

# KEY BUDGET PROCESS REFORMS

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HEARING  
BEFORE THE  
COMMITTEE ON THE BUDGET  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED NINTH CONGRESS  
SECOND SESSION

HEARING HELD IN WASHINGTON, DC, MARCH 16, 2006

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THURSDAY, MARCH 16, 2006

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE BUDGET,  
*Washington, DC.*

The committee met, pursuant to call, at 10:00 a.m., in room 210, Cannon House Office Building, Hon. Jim Ryun presiding.

Members present: Representatives Ryun, Wicker, Campbell, Ryan, Chocola, Simpson, Spratt, Edwards, Baird, Cuellar, and Cooper.

Mr. RYUN. Good morning. And let me welcome everybody to the hearing this morning.

It is my understanding that we are going to have a series of votes on the floor this morning. Once votes commence on the floor, the hearing will stand adjourned.

I ask unanimous consent that members who are unable to question the witnesses prior to the hearing's adjournment be allowed 7 days to submit questions for witnesses.

Without objection, so ordered.

Welcome, everyone, to today's hearing on budget process reform. I am pleased to have with us several experts to participate in our discussion today, including, first, former Senator and assistant Republican leader and former chairman of the Senate Budget Committee, Don Nickles, welcome this morning, one of the most knowledgeable people out there on this issue as well as a steadfast leader on spending control in Congress.

Former Congressman and former Budget Committee ranking member back when Republicans were in the minority, Bill Frenzel, is joining us this morning as well, well known for his institutional knowledge of the budget process in terms of history and context as well as policy and politics. Bill, welcome back today.

We also have with us former Congressman Charlie Stenholm, who in his time here was co-chair of the Blue Dogs, and actively pushed for bipartisan legislation on budget process reform. He is currently serving on the Board of Directors of both the Concord Coalition and the Committee for Responsible Federal Budget. Welcome all.

Last June, this committee heard a hearing to examine congressional budget practices. That hearing served as a useful first step in reflecting on how budget process reform works. Today's hearing will draw on what we have learned from the hearing as well as focus on several key areas for potential reform, emergencies, line-item veto, sunset commission, and finally earmark reform.

I will take a moment to provide a brief overview of the budget process. It may be redundant for those of you who have served for years in this Congress, but I believe it is useful to briefly reflect on the current process and why we have it and why it needs to be here in the first place.

The Budget Act of 1974 for the first time gave Congress an actual process for budgeting rather than a series of piecemeal responses to the President's spending requests. It empowered Congress to set its own priorities, whether or not they agreed with the President, and to set in motion the policy choices that need to follow.

It gave Congress the means to determine spending by setting a limit on total spending, by directing spending to what they had to determine the Nation's most important priorities, and by the power to enforce agreed-upon spending limits through points of order.

In short, the Budget Act empowered Congress to control the purse by determining its own priorities and policies and establish a systematic means to organize its decisions, set policy goals, and combine all of this into one blueprint, the budget, to guide Congress through not only the coming fiscal year but into future.

Take this year's for example. We had an occasion to use the emergency designation for certain spending initiatives, specifically relief to victims in the 2005 Gulf Coast hurricanes and the War on Iraq.

The Budget Act defines when it is appropriate to use such an emergency designation and gives the authority to do so. Clearly such natural disasters as last year's devastating hurricanes meet the emergency's definition as it was intended.

I think most would agree, however, that not every item Congress has categorized as emergency necessarily meets a reasonable definition as such. And if this designation is to have the intended effect of serving as a budget control, we have got to work on doing it to determine how it can be better used.

On the issue of earmarks, while it may be easy to support abolishing earmarks on a conceptual level, it has proven much harder to do so in practice. It is my hope that our witnesses can lend some insight on how to best address this particular issue.

The other two areas of reform that will be addressed today are the line-item veto and sunset commissions. On both of these issues, there is ongoing discussion as to whether either would be a help or a hindrance to Congress' efforts to conduct their business and control spending.

I look forward to hearing the thoughts of our witness on both of these issues.

Once again, the purpose of today's hearing is to take a focused look on certain key areas of budget process reform, specifically emergencies, earmarks, line-item veto, and sunset commission.

While I imagine the members may have other constructive ideas for budget process reform, I would ask that we do our best to stay focused on these particular issues today.

With that in mind, I turn to Mr. Baird for opening comments he might have. Mr. Baird.

Mr. BAIRD. I thank my good friend and I want to thank our witnesses, Senator Nickles, Representative Frenzel, and Representa-

tive Stenholm. It is great to see you again. Thank you for your leadership on this issue for many, many years. I think if we had been listening to some of your ideas over the years, we might not be in the pickle we are in today.

Today's hearing comes in the midst of a congressional consideration of the President's budget and the congressional budget resolution. Unfortunately, the budgets that we have seen thus far, the President's budget and the resolution that the Senate is considering, make the deficit worse, not better.

Given these budgets and the Republican budgets that we have seen over the last 5 years, which includes some of the largest deficits in the history of this Nation, it is disappointing but not surprising that yet another debt ceiling increase is on the Congressional agenda this week.

Unfortunately, however, changes to the budget process, which are the topic of today's hearing, are unlikely to provide a substitute for the willingness to make the hard choices necessary to craft a budget that returns to balance.

In fact, most of the process changes advocated in recent years by the administration would have at best a minor impact on the deficit.

There is, however, one budget process change that would likely have a substantially positive impact. Unfortunately, our friends on the other side of the aisle have consistently opposed renewing it. I am referring here to the effective two-sided PAYGO rule, the PAYGO budget rules in place during the 1990s.

There is a widespread mainstream consensus including Alan Greenspan, the Committee for Responsible Federal Budget, and the Concord Coalition in favor of PAYGO which, along with discretionary spending caps, clearly contributed to the fiscal progress made during the 1990s.

Unfortunately, the majority party allowed PAYGO to expire in 2002 and the administration and congressional Republicans have since advocated applying PAYGO only to mandatory spending and not the tax cuts. That leaves a huge gap in the budget enforcement system, allowing administration proposals to drive the deficit much higher over the next 10 years.

Democrats support the balance and effective PAYGO system used in the 1990s. Reestablishment of two-sided PAYGO rules would be a good step toward putting the budget back on the right track. At the same time, it is important to keep in mind that the most important step would be for the President to propose and Congress to adopt budgets that actually return to balance.

House Democrats have done this in recent years. Unfortunately, the administration and congressional Republicans have not. Perhaps we need to return to the model of 1997 when we saw the benefits of having everyone at the table and putting everything on the table.

Republicans and Democrats, the White House, and the Congress worked together, were able to produce a plan to bring the budget back to balance. Unfortunately, that kind of bipartisan approach is not one that the current administration has undertaken.

