

that lose revenue, I believe the President should not be permitted to item-veto congressional prohibitions on appropriations spending. As all Senators know, Congress routinely includes prohibitions on particular spending as a check on unrestricted and arbitrary spending by the President. Most often, such prohibitions represent a conscious policy choice by Congress explicitly restricting the President's discretion.

For example, last year's foreign operations appropriations bill contains more than a dozen such restrictions. These restrictions prevent the President from providing money to an international organization that supports programs for "coercive abortion or involuntary sterilization." Another provision prevents funds from being used for assistance to a country that is not in compliance with the U.N. Security Council sanctions against Iraq.

These are just two of hundreds of examples of the legitimate power of the Congress to prevent the President from spending money on programs and policies that the Congress disapproves of. These restrictions do not increase the deficit. They do not represent pork barrel politics. They are legitimate congressional checks on the President that are consistent with the intent of the Founding Fathers when they created our constitutional system of separated powers and checks and balances.

Madam President, our amendment is intended to make clear that when Congress imposes a condition that prevents spending in a particular area, or conditions spending, that restriction will not be considered an item that can be separately vetoed. It ensures that a condition restricting or prohibiting the use of funds must be enrolled with the item of appropriation to which the condition applies.

Madam President, this amendment preserves congressional power to restrict the President from acting contrary to the wishes of the majority of Congress on important policy issues. I believe it is fundamentally necessary that we retain this authority and I hope my colleagues will vote for this amendment.

Mr. EXON. Madam President, I rise in support of the amendment offered by the senior Senator from Michigan. This amendment only makes good sense.

It would keep rescissions and cancellations of spending from being transmitted to the Presidents as separate items. Thus it would make it more difficult for the President to veto items that help to reduce the deficit.

As well, the amendment would ensure that limitations on spending stay together with the spending provisions that they limit. To do otherwise would allow the kind of nonsensical divisions of items that the Senator from Michigan so eloquently described yesterday evening.

I support the amendment and urge my colleagues to join in voting for it when it does come to a vote.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, on behalf of the Senator from Utah, I ask unanimous consent that he be added as an original cosponsor of the Abraham amendment.

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

Mr. McCAIN. Madam President, I also ask unanimous consent that the pending Levin amendment be set aside.

The PRESIDING OFFICER. Without objection, the Hatch amendment will be set aside.

Mr. McCAIN. The Levin amendment.

The PRESIDING OFFICER. Without objection, both amendments will be set aside.

Mr. McCAIN. Madam President, the Hatch amendment, for purposes of complying with the unanimous-consent agreement, was presented and the debate and vote will be held on it probably tomorrow.

Mr. LEVIN. If the Senator will yield, our friend from Alaska has additional materials which I would like to ask unanimous consent be printed in the RECORD, if available, tonight. If not, we will make that same unanimous-consent request tomorrow.

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

Mr. McCAIN. Madam President, if that is available tonight, it would be inserted in the RECORD immediately following the remarks of the Senator from Michigan.

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

Mr. McCAIN. I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Madam President, I wish to make some brief remarks with regard to support of the amendment offered by the Senator from Michigan, but at this time I yield the floor because I believe Senator BYRD would like to make some remarks not on the matter at hand.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the Chair and I thank the distinguished Senator from Nebraska, Mr. EXON.

#### SPRING RETURNS TO THE WEST VIRGINIA MOUNTAINS

Mr. BYRD. Mr. President, 2 days ago, the first day of spring officially came to Washington. Here in Washington, the change from one season to another is often dramatic. One morning, D.C. temperatures might be in the freezing range, while the following day might find young men and women out on the Mall playing volleyball in shorts and tee shirts. Here, tulips and magnolias burst forth from nowhere, and the cherry blossoms transform the city as if by overnight magic.

But a few miles west of us—among the peaks and plateaus of the high Appalachians in West Virginia, spring

dawns like a beautiful young woman awakening from a long sleep.

If the geologists are correct, spring has awakened in the same fashion in West Virginia for millions of years.

High on Alpine West Virginia ridges—once, we are told, the equivalent in altitude of some caps among the Himalayas today—crystal ice and deep-packed snow begin their melt, the runoff seeking the sea first as droplets, then as rivulets, next as springs and brooks, then as creeks and streams, and finally as flooding branches that find their routes either into the widening Potomac on the eastern slopes of the Alleghenies and the western sides of the Blue Ridge, or into the mighty Ohio and Mississippi farther west—dependable flows of water of that helped to create the shores of Tidewater Virginia and Maryland's Eastern Shore through the millennia, on one hand, and that has built up the Mississippi Delta since before the bison crossed into North America, on the other hand.

But more subtle changes accompany spring's approach in West Virginia—changes too often observed only by the sparkling eyes of squirrels and of the first adventurous rabbits out of their winter burrows—changes such as tiny blossoms in greening meadows, minuscule leaves emerging on bare maple branches, cardinals, and robins announcing in concert the impending arrival of a new season, and graceful deer grazing on tender blades of new grass—and all proclaiming the marvels of the Creator's bounty and brilliance.

Oh, to be a child once again in West Virginia—a child who, on his or her way to school in the cool of the morning air, can perhaps feast his or her senses on the dawning spring as most adults can no longer—a child who catches the first perfume of cherry blossoms on young fruit trees or who pauses to listen to the symphony of the songbirds or who savors the gentle breezes on his or her cheek, where but days before the cruel winter wind bit and chapped.

And soon, Mr. President, the mountains and hills of West Virginia will again be enfolded in new foliage from base to summit, and the sunrises and sunsets will put even the ceiling of the Sistine Chapel to shame with their incandescent colors and shafts of spun gold streaking across the early morning and evening vault of the West Virginia firmament.

There we may see,

The marigold that goes to bed wi' the Sun,  
And with him rises weeping . . . daffodils,  
That come before the swallow dares, and take

The winds of March with beauty; violets dim,  
But sweeter than the lids of Juno's eyes  
Or Cytherea's breath; pale primroses,  
That die unmarried, ere they can behold  
Bright Phoebus in his strength. . . .

Mr. President, I invite all of our colleagues to visit West Virginia at any time, but particularly during this special season of rebirth among the mountains, down the valleys, and across the

whole Appalachian Plateau. But if anybody accepts my invitation, I suggest that they visit West Virginia in a recapturement of their childhood—with the open eyes and trusting heart of a child, with the pure hearing of a child, and with the joy and wonder with which we were born—all of these things that permit children to listen, perceive, and relish the beauties and mysteries of life that the Creator shares every year with all of his offspring, but that, too often, as hardened and sometimes insensitive men and women, we lose the capacity to enjoy, much less to appreciate.

The year's at the spring  
And day's at the morn;  
Morning's at seven;  
The hillside's dew-pearled;  
The lark's on the wing;  
The snail's on the thorn;  
God's in his heaven—  
All's right with the world.

Madam President, I yield the floor, and I suggest the absence of a quorum.

Mr. NUNN. Madam President, if the Senator would withhold, I would like to make a few remarks.

Mr. BYRD. Madam President, I withhold.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Madam President, I have listened with care in the last few days to the debate on the so-called line-item veto. I have not heard all of it, but I have heard, I think, enough to understand the parameters we are talking about. And we are now debating the proposed substitute—the Separate Enrollment and Line-Item Veto Act of 1995.

The sponsors have claimed that this bill will provide the means to remove, among other things, a particular focus on what is known around the country as pork-barrel spending from appropriations bills. The language of the proposal, however, does not live up to the sponsors' claims.

I am going to raise several questions tonight that I hope can be clarified or answered. Although the sponsors have aimed at certain expenditures, as I see it, they have missed.

In fact, this proposal provides the President with significantly less authority to control pork-barrel spending than would have been provided under either the Domenici-Exon expedited rescission proposal or the McCain enhanced rescission proposal.

Madam President, I see at least five serious problems with the proposed substitute. First, it contains loopholes so large that the proponents of pork will be able to insulate whole barrels of pork from a Presidential veto if they choose to do so. Second, the separate enrollment procedures would allow the President to veto funding limitations as well as funding amounts, which would inhibit the ability of Congress to address legitimate policy differences with the President.

Third, this proposal permits the President to increase, as well as decrease spending, by allowing him to

sign into law those portions of an appropriation bill that increase spending, and to veto those portions of an appropriation bill that rescind or reduce spending.

So, in other words, if a President chose to, under this authority, he could take an appropriation bill that had been passed by the Congress and he could basically increase the amount in that appropriation bill by doing away or vetoing the rescissions in that bill that reduce funding.

So just the opposite of what the sponsors have intended could occur. This is just saying to the President, we think you are a whole lot better at this than we are, so we give you the authority. You make the decisions—increase or decrease. You do whatever you want. I do not think that is what is intended, but that is what the proposal does.

Fourth, the proposed substitute, if not undermined by the use of loopholes—and I do not assume that these loopholes would be used by people with good faith, but I think that we have to assume that at some point they will be—if not undermined by the loopholes, this substitute will lead to what Senator ROTH and the Republican members of the Governmental Affairs Committee describe as “undesirable rigidity” in the management of the executive branch and the legislative process.

Finally, the proposed substitute does nothing to enhance the ability of Congress to address the real problems here—that is, the legislative practices such as unauthorized appropriations, legislative earmarks, and adding items in conference even though they have not been approved by the House or the Senate.

Those are the abuses in the process. This proposal does nothing to get at those abuses. Those are the problems, but the target here has been missed.

Madam President, to place my concerns in context, I would like to briefly summarize the current appropriations process. There are two types of documents that are produced by Congress in the appropriation process, and I really do not believe a whole lot of our Members understand this.

The first document is an appropriation bill which is passed by both Houses of Congress. It is signed into law by the President. Last year's defense appropriation bill, for example, was 61 pages long. The bill is legally binding upon the executive branch.

The second type of document is the reports issued by the appropriation committees and the House-Senate conferees. The three reports issued in connection with last year's defense bill are 853 pages, covering over 2,300 different line items.

The policy directions in these reports is not binding on the executive branch. There is no requirement in law or Senate rule that an appropriation bill or report contain any specific level of detail. Most appropriation bills, particularly in the defense arena, set forth

large lump-sum amounts that are not tied to specific programs, projects, or activities.

Looking at an example from last year's Department of Defense Appropriation Act, the Act provides a specific sum for Army aircraft procurement, \$1,063,164,000. The text of the act does not require the Army to spend that money on any particular type of aircraft.

The detail is set forth in the committee and conference reports which specify the amounts for production or modification of a dozen different types of aircraft. Those report items are not legally binding on the Department of Defense. The Department, as a matter of law, can spend that \$1 billion on any type of army aircraft selected by the Army or the Department of Defense, regardless of the types that are specified in the Appropriations Committee reports.

Any restrictions, earmarks, or other special conditions that are in the committee report are not binding on the Department of Defense. As a matter of comity and custom, the Department of Defense generally, but not always, follows the guidance in the committee reports, but it is not required to do so.

The Department of Defense routinely reprograms funds between various lines in the Appropriations Committee reports without any congressional involvement. Above certain thresholds, however, for example, operation and maintenance reprogrammings that exceed \$20 million, there is a custom of obtaining prior approval for reprogrammings from the congressional defense committees.

That is, when they shift funds from one account to the other. In the Department of Defense this happens hundreds of times in a year because there are certain programs that get behind schedule—they cannot be completed on time. Therefore, the money is not needed as originally anticipated. The money is needed somewhere else. They shift back and forth, back and forth. Over certain thresholds, they have to come back here for informal approval.

There is nothing binding about reprogramming. They do not even have to come to us for reprogramming approval as a matter of law. That also is a matter of comity. Moreover, if Congress were to insist on such prior committee approvals, it would likely constitute an unconstitutional legislative veto.

In summary, Madam President, there is no requirement for an appropriation bill or report to contain any specific level of detail. And the material in the committee and conference reports is not legally binding on the executive branch. Much—not all—but much of the pork, perhaps most, but at least much of the pork identified in the news media that we dwell on in here and that disturbs all members—and I know the Senator from Arizona has been particularly vigilant in that respect and I

think over the years I have, also—that pork, much of it, is not binding on the President but is spent as a matter of comity between the two branches.

I am often amused when Presidents are talking about how their hands are bound and they can not do certain things because of Congress, and a whole lot of things they complain about are not binding on the Presidents of the United States.

As a matter of comity, if they disregarded the reports year in and year out, they would be jeopardizing some of their own programs, but in my opinion we have had several Presidents who have basically talked about the line-item veto because they wanted to give the appearance that they had to accept things beyond their control, when they knew they had control, if they wanted to do something about it. Most of them do not want to do anything about it because they want their own pet projects. And it ends up being spent as a matter of comity between the two branches of Government.

