

A recent spot-check audit by the General Accounting Office produced some very disturbing results: \$1.4 billion of overpayments. Contractors, in some instances, voluntarily returned money. It was not earned. It was not due. But we tried to pay it. And they wanted to return it.

The result of a new General Accounting Office audit is just as bad: \$820 million in erroneous payments to the top 100 contractors. How many other faulty payments remain undetected or unreturned? I do not think anybody knows. Even the news media and a Pentagon official spoke about it, in reaction to my comments yesterday. People high up say, yes, they know they have major problems.

The Pentagon check-writing machine is stuck on full power. It is on automatic pilot, and the accounting department has gone on a long vacation. In some cases, the Defense Department tells the contractors, "Don't worry, just hold on to the overpayment until your contracts are reconciled."

That brings me then to the third big financial disconnect at the Pentagon.

Reconciliation is a detailed examination of contracts with known or suspected problems and is a primary tool of detecting duplicate, erroneous, or illegal payments. Unreconciled contracts—that is another bottomless accounting pit.

The problem has been identified by both the GAO and the DOD inspector general. One of the Pentagon's main contract paying operations, the center in Columbus, OH, has 13,600 unreconciled contracts, including 2,707 contracts that are overdisbursed by \$1.2 billion.

The checking account on those 2,707 contracts is overdrawn by \$1.2 billion then. Since the records are in such bad shape, the DOD IG and the GAO think it will take 5 million to 10 million man-hours to reconcile these contracts. At \$58 an hour charged by a firm like Coopers & Lybrand, it could cost \$550 million to make all the fiscal connections and to clean up the accounting mess. And that is the cleanup cost for just one location, Columbus, OH. And there are many others.

At those rates, the total cost of the bookkeeping cleanup operation could approach the cost of the DOD's environmental cleanup operation.

There is a fourth gaping hole in the accounting books. This one may even be worse. This one involves DBOF, which is short for the Defense Business Operations Fund.

DBOF is a \$77 billion-a-year operation. DBOF purchases everything from fuel to repair parts to toilet paper and light bulbs. Much of what is bought by DBOF is needed to train the Armed Forces and keep them ready for combat. Unfortunately, DBOF's books are a mess. DBOF's books are in such bad shape that the inspector general had to issue a disclaimer of opinion for the second year in a row.

In the language of accountants, that means the IG could not audit DBOF's

books. If you cannot audit the books, you do not know how much money is being spent. We know how much money is being pumped into DBOF, but we do not have any idea what is coming out the other end.

The breakdown of controls within DBOF could help to explain why the Pentagon still cannot relate resources to readiness. DBOF should help us answer this question: If we add \$1 billion to the budget to increase readiness, how much more readiness do we get? DBOF cannot answer that issue.

The breakdown of fiscal connections within DBOF alone means that there are no controls or accountability over about 30 percent of the defense budget.

Mr. President, I know that these are harsh judgments on the condition of the Department of Defense's books, but they are based on many years of watchdogging, plus the carefully documented work of the General Accounting Office and the DOD inspector general.

We have a breakdown in the financial controls in four key areas of the defense budget. Unless this mess gets cleaned up, we will not know how DOD is spending the people's money. The breakdown of internal controls makes it easy to steal money from defense accounts. The implications of the defense accounting breakdown were brought home hard recently in two cases: The cases of a Mr. James Lugas and a Mr. James Edward McGill. Both men are in jail for stealing from the taxpayers. Both were able to tap into the DOD money pipe with ease and steal millions of dollars.

They operated undetected for a number of years, and they were not detected because of internal audits or tight controls. They were caught by pure chance. They were caught because of their own outrageous behavior.

One was a low level GS-8 accountant. He was literally living like a king. His neighbors thought he was dealing in drugs, so they turned him in.

The other submitted 32 invoices for payment on a phantom ship that the Navy supposedly had. All he needed to set up shop and do business with the Navy were a rubber stamp, blank invoices, and a mailbox. And the checks just started rolling in. He never did any work. Nor did he ever perform any services.

If the DOD was matching disbursements with obligations as they occurred, then Mr. Lugas and Mr. McGill would have been caught immediately. And that is what worries me, Mr. President. How many others like McGill and Lugas have tapped into the DOD money pipe undetected?

This situation is a disgrace. It tells me we cannot meet our constitutional obligations to the taxpayers of our country to make sure their money is honestly and legally spent. We cannot give the taxpayers an accurate and complete report on how the Pentagon is spending their money.

This is a serious breach of responsibility to the American people. That is

over the long haul. But immediately, Mr. President, as we go into the budget process over the next 2 months, both Houses of Congress need to be cognizant of the unmatched disbursements, the stealing of money, before we put \$55 billion more in the defense budget.

How can you make that determination in good conscience if you do not have a good accounting system and know from where you are starting?

So I end these remarks on the disconnect between the accounting and budget books.

Tomorrow, I want to turn to the program budget mismatch, which is also a major problem.

I yield the floor.

LEGISLATIVE LINE-ITEM VETO ACT

The Senate continued with the consideration of the bill.

UNANIMOUS CONSENT AGREEMENT

Mr. GRASSLEY. Mr. President, the floor leader asked me to make this request.

I ask unanimous consent that the vote on the motion to table the Bradley amendment occur at 2 p.m. today, to be followed immediately by a vote on a motion to table the Feingold amendment No. 362, to be followed by a motion to table the Hollings amendment No. 404.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise to express my opposition to the pending amendment, the line-item veto substitute amendment that is before the body, and in the course of doing that to express some thoughts on the line-item veto issue more broadly.

I am very much concerned that any proposal, unless very carefully developed and worked out, could result in a fundamental reordering of the separation of powers and check and balance arrangements between the legislative and the executive branches.

Unfortunately, there is a tendency to dismiss these kinds of questions, although they were very much at the forefront of the thinking of the Founding Fathers when they devised the Constitution that summer in Philadelphia. A Constitution which has served us well over two centuries of the Republic's history. A very careful balanced arrangement was put together then, and I think when it comes to changing it, we need to be very cautious and very prudent.

It does not take a great deal of skill or vision to have a strong executive. Many countries throughout history

have had very strong executives. In fact, if they are too strong, we refer to them as dictatorships. One of the hallmarks of a free society is having a legislative branch and a judicial branch with some independence and with some decisionmaking authority which can operate as a check and balance upon the executive. I repeat, many countries have had strong executives, but they have not been the examples that we want to follow or to emulate.

The great achievement of the American constitutional system is to have established a National Government with independent branches that check and balance one another, to have not only an Executive but legislative branch with some power and authority. I think we have to be very careful that the proposals which come before us with respect to line-item veto not erode the balance and the arrangement that has served the Republic well for over 205 years.

The danger, of course, is that these line-item veto proposals open up the opportunity for the Executive branch, for the President, to bring to bear enormous pressure upon Members of Congress and, therefore, markedly affect the dynamics between the two branches. What the various forms of the line-item veto would do, unless very carefully restrained, is enable a President to link votes on matters unrelated to the appropriation bill to a specific item in the appropriation measure.

Members may well be confronted with a situation in which the Executive says, "I see this item in this bill, and it is a good item; everyone has justified it; it makes a lot of sense; it is obviously very important to your State or to your district; and I certainly do not want to exercise my veto over it; but I am very concerned about the position you are taking"—and then he mentions some totally unrelated issue, perhaps a nomination to the Supreme Court, perhaps a foreign policy matter involving very important issues of war and peace, or other issues on the domestic front.

Of course, the Executive then is in position to bring enormous pressure to bear. So the line-item veto tool becomes used not as many have suggested, as a way to delete spending items and address through that deletion the deficit problem, it becomes a tool and a legislative strategy by the White House and by the Executive branch to sway Members in terms of the positions they take on unrelated items. It becomes a heavy weapon of pressure.

Now, the particular provision that is before us was not the subject of any committee hearings or any report. There is no report with respect to this provision. It was a substitute that was simply presented on the floor. It would require individual items in an appropriation bill to be separately enrolled and presented to the President. And as the very distinguished Senator from

West Virginia, the former chairman of the Appropriations Committee, demonstrated yesterday, a single appropriations bill could end up as thousands of individual enrolled bills that would be sent to the President to be signed or vetoed.

