wouldn't let a convention take place, he believes. Even if it did, convention actions would have to be ratified by three-fourths of the states.

Still, Maryland tried three times in the early 1980s to rescind the resolution. It came close to being rescinded in 1983 when the House of Delegates voted 81-45 for repeal. But the House needed concurrence from the state Senate, which Mr. Clark was not about to let happen.

Although deposed as Senate president in 1982 in a political coup led by Melvin A. "Mickey" Steinberg, then a state senator, and Thomas V. "Mike" Miller, the current Senate president, Mr. Clark was still highly respected. He vowed to filibuster if the repeal bill came to the floor.

No legislator doubted his resolve. Although 64 at the time — he is now 76 — he still possessed the mettle he showed as a 22-year-old glider pilot in World War II, when he twice landed paratroopers behind enemy lines during combat. The move for repeal never came to a vote.

Of World War II, he says, he stands "in awe of the effort we [as a nation] made in that war."

If the nation solved that crisis, it can solve this one, he says, but it will mean political sacrifices by Congress. "The people can't do it on their own," Mr. Clark says. "We need the Constitution to protect us. Congress has got to be disciplined. If not, we will come to a bad end."