I know that is not going to change people's minds here, but that is the way the system works. We need to understand that we are trying to correct something and we are shooting at a target that is not really a target.

In summary, Madam President, there is no requirement for an appropriation bill or report to contain any specific level of detail, and the material in committee and conference reports is not legally binding on the executive branch. Much of the pork identified in the media is not binding on the President but is spent as a matter of comity between the two branches.

Now, committee reports that explain legislative provisions are legislative history, and they do have an effect. But what we are talking about now is committee reports that talk about expenditures and how that money would be spent, and that is not binding.

Madam President, with that background, I would like to turn to the loopholes in the proposed substitute. The supporters of the proposed substitute assert that it will require pork-barrel projects to be set forth in the text of appropriation bills and enrolled as separate enactments. There is no such requirement in the proposed substitute. As drafted, the substitute merely provides that—I am quoting directly from it—"The committee on Appropriations of either the House or the Senate shall not report an appropriation measure that fails to contain such level of detail on the allocation of an item of appropriation proposed by that House as is set forth in the committee report accompanying such bill."

The first defect is there is no requirement in current law, Senate rules, or the proposed substitute that the Appropriations Committee provide any specific level of detail in the committee report. The committee report does not have to have any specific level of detail in it. So the very heart of this proposal ties it to details in the com-

mittee report, but the detail does not have to be in there. If we enact the proposed substitute, the Appropriations Committee, if they choose to, can easily avoid a line-item veto by providing lump sum appropriations and then setting forth the detail in separate documents other than the committee report. These documents could include a floor statement by the managers of the bill, an agreed joint statement of the managers of the conference which is placed in the CONGRESSIONAL RECORD in lieu of or in addition to the formal conference report, or a simple letter from the leadership of the committee to the head of an agency.

And I assume and I believe, based on previous practice and observations, that within a year or two that will begin to happen.

In other words, there is no requirement that the committee report or a conference report contain a specific level of detail. No line-item detail is required, and there is no requirement that there be anything for the President to veto beyond a lump sum appropriation.

(Mr. GRAMS assumed the Chair.)

Mr. NUNN. Using the example I discussed earlier, the appropriation bill could simply provide \$1 billion for army aircraft procurement. It could set forth minimal descriptive material in the committee report and then provide all the details, including a pork-barrel earmark, in a floor statement or a letter to the Department of Defense.

Alternatively, the committee could include all noncontroversial materials in the committee report and then address a pork-barrel earmark in a floor statement or letter to the DOD. In either case, Mr. President, the President of the United States under the proposed substitute would have nothing to veto except the big lump sum procurement. That is all he would have to veto. He would not have the detail in there.

The substitute appears to be based on the mistaken premise that the only way Congress can earmark a pork-barrel project is through bill or report language. Mr. President, that is naive and ignores both legislative history and precedent. Unlike report language that interprets a legislative provision, a line item in a committee report which sets forth a committee's policy direction on expenditures has no legal standing. It has no more legal effect than a speech in the Chamber, a letter from a committee, or a phone call from a committee chairman. Therefore, those who want to earmark or add pork do not need report language. They can use any other form of communication to the executive branch.

The likely effect of the substitute will be to drive the pork into underground shelters where it will be hidden from scrutiny. If the substitute is enacted, the really egregious earmarks no longer will be set forth in committee reports. The earmarks will be described in floor statements, letters

from committees, or even phone calls from committee chairmen to the heads of agencies. The proposed substitute will not eliminate pork. It will drive it underground.

A related loophole is the failure of the substitute to cover floor amendments. It is not unusual for an amendment to be offered in this Chamber to increase a lump sum appropriation by a specified amount without stating the purpose in legislative language. The purpose is often set forth in the statement of a sponsor.

Under the proposed substitute, an amendment that increased a lump sum appropriation would not be enrolled as a separate bill even if the sponsor stated that the purpose of the increase was to earmark funds for a pork-barrel project. Once the amendment is adopted by the Senate, there is no requirement that the purpose of the amendment be discussed even in the conference report.

Mr. President, let us look at how a pork-barrel earmark would fare under the proposed substitute as compared to how it would fare under the Domenici-Exon expedited rescission bill or under the original McCain bill.

Under the proposed substitute, if the earmark is set forth in a floor statement or committee letter, there is no requirement that the item be set forth separately in the bill or separately enrolled. Unless the item is set forth in the bill, the President could not veto it.

Under the Domenici-Exon expedited rescission proposal or under the McCain original proposal, however, the President would not be limited to items expressly set forth in the bill. The President could propose rescission of a specified amount of money for a specified purpose. The President would be guaranteed a vote in the House and the Senate in a specified period of time. That would not only serve as improvement in the current law in the case of the Domenici-Exon proposal, but it would also be a great improvement over the proposed substitute, which has enormous loopholes.

Ironically, the proposed substitute would enable the President to veto items that reflect legitimate policy differences between the President and the Congress. When we have major disagreements on matters of policy, we must express our requirements in legislation in order to ensure that the President carries out the will of Congress.

Let us take, for example, an item that both of my colleagues in the Chamber, the Senator from Nebraska and the Senator from Arizona, are very familiar with, the V-22 aircraft. The 3sprey, or the V-22 aircraft, has been a controversial item for several years. The V-22 has had strong bipartisan support in the Congress, yet the Bush administration wanted to cancel it. Congress insisted on authorizing and appropriating funds for the V-22 because we believed the funds were genuinely

necessary for a strong national defense. We had to include specific legislative provisions to ensure that the program was not canceled.

Under the proposed substitute, however, the President could have vetoed the V-22. He could have vetoed the strategic sealift program that Congress initiated. He could have vetoed congressional increases for weapons systems that had not been in the President's budget but which made a crucial difference in Operation Desert Storm, such as Stealth fighters and the Patriot missile. He could have vetoed the \$1 billion LHD-6 ship that was added by the Congress even though it was not in the President's budget. Many of our colleagues want to increase and restructure our missile defense program. That is another item ripe for a Presidential veto under the proposed substitute.

The separate enrollment proposal allows the President to veto any paragraph of the appropriation bill. The proposal is not limited to provisions containing pork-barrel earmarks. In fact, it is not limited to funding items. The proposal applies to any numbered section or any unnumbered paragraph.

That means the President can veto funding limitations as well as funding amounts. In doing so, he could approve the appropriation bill but he could veto conditions under which the appropriation was provided.

The President, for example, could veto a provision such as section 8135 of last year's appropriation bill. And I believe Senator LEVIN has been talking about that, the Senator from Michigan. That provision stated, "None of the funds appropriated by this act may be used for the continuous presence in Somalia of United States personnel, except for the protection of United States personnel after September 30, 1994."

That provision was strongly supported by many of those who now back separate enrollment. The President did not want the provision. I am sure he would have loved to have had the ability to veto that provision without affecting the underlying DOD appropriations.

Have any of the supporters of the proposed substitute, especially those who opposed the operations in Somalia or Haiti, considered the war powers implications of the drastic new restrictions on the congressional power of the purse?

The power of the purse is the only thing we have to deal with. The War Powers Act does not work. Everybody over here knows it. The power of the purse is the only way that Congress has to enforce restrictions on foreign troop deployments. That power under this bill as now drafted in my opinion will be largely gone.

Another part of the DOD appropriation bill, section 8008, last year provided:

Funds appropriated by this act may not be used to initiate a special access program without prior notification 30 calendar days

in session in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

Those special access programs, as other programs, are very highly classified programs that I will not discuss here on the floor. But I have no doubt the President, any President, would welcome the ability to veto that provision. This was a limitation on Presidential expenditures, saying you cannot spend this money except under certain limited conditions. The President could keep the money, veto the conditions, and off we go—more expenditure, not less, as people want when they say they want a line-item veto.

Under the substitute there is just as much chance, over a period of years, that the President, any President, would veto a restraint on spending as well as an increase in spending. This is not what the public has in mind when they say they support a line-item veto.

In my opinion, there is just as much chance this provision, this bill, will cause an increase in spending as there is a decrease. That does not even take into account the ability of the President under this new power to basically take certain provisions in a Senator's State and say, "You have these five provisions and if you do not vote with me on, for instance, health care, my proposal on health care, I am going to make sure these proposals do not go into law unless you can produce two-thirds of the vote in both bodies to do so."

It is a huge power shift to the President. But I am not even dwelling on that in this speech today. It is a huge power shift to the President. And any President that has a pet project—health care, or whatever they want to get through—will have a very greatly enhanced ability to do that. Not by saving the public money, which is what they want, but by threatening to veto those provisions in exchange for Senators and Members of the House basically voting to increase spending on one of the President's proposals. It could be billions of dollars.

In my opinion what we are setting up here, the way we are heading—we are setting up provisions which give the President of the United States a chance to threaten millions of dollars in exchange for getting votes for billions of dollars. That is not what the public intends. That is exactly where this proposal is headed.

Mr. President, to take another example, the President could veto the so-called Hyde amendment restricting the use of Federal funds for abortion that has been included in the Labor-HHS appropriation bills over the years because it would be enrolled as a separate bill under the proposed substitute.

The Hyde amendment was included as section 509 of the fiscal year 1995 Labor-HHS appropriations bill, and reads as follows:

Section 509. None of the funds appropriated under this act shall be expended for any abortion except when it is made known to

the Federal entity or official to which funds are appropriated under this act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

I wonder if the people who are so enthused about this amendment, and this proposal, have really thought through what they are doing.

Mr. MCCAIN. If the Senator will yield, I will be happy to answer that question.

Mr. NUNN. I will go ahead and yield, yes, sir.

Mr. MCCAIN. Yes, we are. Fortunately, a substantial part of the Senator's argument against this legislation has been taken care of by the Levin-Murkowski-Exon amendment. I will be glad to quote it to him. It adds:

\* \* \* but shall not include a provision which does not appropriate funds, direct the President to expend funds for any specific project, or create an express or implied obligation to expend funds and

(i) rescinds or cancels existing budget authority;

(ii) only limits, conditions, or otherwise restricts the President's authority to spend otherwise appropriated funds; or

(iii) conditions on an item of appropriation not involving a positive allocation of funds by explicitly prohibiting the use of any funds.

Basically what that does, I would say to the Senator from Georgia, it prohibits most of the scenarios that the Senator from Georgia just described about being able to separate language from funds, funds from language, and being able to so-called fence other areas.

I would like to let the Senator from Georgia finish, but I did want to point out this amendment, which I believe is going to be accepted, does address some of the major concerns the Senator raised.

Mr. NUNN. I thank my friend from Arizona. It is my understanding that has not yet been adopted. Has that been adopted?

Mr. MCCAIN. It is my understanding it has not been adopted. As well, I have no doubt it will be.

Mr. NUNN. I am speaking of the proposal we now have before us. I thank my friend. I am glad the authors are considering that, because I can assure you, if we debate this bill another 2 or 3 days, another 3 or 4 days, there are going to be a lot of other things that people are going to point out because this has not been thought through.

I believe the original proposals, the rescission proposals, have been thought through by the authors. I did not agree with the McCain proposal because of the two-thirds vote, but I think it had been thought through, the rescission part. This proposal has not been thought through. You are going to find one problem after another with this.

For it to come on the floor of the Senate of the United States with a closure motion at the same time, bypassing committees, bypassing the rescission proposals that had come out of the

Governmental Affairs Committee and Budget Committee, and come up as a compromise with the threat of a cloture motion—this proposal has not been thought through. It is riddled with loopholes.

I am glad that particular amendment is being strongly considered, but it has not been adopted and of course I have no way of knowing what is going to be adopted so my remarks have to be addressed to the bill, the underlying bill as it now stands. But I thank my friend from Arizona. I hope there will be that clarification as well as others that take place.

The rescission proposals would not have that problem. The President would send up rescissions on money items. He would not be sending up language revisions. Those are totally different animals than what we have here on the floor. This hybrid that has been put together as a compromise has injected whole new areas that were not contemplated in the rescission bill and present totally different problems. For us to pass this bill in a week or 4 or 5 days to me is very bad legislative procedure and will come back to haunt us if we continue to legislate this way on these things that are this important. It is obvious this matter has not been thought through.

In short, Mr. President, the proposed substitute is likely to give us the worst of both worlds. It does not subject to veto the earmarks that are buried in floor statements, committee letters, and phone calls to Cabinet Members. Those could be addressed in rescission bills. They will not be able to be addressed in this bill.

It does subject to veto legitimate policy disagreements between Congress and the executive branch that have to be addressed in statute. I hope my friend from Arizona is correct on that, that policy disagreements are going to be addressed in an amendment. I have not had a chance to study the amendment and I do want to study that.