Senator BYRD indicated yesterday that this dramatic change in our system for enacting legislation raises many significant constitutional issues. First, you have important questions about the role of the enrolling clerk in carrying this forward. What will be sent to the President is not identical with what was passed by the Congress. It will be what we pass subsequently broken up by the enrolling clerk. It is not as though the Senate and the House were asked to pass each of these items and then that was sent to the President. That at least I think would be consistent with existing constitutional arrangements.

With the proposal before us, you will be passing a bill, and then the enrollment clerk is going to divide it up into lots of little bills. I think Senator BYRD referred to them as "billetes." And those would be sent to the President. In fact, I think there is a very strong argument that this scheme would violate the presentment clause in article I, section 7 of the Constitution, which provides:

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States.

If he approve he shall sign it, but if not he shall return it.

It seems clear to me that what would be presented to the President is not what has passed the House and the Senate. In fact, I understand that the Assistant Attorney General from the Office of Legal Counsel has raised serious concerns about the separate enrollment approach contained in this substitute amendment with the observation:

On what seems to us to be the best reading of the Presentment Clause, what must be presented to the President is the bill in exactly the form in which it was voted on and passed by both the House of Representatives and the Senate rather than a measure or a series of measures that subsequently have been abstracted from that bill by the clerk of the relevant House.

Obviously, this raises a serious constitutional issue, and I hope Members will stop and deliberate about it very carefully as we consider the substitute proposal that is before us.

Under this substitute, the separate enrollment of each item would be the responsibility of the enrollment clerk after the larger bill has passed the Congress. The Congress would never actually vote on the individual so-called bills that would go to the President. Therefore, it represents a dramatic and drastic departure from our constitutional arrangements.

Only this morning there was an editorial in the paper, which I ask unanimous consent be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. SARBANES. This editorial said in part:

The "compromise" line-item veto bill that Republicans have put on the Senate floor is as bad as the bill it would replace, and not a compromise at all. It is sloppily drawn, would greatly complicate the legislative process, invite evasions, and likely do little to accomplish its ostensible purpose of reducing excess spending and the deficit. The main effect would be to disturb the traditional balance of powers by strengthening the President and congressional minorities at the majority's expense.

Mr. President, I urge my colleagues to reflect on the history of the existing scheme for Presidential rescission of spending items.

Congress enacted the Budget Impoundment and Control Act in 1974 in response to Executive excesses by a President who impounded funds duly enacted into law. I supported that act—as a Member of the House—to restore balance between the executive and legislative branches. And it is quite possible, of course, to further refine the rescissions scheme first put forth in the 1974 act. In fact, there has been legislation which Senators DOMENICI and EXON had been recommending to do exactly that. I understand that the minority leader will be making proposals with respect to so-called expedited rescission that would enable us to move forward on this issue. That would ensure the President that items he picked out of an appropriation bill and said should be rescinded would come to the Congress and would have to be voted on by the Congress.

That is not now the case. The President can pick the items out for rescission, but a vote on them is not actually required. This proposal, the so-called expedited rescission proposal, would ensure that a vote had to be taken. And it provides, of course, that if a majority in both Houses does not agree that the item should be rescinded, then it would not be rescinded.

But, it does provide a way to put a spotlight on the item, if that is what the President wishes to do, and it does require the Members of the Congress to address the issue and to address it directly.

I understand, also, that the proposal that the minority leader may make would include within it so-called tax expenditures as an item also over which the President would have that particular rescission authority, and then would be able to require a direct vote by both Houses of the Congress on that item.

That is a change in procedure, but it is one that I think is worthy of consideration and it does not fundamentally alter the arrangements between the Executive and the legislative branch that are currently contained in the Constitution of the United States.

It is a more restrained and balanced approach, I think, to try to address this issue. It does not represent the

drastic departure from past constitutional practice which is contained in the amendment before us, or indeed in other more sweeping proposals. And it does not shift the balance between the Executive and the legislative branches in a drastic way. It addresses the concerns that have been raised without creating even larger problems—problems which would flow from a fundamental altering of the basic relationship which has existed for more than two centuries between the Executive and legislative branches.

Mr. President, I very much hope this amendment will be defeated when we finally vote on it. I am hopeful that an appropriate alternative can be worked out along the lines of what is called the expedited rescission approach.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Mar. 22, 1995]

ANOTHER IN THE SENATE

The "compromise" line-item veto bill that Republicans have put on the Senate floor is as bad as the bill it would replace, and not a compromise at all. It is sloppily drawn, would greatly complicate the legislative process, invite evasions and likely do little to accomplish its ostensible purpose of reducing excess spending and the deficit. The main effect would be to disturb the traditional balance of powers by strengthening the president and congressional minorities at the majority's expense.

The problem, if there is one, is that presidents now can't pick and choose among the items in appropriations and other money bills. They can only sign or veto them in their entirety. In the Reagan and Bush years, the myth grew up that this was one of the reasons the deficit was so large—not presidential policy, but the inability of (Republican) presidents to curb the (Democratic) congressional proclivity to spend.

Unfortunately, the myth has survived the election returns. The Republicans remain committed to giving the president greater power to single out and block line items, and President Clinton has unwisely said he wants as much such power as Congress is willing to confer. The House passed legislation under which he could sign an appropriations bill, then propose to kill or reduce any item in it. Congress would then have to pass a second bill to block such a proposal, and that could be vetoed, so that two-thirds votes of both houses would be required to sustain even the smallest spending detail to which a president might object.

Some Senators of both parties rightly thought that was too great a cession of power. They proposed instead a system in which Congress would have to reaffirm its support for line items to which a president objected, but majority votes would be enough to prevail. But the Republicans in this group came under party pressure to back off and support the present "compromise" instead.

Congress would pass appropriations and other money bills as now, then split them into line items or other designated parts—perhaps thousands per bill—and send each part to the president to be signed or vetoed separately. It's a recipe for writer's cramp. The president plus a minority of one-third plus one of either house would be enough to govern. The rule would also apply to any increase in entitlements and any revenue-losing tax provision "having the practical effect of providing more favorable tax treatment to a particular taxpayer or limited group of taxpayers when compared with

other similarly situated taxpayers." To what might that not apply?

The line-item veto has become a political symbol. The members of both parties who are so blithely supporting it, including Bill Clinton, need to ask themselves what it means. If the next president doesn't like a particular program for whatever reason—it needn't be the cost—he and a minority of either house can flick it out of the budget and out of existence. It could happen as easily to a new weapons system as it could to the likes of the national service corps. For lack of political will, the legislative branch votes to make itself that much weaker. Who wins from that?

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, as all know, the Senate is debating a truly fundamental change to our system of Government. We have before us legislation which proposes to reconsider some of the most basic principles of our democracy. For over 200 years the Federal Government has maintained a careful balance between the powers of the legislative, executive, and judicial branches. That balance has stood the test of time and has helped sustain our Nation's cherished liberties for generations. Given that remarkable record, I think we need to be very cautious before altering this historic balance of powers. And it is not something we should do lightly. It is not something we should rush through.

We do, however, have to be prepared to respond to changing conditions and to make needed changes in the way we do business. Despite all that is good about our democratic system we also face some real problems and one of the most important is Government waste and the deep public anger that it provokes.

Almost more than any time in our history, it is critical to reduce waste in Government. We are continuing to load debt on our children and grandchildren. The tax burden is heavy. Americans are losing faith in Government as they are repeatedly bombarded with examples of unnecessary spending from fraud in Government programs to the Lawrence Welk center.

Taxpayers are infuriated, and they have a right to be. They also have a right to demand that we do something about it. And there is broad public support for trying some form of line-item veto. Yet we ought not to exaggerate what a line-item veto can accomplish. It will not eliminate all Government waste nor will it balance the budget. It may result in eliminating unnecessary pork-barrel projects and special-interest loopholes. That is not to say that all narrowly targeted spending or tax provisions are wasteful. We all know that many are. And the most egregious examples get the most publicity and erode public confidence in the Congress and in our Government. Surely that is one reason why the public is so angry with Washington. We need to look for ways to address this problem and the line-item veto might help by giving the President power to eliminate items that are truly indefensible.