We are left then with a series of budgets that persist in making the deficit worse and do nothing to bring the budget back to bal-

ance. It is always helpful to discuss how the budget process might be structured more beneficially, and I look forward to today's testimony.

I would like to conclude with a brief story. Last month, I was at a high school and one of the young people asked me a little bit about the deficit. And I explained how the deficit works and the debt works. And he asked me how much the debt was. And I said, well, the debt is about \$8.2 trillion. And the young person's jaw dropped and his eyes got wide and he said, well, who is going to pay for that. And I pointed to him and he did this. He just put his hands on his head and dropped his head to his desk. And the other kids sat that there shaking their heads.

No responsible adult would pass on physical pain to their children rather than taking the physical pain themselves. But this Congress repeatedly passes fiscal pain on to our children rather than enduring it ourselves and it is time we stop. And I look forward to your suggestions for how we do that. Thank you.

Mr. RYUN. We will begin with our first witness this morning, Former Senator Don Nickles.

**STATEMENT OF DON NICKLES, FORMER CHAIRMAN, COMMITTEE ON BUDGET, ASSISTANT REPUBLICAN LEADER, U.S. SENATE**

Mr. NICKLES. Thank you very much, Mr. Chairman.

I have had the pleasure of knowing and working with Bill Frenzel and Charlie Stenholm for a long time and I respect them greatly.

And let me just say, although Chairman Nussle is not here, I had the pleasure of working with him for years. He is an outstanding Chairman and outstanding Congressman and Representative of the House. He always represented the House very well, and it was my pleasure to work with him. I think we had some successes and maybe some failures too, and hopefully we can talk about some of those.

I appreciate some of the comments that Representative Baird just mentioned. I happen to be one who thinks you should put everything on the table.

Mr. Chairman, I have an extensive statement. We do not have time for that, so I will ask you to insert that in the record.

Mr. RYUN. Without objection.

Mr. NICKLES. And just make a few comments if I might.

One, a lot of people like to say the budget process is broken. It is not broken. It works. The budget only does about three things and we make it a lot more complicated than we need to.

The budget sets discretionary caps. And, Representative Baird, that is the most important thing it does on discretionary spending. It puts a cap. That is more important than PAYGO. It is more important than anything else you do. It is vastly more important than earmarking. If your goal or objective in earmarking reform is to cut spending, caps are a hundred times more important. So I just want to make that perfectly clear.

Earmarks have gotten way out of hand. I am embarrassed. I used to be on the Appropriations Committee decades ago. And



there were earmarks then, but the multitude of earmarks has exploded. It is way out of hand, and it needs discipline.

But you are not talking about saving money with earmark reform. Saving money will be done by caps, enforceable caps, and the will to enforce the caps. And it is easy not to enforce them. It is easy to let things go by and maybe not raise a budget point of order or so on. But if you have enforceable caps on discretionary spending, you will save a whole lot more than you will in any type of earmark reform.

And I do not mind you having earmark reform, the more power to you. I would think good earmark reform would just be telling Members of Congress "do not ask for so many." Ask for a couple. Ask for a few. But do not get carried away. And it has certainly gotten carried away and it is embarrassing.

But if you eliminate some earmarks and you still have the same cap, you are going to spend the same amount of money, so you really did not save any money. So you need the caps. The caps are the most important thing.

Emergency spending has gotten out of hand. One of the things in the last budgets that I was responsible for in 2003 and 2004 as far as the Senate is concerned, was the War on Iraq and Afghanistan, which we always classified as an emergency. I can see maybe the first year or two being an emergency, but it really should be put in the budget in the future. And I did not do that in my budgets, my fault, I probably should have done it, but we did not.

Emergency designations are also abused. I mean, this Congress this year already passed LIHEAP as an emergency. LIHEAP is not an emergency in my opinion. I did pass a rule that requires emergency spending to have 60 votes in the Senate. And most of my remarks frankly will relate to the Senate because our rules are a little bit different.

That was a good thing to do, but you still have to enforce it. It was not enforced effectively this year, because somebody made the budget point of order and it was not sustained. I raised a lot of budget points of order in the Senate.

Under the FY 2004 budget that Congressman Nussle and I were primarily responsible for, Senators raised 82 budget points of order and all but four were sustained. And we saved about \$1.7 trillion in spending.

I also want to address PAYGO because a lot of people make a big deal out of it, but they, in my opinion, do not totally understand it. At least in the Senate, there is a multitude of budget points of order. Of those 82 budget points of order, only three were PAYGO points of order. PAYGO has been misconstrued as a bigger issue than it really is.

Some people say, well, from 1990 to 2002, PAYGO was really a godsend, but it was not. Not one sequester was ever enacted because of PAYGO, not one. We did wipe off the books \$736 billion worth of PAYGO balances that increased deficits. That was just wiped off at the end of the year. A lot of people don't know that. But each year one of the last Appropriation bills just wiped that out, cleaned the slate, more or less, to avoid the sequester.

Now it may have had a positive impact by giving Members a reason not to offer an amendment that would violate PAYGO knowing

it might trigger a sequester. But in reality, lots of amendments were offered and passed that became law that violated PAYGO that were just wiped off the slate at the end of the year. And as I said, not one enforcement action was ever done in that period of time.

PAYGO in the present situation, in my opinion, is unbalanced to the disadvantage of those people who want to extend present law on taxes. Spending under the baseline rules is assumed to continue even if the program expires, however this is not so in taxes. Congressman Stenholm and I were talking about the Farm Bill. The Farm Bill expires the end of next year, but it is assumed to continue. So under PAYGO, you do not have to come up with new money to pay for a new Farm Bill. A little editorial comment, I think we spend too much money on the Farm Bill.

But on taxes, we have a 15-percent tax on dividends and capital gains that we passed in 2003 that I was the principal sponsor of in the Senate. That tax cut happened because this body and the Senate passed a Budget Resolution that allowed it to happen. Those tax cuts expire at the end of 2008.

Well, under the current baseline rules, to extend those tax cuts for 2009 and 2010, you would have to come up with new revenue to pay for them.

Further, these tax cuts are considered under obscene scoring provisions that do not take into account the real economic impact of dynamic scoring, even though some people say we have it. The scorekeepers underestimated substantially what we did in 2003 with cap gains because it raised about 50 percent more money than they estimated it would.

And so my point is PAYGO really makes it difficult to extend cap gains and dividends, but it is not difficult to extend the Farm Bill or extend any other spending program. And I find that inequitable—that is not right.

Now, you might be able to figure out a way to solve this problem, but it will have to be bipartisan. One of the important things and one of the things I love about Bill Frenzel and Charlie Stenholm is their bipartisanship, and you cannot make budget reform unless you do it bipartisan.

Congress is considering several things in budget reform. Whether you are talking earmarks or line-item veto or changing other rules, I encourage you to do it and I encourage you to do it in a bipartisan way. I encourage you to do bipartisan budgets.