I believe the impact of the substitute proposal will be almost the opposite of what the Members of Congress and the American public had in mind when they said—and say in polls and in their letters and phone calls—they want a line-item veto.

Mr. President, I think it is also important to note, as I mentioned earlier in my summary remarks, that the substitute we have before us and that we may vote on even as early as tomorrow night, permits the President to increase Federal spending. The proposed substitute has been justified as a means to decrease Federal spending. This claim overlooks the fact that the substitute as drafted also permits the President to increase Federal spending.

As Members will recall, we acted last week on a defense supplemental bill to address urgent readiness problems.

That bill not only contained increases in spending for readiness, it also contained rescissions—decreases in spending—to minimize the impact

on the deficit. A number of those offsets, were strongly opposed by the President, such as the reductions in environmental spending and reductions in the Technology Reinvestment Program.

Under the proposed substitute, each paragraph in the supplemental would be enrolled as a separate bill, including the rescissions. As a result, the President would be free to sign into law all the increases in spending and to veto any or all of the rescissions. In other words, the President could increase the deficit by hundreds of millions or billions of dollars without congressional approval. Only a two-thirds vote of both Houses could override these actions. Is it any wonder that any President would desire to have this power?

Obviously, any President would want these powers because he can take a rescission and an appropriations bill that decreases an expenditure, veto the rescission, and keep the appropriations. What are we doing here? Do we really know what we are doing in this proposal?

In that regard, the proposed substitute is clearly inferior to the Domenici-Exon expedited rescission proposal. Under an expedited rescission, the President could only propose decreases in spending.

I must say I believe that is also the way the amendment of the Senator from Arizona would have worked.

The President could not obtain any increases under the Domenici-Exon expedited rescission procedure. Why do those who support reductions in Federal spending want to give the President the authority, under the proposed substitute, to increase Federal spending instead of restricting his power to reductions in spending? I can only conclude that this proposal has not been carefully thought through.

The proposed substitute if implemented in good faith, if none of these loopholes is taken advantage of by this Congress or a future Congress, will, in my opinion, result in rigidity, inflexibility, and in some cases chaos in the management of the Government's fiscal affairs in the executive branch.

Mr. President, the problem with the proposed substitute is that if it is administered in good faith with line-item appropriations, and if no loopholes are used by the Appropriations Committees—and I have already described the gigantic loopholes that could be used—I believe it will cause chaos in the management of Government's fiscal affairs.

The most telling critique of the proposed substitute comes from the Republican majority on the Governmental Affairs Committee.

This was the report that came out with the rescission bill that had been brought out of the Governmental Affairs Committee just about 10 days ago.

In explaining why it was better to have lump sum appropriations rather than line-item appropriations. Senator ROTH and the Republican majority on

the Governmental Affairs Committee made the following observations in their report on S. 4, which was the original proposal before this substitute came in.

Quoting from that majority report in the Governmental Affairs Committee:

Congress and the executive agencies are in broad agreement that lump-sum financing is an effective way to manage the Federal Government. Because of lump sum appropriations, federal agencies are able to shift funds within large appropriations accounts and therefore adjust to changing conditions during the course of a fiscal year. By making these shifts inside the account, the overall dollar figure for the activity is not violated and therefore there is no need to seek remedial legislation from Congress. Fund shifting takes place under established reprogramming procedures, with agencies notifying designated committees of the shifts and in some cases seeking the advance approval of those committees. \* \* \*

This flexibility is important for the agency and for Congress in its oversight capacity.

It is possible, although not desirable, to apply the state budgeting system to the Federal Government and give Presidents the kind of line-item veto available to governors. To maximize item-veto authority for the President, the details in conference reports, agency justification materials, and other nonstatutory sources could be transferred to appropriations bills \* \* \* .

At this point I am not quoting. This majority report is describing the problem exactly with the substitute we have before us. Back to the quote:

\* \* \* However, placing items in appropriations bills would produce an undesirable rigidity to agency operations and legislative procedures. If Congress placed items in appropriations bills, agencies would have to implement the bill precisely as defined in the individual items. In cases where the specific amounts detailed in the appropriations statutes proved to be insufficient as the fiscal year progressed, agencies could not spend above the specified level. Doing so would violate the law. Agencies and departments would have to come to Congress and request supplemental funds for some items and rescissions for others, or request a transfer of funds between accounts. Neither Congress nor the agencies want this inflexibility and added workload for the regular legislative process.

If we want further argument against this substitute, let us turn to what the Republican majority on the House Committee on Government Reform and Oversight said in making similar observations in their report on the line-item veto legislation that they passed, which I must say is totally different from the substitute we have before us now.

Quoting from the House Government Reform and Oversight Committee, Republican majority:

We do not itemize appropriation bills and see no reason to do so. . . . The details do not appear in the law. . . . We could take the details from nonstatutory sources and place them in appropriations bills, but that would add an undesirable rigidity to agency operations. Executive officials would have to implement highly detailed bills no matter the magnitude of change that occurs over the course of [a] fiscal year. Their only opportunity for relief would be to come to Congress and request legislation to increase

funds for some items and eliminate them for others. Agencies would be forced to seek large numbers of statutory amendments to the original appropriations bill. No one in either branch wants that.

Item-veto authority, as practiced at the state level, would require the Federal Government to itemize appropriations bills. Such a step would disrupt and undermine effective agency management.

What we have, Mr. President, is both the Republican majority on the Senate side in Governmental Affairs, and the Republican majority on the House side in Governmental Affairs, have written reports in connection with line-item veto that directly critiques and criticizes and describes as rigid and unworkable, in my words, the proposal that we are now about to vote on and will probably pass. It is an amazing legislative performance.

I have never seen anything quite like it to have a committee report by the majority come out and basically to decry and criticize a later proposal that is on the floor as a substitute for the ones brought out of committee.

Let me illustrate the problems described by the Republican majority on the Governmental Affairs Committee. Assuming the Appropriations Committee set forth all the line items for defense in the defense appropriations bill, this would mean that a single defense appropriations bill, as we now know it, would be enrolled as over 2,300 separate public laws. Reprogrammings between these public laws would no longer be possible. Reprogramming could not take place because each item would be in a separate law. As a result, fiscal managers would no longer be able to move funds from a program that is in trouble to a program that is ahead of schedule. Overseas pay and benefits shortfalls caused by devaluation of the dollar could not be addressed through reprogramming in the defense arena.

To the extent that Congress requires an agency to eat a pay raise—or absorb the cost by shifting funds from other programs—the agency would be unable to provide for the pay increase through reprogrammings.

Increases in operational tempo in time of international tension could not be funded through a reprogramming from lower priority programs.

Readiness shortfalls would go unaddressed because money could not be moved from lower priority O&M accounts into training activities.

We know how long it takes us to get through a supplemental appropriations bill. We are going to have to have supplemental after supplemental after supplemental based on this legislation, if we pass it. There is going to be no end to the number of supplementals that we are going to have just in the Department of Defense alone.

The legislative activity load is going to just go up astronomically if we pass this legislation.

If military personnel accounts experienced temporary shortages—as they did last year in the Air Force Reserve

just before Christmas—funds could not be reprogrammed to meet payrolls.

In other words, Mr. President, the executive branch would be faced with fiscal gridlock. Like Gulliver, they would be bound by Lilliputians in the form of thousands of minute appropriation bills.

Our fiscal managers would be unable to make reasonable adjustments during the course of a year to spend the money wisely, and would be forced to delay actions needed to obtain savings or meet other critical military needs. Moreover, because they could not move the money between line items, there would be a great incentive to spend all of the funds appropriated to a particular line, even if the money could be used more wisely in another program—just exactly the opposite of the incentives we want to give the managers in DOD, or any other department. They would know that they could not move it because they could not reprogram. They would know if they come to the Congress, they might have to wait sometimes months, maybe even before the fiscal year is over, to be able to come up here and get another law passed so they could spend the money in some other category. Are they going to be great managers and turn it back in? We all know what happens when people have money to spend in agencies. It is a problem every government faces. They spend it or lose it. Usually, unfortunately, they spend it. That is what is going to happen here, multiplied by thousands of line items.

In other words, Mr. President, a proposal that started out to try to save the taxpayers money, to try to delete waste, fraud, abuse, and pork out of all sorts of legislation—a worthy objective and I think one that could be achieved with something like the Domenici-Exon proposal—is now in the form of a substitute that we are about to vote on. That is a formula for delay, inefficiency, and waste. That is how this process has evolved—an amazing process.

Mr. President, the final comment on this proposal that I will make is that the substitute we will probably vote on tomorrow does not address the main problems criticized by its supporters. I must say, these are legitimate criticisms of our current process. I am not a defender of the current process. I think for us to have rescissions come from the President and, by doing nothing over here, allow those rescissions to have no meaning at all, is unacceptable. We must change that. But the way to change it is not this proposed substitute. It is to require us to put the spotlight on and to vote again, as is provided in the Domenici-Exon proposal. That should be what we are really voting on here.

I hope we are going to have a chance to vote on that. I hope some people will change their minds, because we still have a chance to pull this ox out of the ditch. Anybody who does not believe these are real problems has not studied

this very seriously, in my view. The substitute does not address a lot of the problems that really need addressing in the Congress.

Proponents of the substitute really hope the President will use it to correct the problems in the legislative process. I do not mind the President correcting problems in the legislative process under the right kind of proposal. Why do we not try to correct our own problems? Why turn it all over to the President and say, Mr. President, we have all these problems and we do not handle this right, we are pretty sloppy, we have a lot of pork in legislation, and we have unauthorized appropriations and earmarks, we cannot solve it. We will send it down for you to solve it. As a consequence, we will shift a lot of power from one branch to the other. I suggest we ought to address the problems ourselves.

Unauthorized appropriations, for instance, are a significant problem. Why do we not establish an effective point of order against unauthorized appropriations? I know the Senator from Arizona would agree with that. Earmarks that avoid the competitive process are wrong. Why do we not establish an effective point of order against earmarks that avoid merit-based selection procedures?

Adding a project in conference that was not included in either bill, House or Senate, is another significant problem. I think it is a terrible practice. Why do we not establish an effective point of order against projects added in conference that were not in either bill?

Conference reports that are not available for review prior to debate are a further problem. This particularly happens at the end of the session on appropriations bills. Why do we not require conference reports to be available 2 or 3 days before debate? The proposed substitute addresses none of these problems. On the contrary, the substitute presumes that Congress will continue to employ procedures that fail to constrain unnecessary spending.

Mr. President, we are putting the cart before the horse. Before we ask the President to exercise our own responsibilities, we need to make every reasonable effort to clean up our own act. This is not just a matter of congressional prerogative. If we fail to restrain ourselves, we can hardly expect the President to do it for us. And if we give him these tools, we are going to be surprised over the years—I am not talking about President Clinton, and I am not talking about any specific President, but there is going to be a tremendous disillusionment with the American public, because they are going to find over the years that we are going to convert pork that costs millions of dollars into strong-arm tactics by some President down the line that is going to cost the country billions of dollars—threatening to take out millions in order to get people to vote for billions. Believe me, it is going to happen.

It would be the height of cynicism for Congress to continue to earmark funds for pork barrel projects and then blame the President if he does not veto the very projects we approve.

Mr. President, I know that many who support the proposed substitute do so out of strong conviction that something must be done to control Federal spending, and I agree. I agree with that point. But in our zeal to control spending, we must not lose sight of our duty to exercise our constitutional legislative responsibilities with care. The history of this legislation is not particularly edifying. The committees of jurisdiction, the Budget Committee and Governmental Affairs Committee, have marked up bills based on the use of a rescission process, not a separate enrollment process. I will repeat that. These bills brought out of committee, at least with committee deliberation, are totally different from what we have before us now that is a substitute.

Mr. President, the proposed substitute may be written on tablets of stone in terms of the way the votes are around here, but that does not make it good legislation. As I have pointed out, it has enormous loopholes that will permit continued pork barrel earmarks—the very earmarks that we could capture if we use the Domenici-Exon expedited rescission proposal. The proposed substitute gives the President the authority to increase spending by vetoing rescissions, a power that he would not have under the Domenici-Exon expedited rescission proposal, or under the McCain proposal. Again, I do not favor the McCain proposal because of the enormous shift of power to the President. But it would certainly not have the defects we have out here today. This substitute creates the potential for chaos in Federal fiscal management, a problem that would not arise under the Domenici-Exon expedited rescission proposal. It does nothing to address the legislative problems that encourage earmarks such as unauthorized appropriations, additions in conference reports, and conference reports that are not available in advance of debate for examination.