Under current law, when the Congress sends the President a broad spending or tax bill, the President's options are pretty limited. He can sign the whole bill into law or he can veto the entire package. Once an appropriation bill is enacted, the President can propose to rescind specific items of spending and send Congress a rescission, a reduction in the original proposal—specifically eliminating one recommendation. But this rescission power is extremely limited.

First of all, it does not apply to tax breaks, those breaks that are given to special interests that cost us money because we lose those revenues. And, in the case of proposed rescissions to appropriations, Congress presently can simply ignore them.

It seems to me that it is worth trying to give the President of the United States additional powers to eliminate waste. But as we move into these uncharted waters, fundamentally changing our form of government, we should build in certain protections against abuse of Executive power. Restraint of Executive power has been the hallmark of our Constitution and has guided our Founding Fathers in its creation.

We can strengthen the President's rescission power by making sure that Congress considers all Presidential rescission proposals and does so on an expedited basis. Once again, that Congress reviews and considers all Presidential rescission proposals would be a significant step forward in the fight against waste.

Currently, if the President sends rescissions to us to eliminate wasteful spending we can simply ignore them, and we often do. Forcing review of wasteful projects is not something that is taken up very readily. And in the glare of public debate, it would be a healthy antidote to our current way of doing business.

We can also build in protections against abuse of this expanded Executive power by retaining the democratic process of majority rule. The pending legislation would permit the President to kill any increases in spending or changes to entitlement programs if he can convince just one-third of one House of the Congress to support him. That is an enormous expansion of Executive power. It would permit the President to nullify what a majority of the people's representatives have already approved.

Finally, we would guard against abuse of power by the executive by requiring the Congress to review the line-item veto of a proscribed trial period. Initially, I think the shorter this trial the better. If the line-item veto works as its authors intend, it will have a salutary affect on our Government, and there will be no problem in extending it.

Unfortunately, Mr. President, the proposal before us fails to protect against Executive branch abuses. It

also puts power in the hands of a small minority undermining majority rule by demanding a two-thirds vote to override the President's rescission recommendation. It lets one-third of Congress rule and the President controlling Federal policy on virtually all new spending and entitlement programs. Our Constitution was not written that way. It was not intended that way.

Legislation could also unintentionally hurt smaller States with smaller congressional delegations like mine, like the State of New Jersey. The proposal would lower the deck in favor of bigger States which have a leg up on building the necessary two-thirds vote to override a Presidential line-item veto. In my view, it is unwise. Mr. President, the case for a line-item veto rests largely on the need to eliminate narrowly targeted pork-barrel spending. But the majority leader's amendment goes much further than that. It would allow the President to unilaterally eliminate funding for entire programs. This would give a single individual the power to kill major initiatives in education, law enforcement, health care, veterans programs, mass transit, immigration enforcement, housing, and you name it. All could be at risk.

It would also put Medicare, veterans benefits, and other entitlement programs under the control of a small minority of Congress aligned with the President. I am not suggesting, Mr. President, that President Clinton or any future President would abuse this new power. But we do not really know and we have to guard against it. That is not a Democratic concern or a Republican concern. It is a nonpartisan concern. It is not a liberal concern. It is not a conservative concern. It is a democratic with a small "d" concern. It has nothing to do with party or ideology. It has everything to do with the potential for abuse of power and rule by a congressional minority.

Let us take one example of a President of my own party, President Lyndon Baines Johnson. President Johnson was a strong leader who excelled at cajoling and pressing Members of Congress into voting with him. I never experienced it. But the Johnson treatment was something that is legendary. Lyndon Johnson used every tool in his arsenal to make his case, to win his recommendation.

Looking to future, a President with strong leadership skills and strong convictions he could gain enormously in power. With just one-third of one House of Congress he could wipe out essential benefits for ordinary Americans, and a majority in Congress could do nothing to stop him.

Mr. President, I urge against giving a President that unbridled power. I am not willing to risk that. A future President would be able to override a majority in the Congress, and perhaps eliminate all school lunches, or deny middle-class students the opportunity to go to college, or deny working families

a chance for child care, or take police officers off the street, or force young children to go hungry, or increase the number of homeless on our streets, or deny veterans the benefits they earned while serving our country, or deny senior citizens needed benefits required under Medicare.

Mr. President, these expenditures and these benefits are not pork. But they would all be vulnerable to the line-item veto under the proposed majority leader's amendment. A President bent on eliminating them could wield a new tool like a meat ax against ordinary Americans. There needs to be some real protections against that, if we are to have a line-item veto.

I am also concerned that a line-item veto could open the door to what some have called political extortion. I use that term to convey how a President would be able in effect hold the gun to the heads of the Members of Congress. This could happen. A President could go to a Member of Congress and say, "I need support for my favorite new initiative, and, if you do not agree to support it, it is goodbye to that new highway or special program that is so important in your district." Mr. President, that kind of political pressure occurs in many States that have a line-item veto, and it can lead to more wasteful spending—not less.

Mr. President, to limit the possibility that a line-item veto will be abused, it is important to keep the Executive on a relatively short leash. One way is to require Congress to reauthorize the line-item veto on a routine basis. Another is to allow a majority in the Congress to overrule the President.

These protections would preserve the constitutional principle of a balance of power and avoid shifting power, extraordinary power, to the executive branch or to larger States at the expense of the medium-sized or smaller States. It would make it less likely that a future occupant of the White House would ride roughshod over the people in the Congress. Unfortunately, Mr. President, the pending proposal does not include adequate protections. It is a serious flaw in the legislation.

I am also concerned about the provisions in the pending amendment related to tax instructions. Those provisions, though drafted ambiguously apparently are intended to provide a loophole that will protect many special interest tax breaks from rescission.

Mr. President, we all know that many special tax breaks that have been included in tax bills over the years exist. There are special rules for the timber industry, for the oil and gas industry, even for cruise liners. In fact, a few years ago we tried to enact a special loophole for the tuxedo industry. Once enacted, most tax breaks enjoy a special status that even the most popular spending programs would emulate. They never have to be appropriated. They never have to be reauthorized. They never have to compete for scarce budgetary resources. Instead, they sim-

ply nestle quietly and unobtrusively in the nooks and the crannies of the Tax Code never to be seen nor heard from again. But they cost us substantial revenues, and their costs are made up by imposing extra burdens on ordinary taxpayers.

Mr. President, unwarranted tax loopholes go to the heart of what bothers so many Americans today. Loopholes generally are provided only to special interests and wealthy individuals who have either special connections or enough money to hire a high-priced lobbyist with access to Members of Congress. We have seen a lot of stories on lobbying influence in these recent days and weeks. Meanwhile, ordinary Americans do not have those things. They do not have personal relationships with powerful Senators, and they do not have the lobbyists working for them. So when an ordinary American sees clients of lobbyists getting special treatment in the Tax Code, they really resent it. They resent it very, very deeply.

Mr. President, the pending amendment of the majority leader includes ambiguous language on targeted tax benefits. But according to statements made on this floor, that language is intended to be very narrow. Apparently, if a tax break benefits a particular company, it may be subject to a rescission. But if the loophole benefits two companies or an entire industry, it will get special protection.

Mr. President, that is a loophole law that I cannot support.

In conclusion, let me again emphasize that we are talking about the basic structure of Government that was established over 200 years ago, and we ought to proceed with caution. To help eliminate waste in Government, it is worth trying a line-item veto. But we should not support proposals that are vulnerable to abuse, that fail to adequately protect the public interest and our constituents or that provide for special interest tax loopholes.

I yield the floor.

Mr. MCCAIN. Mr. President, in light of the remarks of the Senator from New Jersey, I think it is very interesting that in the chair we have a former Governor of a State and the author of the amendment that is under consideration. The Senator from South Carolina is also a former Governor. Both of them are strongly in support of the line-item veto. Both of them may have differing opinions on many issues because they are of different party affiliation, but both of them have had the unique experience of being responsible for governing a State and having to balance the budget of that State.