I was unsuccessful in getting a bipartisan budget—well, I take it back because Zell Miller, who is a very courageous Democrat from Georgia, did support our budgets the last couple years. So we had bipartisan budgets, but we only had one Democrat.

I wanted to have a bipartisan budget in the Budget Committee. But due to the makeup of the committee or whatever, I was not successful. Maybe again I failed in that effort, but I tried. And I would encourage you all to try. I know with the makeup of Congress and the climate and so on, it is difficult to do. But if you are going to have lasting, long-term, real budget reform, it needs to be bipartisan for it to really be successful.

And then just a comment on a couple of these rules. You mentioned line-item veto. I supported it when it was previously en-

acted. We gave it to the Clinton administration. The Supreme Court declared it unconstitutional. Now different people are coming back and saying let us do it a little differently with enhanced rescission where Congress has a second look at the vetoed items. Fine. You will not save a lot of money that way, but it is good policy.

It is kind of like earmark reform in that respect. If you want to do earmark reform, great, but really just have discipline. I would hope the Appropriation Committee members would just limit the number of earmarks, people restrain themselves because it has been embarrassing. But, again, I do not think it will really save a whole lot of money.

The most important thing is budget caps. Budget caps work. Even in 2004 when we did not pass a budget, a Congressional Budget Resolution, we passed a cap on discretionary spending. I put it in the FY05 DOD Appropriation Bill and we had enforceable caps.

And guess what? That year we stayed on the budget number. We stayed on our discretionary number and we made budget points of order to save money. And we saved billions and billions of dollars because that was the most important. That was how we controlled discretionary spending.

So I would just encourage you, when you are putting together a budget, you have discretionary caps, you have entitlement spending, and you have how much money you are going to tax. And all three of those are important. That is what this Committee is about. That is what governing is about. And that is what the Budget Committee does.

So, Mr. Chairman, thank you very much for allowing me to join you today.

Mr. RYUN. Thank you for your comments.

[The prepared statement of Don Nickles follows:]

PREPARED STATEMENT OF HON. DON NICKLES, FORMER CHAIRMAN, COMMITTEE ON BUDGET, ASSISTANT REPUBLICAN LEADER, U.S. SENATE

#### INTRODUCTION

Chairman Nussle, Ranking Member Spratt, and distinguished members of the House Budget Committee. Thank you for inviting me to join you today to discuss proposals to improve the Federal budget process.

In 1980 I was elected to the seat held by Senator Henry Bellmon upon his retirement. Senator Bellmon was a leader in creating the modern Federal budget process and the budget committees, and I was proud to serve many years on the Senate Budget Committee. I am particularly proud of my final 2 years in the Senate when I had the privilege to chair the committee, where I enjoyed working with you, Chairman Nussle, and your staff on two budget resolutions.

We dealt with some very difficult issues those 2 years; some successfully and some not. However our efforts in 2003 resulted in a budget and a tax bill which I believe contributed substantially to the growth and vitality our economy is enjoying today. That budget resolution, and the tax reconciliation bill which accelerated tax relief and reduced capital gains and dividend taxes, passed the Senate only by the affirmative vote of the Vice President breaking the tie. That was indeed a close one, but well worth the effort.

Passing a budget is hard work, and it should be since it defines the priorities of the Congress. However it is also one of the most fundamental responsibilities of the Congress to pass a budget and to live by it.

Tough budget enforcement is very important. When I chaired the Senate Budget Committee in the 108th Congress, there were 82 points of order raised to enforce the budget. I am pleased to say that only 4 of those points of order were waived,

a 95 percent success rate. All together, those points of order saved \$1.7 trillion in deficit spending.

Even in 2004 when the House and Senate did not agree on a budget resolution, we did successfully impose a spending cap/allocation on the appropriations bills for that year in the defense bill passed just before the August recess. When the Senate considered the Homeland Security appropriations bill the week following the recess, 10 different amendments which would have increased spending by billions of dollars were defeated thanks to that spending allocation. Budgets do make a difference.

It is important to note that in the evolution of the budget process, almost every major rewrite has been bipartisan in nature. From Gramm-Rudman-Hollings which created the concepts of deficit targets and sequesters, to the Andrews Air Force budget agreement in 1990 which created discretionary spending caps and pay-as-you-go; these efforts were notable for their bipartisanship. Since 1990, Congress has extended some budget enforcement, allowed some to expire, and tinkered around the edges, but the main elements of the process have been essentially unchanged. Real, lasting reform of the budget process will require both parties to work together.

I will comment briefly on some of the budget process proposals currently under consideration. However I want to begin by emphasizing that the budget process can never be a substitute for political will. This committee has been hearing testimony for years about the fiscal crisis presented by the retiring baby-boom generation. That crisis is no longer on the horizon \* \* \* it is here now \* \* \* and there is no budget process you can devise to replace the difficult political effort that will be required to address this problem.

#### BUDGET RESOLUTION REFORMS

The annual budget resolution and the process to enact it could be improved in a number of both technical and significant ways.

Many have suggested biennial budgeting, which my former colleague Senator Pete Domenici has long advocated. Members may not recognize it, but Congress has actually lived with biennial budgeting since 2001. Both the 107th and 108th Congresses enacted budget resolutions for the first year of the session (2001 and 2003), and then failed to agree on a budget resolution for the second year of the session (2002 and 2004). I hope for the sake of Chairman Nussle and Chairman Gregg that the 109th Congress will not suffer the same fate, but perhaps history is trying to tell us something.

Others have suggested making the budget a joint resolution that would be signed by the President. While I have some concern that this would further slow the budget process, and increase the likelihood of stalemate, I do believe that having the legislative and executive branches on the same page earlier in the year could be valuable.

Finally, I would recommend that members consider other more technical changes to make the budget resolution, and the budget committees, more effective and more relevant.

- **Involve Committees in the Budget Process:** Currently, authorizing and appropriations committees are directed to submit their "views and estimates" to the budget committees prior to consideration of the budget resolution. Unfortunately, few committees take this process seriously. I believe putting the committees on record early in the process would improve budget enforcement, so I would recommend that committees be required to vote to report their "views and estimates", and those views should include specific recommendations for increases or decreases in their committee allocation.

- **Revise Contents of the Budget Resolution:** Currently, committee allocations are the focus of budget enforcement, but almost no members (and few staff outside of the budget committees) ever see the committee allocations because they are only published in the conference report's statement of managers. The budget resolution amendment process and debate would be much more relevant and serious if members had to take money away from one committee's allocation to give it to another committee. The major functional budget categories currently detailed in the budget resolution text could be replaced with specific committee allocations for budget authority, outlays, contract authority, and revenues.

#### LINE-ITEM VETO/EXPEDITED RESCISSION

I have long been a supporter of both the Constitutional line-item veto and the various iterations of enhanced or expedited rescission authority. I am pleased that President Bush has initiated a renewed push to enact expedited rescission authority, and I encourage this committee to give it favorable consideration.

