

The Court concludes that, contrary to the President's intention in executing the waiver, Congress did not intend to give the President the broad authority to waive the new subsection (f)(1) when it gave him the power to waive "the requirements of this section." In so ruling, the Court gives considerable weight to the fact that the larger part of the available legislative history supports this interpretation. Also persuasive is the fact that section 117 is the outgrowth of the 1996 AEDPA amendments to the FSLA. Congress therein expressly waived the jurisdictional immunity of terrorist foreign states, and also their immunity from attachment or execution. Congress later clarified the mechanism through which the victims of an attack by a terrorist foreign state may sue for compensatory and punitive damages. By enacting section 117, Congress expanded the property subject to attachment/execution, giving the victims a larger pool of assets from which to satisfy any judgment in their favor. All of these legislative enactments are guided by a single purpose: to provide an executable judicial remedy to the nationals of the United States attacked by a terrorist foreign state. Had Congress intended to give the President the authority single-handedly to impede achievement of this goal, it could have done so more clearly in section 117(d). Its failure unambiguously to do so favors a narrow reading, both in light of legislative history and the fact that Congress usually specifies the waiver authority it grants with greater clarity. The President cannot simply express his intention to execute a law a certain way if that action is not allowed by the legislative authority to which it is made pursuant.¹⁶ If the Government, the Garnishees, Non-Party ETECSA, or any other individual or entity objects to this Court's interpretation of this unclear legislative mandate, it should turn to Congress and have that government branch clearly enunciate a broad waiver authority in an amended section 117(d). It is this Court's responsibility to interpret the law as written; only Congress can re-write the law.

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FOOTNOTE

¹⁶ The Court notes with great concern that the very President who in 1996 decried this terrorist action by the Government of Cuba now sends the Department of Justice to argue before this Court that Cuba's blocked assets ought not be used to compensate the families of the U.S. nationals murdered by Cuba. The Executive branch's approach to this situation has been inconsistent at best. It now apparently believes that shielding a terrorist foreign states' assets are more important than compensating for the loss of American lives.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized.

THE BUDGET PLAN

Mr. DOMENICI. Mr. President, I want to spend a little time talking about what has transpired with the U.S. budget over the last 35 years, and I will focus mostly on the last 5 years.

I think everyone knows that next month we begin the process of producing a congressional budget plan for the fiscal year that begins this coming October. The Senate Budget Committee, which I have been honored to chair, will complete its hearings next week on the President's budget which was submitted to Congress earlier this month. Before we begin the task of producing that budget blueprint, I thought it might be of interest to some of my

colleagues and some of those who might be watching to briefly review some facts surrounding the Federal budget.

One can provide different interpretations of numbers, but a number is a very stubborn thing. It is what it is. Using the help of some charts, I will provide a very brief historical overview of the Federal budget today.

Chart No. 1 is the total budget surplus and deficit over the last 30 years. After nearly 30 years of Federal deficit spending—and my colleagues can see the surplus/deficit excluding Social Security is in green and the total budget surplus is in red. The green, as one can see, starting back in 1965 and going all the way to 1998, is constantly below the line, meaning we have been in deficit for that whole period of time.

We finally reported a balanced budget, under the unified budget process in 1998, of nearly \$70 billion. Last year, in 1999, we once again successfully achieved a unified budget surplus of \$125 billion. But more importantly—noting the green line on this chart—we will be able to balance the budget not counting the Social Security surplus. The red line is the total budget surplus and the green is Social Security balances.

Here is the way the budget goes. We now have a surplus above zero in both the Social Security and in the non-Social Security accounts of our Government. Last year, we actually achieved a surplus—not very much—of \$1 billion, and certainly that is substantially better than when we were approaching \$300 billion in deficits.

For the current fiscal year, we expect a surplus of \$176 billion, and, of that, nearly \$23 billion excludes the Social Security moneys, meaning we have some money left over in surplus after we put all the money in the Social Security trust fund that is required by law.

Projections for the near future remain positive. Of course, depending on what policies we enact relating to taxes or spending, the Social Security surpluses will continue to accumulate over the next decade, and the rest of Government also is expected and projected to see surpluses as far as the eye can see.

