

**Opening Statement for Senator Durbin
November 30, 2011**

**Hearing Before the Subcommittee on the Constitution, Civil Rights and Human Rights
“A Balanced Budget Amendment: The Perils of Constitutionalizing the Budget Debate**

AS PREPARED FOR DELIVERY

The Constitution of the United States is the foundation upon which our great nation has been built. Each member of Congress takes an oath to support and defend the Constitution. It is an oath we should take with the utmost seriousness.

Since the ratification of the Bill of Rights in 1791, Congress has only acted to amend the Constitution a total of seventeen times – 17 times in 220 years. The Founding Fathers set the bar high for revising our founding document, and rightfully so. It is a bar that has been met for such fundamental causes as ending the practice of slavery, establishing the principle of equal protection, and ensuring the right of women to vote.

We are here today because some members of Congress believe that we should enshrine in the Constitution their theories on the federal budget. It is ironic that the strongest supporters of a balanced budget amendment also proclaim their love for – and fidelity to – our Constitution. Yet many who claim to revere the Constitution have been trying all year to force a vote on a balanced budget amendment that would radically reshape our Constitutional framework of government.

This past August Republicans threatened a default on our national debt unless the House and Senate held a balanced budget amendment vote this year. In their political passion to take budgeting decisions out of Congress’ hands, the “Cut, Cap and Balance” crowd even created a new fast-track process to try to push their Constitutional amendment through Congress with little debate and no changes.

The Constitution, and the American people, deserve better than this. Proposals to amend the Constitution should be carefully reviewed and, clearly, a proposed amendment should not be adopted unless it is worthy of a place in our nation’s most treasured document.

Two weeks ago, the House of Representatives rejected a flawed balanced budget amendment after a hurried debate on the House floor. Opposition to this amendment was bipartisan, with even the Republican chairmen of the House Rules Committee and the House Budget Committee voting against it.

This coming month, the Senate will be required by law to hold its own vote on a balanced budget amendment. Although the Budget Control Act requires this floor vote regardless of whether the Senate Judiciary Committee reports a balanced budget amendment, I thought it was important to hold this hearing to look carefully at what such an amendment would mean.

Proponents claim that a balanced budget amendment would solve our current budget problems. But a closer look shows that it would not. Instead, it would create a new and equally serious set

of problems, while shifting the responsibility for solving those problems from Congress to the courts.

I look forward to discussing today the many perils of current balanced budget amendment proposals, which would:

- make economic recessions worse;
- endanger vital safety net programs that millions of Americans rely on;
- increase the likelihood of debt limit standoffs;
- increase fiscal burdens on the states; and
- create serious enforcement challenges that would end up being resolved by unelected federal judges.

These concerns, among many others, will make clear that a balanced budget amendment is no magic solution for the budget challenges we face.

The simple truth is this: putting our nation's fiscal house in order will require tough decisions about taxes and spending. The Constitution assigns that job to Congress. Fulfilling this constitutional duty carries political risk for Congress. But that is the job we signed up for. Members of Congress should not try to change our Constitution to avoid their duty to make these hard choices. It is anathema to our Constitutional democracy to insulate important decisions about our country's values from the political process.

We are at a point now in our budget debate where some in Congress would rather take a red pen to the Constitution than reconsider an anti-tax document written by political lobbyist Grover Norquist. I believe these members need to get their priorities straight. Our oath to support and defend the Constitution of the United States is more important than any allegiance my colleagues have pledged to Grover Norquist. And we do not need to go to the extreme step of amending the foundational document of our democracy just to have Congress do its job. All we need is a Congress that is willing to work hard, show political courage, make tough decisions, and do what is right for the American people.