Although called the “Legislative Line-Item Veto Act”, the President’s proposal is basically just an expedited variation of the current rescission process. Essentially, the President will be allowed to send certain items of discretionary spending, mandatory spending, or targeted tax benefits back to Congress for a second vote. These proposed rescissions will receive privileged consideration in both the House and the Senate, but ultimately Congress retains the final decision, which should allow this authority to pass Constitutional muster.

I should note, however, that although these proposals hold some promise to reduce overall spending, members should not expect any President to balance the budget with this new authority.

#### EARMARK REFORM

Earmark reform is an easy issue to advocate generally, but much more difficult to implement specifically. I served several years on the Senate Appropriations Committee, including as ranking member on the Interior Appropriations Subcommittee which receives a host of earmark requests. I encourage you to legislate carefully in this area, and consider the following issues.

- Disclosure: I rarely ever saw a successful earmark that wasn’t accompanied by a press release from its advocate, so some would say disclosure already exists. However, a more formal disclosure process could be healthy, and may help eliminate projects which truly can’t stand the light of day.

- Report Language: Some proposals have suggested that Federal agencies disregard earmarks in report language or require all projects be included in bill language. I am not sure this would change the dynamics of earmarks much, but it would certainly make appropriations bills much larger and more complex.

- Power of the Purse: The legislative branch should always consider very carefully any significant limitations on their ability to manage and control executive activities. What may seem to make sense now could have implications to the balance of power that may not even have been contemplated.

#### BUDGETING FOR EMERGENCIES

Congress is frequently required to respond to emergencies ranging from disaster recovery to military confrontation. Unfortunately, we have failed to develop an adequate way to budget for and control this spending. When the discretionary spending caps were created in 1990, the concept of the “emergency designation” was created to give Congress a safety-valve to exceed the spending caps.

Unfortunately, the emergency designation became a simple way for Congress to avoid the caps for spending which was not really an emergency. I am proud to have worked with my former colleague Senator Phil Gramm to create a supermajority hurdle for the use of the emergency designation in the Senate which is still effective today.

The President has proposed refining the definition of an emergency to limit it to a necessary expenditure that is sudden, urgent, unforeseen, and not permanent. While I agree a tighter definition would be helpful, I am disappointed that the President has continued to request all funding for the War on Terror as an emergency. Congress has spent some \$323 billion in this manner since 2001, and while I certainly hope this spending is “not permanent”, I cannot agree that it is sudden or unforeseen.

Senate Budget Chairman Judd Gregg has attempted in his latest budget resolution to limit emergency spending for fiscal year 2007 to \$90 billion. While I congratulate this attempt to limit the global scope of emergency spending, I am somewhat concerned that budgeting a specific amount for emergencies will almost guarantee that it will be spent regardless of need.

#### SUNSET COMMISSION

The President and many Members of Congress have proposed various proposals to require periodic reviews and reauthorization of Federal programs. The President’s proposal would create a seven-member, bipartisan Sunset Commission that would assess the performance of agencies and programs on a 10-year schedule and recommend reforms or termination.

I have long been frustrated by Congress continued fascination with creating more and more new programs, and believe a Sunset Commission could help Congress with its oversight responsibilities.

## PAY-AS-YOU-GO

Finally, I would like to mention a budget process issue which seems to dominate much of the debate \* \* \* pay-as-you-go.

The ongoing effort to re-impose a pay-as-you-go enforcement regime is hailed by many budget pundits as a return to the budget discipline of the past. The truth is that the old pay-as-you-go rules were never an effective deficit deterrent, and many of their current proponents simply have an anti-tax-cut agenda unrelated to deficit reduction.

From 1990 to 2002, not a single sequester enforcement action was ever invoked under pay-as-you-go to "pay" for the spending and tax cuts Congress added to the deficit. In fact, over \$736 billion was wiped-off the pay-go scorecard at the end of each year to prevent such enforcement from taking place.

Few realize that pay-as-you-go is largely duplicative of the Budget Act's variety of enforcement tools. Of the 82 points of order raised in the Senate in the 108th Congress, only 3 were pay-as-you-go. The large majority of the points were either related to committee allocations, the discretionary spending caps, or emergency spending designations.

The real goal of many pay-as-you-go supporters is to stop the extension of current-law tax relief that expires in 2010. Since the siren-song of higher spending has always been more irresistible than the allure of tax cuts, they know that they can easily clear the procedural hurdle to expand government spending while retaining immense leverage over the content and duration of future tax relief.

## CONCLUSION

Again, thank you Mr. Chairman and the committee for the opportunity to discuss these issues.

Mr. RYUN. I would ask our witnesses perhaps if they are going to submit their comments for the record, you know, we will give unanimous consent on that, but make your remarks somewhat brief because we do have members that would like to try and ask a few questions. And we are expecting some votes on the floor.

Now, we are going to change the order just slightly and ask that Congressman Stenholm would go next. Congressman, we welcome your comments.

**STATEMENT OF CHARLES W. STENHOLM, FORMER RANKING MEMBER, COMMITTEE ON BUDGET, U.S. HOUSE OF REPRESENTATIVES**

Mr. STENHOLM. Thank you, Mr. Chairman. Delighted to be here. I wish you would put me on the 5-minute clock, so you can stop me at that point. I am used to that.

But let me say, I am here, as you mentioned in the introduction, representing myself this morning. And all the views you hear are mine and mine alone and would acknowledge that that contributed to me being here as a former Member. One of my proudest moments was passing the Balanced Budget Constitutional Amendment in 1995 in a bipartisan way.

One of the saddest was standing in the back of the Senate watching it be defeated by one vote. Had it passed, we would not have been able to enact the budget game plan that we are now under that has given us the biggest deficits in the history of our country, but that is hindsight.

I want to commend Democrats and Republicans on this Committee who have put forward plans, the Blue Dog 12-point Plan, the Republican Study Committee Plan. Chairman Nussle had a plan in 1999. You take the best components of each of those three, work together in a bipartisan way, and you will find a way to begin dealing with the deficits.

When we talk about budget enforcements, let me just state the obvious: budget enforcement rules are not a substitute for making the tough decisions and tough choices that the Congress has to make. Mr. Simpson and I were talking about that a moment ago, the frustration that many of you have on this Committee. But it takes political will.

And as you heard Senator Nickles talking about, the need of bipartisanship, which has been totally absent in the last 5 years in this body—3 of which I can say personally.

And to my Republican friends, with all due respect, if you are sincere in what you say—and I believe that you are—you should not have a problem with reinstating PAYGO for taxes as well as spending because it would force Congress to actually make the spending reductions before you have the tax cut. It seems to be logical. But I do not know why we have had such a fuss about that. PAYGO is extremely important.