The Senator from South Carolina just related how he took his State from a situation of near fiscal crisis to one of fiscal solvency. He states that with the line-item veto—and I am not trying to parrot the words of the Senator from South Carolina, who is far more eloquent than I—he was able to govern

his State effectively with that very valuable tool.

The Senator from Missouri, a former Governor of his State, who has spoken on the floor here on several occasions—both have talked and talked about the absolute criticality of the ability to exercise a line-item veto; not only exercise it, but having that tool in shaping the budget of their States.

You know, it is interesting, I do not detect in either one of these individuals and other former Governors who are Members of this body this desire to twist arms, threaten, blackmail—and “extortion” I have heard used a couple of times—and I cannot believe that the American people would sit by and watch a President of the United States practice extortion or blackmail on Members of the Senate or Members of Congress.

Mr. LAUTENBERG. Will the Senator yield for a question?

Mr. McCAIN. Yes, I am happy to yield for a question.

Mr. LAUTENBERG. Does the Senator believe that the only ones who know how to manage an enterprise are Governors? Or does the Senator believe that business experience is of value as well, business experience that developed an entire industry known as the computing industry, which I modestly had a hand in and am a member of the Hall of Fame of Information and Processing. I ran a terrific company with an excellent record, one of the best in the country. I assume the Senator would yield to the fact that someone who has other experience besides Governors can make a contribution; is that not so?

Mr. McCAIN. I suggest, I say to my friend from New Jersey, not only is it a very important and valuable credential to address any issue—especially where the free enterprise system is concerned—I, along with my colleagues, share admiration for the enormous contributions the Senator from New Jersey made to the primary generator of business and employment and commerce not only nationally but throughout the world.

But I do suggest there is some difference in that, as Governors of States, they were required—and I might say a fairly significant size—to administer those States. In fact, they had oversight of the businesses that resided in their States, in a regulatory and other fashion, working in partnership with the legislature.

I suggest that, as the head of a very successful corporation, the Senator from New Jersey had more than a line-item veto. The Senator from New Jersey had a total veto, and there was no chance of his being overridden, except by his board of directors or his stockholders. I view this situation—and I am sure, knowing how gentle the Senator from New Jersey is, from time to time he had to exercise that veto; otherwise, he would not have achieved the pinnacle of success that he reached.

So I do think there is a certain comparability, and I believe that, if there

were outrageous expenditures in his company and corporation and if the Senator from New Jersey, then a president and CEO, felt helpless to bring into check those extravagances, I think it would have harmed his ability to achieve the enormous and very laudable degree of success that he achieved.

Mr. LAUTENBERG. I thank the Senator.

Mr. McCAIN. I thank the Senator from New Jersey for his question. I also would like to again state that it is of interest that in 43 States in America out of 50, those Governors do exercise the line-item veto.

Again, in response to a very legitimate question from the Senator from New Jersey, when there is a military issue, I try to get the opinion of people who are military experts. When there is an issue of aviation, I try to go to those experts. I try to consult with—due to my narrow experience and knowledge and background—those people who are experts and have had experience in areas where, frankly, I am not as well informed as others. And so it seems to me that it would be logical to consult the Senator from South Carolina, who was judged by many as the most successful Governor in the history of that State. He literally brought it into the 20th century in more ways than one. And there is the Senator from Missouri, who presently occupies the chair, as well as many other Senators who were Governors. Another example is the present Governor of California, who was a Member of this body before he became Governor, who has stated unequivocally, as Governor of the State of California, that without the capacity to exercise the line-item veto, he would have enormous and indeed insurmountable difficulties.

So I have to rely on the judgment and experience of Members of this body and people who are not Members of this body that have actually had the experience of governing. And governing, I think, is a unique challenge and experience. I am very pleased to have the input and the benefit and knowledge and experience of the Senator from South Carolina, as well as the Senator from Missouri, as well as many other Senators.

I read a few days ago, Mr. President, a survey done by the Cato Institute, where approximately 88 percent of the former Governors—it was a very large number of former Governors, of both the Democratic Party and Republican Party—when asked, stated that the line-item veto was a “very useful tool.” Those are the people whose judgment I think we not necessarily rely on, but certainly the benefit of their experience cannot be ignored.

I would like to address the issue of the Hollings amendment. Obviously, what the Senator from South Carolina is trying to achieve here is laudable. I just find, however, that it is not germane. This bill is about process reform; it is about separate enrollment—a con-

cept long advocated by the Senator from South Carolina. Additionally, the chairman of the Budget Committee announced that he is going to have a hearing on this amendment in the Budget Committee. We have announced that we are prepared to accept the Exon amendment which affects this bill. The Hollings amendment raises many valid issues, but I believe it would be better offered on more appropriate legislation. I note that the Hollings amendment was defeated in the Budget Committee by a 12-to-10 vote. So the Budget Committee has spoken on this issue, which, by the way, by no means precludes the Senator from South Carolina from bringing this to the floor, as we all know. But I would, at the proper time, make a motion to table the Hollings amendment. I believe that the time for a vote will be established very soon.

Mr. President, I paid attention to the remarks of the Senator from Maryland and the Senator from New Jersey. Their concerns have been raised many times in the past and they will be raised again before we finally enact this bill, which I now am feeling some optimism about, although we have a number of wickets to go through before we reach that goal.

Mr. President, in all due respect to my colleagues, I do believe that it is an argument for pretty much the status quo. I do not think that the American people are satisfied with the status quo. I do not believe they are satisfied with a debt that will accumulate to \$5.2 trillion. I do not believe they will be satisfied with \$200 billion-plus annual deficits.

Mr. President, I do believe that it is important again to restate, as I have over and over and over again, that from 1801 when Thomas Jefferson—which is becoming a famous anecdote, probably far more famous than Thomas Jefferson ever envisioned—in 1801, when Thomas Jefferson impounded the \$50,000 that Congress appropriated to purchase gunboats, that a practice for the next 174 years was continued by Chief Executives of this country and that was impounding funds that they did not wish to spend.

Now we all know our history, and that is, in 1974, with a weakened President, who had, in the view of many, and probably accurately, abused the impoundment powers by impounding enormous sums of money for entire programs that had been authorized and appropriated by the Congress, the Congress repealed the Budget Impoundment Act. And we know what has happened since.

I have quoted for the record before rescissions that come over from the President of the United States. They are either ignored or other rescissions are substituted for them so that basically the Chief Executive, the President of the United States, is at the mercy of the whim or the desires, which is more accurate, the desires of the Congress as related to a rescission.

And more and more often since 1974, rescission requests on the part of Presidents of the United States, both Republican and Democrat, have been ignored by the legislative branch.

So when my colleagues argue, as the Senator from Maryland and the Senator from New Jersey did, that this is an enormous shift of power, I will agree that it is a shift of power. I also argue that it is a much needed shift of power, but it is not new. It is not new. It is a restoration of, basically, the powers that the Executive had from 1801 to 1974.

(Mr. DEWINE assumed the chair.)

Mr. MCCAIN. I also know, Mr. President, that almost everything that we and the executive branch do is under the scrutiny of the media. The media pay attention and report on almost everything we do. In fact, there is a cottage industry now, as we all know, that describe private conversations that the President had with another individual, that describe the innermost counsels, both in the executive branch, the President of the United States and the White House, and in the Congress of the United States.

If it became known to the people of the United States that the President of the United States was calling the Senator from South Carolina over and said, "I want you to support my effort to provide housing for Russian officers or I am going to kill a project in South Carolina," it would be over. In a New York minute, it would be over. Because the Senator from South Carolina or the Senator from Arizona or the Senator from Ohio would walk out to that group of microphones and cameras in front of the White House and say, "I have just been blackmailed by the President of the United States."

And if there is one thing that I think would reassure my reelection, if I sought reelection, it would be to go out and tell the people of Arizona that I stood up to a threat of blackmail by the President of the United States.

So, yes, I admired in many ways the persuasive powers of President Lyndon Johnson, which was referred to in the remarks by the Senator from New Jersey. I admire the persuasive powers of President Reagan. But I do not believe that any President of the United States is going to engage in political blackmail.