Mr. President, there are numerous other problems with the proposed substitute which have been pointed out by others. My friend from West Virginia pointed out numerous problems. These include the constitutionally questionable practice of delegating legislative power to the enrolling clerk and the enormous burden placed on the President of having to sign nearly 10,000 separate appropriations acts. I visualize in the future where we will have candidates seeing who can sign the most pieces of paper the fastest, because that is going to require an enormous amount of Presidential time. We are going to have thousands and thousands of signing ceremonies, I suppose, and a lot of pens. It is going to be good for the fountain pen industry but not for Government.

Presidential time management is a serious problem. I would rather have a President working on correcting abuses in Government rather than signing 10,000 or 12,000 bills a year. Mr. President, we have a choice in this debate. We can give the President and the Congress the tools needed to effectively address wasteful spending, or we can vote for a bill that is an invitation for Congress to exploit loopholes as well—if that does not happen—as an invitation to fiscal gridlock in the executive branch. We should reject the proposed substitute and work in a bipartisan fashion, which is entirely possible here in this bill. I think both the majority of the House, the majority of the Senate, Republicans as well as Democrats, really want an effective tool here. But, Mr. President, this is not it.

This substitute should be rejected, and we should work together on an effective rescission bill that gives the President the authority to address wasteful appropriations and unnecessary tax expenditures but does not cause the kind of mess that is going to be caused by this legislation.

Mr. President, I yield the floor.

Mr. McCAIN. Mr. President, I was intrigued and somewhat amused by the thoughtful remarks of the Senator from Georgia. I was amused by his prospect that if the pork barrel spending or egregious appropriations were somehow brought to the attention of the Members of this body, we would rise up in righteous indignation and vote those down.

Well, apparently the Senator from Georgia has not been around when I have come to this floor time after time after time with amendments to do away with pork that was put in in conference reports, with earmarks, with the most outrageous and egregious abuses of the system and been voted down time after time after time.

And I will tell the Senator from Georgia why. Because there is an iron rice bowl around here that if you take care of your pet project, I will take care of mine, and we will all vote down any attempt to do away with these because then that might start this whole system to unravel.

I can show the Senator from Georgia a record of vote after vote where I have come down here and clearly identified, including highway demonstration projects to the tune of hundreds of millions of dollars, including earmarks for universities. I will provide him with the record of outrageous appropriations that have taken place, many of them stuffed in in conference, stuffed in in conference, which neither body sought, and I sought a majority vote to overturn them and could not do it, time after time after time.

So if the Senator from Georgia thinks that a simple majority vote will be sufficient around here the way business is done, then he has not had the same experience that I have.

Mr. NUNN. Will the Senator yield on that?

Mr. McCAIN. I will be glad to yield on that.

Mr. NUNN. I do not remember using the word the Senator attributed to me, because I do not think it would be easy. But I think it will be a lot easier if the Senate sent up a rescission bill. And I think if we stuck to either the Domenici-Exon bill or the McCain bill on rescissions, that is the way to go about it.

I do not question what the Senator is trying to do. I agree. I do not question the problem you have identified. I agree.

Mr. McCAIN. If I might reclaim the floor, the fact is, then, that the Senator cannot support a simple majority vote to override because that has been tried. I tried it specifically. I tried it specifically on numerous occasions and it has failed. And I can provide the Senator from Georgia with ample evidence of that—hundreds of millions of dollars in highway demonstration projects which have no relation whatsoever to the needs of the States, but are put in. And I showed in the debates the direct relation between those highway demonstration projects and people who happen to be on the relevant committee. We attempted to overturn those. We failed time after time after time.

So then I do not understand what would lead the Senator from Georgia to the conclusion that if they came over here vetoed by the President a simple majority override would do the job. It would not. It would not.

So even if the Senator from Georgia thinks that it would, I have evidence by standing on this floor hour after hour, day after day, week after week trying to do away with these egregious pork barrel projects and failing to do so, just as we would fail to do it if it was not brought up by me but it would be sent over by the President of the United States.

So I soundly reject the thesis on the part of the Senator from Georgia that a simple majority vote would somehow put a brake to the egregious practices which the American people, at least on November 8, said they were sick and tired of—sick and tired of.

As far as comparing letters and phone calls to the Pentagon from committee chairmen, I do not see how any legislation prevents that. I do not see how you stop that. I do not do it. I do not believe in it. I do not think it is appropriate to do so. And I am sorry to hear from the Senator from Georgia that it is such a common practice.

But the fact is that the real crux of this issue, as I have said many times on this floor, is whether it is going to take a real veto, a real veto which is a two-thirds vote, as opposed to a majority vote. All the rest I felt was very negotiable. But I have had the experience, I have the experience and I will provide for the RECORD the actual number of times I came down here and sought to draw an amendment to kill particular projects that were put in in

the conference report which had no relation whatsoever to national security needs and lost those votes.

I would also like to remind the Senator from Georgia that the Congressional Research Service identified for me—the Congressional Research Service—\$62 billion in 5 years that was put in in defense appropriations bills which had nothing to do with defense; not any relation whatsoever.

Now, I understand, as chairman or a senior member of the committee, that you have a lot of latitude and a lot of power. And I know what reprogramming is about, too. It is a phone call to a chairman or a ranking member, or both, sometimes just to one person, and millions of dollars are reprogrammed.

I do not believe in that, either, I will tell the Senator from Georgia. I do not believe that is appropriate. And if we are going to do away with that, then hooray, I am all for it, because too much of that goes on. If we put some rigidity in how many of our departments of Government spend their money, then I am very happy about that.

As far as us now encouraging people to spend money, that this legislation would encourage departments to not to give money back because they would be feel it is incumbent upon them to spend the money, I would ask the Senator from Georgia when is the last time the Department of Defense gave any money back to the Treasury under the present system? I am not aware of any occasion in which that was the case.

Mr. NUNN. Will the Senator yield to me?

Mr. McCAIN. I did not interrupt the Senator.

Go ahead.

Mr. NUNN. That is OK.

Mr. McCAIN. Go ahead.

Mr. NUNN. I would say it happens all the time. We have all sorts of programs that are either in trouble one way or the other that we go through reprogramming.

Mr. McCAIN. Did any of the money ever go back to the Treasury?

Mr. NUNN. The money is spent on other Defense Department needs.

Mr. McCAIN. The Senator from Georgia put his finger right on it. None of it goes back in the Treasury, but they find a way to spend it. With this, they would not be able to spend it because of a veto and the money would go back to the taxpayers of America rather than them deciding to find another place to spend it, which is the case today.

So perhaps the Senator from Georgia believes that it is a good idea that if a program is not worthwhile and the money is not spent that it go to another project without the knowledge of a majority of the Congress. Maybe with the knowledge of the Senator from Georgia when he was chairman of the Armed Services Committee, but not with the knowledge of this Member, who I felt had an equal voice in what

the decision should be as the expenditure of America's tax dollars.

So if, as the Senator from Georgia states, this would stop this reprogramming, then I say I am very, very glad to hear that information that it would stop the reprogramming.

Mr. NUNN. Will the Senator yield for a brief comment?

Mr. McCAIN. I am glad to yield.

Mr. NUNN. As the Senator knows, on reprogramming, the reprogramming comes up by written request. It goes to four different committees. It is examined by the committees. All the members of the committees have access to that information if they want it.

The reprogramming is not done by telephone. And if the Senator wants to prevent reprogramming, the Senator is going to actually basically have the Department of Defense come up with one bill after another all year long. There will not be time for anything else.

I do not think the Senator has thought through this proposal.

I think the Senator has thought through the problem and I think he has thought through it very carefully and I admire him for his fights on that. I think he will find I voted with him on his amendments most of the time. And I think he would recall the challenge to the appropriations earmarks. I started that on the floor of the Senate. We actually won a majority vote on three different occasions. We have had the money taken out of the earmarks on the Senate side. In the final analysis, it usually gets put back in at the end of the conference.

So I agree with the Senator's frustration. But the problem is every time you see a problem around here, that does not mean whatever solution you throw at it is going to be the answer. I am saying that there is a problem. The Senator is right, there is a problem. There are ways to address that problem. But these solutions are going to create a whole other set of problems that are worse than the problems that the Senator is describing. That is my case.

Mr. McCAIN. I appreciate the remarks of the Senator from Georgia, and he would be welcome to interrupt again.

As far as this issue not being examined sufficiently, I would remind the Senator from Georgia that a former colleague of his from Georgia brought this bill, this very same bill, with a few changes to it in 1985 to the floor of the Senate. I know that the Senator from Georgia was then in the Senate. I am sorry that he did not take part in the debate and become illuminated on the issue at that time.

It was passed a couple years ago as a sense-of-the-Senate resolution.

Mr. NUNN. It was a different proposal. I examined that proposal. It was the Mattingly proposal. It did not have anything like the level of lines required in this one. It was a different proposal.

Mr. McCAIN. It is fundamentally the same, and the Senator knows it as well as I do.

The fact is the Mattingly amendment, plus a sense-of-the-Senate amendment that was passed not too long ago, I believe it was in 1993, basically said the same thing. So this is not a new issue. It is not a new item and it is not a new problem.

It is not a new problem. The fact is that if we do not address this problem, then the American people's confidence will be far more eroded than it is today, if that is possible.

I am convinced that if we adopt the so-called now Exon—since Senator DOMENICI no longer supports that proposal and supports this proposal—that it will fail. And the Senator from Georgia probably knows that, too, because in the other body, the line-item veto, what he knows of as the Domenici-Exon, was defeated by an overwhelming number, and it was defeated because it only required a majority to overrule the line-item veto.

Most of our colleagues on the other side, and I hope most of my colleagues here, understand that a simple majority does not do it. And it does not do it for the reasons I cited earlier to my colleague from Georgia.

These items have been exposed to the light of day. Votes have been taken, and they have been rejected. Even though those provisions may have been snuck in, in a covert fashion initially, even when they were exposed, we still could not get a sufficient number of votes to remove them through the amending process, which is basically what the President of the United States said.

I am amending this bill in order to take out what I find objectionable, and then there is a vote. I am convinced if it is a majority vote that overturns it, it is business as usual in this body, and in the Congress, and our colleagues on the other side, clearly—as the Senator from Nebraska has stated very accurately quite often—is very different from this body.

Our Founding Fathers meant for that to be the case. But they feel very strongly, and perhaps it is because they have had more bitter experience than we have had over here, that a two-thirds majority is required.

Now, Mr. President, I will not talk too much longer. I know the Senator from Nebraska wants to speak, and the Senator from Indiana is here.

This issue is well-known. This issue is not brand new. Separate enrollment goes back as far as 1985. The issue of line-item veto goes back in the last century. There have been debates and discussions of different forms of line-item veto for years. I have been part of many of them.

To convey the impression that this is a brand new thing that Members of this body have not considered, frankly, I believe, is an inaccurate depiction of our knowledge of this issue of the line-item veto.

Any members that go home, who have a town hall meeting, not an hour goes by without someone standing up and saying, "Why can't we have the line-item veto, Senator or Congressman?" Obviously there is a discussion at that time because the American people feel that we are spending too much of their dollars that they send to Washington in a wasteful fashion.

I would like to say the Senator from Georgia made an excellent point: Why not solve the problems ourselves? I think he made an excellent point there, and I have seen effort after effort after effort to solve the problems ourselves. We cannot. We do not show the political courage to do so.

I have sought, as the Senator from Georgia has, to attempt to not allow appropriations to be put in conferences. I try to have criteria set up for military construction projects, which are one of the most egregious areas where pork shows up all the time. We tried to do away with highway demonstration projects. We tried to do away with the land transfers that are done—directly related to the influence of certain Members of this body. I tried to do away with outrageous courthouse costs.

We have not been able to do it, and we have run up a \$5 trillion debt and laid it on few generations of Americans. There are very few people in this body that I respect more than the Senator from Georgia. There are times when he and I are in disagreement. This is one of them.

He contributes to the debate, as always. I feel that the points that he raised, as well as the points raised by the Senator from West Virginia earlier, are very important ones. I am glad we are having this opportunity to debate these points on the floor prior to passage of the bill.

I yield the floor.

Mr. EXON. Mr. President, I would like to compliment my friend and great colleague from the State of Georgia. I think that all Members who have known and worked with SAM NUNN know that he is historically one of the most thoughtful Members of our body, and I think that that statement would be agreed to by most people on either side of the aisle.

Senator NUNN, unfortunately, brought forth his carefully thought out, well-researched speech tonight to a U.S. Senate where only four Members were on the floor. It was after it had been announced that we would have no more votes. Therefore, as of this moment there are many people outside of the U.S. Senate who know much more about the reasoned arguments made by the Senator from Georgia than is known by most U.S. Senators. For the most part, I suspect that as usual, when we announce there are no more votes, there are not a large number of Senators in their offices listening to the debate, as is frequently the case.