This committee may want to consider changes to the baseline rules to treat future tax cuts the same as entitlement legislation. I agree with one exception to what Senator Nickles was saying. The reason that tax cuts are back on the table is because Congress chose to use them for budget reduction purposes, to stay within a budget.

If you would do the same on all of it, put it in the baseline and have tax cuts considered in the baseline. But we took the savings from the tax cut in the 2001, 2002 area and now you have got to pay for them, which is what some folks have had a difficult time doing.

Statutory limit on discretionary spending, you bet. It worked. But make them realistic. Make them what you will have, 218 votes, and that requires bipartisanship, so that you will in fact enforce those limits.

I would quite frankly say you have done a pretty good job on discretionary spending, so folks have got to quit pointing to discretionary spending as being the one area that you balance the budget because everyone knows it is entitlements. And you have got to look at defense and homeland security in the same breath or otherwise you cannot possibly cut enough out of discretionary spending in order to get anywhere close to a balanced budget.

Increasing the debt limit, oh, that is always a fun one. You are going to get to do that. Well, you all are probably going to get to avoid that, but the Senate is going to have to go on a vote in doing that. But that is wonderful.

But, you know, it should bother folks, the \$8.2 trillion debt. And, you know, all of this hullabaloo about our ports and who owns the ports, I remember voting with President Reagan going through the \$1 trillion debt limit.

At that time, in 1981, foreigners owned 26 percent of our debt held by the public. Today, of the \$8.2 trillion, foreigners own 48 percent. And thank goodness they do. And in 5 more years, we will owe \$11,500,000,000 plus and foreign interests will own debt held by the public, almost 60 percent of that. This ought to bother us, but it does not seem to do it with the debate going on today.

Eliminating low-priority programs, a great idea. Sunset legislation, another great idea. Let me propose a novel thought: after the

election of the Congress in November of this year, take the first 6 months next year doing oversight. Eliminate all fund-raising activities. Make it totally illegal to raise one dime for your next election. Spend the first 6 months doing the work you were elected to do. Have oversight. Deal with the problems of authorizing and trying to make the match of budgeting.

I think we would be surprised. If you do it in a bipartisan way, we would actually do something about deficits instead of just talk about them.

Just moving on, the long-term fiscal problems, let us start taking a look at the long-term aspect, not just the short term.

Social Security, Medicare, Medicaid, we ignored them last year. I was sorely disappointed. I thought last year since we had a President who had had the courage of putting Social Security on the table and we had bipartisan support for doing something. And my party was just as guilty as the other party—let me just say that—of politicizing it. But no more so. But, boy, we cannot keep postponing the inevitable without paying some dear prices.

Mr. RYUN. Let me interrupt just a minute, if I may, just so we can move to let the next member have an opportunity. Thank you.

[The prepared statement of Charles W. Stenholm follows:]

PREPARED STATEMENT OF HON. CHARLES W. STENHOLM, FORMER RANKING MEMBER, COMMITTEE ON BUDGET, U.S. HOUSE OF REPRESENTATIVES

Mr. Chairman, Congressman Spratt and Members of the Committee, I am Charlie Stenholm, former Member of Congress from the 17th District of Texas and currently a Government Affairs Advisor at Olsson, Frank and Weeda. I am also a member of the Board of Directors of the Committee for a Responsible Federal Budget and the Concord Coalition. This testimony is my own and does not represent any position or conclusion of any of these organizations.

I am particularly pleased to be on a panel with Bill Frenzel talking about ways to improve budget discipline. I served with Bill for many years in Congress, where he was one of the most respected voices on budget policy. I am now proud to serve with him on the board of the Committee for a Responsible Federal Budget.

In my 26 years in Congress, I worked with many members on both sides of the aisle, including several members of this committee, fighting to leave a better future for our children and grandchildren. I am very pleased that Members of Congress are taking an active interest in exploring ways to restore discipline and accountability in the budget process.

One of my proudest moments in Congress was when the House passed the Balanced Budget Amendment to the Constitution, and one of my greatest disappointments was when the Senate fell one vote short of approving it. A Balanced Budget Constitutional Amendment and strong budget enforcement rules would protect the rights of future generations who are not represented in our political system but will bear the burden of our decisions today. If a Balanced Budget Amendment were already in the Constitution, we would not have been able to enact the budget policies advocated by the majority that have resulted in a rapid increase in our national debt over the last 4 years.

#### THE OPPORTUNITY FOR BIPARTISANSHIP

I want to commend the Democratic and Republican members of this committee who have put forward serious proposals to enforce fiscal discipline. Jeb Hensarling and Paul Ryan have been leaders keeping this issue on the front burner. On the Democratic side, Jim Cooper and Dennis Moore have done yeoman's work in putting forward proposals to establish greater fiscal discipline. While there are some differences in the approaches, I believe that the authors of these proposals share a common goal of bringing greater discipline to the budget process. I believe there is a real opportunity for bipartisan cooperation on meaningful budget enforcement legislation.

The Blue Dogs' "Twelve point plan for restoring fiscal sanity" includes many proposals I advocated while I was in Congress. The Blue Dog plan is a package of three



legislative proposals: A Balanced Budget Amendment to the Constitution, legislation reinstating and strengthening statutory budget enforcement rules and changes in the rules of the House of Representatives to improve the transparency and accountability of the legislative process.

The Blue Dog twelve point plan is a credible, balanced package that offers the potential for bipartisan agreement on meaningful reforms. Many of the provisions in the Blue Dog plan were included in the Family Budget Protection Act proposed by the conservative Republican Study Committee or the budget process reform legislation authored by Chairman Nussle in 1999.

I would encourage the Committee to look at the common elements of these three plans as well as other budget process changes with bipartisan support as the starting point for budget process reform and continue bipartisan discussions to find common ground on other issues. Serious proposals for reform should not be rejected by one part or the other simply because they were proposed by a member of the other party.

#### THE NEED FOR STRONG AND BALANCED BUDGET ENFORCEMENT MECHANISMS

Budget enforcement rules are not a substitute for making the tough choices that will be necessary to restore fiscal discipline. If there is not the political will in Congress to maintain fiscal discipline, any budget process rule or statutory enforcement mechanism can be evaded in order to enact politically popular legislation that would increase the deficit.

The value of budget enforcement rules is to establish the presumption in favor of fiscal discipline and placing greater accountability for actions that undermine fiscal discipline. Budget enforcement rules can raise a red flag for legislation that would increase the deficit and hold all of us accountable for our decisions. If it is the will of the majority to pass legislation that would make the budget situation worse, Congress should be forced to accept responsibility for doing so.

If we are truly serious about restoring fiscal discipline, budget rules must apply to all parts of the budget, both spending and revenues. All parts of the budget must be on the table. Everyone needs to be pulling—we can't do it if some folks are riding. It is irresponsible and politically unrealistic to propose budget rules that apply to one part of the budget but not others. Applying budget discipline to all parts of the budget is necessary to earn the bipartisan support that will be necessary to enact and maintain effective budget enforcement rules. Exempting part of the budget from budget discipline will undermine the credibility of any enforcement mechanism.