And in these 43 out of 50 States where Governors have line-item vetoes, I have yet to hear of a single instance where a Governor—although it may have happened on a rare occasion or two, I just have not heard of it, nor have I ever read or heard it reported—has exercised this kind of extortion or blackmail, as it is described.

Now, I saw a little item today that ever child born in America now has a \$13,000 debt. I am not sure how that is computed, Mr. President. I would be interested in knowing how you figure that out.

But I do know this: That with a \$5.2 trillion debt, which is the estimate of

what this Nation will carry next year, I believe that every child in America is now inflicted with a huge debt burden that they are going to have to pay off sooner or later.

We could, Mr. President, turn down the line-item veto. We could continue these unending debts and annual deficits, I think, for some years. But there is going to come a time where the bill is going to become due.

Some experts attribute the fall of the dollar to the failure of the balanced budget amendment. I do not know if that is the case or not. I do not claim to have that kind of expertise.

But if I were a foreign investor and I was looking around the world where to invest my money and I saw a country that is growing more and more dependent upon foreign investment in order to have the Treasury bills, which are floated quite frequently, in order to secure funds because of the annual deficit we are running, I think I would be less than confident not only in the economy of this country but I would lose some confidence in the validity of its currency.

Now maybe that is too dire a picture. Maybe the strong American economy and the overall strength and economic strength of this country would override that. But I cannot believe, at the end of the day, that it is attractive to invest or hold the currency of a country that forever, forever, which is the case now, is going to be running annual deficits and accumulating an ever larger and larger debt.

And I want to add, again, Mr. President, the line-item veto does not balance the budget. We all admit to that. But I do not see a balanced budget without the line-item veto. I think that is the important part of this discourse.

I have displayed a chart here on several occasions that shows that in 1974, when the President of the United States lost the impoundment power, revenues and expenditures began to diverge and they have continued almost unendingly to diverge for a very long period of time, for the last 21 years, with no end in sight.

I will say that we have had a short period—and I think it is due to the leadership of the President of the United States and efforts that were made—where we have had a temporary reduction in the annual deficit. That is the good news. The bad news is there is no place that anyone envisions where that deficit is zero or that we even begin to pay off the debt we have accumulated.

Mr. President, sooner or later, we are going to have to do that. We are now paying nearly as much on interest on the national debt as we are on national defense. People born a generation ago would find that an incredible and bizarre situation.

I see the Senator from South Carolina on his feet, Mr. President. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank my distinguished colleague from Arizona, and the distinguished Presiding Officer.

I ask unanimous consent that Senator KERREY of Nebraska be added as a cosponsor of my amendment.

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

Mr. HOLLINGS. Mr. President, I ask the sincere reconsideration by the distinguished Senator from Arizona on his motion to table our amendment.

What happened, Mr. President, is that we brought it up dutifully before the Budget Committee. It was not approved, as has been pointed out. But, having done that, now is the time.

If we do not do this now, which is relevant to the budget resolution, if we do not do it now, then what we really are going to do is avoid truth in budgeting because the next time we really sit down to consider the budget, we will be considering it under the old rules.

So it is very appropriate and, incidentally, more so than perhaps the underlying amendment.

The distinguished Senator from Arizona said, "Wait a minute, now; he had his vote and he lost." He did not refer to the other vote I lost, namely, the line-item veto. The present bill under consideration is the substitute measure.

On the rationale of my distinguished colleague, we ought to table the whole bloomin' line-item veto.

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

Mr. HOLLINGS. I yield.

Mr. MCCAIN. Another testimony to the incredible clairvoyance of the Senator from South Carolina. I thank him.

Mr. HOLLINGS. I hope he will stick with me on the line-item veto and not table it under that same logic.

Now, with respect to germaneness, I happen to have a record that was generally respected as the presiding officer at the State level, and having come to the U.S. Senate, I spent my 28 going on 29 years trying to forget parliamentary procedure.

I will never forget when I first presided and I got two Golden Gavel Awards—200 hours. We used to start the Presiding Officer about 5 o'clock in the afternoon. The distinguished Senator from Oregon, Wayne Morse, would get up and characterize the President of the United States, who had just been lauded with respect for his muscle power in getting things done, President Lyndon Johnson. He would refer to him as a murderer, and that would go on from about 5 o'clock until about 9:30 or 10 o'clock each evening, with respect to the war in Vietnam.

But I immediately recognized someone who first rose to be recognized. That is the fundamental parliamentary rule in all bodies in the world, save this one. Here you recognize the majority leader. You could have been out here for 3 hours or 2 days, whatever it is, sitting in your seat, and stand to be

recognized, but the majority leader at that particular time comes to the door, forget about you. Under the rules of the Senate, you recognize him.

In that light, I had the duty of trying to forget rules, but I never forgot the one of germaneness. I refer specifically here to the short title "The Separate Enrollment and Line-item Veto Act of 1995," which I hope to amend.

Under the section 5 subsection (a) I refer, the term "targeted tax benefit" means any provision estimated by the Joint Committee on Taxation as losing revenue within the period specified in the most recently adopted concurrent resolution on the budget pursuant to section 301 of the Congressional Budget and Impoundment Control Act of 1974.

Now, that is amending section 301 of the Congressional Budget and Impoundment Control Act 1974 and specifically the title with respect to within the periods specified.

So, it is a limited one with respect to the overall subject—namely, a line-item veto for the President—but with respect to the general subject of the Congressional Budget and Impoundment Control Act, it is definitely germane. With respect to "within the period specified in the most recently adopted concurrent resolution", that is what my amendment is amending so that budgets hereafter will be subject to that 10-year rule.

So on both points, I will ask the distinguished Senator from Arizona to reconsider and rejoin his Republican leadership of approximately a year ago.

I again read from the document "Fiscal Year 1995 Senate Budget Committee Republican Alternative", prepared by the Republican staff of the U.S. Senate Budget Committee and presented last year by none other than the distinguished chairman of the Budget Committee, Senator DOMENICI of New Mexico.

If we turn to the second-to-last page, it has "Miscellaneous provisions." Fiscal year 1995 Republican budget resolution, "miscellaneous provisions," description and the first bullet there, "Strengthens the 10-year pay-as-you-go point of order while the 10-year pay-as-you-go point of order that was established by last year's budget resolution is determined does not currently apply to budget resolutions and could be repealed by a subsequent budget resolution. This proposal would make future budget resolutions subject to this point of order."

They talk about partisanship. I am delighted to get bipartisan here today on not only the line-item veto, which I have been trying for 10 years. It was a bipartisan initiative back in 1985, and was rightly quoted as such by the distinguished majority leader said earlier this week. He referred to the Hollings-Mattingly line-item veto, that we had a pretty good healthy vote on in 1985.

Mr. President, let me also ask that the distinguished ranking member of our Budget Committee, the distinguished Senator from Nebraska, Sen-

ator EXON, also be added as a cosponsor.

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

Mr. HOLLINGS. Mr. President, with him being a cosponsor, I go back to that vote.

We had the line-item veto up in the Budget Committee. My particular introduction of the line-item veto already in this session is now resting in the Rules Committee. I have had it before in the Budget Committee. In fact, I had a successful vote in 1990 of the line-item veto out of the Budget Committee by a vote of 13 to 6.

Now, I want to one more time elaborate so it is clearly understood what is happening here with respect not only to the line-item veto and referring to future generations as the Senator from Arizona just previously did, but what we have done in order to try and secure the Social Security of future generations.

Along this line, Mr. President, I ask unanimous consent to have printed at this point a very short title of "Off-Budget Status of OASDI Trust Funds," section 13301(b). I want to print this in the RECORD at this particular point.

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

Subtitle C—Social Security

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

- (1) the budget of the United States Government as submitted by the President,
- (2) the congressional budget, or
- (3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title."¹⁸³¹

FOOTNOTE

¹⁸³¹The statement of managers accompanying the conference report on the Budget Enforcement Act explains generally the amendments made by subtitle C:

VI. TREATMENT OF SOCIAL SECURITY

Current law

Under current law, the Social Security trust funds are off-budget but are included in deficit estimates and calculations made for purposes of the sequestration process. However, Social Security benefit payments are exempt from any sequestration order.