I just wish that every Senator would read the statements made by the Sen-

ator from Georgia tonight, tomorrow. I do not know how much press we will pick up on the statements made by the Senator from Georgia.

I am looking in the press gallery and I see one person, maybe somebody else is hiding up there. I suppose that maybe some of the press may be watching on television, but unfortunately the tremendously thoughtful remarks of the Senator from Georgia which were critical of what we are trying to do here may fall on deaf ears.

I have been closely associated with him for the 16 years that I have been here. I sit next to him on the Armed Services Committee. I simply know that SAM NUNN takes the time and effort to do the research as he has done on this measure. I hope it will give some pause and some consideration to those that may not have studied the proposition, clearly, as much as Mr. NUNN of Georgia.

I think that the Senator from Georgia clearly was not trying to pick on anyone. Clearly, he was not trying to destroy anything. Clearly, as is his nature, SAM NUNN was saying to Members, "Stop, look, and listen before you leap at the proposal offered by the majority leader, without hearing any discussion."

What Senator NUNN brought out are some shortcomings in the measure that I think we should take a look at. There might not be total agreement on every point that Senator NUNN made. But I notice that during his discussion, the main argument that was made, some of the salient points he was making, was an amendment to the Dole substitute that was not in the Dole substitute, probably never had been thought of by those who put the Dole substitute together. In fact, they were offered by the Senator from Michigan, Senator LEVIN.

I just hope, therefore, that we would not jump to a conclusion that SAM NUNN does not care. I think no one could say that with any great understanding. No one has said that yet.

I think that SAM NUNN has made a very excellent point. I think he summed it up best by saying he supported the substitute amendment that is basically S. 14, the Domenici-Exon proposal that has been made, and will be offered by the democratic leader in just a few moments. We will have an opportunity to vote on that.

It has been said that Senator DOMENICI no longer supports the Domenici-Exon proposal. Well, that might be. But I believe that after listening to the remarks by a man whom Senator DOMENICI has stood with time after time after time on many matters, including matters to try and straighten out the fiscal policies of the United States of America, I am not sure that Senator DOMENICI would dismiss out of hand the Domenici-Exon proposal. A commitment has been made by the Republicans meeting in caucus and everything necessary was done to get the commitment of 54 solid votes—at least

on cloture, and I assume 54 votes for the measure. But perhaps my colleagues have listened to some of the debate that has been going on, if we would listen to SAM NUNN, if we would reflect on the thoughtful comments that have been made by Senator BYRD, whom most would recognize as a scholar and a historian and certainly a very well read and accepted critic and expert on the Constitution, we can still correct ourselves.

I hope that at least with the actions that have taken place today we would take another look at the Democratic leader's proposal that is back to Domenici-Exon—maybe it is only the Exon amendment now, but I still think it is a good amendment, worthy of consideration.

I would also add that I think it is very clear Senator NUNN was supportive of either Domenici-Exon, which was S. 14, and prefers S. 4, which was the McCain amendment to the separate enrollment substitute. I listened very carefully to Senator NUNN, and while Senator NUNN clearly favored the Domenici-Exon S. 14, he clearly indicated that the McCain S. 4 was far superior, far, far superior to the substitute amendment that was offered by the majority leader. So I think SAM NUNN, as usual, was trying to say let us stop and think about this.

This new gimmick that I have criticized and Senator BYRD has criticized and others have criticized, known as the enrollment procedure, is an absolute disaster, if people will stop and take a look at it, they will see it is a disaster for lots of reasons. I do not think there is any question but that if we incorporate the enrolling clerk in this measure we will open ourselves up to a challenge by the courts that might sink a line-item veto that this Senator has been working on for a long, long time—as I said earlier, prior to the time that many people came here. I believe one of the first times that I remember doing anything about this was in consort with then Senator Dan Quayle of Indiana. Dan Quayle, of course, was later the Vice President of the United States.

I simply say it is not fair, in my opinion, since I know something about the Mattingly amendment, to say that the Mattingly amendment was essentially the same thing as the enrollment today. The Mattingly amendment clearly called for a division by section and paragraph. In contrast, the Dole substitute amendment calls for a division by section, paragraph, allocation, or suballocation. The Dole amendment calls for far greater detail than the Mattingly amendment, and therein lies some of the concern, and I think legitimate concern, offered by our distinguished colleague from Georgia.

One other point or two. It has been said that, oh, the House of Representatives would never go for anything like Domenici-Exon, and maybe now just Exon, about to become Daschle-Exon—call it what you will, they would never

go for anything like it. I submit, Mr. President, that H.R. 4600 passed July 14, 1994, on a vote of 342 to 69 in the House of Representatives was essentially the Domenici-Exon bill, the Exon bill, the Daschle-Exon bill, the bill that Senator NUNN recommends that we take a look at. That happened last year. Now, it is true that there has been a change in the makeup of the House of Representatives since that time but not enough of a change to make that much difference in the vote that I have just outlined.

I just hope that we could also understand—and I congratulate my friend from Arizona. It is true that he has been here time and time again trying to point out pork barrel spending. I salute him for that, and many, many times I have been with him, and I think that I have cosponsored some of these measures with him. And he said but he has not gotten anywhere, and that is why you have to have more than a majority vote as provided in the bill that I will refer to as S. 14 so I will not have to mention all those names over and over again.

Well, I can understand his frustration and I share in that frustration. I would simply say to Members of the Senate that S. 14 does not call for one Member of the Senate—and as big and as important as we sometimes think we are, to begin to wield the same influence and the spotlight as the President. We do not have the bully pulpit of the President of the United States. So I think I should assure all that if the President of the United States under S. 14 would highlight, would veto, call something pork and send it back over here, with that kind of a spotlight shining on it, rather than the spotlight of only one or two or three Senators spotlighting it. It would be well known around the United States of America, and I dare say that with the spotlight of the President of the United States exercising a veto as in S. 14, I do not think there would be the courage or lack thereof in this Chamber or the House of Representatives to override it as easily as they have in the past.

I would simply say, Mr. President, in closing that we can still have a good line-item veto, but I share and have spoken previously on what Senator NUNN outlined again tonight. Some of the things that Senator NUNN outlined would be a disaster for the United States of America.

Here a measure came forth out of a Republican caucus without any consultation with Democrats, without any hearings, without ever being discussed in the committees let alone holding hearings.

It is brought forth, it has been draped in a mantle of gold that cannot be touched because, if you touch it, you scratch it, and if you scratch it, you destroy it.

I do not think that is a very good way to legislate in the United States of America. There is a better way, and the better way that I hope we will take

another look at is in the form of the amendment that the Democratic leader will be introducing tonight. I do not think the Democratic leader is going to say this is sacrosanct. I do not think the Democratic leader is going to say that there can be no changes made in it. I believe the Democratic leader will outline something tonight that I hope we will further discuss tomorrow and invite the Republicans in to see if we can come up with something that is more workable, that overcomes the constitutional objections that Senator BYRD, a constitutional expert, has outlined; to overcome the objections and concerns that have been highlighted by the Senator from Georgia. We can work it out.

I think there is no pride in authorship. We are trying to pass a line-item veto that, as best as we can fashion it, can reduce unnecessary pork-barrel spending. I think that is what the Republicans want to do, and I think that is what the Democrats want to do. But I, for one, have been raising concerns about the process, concerns about the majority leader and his actions of bringing forth this that had never been discussed with the Democrats, never had any hearings held on it, and immediately to file a cloture petition on it. That is a railroading type of thing that I think does not bode well for what is generally considered to be the most deliberative body in the world.

Now, rather than being accused of being too deliberative and too talkative, I yield the floor and hope, if there is no one seeking recognition, the Democratic leader could rise to introduce the bill that he is going to introduce, and call it what you will.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

AMENDMENT NO. 348 TO AMENDMENT NO. 347

(Purpose: To propose a substitute amendment)

Mr. DASCHLE. Mr. President, I call up amendment No. 348 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. EXON and Mr. GLENN, proposes an amendment numbered 348 to amendment No. 347.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Legislative Line Item Veto Act".

**SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED CANCELLATIONS OF BUDGET ITEMS.**

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

**"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED CANCELLATIONS OF BUDGET ITEMS**

**"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.**—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act. An item proposed for cancellation under this section may not be proposed for cancellation again under this title.

**"(b) TRANSMITTAL OF SPECIAL MESSAGE.**—

**"(1) SPECIAL MESSAGE.**—

**"(A) IN GENERAL.**—Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items contained in an Act. A separate special message shall be transmitted for each Act that contains budget items the President proposes to cancel.

**"(B) TIME LIMITATIONS.**—A special message may be transmitted under this section—

**"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or**

**"(ii) at the same time as the President's budget for any provision enacted after the date the President submitted the preceding budget.**

**"(2) DRAFT BILL.**—The President shall include in each special message transmitted under paragraph (1) a draft bill that, if enacted, would cancel those budget items as provided in this section. The draft bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates.

**"(3) CONTENTS OF SPECIAL MESSAGE.**—Each special message shall specify, with respect to the budget item proposed to be canceled—

**"(A) the amount that the President proposes be canceled;**

**"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;**

**"(C) the reasons why the budget item should be canceled;**

**"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and**

**"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.**

**"(4) DEFICIT REDUCTION.**—

**"(A) DISCRETIONARY SPENDING LIMITS AND ADJUSTMENT OF COMMITTEE ALLOCATIONS.**—Not later than 5 days after the date of enactment of a bill containing the cancellation of budget items as provided under this section, the President shall—

**"(i) with respect to a rescission of budget authority provided in an appropriations Act, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and any outyear affected by the rescission, to reflect such amount; and**

**"(ii) with respect to a repeal of a targeted tax benefit, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.**

**"(B) ADJUSTMENT OF COMMITTEE ALLOCATIONS.**—Not later than 5 days after the date

of enactment of a bill containing the cancellation of budget items as provided under this section, the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

“(C) PROCEDURES FOR EXPEDITED CONSIDERATION.—

“(1) IN GENERAL.—

“(A) INTRODUCTION.—Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

“(B) REFERRAL AND REPORTING.—The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

“(C) FINAL PASSAGE.—A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

“(2) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

“(A) MOTION TO PROCEED TO CONSIDERATION.—A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(B) MOTION TO STRIKE.—During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item if supported by 49 other Members.

“(C) LIMITS ON DEBATE.—Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

“(D) APPEALS.—Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

“(E) APPLICATION OF HOUSE RULES.—Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in

order in the House of Representatives to consider any bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

“(3) CONSIDERATION IN THE SENATE.—

“(A) MOTION TO PROCEED TO CONSIDERATION.—A motion to proceed to the consideration of a bill under this subsection in the Senate shall be nondebatable. It shall not be in order to move to reconsider the vote by which the motion to proceed is agreed to or disagreed to.

“(B) MOTION TO STRIKE.—During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item if supported by 11 other Members.

“(C) LIMITS ON DEBATE.—Debate in the Senate on a bill under this subsection, amendments thereto, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

“(D) APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

“(E) MOTION TO LIMIT DEBATE.—A motion in the Senate to further limit debate on a bill under this subsection is not debatable.

“(F) MOTION TO RECOMMIT.—A motion to recommit a bill under this subsection is not in order.

“(G) PLACED ON CALENDAR.—Upon receipt in the Senate of the companion bill for a bill that has been introduced in the Senate, that companion bill shall be placed on the calendar.

“(H) CONSIDERATION OF HOUSE COMPANION BILL.—

“(i) IN GENERAL.—Following the vote on the Senate bill required under paragraph (1)(C), when the Senate proceeds to consider the companion bill received from the House of Representatives, the Senate shall—

“(I) if the language of the companion bill is identical to the Senate bill, as passed, proceed to the immediate consideration of the companion bill and, without intervening action, vote on the companion bill; or

“(II) if the language of the companion bill is not identical to the Senate bill, as passed, proceed to the immediate consideration of the companion bill.

“(ii) AMENDMENTS.—During consideration of the companion bill under clause (i)(II), any Senator may move to strike all after the enacting clause and insert in lieu thereof the text of the Senate bill, as passed. Debate in the Senate on such companion bill, any amendment proposed under this subparagraph, and all debatable motions and appeals in connection therewith, shall not exceed 10 hours less such time as the Senate consumed or yielded back during consideration of the Senate bill.

“(4) CONFERENCE.—

“(A) CONSIDERATION OF CONFERENCE REPORTS.—Debate in the House of Representatives or the Senate on the conference report and any amendments in disagreement on any bill considered under this section shall be limited to not more than 2 hours, which

shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

“(B) FAILURE OF CONFERENCE TO ACT.—If the committee on conference on a bill considered under this section fails to submit a conference report within 10 calendar days after the conferees have been appointed by each House, any Member of either House may introduce a bill containing only the text of the draft bill of the President on the next day of session thereafter and the bill shall be considered as provided in this section except that the bill shall not be subject to any amendment.