#### RETURNING TO WHAT HAS WORKED—PAYGO AND SPENDING CAPS

My philosophy on budget issues has always begun with some simple West Texas Tractor Seat Common Sense—When you find yourself in a hole, the first rule is to quit digging. Dealing with our budget deficit must begin with reinstatement of budget enforcement rules to take away the shovels from Congress and the administration.

Any serious effort to restore fiscal discipline should begin with reinstating the pay as you go budget enforcement rules and discretionary spending limits restricting the ability of Congress and the President to enact legislation that would increase the deficit. These budget enforcement rules, which Congress and the President enacted in 1990 and extended in 1997 with bipartisan support, were an important part of getting a handle on the deficits in the early 1990s and getting the budget back into balance.

Reinstating paygo rules and discretionary spending limits would not by balance the budget, but doing so would represent an important first step in bringing discipline to the budget process by prohibiting policy changes that would further enlarge the deficit. They have been tested, and they worked. They didn't always work perfectly, but there is no question that they significantly improved the responsibility and accountability of the budget process.

The principle of paygo—if we want to reduce our revenues or increase our spending, we need to say how we would pay for it within our budget—is something all families understand. If we want to reduce our revenues, we need to say what spending we will do without. If we want to increase spending, we need to say where we will come up with the revenues for the new spending or what other spending we will do without.

The concept of applying PAYGO rules to all legislation—spending and revenues—has received support from both sides of the aisle since it was originally enacted. “Two-sided” PAYGO was originally enacted in the bipartisan budget agreement of 1990 and extended in the bipartisan balanced budget agreement of 1997. Further-

more, it was included in the budget passed by the Republican Congress in 1995. Applying pay-as-you-go rules to tax cuts does not prevent Congress from passing more tax cuts. All it would require is that Congress must identify another source of revenue or spending reduction if it wants to enact or extend a tax cut.

Those who want to extend expiring tax cuts or make the tax cuts permanent should be willing to put forward the spending cuts or other offsets necessary to pay for them. Similarly, those who want to spend more in certain areas need to be willing to say where they would cut or how they would raise revenues to pay for their proposals.

I would say with all due respect to my Republican friends that if you are sincere in what you say about controlling spending, you should not have a problem with reinstating pay as you go for taxes as well as spending because it would force Congress to actually cut spending to accompany tax cuts instead of just promising to cut spending in the future. The problem is that the actions of the majority in Congress haven't matched the rhetoric. Congress and the administration have cut taxes without cutting spending, and have charged the difference to our children and grandchildren by increasing the deficit.

There has been an argument that applying paygo is biased against tax cuts because the costs of extending entitlement programs are included in the baseline and would not need to be offset, while extending expiring tax cuts would be scored as a new cost that would need to be offset. That argument ignores the fact that Congress got credit for savings on paper by establishing the sunset. By contrast, applying a sunset to entitlement legislation does not achieve any savings. The baseline assumes the extension of entitlement programs because, unlike tax cuts, the costs of extending entitlement programs are scored and subject to budget discipline at the time they are enacted.

The tax cuts enacted in 2001 and 2003 are expiring because Congress included a sunset provision when they were initially enacted to limit the official cost. This was done in part to circumvent budgetary limits in place at the time. The cost of the tax cuts would have been several hundred billion dollars higher over that period if the tax bills had not included sunsets. Those additional costs were not subject to budget limits when the tax cuts were originally enacted. Making tax cuts permanent without considering their budgetary impact over the long-term and exempting their costs from budget enforcement would mean that those costs would never be subject to budget discipline.

The Committee may want to consider changes to baseline rules to treat future tax cuts the same as entitlement legislation—score the costs of the tax cut as if it is permanent, and then include the costs in the baseline. That would eliminate the incentive to use sunsets to artificially limit costs. But since the costs of extending the tax cuts was not scored when they were enacted, those costs should not be in the baseline. Put another way, Congress should not have gotten credit for “savings” by establishing a sunset, but since

Congress took credit for those “savings” then it should be charged with a cost when the sunsets are repealed.

I would encourage the Committee to examine ways to prevent budget gimmicks intended to circumvent PAYGO rules. Potential improvements of PAYGO include prohibiting spending or tax legislation that delays costs outside of the 5 year window, prohibiting the use of “directed scorekeeping” in which legislation directs CBO to use certain assumptions to provide a more favorable budget estimate and requiring a separate vote to exempt legislation from PAYGO.

Congress should also establish a statutory limit on total discretionary spending, with flexibility to shift funds within the overall limit. I believe there would be bipartisan support for legislation establishing discretionary spending limits at reasonable levels if they were accompanied by PAYGO rules which applied discipline to the rest of the budget, including revenues.

The cap should be set at a level which will impose an attainable amount of spending restraint. I would suggest that separate vote be required to increase spending above the discretionary spending limits, instead of including an increase in spending limits as part of an omnibus appropriations bill as has been the case in the past.

Statutory limits on discretionary spending enforced by sequestration can be an effective tool for fiscal discipline if they are set at reasonable levels. However, discretionary spending limits can actually work against fiscal discipline if they are set at unrealistic levels. The discretionary spending limits enacted in 1990 and extended in 1993 were quite successful in restraining discretionary spending. By contrast, the much more restrictive spending caps enacted as part of the 1997 budget agreement proved to be unrealistic and were effectively ignored, leaving no credible restraint on discretionary spending in place.

## INCREASING THE DEBT LIMIT

There has been a great deal of attention over the last few days about the need to raise the debt limit for the fourth time in 5 years. While raising the debt limit is something that Congress must do, increasing the debt limit should be accompanied by a full and open debate about the fiscal policies that have made the increase necessary and a discussion about what should be done to stem the tide of red ink.

The House of Representatives has been able to avoid this type of debate through the so-called Hastert rule, which provides that an increase in the debt limit shall be deemed to have passed without a separate debate or vote when the budget resolution conference report is adopted. This rule should be repealed and replaced by a requirement that the debt limit be subject to a full debate in committee and on the House floor.

In addition, I believe that any long-term increase in the debt limit should be accompanied by a plan to restore fiscal discipline. I would propose that Congress approve a short term increase in the debt limit to avert the imminent crisis and provide for a longer increase in the debt limit contingent upon Congress taking action to reinstate paygo rules and other budget enforcement mechanisms.

## EMERGENCY SPENDING

The emergency designation was established in 1990 to allow spending above spending limits in response to unforeseen emergency needs. Between 1991 and 1997, the emergency spending designation was used primarily to cover the costs associated with natural disasters, averaging roughly \$7 billion a year. However, in recent years the amount of emergency spending has increased dramatically. Between 1998 and 2002, emergency spending averaged \$32 billion a year as the emergency spending designation was used to circumvent spending limits. Emergency spending has turned into a giant loophole for non-emergency spending.