Section 310(g) of the Congressional Budget Act of 1974 prohibits the consideration of reconciliation legislation "that contains recommendations" with respect to Social Security. (A motion to waive this point of order

requires 60 votes in the Senate and a simple majority in the House.)

House bill

The House bill reaffirms the off-budget status of Social Security and removes the trust funds—excluding interest receipts—from the deficit estimates and calculations made in the sequestration process. The House bill retains the current law exemption of Social Security benefit payments from any sequestration order.

The House bill creates a "fire wall" point of order (as free-standing legislation) to prohibit the consideration of legislation that would change the actuarial balance of the Social Security trust funds over a 5-year or 75-year period. In the case of legislation decreasing Social Security revenues, the prohibition would not apply if the legislation also included an equivalent increase in Medicare taxes for the period covered by the legislation.

Senate amendment

The Senate amendment also reaffirms the off-budget status of Social Security and removes the trust funds from the deficit estimates and calculations made in the sequestration process. However, unlike the House bill, the Senate amendment removes the gross trust fund transactions—including interest receipts—from the sequestration deficit calculations. The Senate amendment also retains the current law exemption of Social Security benefit payments from any sequestration order.

The Senate amendment also creates a procedural fire wall to protect Social Security financing, but does so by expanding certain budget enforcement provisions of the Congressional Budget Act of 1974. The Senate amendment expands the prohibition in Section 310(g) of the Budget Act to specifically protect Social Security financing, prohibits the consideration of a reported budget resolution calling for a reduction in Social Security surplus, and includes Social Security in the enforcement procedures under Sections 302 and 311 of the Budget Act. The Senate amendment also requires the Secretary of Health and Human Services to provide an actuarial analysis of any legislation affecting Social Security, and generally prohibits the consideration of legislation lacking such an analysis.

For more on the budgetary treatment of Social Security under current law and historically, see Senate Comm. on the Budget, Social Security Preservation Act, S. Rep. No. 101-426, 101st Cong. 2d Sess. (1990).

Conference agreement

The conference agreement incorporates the Senate position on the budgetary treatment of the Social Security trust funds, reaffirming their offbudget status and removing all their transactions from the deficit estimates and calculations made in the sequestration process.

Further, the conference agreement provides that the "fire wall" procedure proposed by the House shall apply only to the House and that the "fire wall" procedures proposed by the Senate shall apply only to the Senate. H.R. Conf. Rep. No. 101-964, 101st Cong., 2d Sess. 1160-61 (1990), reprinted in 1990 U.S.C.A.N. 2374, 2865-66.

For legislative history of the effort to remove Social Security from the budget, see generally 136 Cong. Rec. 15,777-81 (daily ed. Oct. 18, 1990) (Senate debate on the related amendment to the Omnibus Budget Reconciliation Act of 1990); Senate Comm. on the Budget, Social Security Preservation Act, S. Rep. No. 101-426, 101st Cong. 2d Sess. (1990); Congressional Research Serv., Social Security, Medicare, and the Unified Budget, S. Print No. 83, 99th Cong., 1 Sess. (Sen.

Comm. on Budget Print 1985); *Concurrent Resolution on the Budget for Fiscal Year 1989: Hearings Before the Senate Comm. on the Budget*, 100th Cong., 2d Sess. 85-160 (1988) (S. Hrg. No. 578, Vol. III) (hearing March 24, 1988, on "Social Security, Deficits, and the Baby Boomers' Retirement"); *Budget Reform Proposals: Joint Hearings Before the Senate Comm. on Governmental Affairs & Comm. on the Budget*, 101st Cong., 1st Sess. 30-42 (S. Hrg. No. 101-560) (1989) (testimony of Sen. Heinz Oct. 18, 1989, on S. 1752); 129 Cong. Rec. S3587-603 (daily ed. Mar. 22, 1983) (Heinz amendment to remove Social Security trust funds from the unified budget); 135 Cong. Rec. S15,137-47 (daily ed. Nov. 7, 1989) (statements of Sen. Heinz, Majority Leader Mitchell, and others regarding scheduling of legislation regarding Social Security); 136 Cong. Rec. S7935-6, S7949-50, S7956-59, S7974-79 (daily ed. June 14, 1990) (same); 136 Cong. Rec. S8153-56 (daily ed. June 18, 1990) (statement of Sen. Heinz on his amendment requiring Congressional action on Social Security before action on the debt limit); 136 Cong. Rec. S8192-210 (daily ed. June 19, 1990) (debate on the Heinz amendment); S. 2211, 100th Cong., 2d Sess., 134 Cong. Rec. S3038-39 (daily ed. Mar. 24, 1988) (Sen. Sanford); S. 2914, 100th Cong., 2d Sess., 134 Cong. Rec. S16,889-95 (daily ed. Oct. 19, 1988) (Sen. Moynihan); S. 101, 101st Cong., 1st Sess., 135 Cong. Rec. S170, S425-29 (daily ed. Jan. 25, 1989) (Sen. Sanford); S. 219, 101st Cong., 1st Sess., 135 Cong. Rec. S173, S636-37 (daily ed. Jan. 25, 1989) (Sen. Moynihan); S. 240, 101st Cong., 1st Sess., 135 Cong. Rec. S173, S682-84 (daily ed. Jan. 25, 1989) (Sen. Heinz); S. 401, 101st Cong., 1st Sess., 135 Cong. Rec. S1413, S1421-22 (daily ed. Feb. 9, 1989) (Sen. Hollings); S. 852, 101st Cong., 1st Sess., 135 Cong. Rec. S4384, S4419 (daily ed. Apr. 19, 1989) (Sen. Bryan); S. 1752, 101st Cong., 1st Sess., 135 Cong. Rec. S13,297, S13,299-300 (daily ed. Oct. 12, 1989) (Sen. Heinz); S. 1785, 101st Cong., 1st Sess., 135 Cong. Rec. S13,893 (daily ed. Oct. 24, 1989) (Sen. Moynihan); S. 1795, 101st Cong., 1st Sess., 135 Cong. Rec. S14,129, S14,137-38 (daily ed. Oct. 25, 1989) (Sen. Hollings).

For a general discussion of the removal of Social Security from the budget and its consequences, see David Koitz, *Social Security: Its Removal from the Budget and Procedures for Considering Changes to the Program* (Jan. 4, 1993) (Cong. Res. Serv. rep. no. 93-23 EPW).

Some have argued that section 13301 conflicts with the listing of discretionary accounts set forth in the joint statement of managers accompanying the conference report on the Budget Enforcement Act. See *supra* p. 466. In a letter to the Director of the Office of Management and Budget, the Chairman of the Budget Committee argued that the congressional intent is plain:

"I am writing to express my concern regarding a possible interpretation of the Budget Enforcement Act of 1990 with respect to the budgetary treatment of Social Security. I understand that your Office is considering whether the administrative expenses of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be counted in the deficit and as part of the domestic discretionary caps for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings). I wish to express in the strongest terms my view that these administrative expenses should not be included in either the deficit or the domestic discretionary cap for purposes of Gramm-Rudman-Hollings.

"Section 13301(a) of the Budget Enforcement Act states:

* * * * *

"The all-inclusive breadth of this language could not be more clear. The subsection heading speaks of 'exclusion . . . from all budgets.' The operative language is unambiguous: 'the receipts and disbursements . . . shall not be counted.' Paragraph (3) specifically mentions the Gramm-Rudman-Hollings law as one of the purposes for which Social Security must be excluded.

"The joint statement of managers accompanying the conference report on the legislation that includes the Budget Enforcement Act similarly makes clear the intent of section 13301:

"The conference agreement incorporates the Senate position on the budgetary treatment of the Social Security trust funds, reaffirming their off-budget status and removing *all their transactions* from the deficit estimates and calculations made in the sequestration process."

H.R. Conf. Rep. No. 101-964, 101st Cong., 2d Sess. 1161 (1990) [*reprinted in* 1990 U.S.C.A.N. 2017, 2865-66] (emphasis added).