“(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

“(e) TEMPORARY PRESIDENTIAL AUTHORITY TO CANCEL.—At the same time as the President transmits to Congress a special message under subsection (b)(1)(B)(i) proposing to cancel budget items, the President may direct that any budget item or items proposed to be canceled in that special message shall not be made available for obligation or take effect for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress. The President may make any budget item or items canceled pursuant to the preceding sentence available at a time earlier than the time specified by the President if the President determines that continuation of the cancellation would not further the purposes of this Act.

“(f) DEFINITIONS.—For purposes of this section—

“(1) The term ‘appropriation Act’ means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

“(2) The term ‘budget item’ means—

“(A) an amount, in whole or in part, of budget authority provided in an appropriation Act except to fund direct spending programs and the administrative expenses social security; or

“(B) a targeted tax benefit.

“(3) The term ‘cancellation of a budget item’ means—

“(A) the rescission of any budget authority provided in an appropriation Act; or

“(B) the repeal of any targeted tax benefit.

“(4) The term ‘companion bill’ means, for any bill introduced in either House pursuant to subsection (c)(1)(A), the bill introduced in the other House as a result of the same special message.

“(5) The term ‘targeted tax benefit’ means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.”

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking “and 1017” and inserting “1012A, and 1017”; and

(2) in subsection (d), by striking “section 1017” and inserting “sections 1012A and 1017”.

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

“Sec. 1012A. Expedited consideration of certain proposed cancellations of budget items.”.

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 1998.

Mr. DASCHLE. Mr. President, let me begin by calling it what it ought to be called. This is the Domenici-Exon amendment. It is on the basis of the expertise of the two most able budgetary leaders in this body at this time that we bring forth this amendment with some confidence.

The distinguished Senator from Nebraska, our ranking member, has very capably and eloquently characterized the remarks made earlier by the distinguished Senator from Georgia. In both cases, the remarks made by the distinguished Senator from Nebraska and certainly those made by the ranking member of the Armed Services Committee, the distinguished Senator from Georgia, lay out precisely why this amendment is necessary and why we bring it forth with the best intentions this evening.

I will have more to say about this tomorrow, but I would like to begin this evening by talking about our motivation and about why we view this to be a superior alternative to the substitute which was laid down by the majority leader on Monday night.

As I have said, and as the distinguished Senator from Nebraska has reiterated on many occasions, the debate all week long has not been about a line-item veto. There is no debate among most Senators in that regard. Most Senators would agree that a line-item veto in concept is something we ought to have. Forty-three States have it. Democrats and Republicans have recognized for years it would be a good thing for us to have as well.

The question really is, What is our most effective approach? What in concept would work the most effectively? It is really on the basis of that desire—to bring forth the most practical and the most prudent approach—that I am sure Senator DOMENICI and Senator EXON originally proposed S. 14.

The chairman of the Budget Committee and the ranking member of the Budget Committee, who have looked at all the options, and have studied this issue, as the distinguished Senator from Nebraska has said, for years and

years. On the basis of their considered judgment, and on the basis of their expertise, concluded some time ago that S. 14, the proposal that they introduced earlier this year, is by far and away the single most appropriate approach to something we all say we want. And they were so compelling in their reasons earlier this year that the majority leader cosponsored S. 14.

There must have been a time at some point this year that the majority leader looked at the options as well and came to the conclusion that they were right; that, indeed, having looked at all the different alternatives, S. 14 made the most sense.

There has been a good deal of discussion in recent weeks about Democrats who voted one way for a balanced budget amendment and then voted a different way this year. Obviously, going from one Congress to the next on an issue of some importance, changing one's position is understandable. It happens here all the time. But to go from a cosponsored measure, one which enjoyed broad-based bipartisan support, and in the same Congress decide even though it was cosponsored, even though publicly one is associated with it as the author, and then to vote against it would require a good deal of explanation, it would seem to me.

Regardless of what may ultimately come as a result of our debate over the course of the next day, what S. 14 is appropriately described as is expedited rescission, because it forces Congress to vote on spending cuts proposed by the President.

An almost identical proposal was passed in the House last year on a totally bipartisan basis. That vote was 342 to 69. Every one of the 169 Republican Members of the House at that time supported it. So the history of S. 14 is very clear. Republicans by wide margins in the past—in the past Congress as well as in the past months—have demonstrated their conviction that this is a very appropriate way with which to achieve what we all say we want—line-item veto.

The proposal gives the President authority to force Congress to vote on both spending and tax provisions that he considers wasteful. I will go into that in a little while. Under current law, Congress can ignore the President. We do not have to deal with rescissions the President sends to us. The current process is obviously very inadequate. It has not worked. Current law is clearly too weak.

Overwhelmingly, I think, colleagues on both sides of the aisle would come to that conclusion. So our amendment requires that Congress not ignore the President. It creates a fast-track procedure which forces Congress to deal with the President's proposed cuts in a very limited period of time. It is not enough for the President to send something back. We could continue to ignore it and, in the waning days of a Congress, come to some conclusion about dealing with the President's rescission and

technically, avoid having to make the tough decisions. But what this measure says is that within 20 days the President must notify the Congress, after passage of a spending or a tax bill, what he wants to see cut. Twenty days is all he has. Then, 2 days later, a bill with the President's proposals has to be introduced and 10 days later the Congress votes.

So, Mr. President, within little over one month's time the entire process must be complete. The President has 20 days to notify the Congress of whatever changes he wants to make. Two days later, a proposal has to be made within the body to ensure that the President's recommendations are considered, and then Congress must act within 10 days after that to make it happen. That is it. It is over. Within a month, it all has to happen.

There are no filibusters because we limit debate, once it comes to the floor, to 10 hours.

Mr. President, there is a locked-in procedure here requiring from the very beginning of the process all the way to the end the certainty that Members of Congress must take action once the President makes his decision. Both Houses are forced to act. Both Houses would ensure an open public debate to place huge pressures on Congress itself to cut wasteful spending.

Mr. President, that is the process. I do not know how it can get much simpler than that. I do not know how it can be any less complicated, any more certain, and any more streamlined a process as we consider legislative proposals in this body.

So our amendment, in my view, has four main advantages over the pending Dole substitute. I want to address those with a little more elaboration. But let me just articulate them first.

It is more practical. We will not see the legislative process tied up in knots, as I foresee the Dole substitute doing.

It is clearly constitutional. It would not be challenged in court. We know that. Senator NUNN made quite a point of talking about the concerns he has in that regard.

Third, it protects majority rule, a central principle of democracy. It does not permit a minority in Congress, as the Dole substitute would, to hold the majority hostage. It protects the balance of power between the President and the Congress. We all want review. We all want the opportunity to ensure that in an expedited process we can be forced to deal with the proposals made by the President with regard to rescissions. But we also recognize how important it is that majority rule be maintained and protected during the legislative process.

Finally, it clearly and unambiguously puts tax breaks on the table subject to Presidential review. There is no question here. I am going to get into that in a little more detail tomorrow. But there is no question with regard to the Exon proposal. Tax breaks

are on the table, as spending measures are in all other cases.

Let me go back to the issue of practicality. Our amendment, as I said, would be so much easier to administer. I have described it in as simple a way as I can. I do not know that anyone would have any difficulty understanding what happened; 20 days, 2 days, 10 days. That is it. It is over.

The Appropriations Committee last year estimated that the 13 appropriations bills would ultimately be split into nearly 10,000 separated minibills under the Dole amendment. Let me repeat that.

The Appropriations Committee estimates that last year's 13 appropriations bills, which would be subject under the Exon approach to a simple process of reconsideration when the President sends them back, if he would choose to do so, would be changed from 13 bills to nearly 10,000 separate minibills under the Dole amendment.

I do not have the paper to adequately represent the stacks, the truckloads of paper we are going to need to do what the Dole substitute would require. But coming on the heels of the Paperwork Reduction Act, for the life of me, I do not understand how anybody can advocate going from 13 bills to 10,000. Here we are just talking about the appropriations process. We are still trying to determine the degree to which we will have scope on taxes. But on appropriations bills alone, that is the question, do we want to go from 13 to 10,000?

As I indicated in an earlier speech on the Senate floor, the Energy and Water Development Appropriations Act is a pretty good example. That act was about 30 pages. The 30 pages, if we use that bill as an example this year, would be split into 1,746 separate bills—1,746 separate bills.

So on the basis of prudence or practicality, does it make sense for any of us who voted for and have advocated paper reduction to take a simple measure, and provide the complicated extraordinary burdensome process of going from 13 to 10,000 or in this case 1 page to 1,700? I do not think so, Mr. President.

Second, let me address the issue I raised with regard to constitutionality. We have not had the chance to properly evaluate the constitutionality of this approach because it has not been considered by any committee, as the distinguished Senator from Nebraska has indicated. But the last time a separate enrollment proposal was considered was 1985. It was voted out unfavorably by unanimous vote in the Rules Committee, then chaired by a Republican.

Several witnesses at the hearings held by the Rules Committee in 1985 raised serious questions as to the constitutionality of separate enrollment. The distinguished senior Senator from West Virginia has spent a good deal of time on the floor over the course of the last several days talking about this issue, so I will not elaborate.

But let me just say how pleased I am that the amendment offered by the senior Senator from Illinois, Senator SIMON, was adopted in order to expedite the judicial review of this bill. That is important. Certainly with judicial review, we will cut to the heart and go right to the question of constitutionality at some point in the not too distant future.

While we will not know until the courts finally determine the constitutionality of this legislation, it would certainly be better to enact our amendment which raises no questions at all. On the one hand, we have a question of taking a chance, rolling the dice with regard to constitutionality. On the other hand, with this amendment, there is no roll of the dice. There is no question of constitutionality. We know it is constitutional. We have that confidence.

So beyond the practicality of going from 13 to 10,000, then we question the constitutionality and say, look. On that side there is a doubt. On this side, there is none.

If this legislation is struck down by the courts, what do we have? We go back to ground zero. We probably enact the Exon bill. But why should we go through that process? Why should we go back to step one?

Mr. President, based upon that, I would say that Senators ought to give pause before they come to any final conclusions on the Dole substitute, which while it has merits, is not as good of a solution as the amendment we have offered. I would certainly hope that they will take a close look at what the chairman of the Budget Committee himself proposed earlier this year along with the ranking member.

Third, I indicated that majority rule and the balance of power is a concern of many of us. Our amendment would require that a majority of Congress approve cuts that are proposed by the President using the principle of majority rule which has been in existence for 200 years. For 200 years we have said majority rule ought to be our modus operandi, our approach to passing laws in this country. We would not allow a supermajority to hold hostage legislation that otherwise deserves fair consideration.

Under the alternative, the President wins, if he gets the support of just one more than a third of either House of Congress. It is all over with. A President wins if he can convince one more than one-third of either body of the propriety of his action. That is all it takes and it is over.

Do we really want to move that much power to the White House? Do we want to see that kind of an imbalance between the executive and legislative branches? Mr. President, I do not think so. That is not a partisan issue. Obviously, we have a Democratic President and a Republican Congress. The roles could be reversed some day. But regardless of who dominates either branch, I really question whether we

want to push that kind of power, that kind of an imbalance, created now after over 200 years. I would hope that Members, too, would give a great deal of careful thought to allowing the President to use that kind of influence.

I can recall so many occasions over the course of the last 16 years where Presidents have called me to urge my vote on a specific issue. They have called me saying, "It is in the national interest for you to do something, Senator DASCHLE," or "Congressman DASCHLE, that I know you do not want to do." There have been times when I have had a fundamental philosophical disagreement with my own President, sometimes, with a Democratic President, not to mention a Republican President, and I have had to tell the President, "No, I am not going to support you." But I wonder whether anybody could ever imagine—hopefully, it will never happen, but I wonder if a President might some day say, "Senator DASCHLE, you have some water projects in South Dakota that I am going to line-item veto unless \* \* \*"—God forbid that it happens. I hope it will not. But putting the power of the President in the position it will be in, under that substitute, gives me pause. If I know that I can convince the majority of my colleagues of the appropriateness of a given line item, I am going to be safe and say, "Mr. President, you can do anything you want to. I can convince my colleagues of the merit of this particular position, so go ahead and veto it." I will convince the majority. But if all he needs is a third, if that is all he needs, I am not sure I will ever get anywhere with issues of great importance to this Senator or to anybody else.