By the year 2005, the Congressional Budget Office expects the surplus to be between \$270 billion and \$300 billion. One thing that this job has taught me is to be very careful in statements about the long term. I could spend some time suggesting that these long-term surpluses are very reliable and credible, but I will do that at another time. Today, instead of statements about the long term, what I want to do is talk about—rather than pontificating about the future and what we might expect—about what has passed, just so there will be an understanding of whether or not Congress and the Senate and the Budget Committee and the appropriators and everybody in this body ought to be proud of what we

have accomplished in terms of controlling the spending of our National Government.

So here is chart No. 2. It has a lot of things on it. I just put it up because it shows, in five intervals over the last 30 years, the major components of the budget. We can clearly see that total Federal spending has increased, to where this year the Federal Government is likely to spend \$1.8 trillion.

In terms of the totality of the budget—in all of its components: Military, entitlements, the 13 appropriations bills—it has been going up every year. Now we are at about \$1.8 trillion. That is an interesting number because if there is a \$4 trillion surplus—just to compare—that means we will have more than 2 full years of the Federal budget in surplus during the next decade. That is a rather profound and major change in things over the past 35 years.

The country has grown over the last 30 years, and it has grown faster than Government spending. So while we reached a peak of nearly 23 percent of our gross domestic product in 1985, today it has declined almost 5 full percent; that is, we are now at 18.5 percent of our gross domestic product in the total spending of the American Government, including interest on the debt, entitlements, Social Security, and 13 appropriations bills—and, obviously, one of those is the defense bill.

This bar chart points out a phenomenon of which I think we are all aware. Let's just look at it for 1 minute. Entitlement spending today represents 55 percent of all Federal spending. If we add paying the interest on our national debt as another entitlement—and it might be that, so let's add it in—then 77 percent of what we spend every year is either mandatory spending or an entitlement.

I did not go back in history to equate the percentages under other Presidents, but suffice it to say, not too long ago, in the era of, let's say, President Kennedy's tenure, clearly, about 40 percent of the entire Federal budget was entitlements; and now we are up to 77 percent.

Let's look at the third chart: Growth in Total Outlays. This is very important. For those who wonder about how poorly we do or how well we do when we finally finish all our work—it might not look pretty; it may take too long; there may be a lot of scuffling on the appropriations bills—I would like very much to make sure we all take a good, careful look at this chart and see what we have really been doing that has contributed to the great fiscal policy of this country and to our position today of low interest rates and sustained economic growth.

This is a very dramatic chart. It is very simple but very dramatic. The blue on the chart is what is called nominal growth, and the red is real growth. The nominal growth includes inflation, plus the growth beyond inflation. It is very interesting what we

have done. Because we think it makes the most sense, we have gone back to 1965 and done this on 5-year intervals. So we have taken 5-year intervals and then taken the average for that 5-year interval.

It is rather dramatic to see what is shown on the chart, without any explanation—the dramatic reduction in the percentage of growth in actual total outlays year after year. It was not long ago we were talking about deficits as far as the eye could see. Now, as this chart shows, as the reality of the years 1995 through 2000 has become true, we are beginning to see rather large surpluses.

I might add, by way of taxes—with which I do not think we did much in these charts—even though taxes, for certain Americans, may be lower than 15 or 20 years ago, but the percent of our gross domestic product that goes to taxes is the highest since the end of the Second World War. So it is obvious, if your taxes are the highest and your growth in Government is the lowest, you begin to develop a rather good surplus. It is kind of easy to see that much of that surplus is because we are taxing the American people at a higher percent of our total production than we ever have since the Second World War when we had all kinds of taxes.

Let's just look at this chart and take a couple of years. Growing at an annual rate of nearly 12.2 percent in the late 1970s, the total Government spending right now that we can tell you already occurred—as I said in my opening remarks, we are not predicting. Numbers that are behind us are hard to throw away.

For the years 1995 to 2000, the total amount of growth in our Government, including appropriated accounts, is 3.1 percent; and of that, the real growth—that is, noninflationary growth—is 1.3 percent.