"I understand that it may be argued that statement of managers language specifically includes references to the Social Security trust funds as two account items in a 39-page listing of accounts incorporated by reference in the definition of the term 'category' for purposes of the Gramm-Rudman-Hollings law. It would strain credulity to argue that this reference overcomes the plain language of section 13301(a). Although I conceded that some conflict between these two provisions may exist, that conflict must be resolved in favor of implementing the intent of Congress as evident in section 13301(a).

"The legislative intent to remove Social Security completely from all budgets is clear. The language of section 13301 indicates that it must apply '[n]otwithstanding any other provisions of law.' The Senate debated the removal of Social Security at length. The Senate voted 98-2 in favor of the amendment—sponsored by Senators Hollings, Heinz, and Moynihan, among others—that specifically took Social Security out of the Gramm-Rudman-Hollings process. (See 136 Cong. Rec. 15,777-81 (Oct. 18, 1990).) Congressional examination of the 39-page listing in the statement of managers is nowhere evident in the debates.

"I urge you to follow section 13301(a) of the Budget Enforcement Act and remove the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds from the budget in their entirety. I recommend that the President use his authority under section 251(b)(1)(A) of the Gramm-Rudman-Hollings law to recognize any adjustments to the discretionary spending limits that such a position would require as a change in a concept or definition. I believe that this is the approach needed to ensure that all of Social Security is taken off budget."

Letter from Sen. Jim Sasser to Richard G. Darman (Jan. 4, 1991).

The acting general counsel of the Office of Management and Budget replied to Chairman Sasser as follows:

"You expressed the view that the administrative costs of the social security program should be excluded from the domestic discretionary spending category.

We recognize that the Omnibus Budget Reconciliation Act (OBRA) contains a provision generally excluding the social security trust funds from the budget as well as the Gramm-Rudman-Hollings Act. Social security was previously excluded from the budget, but not from the deficit calculations under the Gramm-Rudman-Hollings Act (GRH).

However, other provisions of OBRA specifically address whether social security admin-

istrative expenses are included in the domestic discretionary spending category. The portion of the social security trust funds that are annually appropriated as administrative expenses are specifically identified in the list of domestic discretionary programs that is part of the Joint Statement of Managers Accompanying the Conference Report on OBRA. OBRA expressly provides that discretionary appropriations in each of the three categories "shall be those so designated in the joint statement of managers." Section 250(c)(4)(A) of GRH, as amended by OBRA. Because of this express designation of social security administrative expenses in the list of accounts that are required to be included in the domestic discretionary category identified in the law, we have concluded that the expenses must be so included.

While the OBRA provision excluding Social Security (section 13301(1)) applies as a general matter, it does not directly conflict with the specific OBRA provisions directing the treatment of one element of social security only for certain purposes. For example, Section 13303 of OBRA specifically requires that the congressional budget include social security revenue and outlays for purposes of enforcement of the Senate social security firewall points of order. This specific provision should not be disregarded simply because the general social security exclusion provision states that social security outlays and receipts "shall not be counted" for purposes of "the congressional budget." Section 13301 (a). The name is true of the specific provision on administrative expenses. Indeed, even if there were a direct conflict between the general and specific provisions, the result would be the same. It is a basic principle of statutory construction that "Where there is inescapable conflict between general and specific terms or provisions of a statute, the specific will prevail." 2A Sutherland, *Statutory Construction* Sec. 46.05 at p. 92 (4th Ed.).

The Congressional Budget Office (CBO) included social security administrative expenses within the domestic discretionary category in its Final Sequestration Report for Fiscal Year 1991, issued on November 6, 1990. OMB did the same in its Final OMB Sequester Report To The President and Congress for Fiscal Year 1991, issued on November 9, 1990. The Comptroller General of the United States, in his statutorily required report on the extent to which the CBO and OMB reports complied with law, issued December 10, 1990, did not state that OMB or CBO failed to comply with OBRA or committed any error by including social security administrative expenses in the domestic discretionary category. General Accounting Office, *The Budget for Fiscal Year 1991—Compliance with the Balanced Budget and Emergency Deficit Control Act of 1985* B-221498 (December 10, 1990).

In view of the specific direction on the subject contained in OBRA, OMB will continue to classify social security program administrative expenses as within the domestic discretionary spending category."

Letter from Robert G. Damus to Sen. Jim Sasser (Jan. 24, 1991).

Mr. HOLLINGS. Mr. President, I thank the distinguished chair.

I will read the opening paragraph (b) here entitled "Exclusion of Social Security From Congressional Budget." Let me repeat that: The law, the law itself, three readings in the House, three readings in the Senate, signed into law on November 5, 1990, by President George Herbert Walker Bush.

It passed in the Senate, incidentally, by a vote of 98 to 2. And they talk about flip-floppers. Here is the law:

Exclusion of Social Security from congressional budget. Congressional Budget Act of 1974 is amended by adding the following: "The concurrent resolution shall not include the outlay and revenue totals of the Old Age and Survivors Disability Insurance established under title XXII of the Social Security Act and related provisions of the Internal Revenue Code."

In other words, not include as part of outlays and revenues.

Along comes the constitutional amendment for a balanced budget, voted on in this body just a few weeks ago, and section 7 says:

Total receipts shall include all receipts and shall include all outlays of the United States Government.

A positive, affirmative repeal of section 13301.

Now you go right to how this comes out in the press. In *Time* magazine, in a summary at the conclusion of a cover article—a March 20 copy, it said:

So long as the crisis is not about to burst next month, Democrats will see political profits in portraying any proposal to change Social Security as a Republican conspiracy to starve the poor and elderly. Republicans will think the only defense is to swear eternal fealty to the system as it is.

They treat it as demagoguery. They treat it as just a political thing. Here is the cover article; never once do they cite section 13301. They never once cite the law.

When we passed those Social Security taxes back in 1983, it was definitely understood that we were not just balancing the Social Security budget, but the affirmative intent was to provide surpluses to make the Social Security fund fiscally sound into the middle of the next century.

At a previous time, I inserted a letter from former Chairman Ball of the Social Security Commission. His letter said the Social Security fund is not in any fiscal trouble, it has surpluses, as it appears by the fund. But as it appears by the political treatment by the news media and by Members of this particular body and by President Clinton and the administration, it is a political slush fund.

I quote the distinguished majority whip, the distinguished Senator from Mississippi, on "Face the Nation," Senator TRENT LOTT said on February 5:

Nobody, Republican, Democrat, conservative, liberal, moderate is even thinking about using Social Security to balance the budget.

Do I have to invite him into the Republican caucuses so that he can understand what they are thinking because those thinkings are finally oozing out into the RECORD.

On "Larry King Live" around that time, Senator GRAMM said, and I quote:

I think we ought to balance the budget counting Social Security first, and then if we want to balance it without counting it, do it second.

So they are thinking about using it either first or second, according to the Senator from Texas.

I quote again the distinguished chairman of the Budget Committee, Senator DOMENICI:

You can't leave the biggest American program off budget.

It is off budget. The law says it is off budget. Here is the leader of fiscal responsibility in the U.S. Senate in contradiction to the law saying you cannot leave it off budget when the law requires it be off budget.

And then, of course, the distinguished Senator from Iowa, Senator GRASSLEY:

The leadership of the House of Representatives and the Senate have promised not to touch the Social Security retirement program for at least 5 years.

Well, 5 years; that means maybe after that then, but they are thinking about Social Security.

Or the distinguished Senator from Idaho, Senator CRAIG, and I quote:

Without access to the Social Security surpluses, you would create a much higher hurdle in trying to balance the budget.

Mr. President, we are not talking about hurdles, we are talking about truth in budgeting. I remember the saying of Mark Twain. He said that truth was such a precious thing it should be used very sparingly.

Is that the credo that we are going to use in the for budget laws in the U.S. Senate?

Or the distinguished majority leader on February 5, Senator DOLE:

I also believe that we can't keep Social Security off the table forever.

Now, Mr. President, they are thinking about it. And, in fact, yesterday, Tuesday, March 21, reported on page A4 of the *Washington Post*, Senator PACKWOOD, the chairman of the Finance Committee said:

"But in considering budgets," nothing is sacred, including Social Security and other entitlement programs."

How do you do it? You can do as the Speaker of the House says: If we cannot get what we want out of the Bureau of Labor Statistics, we will give it to Treasury, we will give it to Federal Reserve, we will give it to somebody to get it right.