Mr. President, the final issue has to do with tax breaks and the language that the Exon proposal provides, as opposed to the language provided in the Dole substitute. I must say I am very pleased that the Republican majority has come a long way in meeting many of our concerns with regard to adopting a provision which allows the President to veto special interest tax breaks. While I am pleased with this progress, the language in our amendment is much clearer and freer of ambiguity. That is what we really want. It says clearly and forcefully: Tax breaks are on the table, period; no questions asked, no doubt at all about where we stand with regard to putting tax breaks on the table, in the same way that appropriations bills are offered. That is a given.

But I must say, I am hopeful that Republicans and Democrats can come to some closure on this issue of tax expenditures. It is gratifying that the tax expenditure language that Republicans now propose is similar to language that Senator BRADLEY has introduced and has made very clear is his No. 1 priority with regard to the line-item veto. I am very pleased that the distinguished Senator from Indiana has made that

point in a colloquy with Senator BRADLEY. I will just read into the RECORD what he had to say about this issue, because I think it confirms what we have been hoping we can accomplish. Quoting now, Senator COATS on March 21, in a colloquy with Senator BRADLEY. He says:

I say to the Senator from New Jersey, our goal, I believe, is the same—to address the same items that he attempts to address. I hope that as we debate through this and work through this, we can clarify so that Members know exactly what we are after. It is hard to get the exact words in place so that we understand just exactly how this applies to tax items. But I believe that the targeted tax expenditures which are targeted in the Dole amendment very closely parallel what the Senator from New Jersey has tried for so long to accomplish.

Mr. President, that clarification is very helpful. I commend the Senator from Indiana for making it. Republicans would subject a tax break to potential veto, and it provides more favorable tax treatment to a particular taxpayer or limited group of taxpayers “when compared with other similarly situated taxpayers.” The only way a tax expenditure would not be subject to potential veto under this language is if we define “similarly situated” as meaning identical. Our Republicans colleagues have assured us that that is not their intent.

Suppose we proposed a \$500 tax credit for all employees of Senate offices. Everyone would agree that this proposal should be subject to a Presidential veto. But if we define “similarly situated” as all employees of Senate offices, then we would have the ridiculous result that the proposal would not be subject to any line-item veto. What if we provided a tax deduction to all businesses in Fairfax County, VA. We would agree that the President should have the authority to review the provision for possible line-item veto. If we only compare the taxpayers who benefit from this deduction to businesses in Fairfax County, then we end up with a nonsensical result that the deduction would not be subject to the line-item veto.

So, Mr. President, as these examples show, defining “similarly situated taxpayers” to mean the identical group of taxpayers leads to a ridiculous result. But applying common sense to the term “similarly situated” leads inevitably to a broad interpretation of that term, which is what I am sure our Republican colleagues have intended.

They have confirmed and assured us that it is not their intent to have the line-item veto operate in the manner I just described with these examples. Thus, similarly situated taxpayer should be interpreted broadly, thereby subjecting a wide range of tax breaks to a Presidential veto.

Again, Mr. President, that is the question. Why should we have to go through an interpretation of broad or narrow scope with regard to tax breaks? Why not put all tax breaks on the table? Why not recognize that a tax

break is an expenditure, an expenditure that has to be offset, an expenditure that ought to be treated just like an appropriation? That is what the Democratic substitute does, very clearly.

So, in closing, Mr. President, let me just say that we will have more of an opportunity tomorrow to talk about these issues. But we need to go back to the original Domenici-Exon language, cosponsored by the majority leader. We appreciate very much that Republicans have come toward our view on tax breaks. Now they should come back to their own language that is part of our substitute. We support giving the President new authority to compel consideration of cuts in spending and tax breaks, and the best way to do it is to adopt this amendment. It is workable, it is constitutional, it protects majority rule, and it clearly puts special interest tax breaks on the table.

I hope that in the spirit of bipartisanship, recognizing that the origin of this legislation came from Republicans and Democrats, and not only just any Republican or Democrat, but it came from the chairman of the Budget Committee and the ranking member of the Budget Committee, people who know this issue better than the rest of us, I hope that colleagues on both sides of the aisle can recognize the wisdom of that approach and support it tomorrow when we have the rollcall vote.

With that, I yield the floor.

Mr. COATS. Mr. President, in one very real sense, I welcome the remarks of the minority leader and welcome the support that the minority leader and others have offered on this floor for the concept that we are attempting to advance; namely, how do we make it harder to spend the taxpayers' dollars? And how can we end a practice which most of us recognize as not a practice that brings credit to this institution, but one which annually causes us significant embarrassment?

The disclosure of certain types of spending, certain types of tax benefits to the public severely undermines their confidence in us as an institution, severely enhances their criticism and their cynicism toward this institution, as they regularly see expenditures for items that are not considered to be in the national interest or in any sense of the measure a broad interest, but are targeted to just a few.

And it is a time honored, some would say—I would say time dishonored—process that we have engaged in over the years to slip those little provisions in, sometimes in the back room, sometimes in conference, when there really is no chance to amend a bill that we know the President has to sign.

And so we are encouraged that our colleagues from across the aisle have recognized that this is a practice that needs to be limited or stopped.

But for the past 6 years, during my service in the Senate, I have been part of an effort led by Republicans to attempt to address this issue. And we failed each time. Really, going all the

way back to 1985, there have been six separate efforts to address line-item veto in which we had votes. And in each one of those efforts, the number of Democrats supporting Republicans or supporting the effort in general can be counted generally on one hand. We have failed again and again and again. We have failed because we have not had support from across the aisle.

Oh, it is wonderful now to hear all these statements about how Democrats support line-item veto; how they support enhanced rescission; how they are trying to work toward the same goals as we are. Well, we welcome their support. It is a little late, but it is not too late. And we hope that that translates into finally arriving at a measure which will get at this practice of tax pork and spending pork.

In 1985, when the measure was offered by Senator Mattingly, Republican from Georgia, only seven Democrats supported the effort. And in 1990, when I offered not the line-item veto or a separate enrollment, but when I offered enhanced rescission, only four Democrats supported the effort and we failed, as did Senator Mattingly in 1985.

We failed because the effort was filibustered. We failed because points of order were raised forcing us to achieve 60 votes to even get to debate. We did not even get to the debate of the issue.

In 1990, my colleague and partner in this effort, Senator MCCAIN, also offered enhanced rescission and he only got four Democrat votes. And in 1992, Senator MCCAIN offered it again and this time he got seven. So there was some movement in our direction.

But then a year later, in 1993, I offered it, the same bill, enhanced rescission—the rescission process that the Democrats are now talking about as the alternative and the substitute to what we are attempting to do—and we only got five. So I must not have been as persuasive as Senator MCCAIN because we lost two Democrats.

And even in 1993, when Senator BRADLEY changed his position on this issue from being opposed to it but recognizing that something had to be done, something had to be done to stop this runaway spending and this runaway deficit and this runaway national debt, even then Senator BRADLEY, as a Democrat, could only secure 13 Democrats and the measure fell once again.

And so we have had a decade of resistance—a decade of efforts to block our attempts to pass rescission, enhanced rescission, separate enrollment, line-item veto. And every one of those efforts has been defeated not by the votes of Republicans but defeated by the votes of Democrats.

So it is a little difficult to sit here through this debate and hear the protestations that, “If Republicans would just cooperate. If they would just lean a little more our way and see the bill as we see it, we could have line-item veto or we could have enhanced rescission. And somehow the Republicans are

blocking a measure to give the President this authority." When the fact of the matter is that it is only the persistence of Republicans, the persistence of those who continue to offer this year after year after year, that finally has translated into an election last November which gave us the necessary new Members to have a chance at succeeding on this item.

Now a great deal has been said about why do we not take the Domenici-Exon package; that the chairman of the Budget Committee at one time sponsored a provision which is being offered now as an alternative, and it must have been a pretty good effort in putting that bill together because both the chairman and the ranking member supported it.

Well, Senator DOMENICI did offer that alternative to the McCain-Coats enhanced rescission. He offered expedited rescission. And it was pointed out that expedited rescission really was not a major change from the status quo. It was a modest improvement, but it did not really have the strength of fundamentally changing the way we do business in this body and it lacked the two-thirds vote necessary to override the President's decision. As such, the conclusion was the same 51 votes that passed the appropriation in the first place, that voted for the appropriation, could overturn the President's decision and retain the very items that raised the questions about pork-barrel spending in the first place.

And so, it was Senator DOMENICI who said, "Why don't we look at an alternative that will be even stronger, that will expand the scope?"

In fact, Senator DOMENICI said, "My problem with the McCain-Coats effort is that it only focuses on the appropriated items. And the appropriated items, once you separate out defense, amounts to less than 20 percent of the budget." He thought that was unfairly targeted to a certain segment of spending and it would ignore other areas. That is the reason he crafted the alternative bill.

And so we sat down with Senator DOMENICI and said, "Well, let's examine some ways that we could expand this and address the question that you raised because that is a legitimate question." And Senator STEVENS weighed in on it and he had the same concerns.

Out of that came the product that we are now debating that has been offered by Senator DOLE, the majority leader, as the Dole amendment, the product around which we have secured the support of nearly every Republican because it was expanded to include additional items and not just the appropriated items.

And it was Senator DOMENICI, right after the introduction of the DOLE amendment, the separate enrollment provision, that came to the floor and made a lengthy statement as to why the Dole amendment was so superior to his own product and why he was with-

drawing his amendment that had been reported out of the Budget Committee, his bill, his product, why he was withdrawing support for that in favor of a much better version, a much more effective version, a much tougher version, a version with real teeth. He outlined that, and I want to quote from his remarks.

As my colleagues have said, the alternative that they are providing must be a good one because it was Senator DOMENICI's original proposal. Yes, it was his original proposal, in response to a measure that he did not think was strong enough because it did not include enough categories.

As a result of that, we met and we crafted a much stronger version, and Senator DOMENICI came down here and said, "This is what I was really looking for and this is a much superior product."

I quote from him where he said, reading from the CONGRESSIONAL RECORD of March 20, 1995, Senator DOMENICI said "I support the objective of Senator MCCAIN's bill," enhanced rescission, "but I felt the McCain bill shifted too much power over the budget of the President and focused too much attention on just the appropriated accounts, which excluding defense, represents less than 20 percent of total spending. The Dole amendment provides a less cumbersome process to overturn Presidential rescissions."

The McCain-Coats bill has a two-stage process where Congress would have to vote two times if the President vetoed the first effort. He said the new Dole amendment offers a one-hurdle process, and for that reason it is superior to the product that he had originally sponsored.

Second, he said, "The Dole amendment applies to all spending. It applies to new spending and legislation, not just appropriations legislation. In addition, it applies to any new very narrow targeted tax benefit legislation and new entitlements." Third, he says, "It provides for congressional review. It contained a sunset in the year 2000." I quote again, "I congratulate Senator DOLE. He has found an approach that significantly expands the President's authority over spending, without unduly disrupting the delicate balance of power."

The minority leader suggests this evening that this is some kind of a surprise because it is a substitute to the previously reported bills. The truth of the matter is that every provision in this has either been voted on by the Senate or discussed thoroughly in committee. And he goes on to state why it is not a surprise, and I will get to that in a moment.

I will conclude Senator DOMENICI's remarks by quoting one more time: "This product," referring to Senator DOLE's amendment, "is as close as we will ever get to a fair line-item veto that has a chance of working and that is broader than we originally conceived but fair in that respect. It is fair. I will

suggest that if there are some who think that the old bill which I introduced should be revisited, and perhaps the President supports it, let me set that one aside."

Let me repeat that. Senator DOMENICI, the one who wrote the bill along with Senator EXON, that was his initial effort, came to this floor and said, "I will suggest that if there are some who think that the old bill which I introduced should be revisited, let me set that one aside," and he withdrew that bill and signed on to the Dole bill because it was a much superior, much tougher, much broader, much more effective, and as Senator DOMENICI said, fairer to a line-item veto that has a chance of actually working.

We have talked a lot about the practicality of this bill and it seems that the opposition—Democrats opposing this bill—keep using the question of process and mechanics, and how this is going to complicate the effort.

Well, the President of the United States does not think it will complicate the effort. They worry about sending too many pieces of paper down to the White House. The President of the United States said in his statement released on March 20, "I urge the Senate to pass the strongest possible line-item veto." He did not say, "I urge the Senate to pass expedited rescission." Expedited rescission does not begin to resemble a line-item veto. Veto means two-thirds override. It does not mean majority vote. It does not mean the same votes that pass the appropriation in the first place are necessary to overturn what the President has vetoed. It means two-thirds. Give me the line-item veto, the President said, in his letter.

This is about closing the door on business as usual in Washington. Business as usual in Washington is 51 votes to pass tax benefits, which I call tax pork, that go to certain individuals or specialized interest that do not apply to broad classes. And it is spending pork which go to special individuals, special interests, and do not apply to the broad, public interest.