Just compare that quickly with other periods of time shown on the chart. Pick any interval you like. From 1980 to 1985, the nominal growth was 9.9 percent, the real growth was 3.6 percent—almost three times as much in real growth as it was from 1995 to the year 2000.

If today I sound as if I am trying to convince somebody of something, I address this to a number of Senators because there are some who say we are overspending everywhere and some who say the appropriated accounts are out of control. My friend, if they are out of control when they are part of a Government growth that is 1.3 percent in real growth, what were they when it was 5.8 percent? It was unexplainable. There is no word for it.

If we are out of control now—and for those who are interested, the years 1990 to 1995 were not too shabby either. In fact, from 1990 to 1995, it was 1 percent real growth and 3.9 percent for a combination of real growth and inflation. That is just slightly higher in its totality than the period from 1995 to 2000.

I remind Senators that for the period 1995 to 2000—the occupant of the Chair

knows this; Senator HOLLINGS knows this—we had a lot of emergency money we put in. We had an agricultural emergency 3 years in a row. We had some military emergencies where we got into wars, and we had not funded them, so we put them in as emergencies. They can be whatever you want, but when the year is finished they are part of the total outlays. If, in fact, you allocated the money, and put it in an appropriations bill, it would eventually be spent, whether it was an emergency or whatever, and that is the reason we talk about total outlays.

The fourth chart only shows the red, which depicts real growth. For some people—not me at this point; I am not sure everything should increase by the rate of inflation every year—but some people think that should be the policy of our Government.

What we are looking at here in each of these years is: What was the real outlay growth, on average, over the 5-year intervals, meaning without inflation? It is pretty simple. If we took the 35-year average, and we drew a line—looking at the years 1965 to 1970, it was almost 6 percent—but the average for the 35 years is 3.1 percent. Looking at the last decade, real growth for the years 1990 to 1995 was 1 percent; from 1995 to 2000, it was 1.3 percent.

Frankly, somebody did something right. If we are talking about restraining expenditures of Government so as to produce a fiscal policy that puts us in balance and ultimately creates a surplus—I know my dear friend, Senator HOLLINGS, is here and his and my definition of “surplus” may differ, but I think anybody who looked at this would say we are surely moving in a direction different from what we did for most of the last 35 years.

In terms of how much we are letting Government grow, the fifth chart shows major components of the entitlements and other mandatory programs. The 35-year average annual rate of growth of Government spending has been about 3.1 percent.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. DOMENICI. I ask unanimous consent for an additional 5 minutes.

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

Mr. DOMENICI. This chart shows the various entitlement spendings. It is over 55 percent of all Federal spending today. Three-quarters of it is just three programs: Social Security, Medicare, and Medicaid.

Let's move on to the Growth in Entitlements and Mandatories. Many of us are of the impression that it is the entitlement programs that are out of control. I admit, looking at this chart, one would see where it wasn't too long ago when they were out of control. Let's take 1970–75. The growth was 18.5 percent nominal growth. In 1980–85, it was 9, and in 1985–90, it was 6.9. In 1990–95, it was 5.5. Here we are in 1995–2000, in entitlement programs, 4.5 percent nominal and, without inflation, the

growth was 2.6 percent. If we can continue growth in this manner, which is principally predicated upon controlling the costs of health care, which the Government pays for partially or totally, we can keep our government under control and the costs can continue to come down.

National defense is something we ought to be concerned about because we have thrown some numbers around and some percentages. The facts are before us, and they don't look too good. The truth is, since the 1985–90 era, everything since that time has been no growth in defense rather than growth. If you are looking at the chart turned upside down, when it comes to the last decade, defense spending starts to come out on the negative side, meaning year after year the outlays for defense have gone down rather than up, and these are the numbers. We are doing a little better in the 5 years of 1995–2000 than we did in 1990–95, but it is clear that if, in fact, we think we have been really increasing defense in terms of outlays, as we finally get them accounted for, it is obvious we have a long way to go if we are going to say we have increased defense spending. I am not saying we must. I am merely giving some facts as they show up here.