Congress should establish criteria for emergency spending and require the President and appropriations committee to provide justifications for emergency spending based on the criteria. Previous proposals have sought to define emergency spending as spending for the prevention or mitigation of, or response to, loss of life or property, or a threat to national security that is sudden, urgent, unforeseen and temporary.

The budget should also include a rainy-day fund—something that 45 states currently do. A rainy day or reserve fund would require Congress to set aside funding levels reflecting the average costs of past years' disasters to prepare for unforeseen disaster related costs. While the costs of responding to Hurricane Katrina would have exceeded the amount in the rainy day fund, at least we would have been starting from a better fiscal position.

## IMPROVING THE ACCOUNTABILITY OF THE BUDGET PROCESS

Budget rules only work if they are enforced. Unfortunately, budget act waivers have become a routine part of the legislative process. Both the Blue Dog Twelve Point Plan and the Republican Study Committee Family Budget Protection Act include provisions increasing the accountability of the legislative process by making it harder to waive the Budget Act.

The Blue Dog plan would strengthen the Budget Committee's oversight role by requiring the budget compliance statements from the Budget Committee accompany every bill that is reported out of committee for consideration by the full Congress. The Rules Committee would be required to specifically list all budget act waivers and provide a justification for the waiver instead of providing a blanket waiver without explanation. The Blue Dog plan would also require a separate vote to waive major budget act points of order. The Republican Study Committee plan would go even further, requiring a two-thirds vote to waive points of order. I encourage the Committee to give serious consideration to these and other proposals to increase the transparency and accountability of the budget process by shining sunlight on budget act waivers and requiring Members to take responsibility for waiving the budget act.

## ELIMINATING LOW-PRIORITY AND UNNECESSARY SPENDING

One small step that would help restore a small measure of fiscal discipline is enactment expedited rescission legislation strengthening the ability of Presidents to identify and eliminate wasteful or low-priority spending items in appropriations bills or targeted tax preferences in tax bills.

The Line-Item Veto proposal proposed by President Bush is virtually identical to expedited rescission legislation I first offered in 1993 requiring Congress to vote up or down by majority vote on rescissions submitted by the President. Expedited rescission legislation embodies an idea which many Members, both Democrats and Republicans, have advocated for years. Senator Carper was an early leader on this issue, working with Dick Armey, Tim Johnson and others to find a bipartisan consensus on this issue. Last year, I joined with Congressman Paul Ryan to offer an amendment granting the President expedited rescission authority. This approach has now been embraced by President Bush.

Many of us who opposed the original Line-Item Veto as an unconstitutional shift of power from the legislative branch offered expedited rescission or “modified line-item veto” as a Constitutional alternative. In fact, when the House of Representatives initially passed the Line-Item Veto Act in 1995, I offered an amendment that would have added expedited rescission authority as a fallback that would be available if the Line-Item Veto was ruled unconstitutional. The majority rejected my amendment, and when the line-item veto was struck down the President was left without an effective tool to eliminate low-priority spending. I can’t help but wonder what would have happened if Republicans in Congress had joined me to enact expedited rescission into law over a decade ago. Perhaps expedited rescission could have prevented the explosion of earmarks that has occurred over the last 10 years.

Expedited rescission legislation would bring greater accountability to the budget process so that individual appropriations and tax items may be considered on their individual merits. The current rescission process does not make the President or Congress accountable. Congress can ignore the President’s rescissions, and the President can blame Congress for ignoring his rescissions. I believe that it is appropriate to strengthen the President’s ability to force votes on individual budgetary items. This reform will not make a significant dent in our deficit. But it will have a very real cleansing effect on the legislative process and will take a step toward reducing the public cynicism about the political process.

Expedited rescission authority can be an important tool for eliminating wasteful spending, if the President uses this tool. I have been disappointed that President Bush has not exercised his authority under current law to send Congress a rescission list of low-priority spending and pork barrel projects that he wants Congress to eliminate. I would encourage the President to make use of his rescission authority whether or not Congress enacts expedited rescission.

Another tool that Congress should consider to eliminate low-priority spending is sunset legislation to provide for a regular review of the efficiency and public need every Federal agency, department and program. This would require agencies to justify their existence to taxpayers and Congress and provide an opportunity for Congress to consider changes in operations of an agency and the programs it administers, create new efficiencies, and eliminate obsolete programs or offices.

Not only would sunset legislation provide for abolishment of obsolete Federal agencies and streamline others, it would encourage Congress as well as agencies to look for ways to improve programs to better serve taxpayers. A similar law is used in nearly half of the states including Texas, which has eliminated 44 agencies, saving Texas taxpayers \$720 million.

#### ADDRESSING LONG-TERM FISCAL PROBLEMS

As serious as our near term budget problems are—and they are very serious—the long term problems we face as the baby boom generation begins to retire in 2008 are even greater. We need to bring more attention to the long-term liabilities facing our nation as part of the budget process.

Budget process rules should focus more attention on long term fiscal challenges and make it harder for Congress and the President to enact policies which make the long-term fiscal gap worse. The President’s budget and congressional budget resolution should include more information about the unfunded liabilities of Social Security and Medicare and the long-term fiscal gap. I would also encourage the Committee to examine the possibility of incorporating accrual accounting into the budget process where appropriate as a supplement to current budget presentation.

The Senate has taken some steps to bring attention to long term fiscal issues in the budget process by establishing a point of order against legislation with long term costs that exceed \$5 billion over a 10-year period after 2015. The Medicare Modernization Act set in place a mechanism to monitor the costs of the Medicare program. The effort to focus greater attention on long term fiscal problems is encouraging. However, these rules would have more credibility if the same level of discipline and review was applied to the revenue side of the ledger.

I had hoped that last year would be the year that Congress and the President would take action to address the financial challenges facing Social Security, but neither party seemed interested in a serious discussion about the tough choices that will be necessary. These challenges will continue to get worse and become harder to address the longer we wait. And the challenges facing Medicare and Medicaid are even greater.

The experience of last year convinced me that we need to establish a bipartisan commission to objectively review all the options for reforms of our entitlement programs and make recommendations to Congress and the President. Senator Chuck Hagel, a Republican from Nebraska and Congressman John Tanner, a Democrat from Tennessee, introduced legislation that would establish such a commission. Creating a bipartisan commission to examine the challenges that the Baby Boom retirement will have on entitlement programs presents an opportunity to get a fresh start on the debate and move toward a solution.

There is justifiably cynicism in Washington about proposals to establish a commission to study an issue. There are bookshelves filled with dust-covered reports from commissions that went nowhere. This commission may be destined for the same result. But this commission has the potential to move the debate forward if the President follows through on his pledge to address the issue in a bipartisan manner and continues to make addressing the long-term challenges facing entitlement programs a priority.