One entity they are going to give it to get it right may be the new Director of the Congressional Budget Office. I do not have the exact quote here, but I know it is accurate. She said she could be using dynamic scoring when she has to. Ah, now you get in a CBO Director who uses dynamic scoring. Added to that, instead of a CPI of, let us say of 4 percent, you get one of 2 percent. But what we should understand, Mr. President, is that any savings in Social Security from changing the CPI should be put back into the reserves, back into the trust fund.

People say it is going to be difficult to really meet the target of reducing spending \$1.2 trillion by the year 2002. But that, in and of itself, is an inaccurate figure because they are using

Social Security moneys. To really balance the budget you need \$1.7 trillion; saying otherwise means that you are contemplating using the surpluses that the trust funds will take in over the next 7 years.

But let me get back to my amendment. You can well see that we are trying to get back to truth in budgeting under this particular Hollings-Kerrey-Exon amendment. It was endorsed last year by the Republican Members of the Budget Committee under the leadership of our distinguished chairman of the Budget Committee, Senator DOMENICI, when they included that in their Republican alternative.

Now, it all of a sudden becomes untimely this year? I do not know what committees the distinguished Senator from Indiana is on, but you can bet your boots whatever committee, it has a 10-year rule. If you are on Agriculture, if you are on Interior, if you are on Banking, if you are on Commerce, if you are on Indian Affairs, wherever it is. The Finance Committee faced up to it with the General Agreement on Tariffs and Trade; we had a 10-year rule that created a 60-vote point of order requirement on that vote.

But for the budget resolution, you do not have to live under the restrictions of the 10-year rule. I am trying to get truth in budgeting. I am trying to get the very custodians of fiscal responsibility here to come under the same rules. The very first bill that we passed here in January was to make Congress comply with the laws that everybody else has to follow.

It was a very good initiative. Well, why not follow the same logic? The 10-year rule promotes fiscal responsibility. It promotes truth in budgeting. Nevertheless, it was voted down in the Budget Committee on a partisan vote of 12 to 10 and Members come to the floor now to say, "Let's just go along with the Budget Committee."

Well, Mr. President, if we are going by that logic I should point out another amendment that I offered in the Budget Committee. In addition to the 10-year rule I offered a separate enrollment line-item veto, the very kind of measure now under consideration, but only got 4 votes, all from Democrats, in the Budget Committee. Under that logic, we would not be voting on the underlying bill.

Let us not table. Let us adopt this amendment. Let us send it to the House and to the President for his signature. The President of the United States favors the line-item veto. I am sure that if he were asked whether he favors truth in budgeting, his answer would be "yes." Then let us give it to him.

If you want to really get it done, let us not think and hide behind procedure and process. Let us get the truth in budgeting and make sure that the 10-year rule applies to the budget resolution as it applies to all other legislation.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, I would like to use the remainder of my leader time for a statement unrelated to the pending legislation.

The PRESIDING OFFICER. The Senator has that right.

The Democratic leader is recognized.

Mr. DASCHLE. I thank the Chair.

(The remarks of Mr. DASCHLE pertaining to the introduction of S. 588 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

ORDER OF PROCEDURE

Mr. FORD. Mr. President, I ask unanimous consent that I might proceed for 3 minutes as if in morning business.

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

THE RETIREMENT ANNOUNCEMENT OF SENATOR JIM EXON

Mr. FORD. Mr. President, I would like to say just a few words about my good friend and colleague Senator EXON's announcement on Friday that he would be retiring from the Senate.

As soon as Senator EXON announced his decision, the political pundits were predicting who would run in his place, and which party stands to win or lose the most. There will be plenty of time to survey the political fallout. Instead, today we should lament the loss of a dedicated public servant and the factors that led to his decision. Let me underscore the facts that led to his decision.

I believe the entire institution of the Senate loses when a devoted public servant like Senator EXON chooses to leave. But more importantly, his reasons for leaving signify an even greater loss than his singular contributions.

Citing the "ever-increasing vicious polarization of the electorate," Senator EXON said the "us-against-them mentality has all but swept aside the former preponderance of reasonable discussions of the pros and cons of the many legitimate issues," eroding the "essence of democracy" in the process.

Refusing to answer the bell for another race, Senator EXON sent out a warning to the citizens of this country that the democratic process has become seriously flawed—that using the "hate level" in attack ads as the "measurement of a successful campaign," can only mean the deteriora-

tion of the notion of compromise "for the ultimate good of all."

It was a price the statesman in him was no longer willing to pay.

And there can be no doubt that he leaves here a statesman. President Eisenhower once said that "The opportunist thinks of me and today. The statesman thinks of us and tomorrow."

I know Senator EXON came to the Senate looking only to do what was in the best interests of his State and country. He knew that his decisions had to pass the test of time, not simply grab attention on the evening news. He spent each day meeting that test, knowing, as he said last week, that he "never reached a decision that (he) didn't believe to be in the best interests of Nebraska and the United States of America."

So perhaps the pundits will put aside their political score cards for a moment, and will consider that in his decision to leave, Senator EXON the statesman was again thinking of "us and tomorrow."

I certainly hope so, because his intellect, legislative skills, and commitment to service will be sorely missed in the U.S. Senate.

I yield the floor.

ORDER OF PROCEDURE

Mr. COATS. Mr. President, I ask unanimous consent to proceed as if in morning business for 5 minutes.

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

The Senator from Indiana is recognized.

Mr. COATS. I thank the Chair.

(The remarks of Mr. COATS pertaining to the introduction of S. 589 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

LEGISLATIVE LINE-ITEM VETO ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 362 TO AMENDMENT NO. 347

Mr. KOHL. Mr. President, I rise in opposition to the amendment by the junior Senator from Wisconsin. I am unhappy that I have to do so because I have the greatest respect for Senator FEINGOLD and for his dedication to deficit reduction. And though I agree with 99 percent of the substance of this sense-of-the-Senate, I cannot agree with the final statement that "enacting a * * * so-called middle-class tax cut during the 104th Congress would

hinder efforts to reduce the Federal deficit."

I would like to state for the RECORD that I do believe that deficit reduction is this Congress highest priority. If proposals for tax breaks—such as the \$200 billion in tax breaks moving through the House—get in the way of further progress in reducing the deficit, I will oppose them. However, I believe it is possible to both make the Tax Code fairer to low- and middle-income working families and significantly reduce the deficit.

For example, Congress could engage in wholesale tax reform, lowering rates for middle and lower income taxpayers while eliminating wasteful tax loopholes that benefit the rich. Such reform could be designed to reduce the deficit and make the Tax Code more equitable. I do not think the Senate should go on record right now with a sense-of-the-Senate that implies such reform is out of the question.

Though this Congress has discussed in great detail the problems with our Federal budget, we have yet to start the debate on the fiscal year 1996 budget plan. At this early point in the debate, I do not believe it wise to start ruling out options—such as providing some tax relief to working families. Therefore, I will reluctantly oppose the pending sense-of-the-Senate.

AMENDMENT NO. 403

Mr. KOHL. Mr. President, I rise today to support the amendment offered by my colleague from New Jersey. If adopted, the Bradley amendment will allow the President to eliminate tax loopholes that benefit special interests at the expense of the American people. And while the tax expenditure language in the Dole substitute is a good first step in the right direction, the amendment offered by Senator BRADLEY offers definitive protection against future wasteful tax spending.

Mr. President, when it comes to creative spending, the Federal Government is second to none. And one of the most creative ways that Washington spends money is through special breaks and hidden expenditures in the Tax Code. The Tax Code contains loopholes large and small that benefit every type of special interest, including, among others, an exclusion of income for rentals of 2 weeks or less and deferrals of income of foreign-controlled corporations.

Mr. President, there is not enough time this morning to go through the entire list of loopholes that permeates our tax laws, but you may be assured that there is a credit, break, or write-off for every conceivable purpose. There may have been a time when our country could afford these expenditures, but that time is over. Today, we have the opportunity to begin the process of eliminating this hidden spending if we adopt the clear and unambiguous language offered by my colleague from New Jersey.