In summary, the data suggests to me that we have been successful in controlling the rate of Federal spending. And while we must continue to be vigilant and very careful, in this time of projected budget surpluses, to avoid returning to an era of expansive Government spending, I do not think we should dismiss what these charts show. We have been successful in controlling Government spending, and we have been most successful in the last decade, very successful in the last 5 years. There are many institutions, entities, and people who can take some credit for what has happened to the American economy, but I believe it is fair to say that the Budget Committee of the Senate, not always under my chairmanship but under the chairmanship of others, has been part of a decade of tremendous pressure to reduce the expenditures of Government and thus create a surplus.

If the surplus is good—and, frankly, it looks as if the American people have understood loud and clear that the debt is not good. I would assume if the debt is not good, they must think surpluses are good. Indeed, we do. Much of the surplus is going to that accumulated debt. As a matter of fact, I close by saying, while the two parties and the President disagree on many things, it is good for America that we have agreed on one thing; that is, the Social Security surplus is going to the Social Security trust fund, not into the general coffers of Government to be spent. That alone will dramatically reduce the debt we owe to the public.

As a matter of fact, if we continue for the next decade to apply the Social Security surpluses, which I am rather confident will continue to occur, then

we will have in a decade reduced the debt of the American people by somewhere around 70 percent, which is not very shabby, if you talk about one decade, one group of people reducing the debt that much.

I thank the Senate for permitting me to speak. I will come to the floor at a later time and express why I am convinced the surpluses are for real and that, as a matter of fact, they are apt to be more rather than less over the next decade because of what is happening in the American economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I ask unanimous consent for an additional 5 minutes on my allotted time.

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

PUBLIC DEBT

Mr. HOLLINGS. Mr. President, the reason I asked for the extra time is, in addressing the Senate with respect to the Education Savings Act, I was going to make the point that we weren't saving and we had no money for this particular act. The act will cost the government \$2 billion. But the distinguished Senator from New Mexico, the chairman of our Budget Committee, says the Senator from South Carolina sees the surplus differently than he sees a surplus. Let me go right to the minute here on 2/23, the public debt to the penny.

You can go to the Internet and, under the law, find that the Department of

Treasury lists to the penny and by the minute the exact amount of the public debt. It isn't what the Senator from New Mexico calls a debt or surplus. It isn't what the Senator from South Carolina calls a debt or surplus. It is what we call a debt under the Public Law. The public debt to the minute right now—I just took it off the Internet two minutes ago—is \$5,744,135,736,409.24

I ask unanimous consent to print this in the RECORD at this point.

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

THE PUBLIC DEBT TO THE PENNY

	Amount
Current Month:	
02/23/2000	\$5,744,135,736,409.24
02/22/2000	5,742,317,374,668.82
02/18/2000	5,739,814,030,329.64
02/17/2000	5,708,609,026,361.46
02/16/2000	5,704,636,239,474.18
02/15/2000	5,705,355,135,074.08
02/14/2000	5,693,874,593,019.53
02/11/2000	5,692,488,848,706.09
02/10/2000	5,692,476,887,663.77
02/09/2000	5,690,617,208,881.34
02/08/2000	5,694,611,209,189.87
02/07/2000	5,693,618,340,748.18
02/04/2000	5,691,096,297,325.05
02/03/2000	5,690,372,687,653.89
02/02/2000	5,702,134,559,981.88
02/01/2000	5,702,651,446,667.03
Prior Months:	
01/31/2000	5,711,285,168,951.46
12/31/1999	5,776,091,314,225.33
11/30/1999	5,693,600,157,029.08
10/29/1999	5,679,726,662,904.06
Prior Fiscal Years:	
09/30/1999	5,656,270,901,615.43
09/30/1998	5,526,193,008,897.62
09/30/1997	5,413,146,011,397.34
09/30/1996	5,224,810,939,135.73
09/29/1995	4,973,982,900,709.39
09/30/1994	4,692,749,910,013.32
09/30/1993	4,411,488,883,139.38
09/30/1992	4,064,620,655,521.66

HOLLINGS' BUDGET REALITIES

[In billions]