The President wants the real thing because he knows the real thing is the only thing that will make a difference. He knows if we will change the spending habits of Congress, if we are going to change the process of blackmail in sending him—what I should call "legislative blackmail"—in sending him bills, where it is a take-it-or-leave-it proposition, he knows that he has to have some tool that will have some teeth in it, and some authority that has some clout in it. That is what the President understands. That is what he has asked for.

We Republicans do not give him very much of what he asks for or do not like to give him very much that he asks for, but this is something we have been trying to support, and trying to give him for a very considerable amount of time.

The fact of the matter is that the Dole substitute grants the President

true veto authority. It requires a two-thirds vote by Congress to continue spending. Short of an amendment to the Constitution, which we are not able to secure enough votes to pass—I wish we could—it is the strongest tool we can grant the President. It is similar to the authority that 43 other Governors currently enjoy.

The Exon expedited rescission package does little to restore the President's authority to withhold spending that he enjoyed prior to 1974. At that time, Congress decisively grabbed the absolute power of the purse. The only thing they gave the President was the power to propose rescissions. Most of those rescissions that the President and subsequent Presidents proposed, never saw the light of day.

In 1974, the President sent up rescissions and Congress ignored every one of them. One hundred percent. They said, "No thank you, Mr. President. Everything we passed, stands." In 1976, 86 percent of the President's rescissions were ignored. In 1983, 100 percent of the President's rescissions were ignored. In 1986, 95 percent. In 1987, 97 percent.

Now, the Exon legislation, the expedited rescission just offered by the minority leader, is a modest improvement because it says that at least the President's rescissions are going to get a vote. But it is only going to get a vote of the same people who passed it in the first place, and it is hard to see how that will change what Congress had previously done.

If we are ever going to reverse spending trends in this body, we do not need modest improvements. We need fundamental change. To continue spending under the substitute or appropriately, under the amendment offered by the minority leader, the only standard they are proposing is that Congress needs a simple majority, and if it fails to enact a bill within 45 days, the funds are automatically released.

What is being offered as a poor substitute, a weak substitute, to the closest thing we can get to line-item veto is, simply put, too little too late.

It does nothing to restore that healthy tension necessary between the legislative and executive branch necessary to impose fiscal discipline on Members of the Congress. Some have said that the veto standard, the two-thirds is too high a standard, that it is too difficult to muster the numbers to override it.

To those, I would say that the greater challenge today is to reduce our Nation's debt and balance our Nation's books. In this day, it should be tougher. It should be a formidable challenge to continue to spend money. It is time for a higher standard.

If we get the job done by the year 2000, then maybe we will want to revisit this. Maybe we will want to look at this and see whether or not it has been abused, this new authority of the President has been abused as some say that it might be. I do not think it will.

It certainly has not been at the State level. There are no State legislators calling for repeal of the line-item veto power that their governors have.

It sets up a healthy tension, a healthy tension, a necessary tension that can restore some discipline to this body.

The Dole bill is the strongest line-item veto bill. It presumes that funding is rescinded unless the elimination of spending is specifically disapproved. It requires a two-thirds majority in the House and Senate to override a subsequent veto.

Let us show the American people we are serious about fundamentally changing the way this Congress does business. Let us show them that we intend to present appropriations bills and tax bills without embarrassment. Let us show them that we intend to send a message to the taxpayers that under our guidance their dollars will not be wasted. Let us act boldly to eliminate the dual deficits of public funds and public trust and let us resist the urge to continue business as usual.

The alternative offered by the minority leader is essentially business as usual. The Dole amendment is a real meaningful, fundamental change in the way this Congress spends taxpayers' dollars. It makes it tougher. It makes it a lot tougher. It ought to make it tougher because we have abused the privilege that we have had as Members of this body by being irresponsible in the way we spend those dollars, by running up a debt and by sending to the President items which we in our hearts know do not deserve to be in those appropriations or in those tax bills.

So while I urge my colleagues to reject the proposal offered by the minority leader, we welcome their support for the concept. What they have offered is too little too late.

Let us pass something that will make a difference.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Nebraska.

Mr. EXON. Mr. President, I am going to be very brief because we have been at it a long time today, and I am sure that I am not going to score very many points at this time of the night and we will start again tomorrow.

I would just like to briefly sum up if I can. Although it has not been mentioned in the lengthy debate tonight, I believe that any objective Republicans, if we can find one up in this Chamber this time of night, would probably concede that the Senator from Nebraska has been one of those with a pretty strong career of voting for line-item veto matters in this Chamber. So all of us cannot be accused of being Johnny-come-latelies.

What has happened in the past, though, is not nearly as important as what we are doing here tonight. And I would simply say that Senator NUNN in a remarkable, well thought out speech,

that could in no way could be considered a partisan statement at all, outlined some concerns.

Regardless of the intent of the Dole amendment—and it may be described correctly as what came out of a meeting of the Republican caucus, this was the product that came out of it—that does not necessarily guarantee the product is not faulty and probably should receive some further corrections.

I wish to thank my colleagues on that side of the aisle who on more than one occasion today have agreed to amendments that I thought were absolutely critical and essential, and we have had them to come our way. I hope they would agree we are trying to be constructive and not destructive in trying to fashion something in the form of a line-item veto that would be as safe as it possibly could be from a court challenge that I am certain will follow if we eventually pass the Dole substitute amendment.

I happen to feel that with the comments again tonight about the constitutionality problem and the operational problems manifold outlined by Senator NUNN, many of which I think had obviously not been considered when this product was put together, we must continue to reason together if we can and keep this as nonpartisan as possible and try and pass a piece of legislation that is not going to be thrown out by the courts.

If that happens, it will not be an exercise, indeed, in futility. And since I have indicated I have had more than my share of futility on this very matter time and time again before with many of the key able players in this line-item veto we are talking about tonight, I just hope we can get something done rather than one more exercise in futility and disappointment.

That is why I appeal, I appeal once again to let us reason together and not stick by the basic principle that what came out of the Republican caucus—because I think the Republicans would even admit it—just because it came out of a Republican caucus of the majority party in the Senate is a guarantee it is perfect.

Let me appeal once again, Mr. President, that on tomorrow when the sun comes up, as it will, when we will be back here again, let us see if debate and reason and sound statements on the floor of the Senate mean something and they are not going to be automatically shunted aside on a strictly party line Republican vote, 54 people marching in lockstep because the product which came out of their caucus is somehow sacrosanct and must not be tampered with.

AMENDMENT NO. 350 TO AMENDMENT NO. 347

(Purpose: To prohibit the use of savings achieved through lowering the discretionary spending caps to offset revenue decreases subject to pay-as-you-go requirements)

Mr. EXON. Mr. President, on another matter, on behalf of the senior Senator

from West Virginia, I call up amendment No. 350, which the clerk has at the desk, and ask for its report.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. BYRD, proposes an amendment numbered 350 to amendment No. 347.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following:

**SEC. . USE OF THE REDUCTIONS IN DISCRETIONARY SPENDING CAPS.**

(A) CONGRESSIONAL BUDGET ACT.—

(1) BUDGET RESOLUTIONS AND LEGISLATION.—Section 301 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

“(j) USE OF REDUCTIONS IN DISCRETIONARY SPENDING CAPS.—It shall not be in order in the Senate or House of Representatives to consider any concurrent resolution on the budget, bill, joint resolution, amendment, motion, or conference report that decreases the discretionary spending limits unless the concurrent resolution on the budget, bill, joint resolution, amendment, motion, or conference report provides that such decrease may only be used for deficit reduction and may not be used to offset all or part of an increase in direct spending or decrease in receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1974.”.

(2) SIXTY VOTE POINT OF ORDER.—Subsections (c) and (d) of section 904 of the Congressional Budget Act of 1974 are amended by inserting “301(j),” after “301(i).”.

(b) GRAMM-RUDMAN.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

“(f) USE OF REDUCTIONS IN DISCRETIONARY SPENDING CAPS.—A decrease in the discretionary spending limits may only be used for deficit reduction and may not be used to offset all or part of an increase in direct spending or decrease in receipts under this section.”.

Mr. EXON. Mr. President, this amendment would prohibit the use of cuts in the appropriation caps to pay for tax cuts. The Senator from West Virginia has asked me to call up this amendment to ensure that it will qualify for consideration under the unanimous consent agreement governing consideration of the main proposition before us.

Mr. President, I ask unanimous consent that now that this has been called up, the pending amendment be temporarily set aside.

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

**ORDER OF PROCEDURE**

Mr. COATS. Mr. President, I ask unanimous consent that at 10 a.m. the Senate resume consideration of the Daschle substitute on which there be the following time limitation prior to a motion to table: 2 hours to be equally divided in the usual form.

Mr. EXON. There is no objection here.

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

**MORNING BUSINESS**

Mr. COATS. Mr. President, I now ask unanimous consent that there be a period for the transaction of routine morning business with Senators permitted to speak therein for not to exceed 5 minutes each.

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

**THE SOARING TRADE DEFICIT**

Mr. DOLE. Mr. President, the numbers are now in for the trade deficit for January, and they are not good. In fact, we set a new deficit record for a single month. The trade deficit surged over 68 percent, to a highest ever mark of \$12.2 billion.

Mr. President, I never have met two economists who agree on everything. Some say you should not pay too much attention to trade deficit numbers. But most economists will tell you that continuously rising deficits in merchandise and services trade, year upon year, are unsustainable. Last year's overall merchandise trade deficit reached a record high \$166 billion. The figures just released for January of this year indicate that the growth is not slowing. The growth in our trade deficit is in fact accelerating. This is deeply troubling.

Mr. President, the soaring trade deficit is not just a matter of the volume of imports from abroad. A ballooning trade deficit affects the strength of the dollar, interest rates, the stock and bond markets, and the long-term attractiveness of the U.S. as a destination for investment. In other words, it threatens the standard of living of every American.

Despite the potential enormity of this problem, the administration has yet to focus on it as a real threat to working Americans. I am reminded that in the months and weeks leading up to the Mexico crisis, it seemed that no one in the administration was minding the store. We do not yet know the full extent of the fallout from that catastrophe. Mr. President, I hope we are not today headed down the same road with regard to our growing trade deficit. I hope those in the administration charged with watchfulness are not asleep a the witch.

Mr. President, we must not place our economic stability at risk. We must not allow warning signs to go unheeded. No single month's figures are conclusive, but when the bad numbers pile up month after month, they must not be ignored.

**RETIREMENT OF JOHN LAHR**

Mr. BAUCUS. Mr. President, yesterday's edition of the Montana Standard

contained an article that I especially enjoyed reading. Let me share part of this article with my colleagues:

A special passenger train ran from Helena to Garrison and back Sunday to honor retiring Montana Power Company lobbyist John Lahr, a train buff \* \* \*. Montana Rail Link furnished the engines; Burlington Northern provided several refurbished passenger cars \* \* \* and the engineers union furnished the engineers for what was billed with banners on the engines as the “John Lahr Special.”

When I read this I could not help but think how appropriate this tribute is; a special train to honor a very special man.

We hear a lot of bad talk about lobbyists these days. And, both in Helena and in Washington, there are some bad lobbyists; some who use strong-arm tactics; some who urge elected representatives to vote against the public interest.

But anybody who knows John Lahr has seen living proof that lobbying can be a noble profession. He is a class act. He's a Montanan through-and-through. And he wants what is best for our State.

For almost 30 years, John has represented Montana Power Co. Legislative session after legislative session, John has been there in Helena working tirelessly. And, while he has always been an advocate for Montana Power, he sticks to the facts; he's honest; he levels with people; and he's got what may be the best—and certainly the driest—sense of humor in all of Montana.

So perhaps it is not surprising that John—though a lifelong Democrat—enjoys universal respect from both Republicans and Democrats in Helena.

While John may be retiring from the power company, I have no doubt he will continue to play an important role in the life of our State. He has too many friends; he has too much talent and he cares too deeply about Montana to quietly retire.

I wish both John and his wife, Beverly, the best of luck as they begin a new chapter in their lives. And I feel very fortunate to count them as friends and trusted advisers.

**TRIBUTE TO JEFF GRIFFITH**

Mr. WELLSTONE. Mr. President, I ask unanimous consent that a tribute to Jeff Griffith, one of my former staffers who died recently here in Washington, DC be printed in the RECORD.

Jeff was one of the original members of my Senate staff, and I was deeply saddened by his death. While I know his family, friends and former colleagues will miss him terribly, as I will, I hope we will also remember his many accomplishments, and his passion for justice.

The tribute was offered on my behalf at the funeral service this past weekend.

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