President and years	U.S. budget (outlays)	Borrowed trust funds	Unified deficit with trust funds	Actual deficit without trust funds	National debt	Annual increases in spending for interest
Truman:						
1946	55.2	-5.0	-15.9	-10.9	271.0	.....
1947	34.5	-9.9	4.0	+13.9	257.1	.....
1948	29.8	6.7	11.8	+5.1	252.0	.....
1949	38.8	1.2	0.6	-0.6	252.6	.....
1950	42.6	1.2	-3.1	-4.3	256.9	.....
1951	45.5	4.5	6.1	+1.6	255.3	.....
1952	67.7	2.3	-1.5	-3.8	259.1	.....
1953	76.1	0.4	-6.5	-6.9	266.0	.....
1954	70.9	3.6	-1.2	-4.8	270.8	.....
Eisenhower:						
1955	68.4	0.6	-3.0	-3.6	274.4	.....
1956	70.6	2.2	3.9	+1.7	272.7	.....
1957	76.6	3.0	3.4	+0.4	272.3	.....
1958	82.4	4.6	-2.8	-7.4	279.7	.....
1959	92.1	-5.0	-12.8	-7.8	287.5	.....
1960	92.2	3.3	0.3	-3.0	290.5	.....
1961	97.7	-1.2	-3.3	-2.1	292.6	.....
1962	106.8	3.2	-7.1	-10.3	302.9	9.1
Kennedy:						
1963	111.3	2.6	-4.8	-7.4	310.3	9.9
1964	118.5	-0.1	-5.9	-5.8	316.1	10.7
Johnson:						
1965	118.2	4.8	-1.4	-6.2	322.3	11.3
1966	134.5	2.5	-3.7	-6.2	328.5	12.0
1967	157.5	3.3	-8.6	-11.9	340.4	13.4
1968	178.1	3.1	-25.2	-28.3	368.7	14.6
1969	183.6	0.3	3.2	+2.9	365.8	16.6
1970	195.6	12.3	-2.8	-15.1	380.9	19.3
Nixon:						
1971	210.2	4.3	-23.0	-27.3	408.2	21.0
1972	230.7	4.3	-23.4	-27.7	435.9	21.8
1973	245.7	15.5	-14.9	-30.4	466.3	24.2
1974	269.4	11.5	-6.1	-17.6	483.9	29.3
1975	332.3	4.8	-53.2	-58.0	541.9	32.7
Ford:						
1976	371.8	13.4	-73.7	-87.1	629.0	37.1
1977	409.2	23.7	-53.7	-77.4	706.4	41.9
Carter:						
1978	458.7	11.0	-59.2	-70.2	776.6	48.7
1979	504.0	12.2	-40.7	-52.9	829.5	59.9
1980	590.9	5.8	-73.8	-79.6	909.1	74.8
1981	678.2	6.7	-79.0	-85.7	994.8	95.5
Reagan:						
1982	745.8	14.5	-128.0	-142.5	1,137.3	117.2

THE PUBLIC DEBT TO THE PENNY—Continued

	Amount
09/30/1991	3,665,303,351,697.03
09/28/1990	3,233,313,451,777.25
09/29/1989	2,857,430,960,187.32
09/30/1988	2,602,337,712,041.16
09/30/1987	2,350,276,890,953.00

Source: Bureau of the Public Debt.

Mr. President, The Department of Treasury said we began the 1999 fiscal year with a debt of \$5,478,704,000,000, and we ended it, not with a surplus, but with a deficit of \$5,606,486,000,000.

Now, it is not any monkeyshine on this Senator's part. It is the monkeyshine on the part of the majority of this body, all running around calling surplus, surplus, surplus, when there isn't any surplus.

Let's go directly to yesterday's release by the Department of Treasury. We find, on table 6, page 20 that they began the year with a debt, as I have just reported, of \$5,606,486,000,000. Now, at the close of the month, as of January, it was \$5,660,780,000,000. The Treasury Department, beginning October 1 of last year, fiscal year 2000, has already borrowed \$54 billion. Please, let's tell the Secretary of the Treasury that if we have surpluses, quit borrowing money. What is he borrowing money for? It is time this charade stops.

I will ask unanimous consent to print in the RECORD HOLLINGS' budget realities.

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