Finding a politically viable and equitable solution to these challenges will require bipartisan discussions in which all options are on the table for consideration. The Commission should have one basic ground rule—all option should be on the table and members of the Commission should not go into the process with preconditions about what must be included or excluded from a final solution. Everyone must resist the temptation to immediately shoot down ideas they don't like. Let an idea fly in the public debate long enough to consider its merits.

I agree with former Treasury Secretary Rubin that the commission should be allowed to examine rolling back tax cuts and other options to increase revenues. Increasing taxes to meet the growing costs of meeting our obligations to Social Security, Medicare and Medicaid as the baby boom generations retires is a legitimate option that the commission should be allowed to consider. Likewise, keeping taxes at current levels will require substantial changes to scale back the costs of these entitlement programs. In all likelihood the solution will require a combination of changes to restrain spending and increases in revenues. The Commission should be allowed to consider and discuss the full range of options and debate the tradeoffs.

The budget process can play a role in ensuring that the Commission's work receives the attention it deserves. The appointment of a commission should be accompanied by a procedure requiring congressional consideration and vote on the commission recommendations either as part of the budget process or in separate legislation. To put even more teeth into this requirement, budget rules should prohibit the consideration of any tax cuts or entitlement spending increases with long term costs until Congress has addressed the existing long-term fiscal challenges by approving the Commission's recommendations or an alternative approach to closing the long-term fiscal gap.

As this Committee examines ways to improve budget enforcement, I wanted to raise a concern about an effort to circumvent budget rules. House and Senate conferees on the reconciliation tax bill are reportedly considering a proposal to "pay for" the costs of a short-term tax cut through 2015 by enacting a long-term tax cut that would raise revenues in the short term budget will reduce revenues—and increase the deficit.

Using this transparent gimmick to evade the Senate rule prohibiting reconciliation bills from increasing long term deficits would undermine respect for, and the effectiveness of, budget procedures intended to promote long-term fiscal responsibility, including procedures aimed at limiting increases in entitlement costs in years outside the budget window. Enacting a provision that worsens the long-term fiscal outlook in the name of complying with budget enforcement rules is a vivid illustration of the myopic thinking that currently characterizes, and distorts, the budget process.

#### CONCLUSION

As I said at the beginning of my testimony, budget process reforms can be a tool to help Congress restore fiscal discipline. To be effective, however, budget enforcement mechanisms should have bipartisan support and must apply to all parts of the budget. Perhaps most importantly, there must be a commitment to enforce whatever budget rules that are established. No amount of budget rules and enforcement

mechanisms will succeed in restoring fiscal discipline if Congress is willing to rely on waivers, budget gimmicks or other ways to circumvent budget rules.

I hope that this Committee follows up on this hearing by beginning bipartisan discussions to reach a consensus on changes to improve the budget process. I am willing to help in any way that I can.

Mr. RYUN. I would like at this point to turn to Former Congressman Bill Frenzel who was the Budget Committee Ranking Member. Welcome. We look forward to your comments.

Mr. FRENZEL. Thank you. I ask that my statement be entered in the record.

Mr. RYUN. So ordered.

**STATEMENT OF WILLIAM E. "BILL" FRENZEL, FORMER RANKING MEMBER, COMMITTEE ON BUDGET, U.S. HOUSE OF REPRESENTATIVES**

Mr. FRENZEL. Mr. Chairman, I am delighted to be here. I am a guest scholar at the Brookings Institution and a Co-Chairman of the Committee for Responsible Federal Budget, an oxymoronic group, of course.

But the testimony is my own and does not represent any position or conclusion of the other groups. It will not shock you, I am sure, to find that my testimony is remarkably similar to that of my two colleagues here at the witness table.

I would like to proceed directly into the items that the Chairman has mentioned. The first one is the emergency limitations. The emergencies are a way that the Congress have found to break its promise to itself each year in the budget. Obviously we need to repair this loophole.

The President has furnished a string of adjectives to try to describe what an emergency is. Like pornography, I guess we are not always sure we can describe it, but we sure know when meet it.

I would think that descriptive limitation would be helpful. I do not look for this change to save tons of money because if Congress decides it wants to declare an emergency, it will always do so.

Nevertheless, the tougher you can make the language, the tighter you can draw the noose around this loophole, the better it will be and the easier it will be for you to achieve the budget goals that you seek.

Expedited rescission, or line-item veto, is the famous power shift that the old-time Congressmen bemoan. I would simply like to right the balance that we wrecked in 1974 when we took away the President's power of empowerment. I would prefer a Constitutional Amendment with a real line-item veto.

What the President has suggested looks to me about as close as you can come to what the Congress might be willing to give and what the courts may be willing to sustain in the form of law.

I call your attention to George Wells' op-ed in the Post this morning wherein he describes some of the Constitutional questions about this particular bill.

Sunset—here is another one that may not amount to anything. But at worst, it will do nothing; at best, it might in fact cause the Congress to take a look at and let some agencies and programs actually expire. I think it is a worthy endeavor and I urge you to go ahead with it as best you can knowing that it may not work for

you. But our fiscal condition is bad enough so that I believe that we have to make experiments and we have to take some chances.

Earmark control, that is a question that is likely going to be decided outside of this Committee, perhaps in a bill dealing with lobbying, gifts, and travel. Earmarks really irritate the public and erode its confidence. Again, the control system that the Congress is willing to put on them is likely not to save a lot of money. But anything you can do to make them less obvious, less obscene, will be a great help to the process.

If we do nothing, earmarks are going to eventually kidnap the whole Appropriations process. Then all we will be appropriating are the earmarks. You can do anything from banning them to disclosing them, to points of order. Whatever you do, I think, will be a plus. And if nobody else takes on earmarks, I hope within your jurisdiction that you can find a way to do so.

I am going to close, Mr. Chairman, with a discussion of the discretionary caps and PAYGO. I agree pretty much with my colleagues. I think with Senator Nickles, probably I give discretionary caps more importance. And nevertheless, I do support PAYGO and I support it the whole way.

I concede Don Nickles' argumentation that taxes do not get a fair shake under the current baseline system. Nevertheless, I think they have to be included in some way to make it a good system.

Mr. Chairman, you have got a miserable job this year. God bless you and good luck.

[The prepared statement of William E. Frenzel follows:]

PREPARED STATEMENT OF HON. WILLIAM E. FRENZEL, GUEST SCHOLAR, BROOKINGS INSTITUTION; FORMER MEMBER OF CONGRESS, AND FORMER RANKING MEMBER OF HOUSE BUDGET COMMITTEE

Mr. Chairman and members of the Committee, I am a Guest Scholar at the Brookings Institution, but this testimony is my own and does not represent any position or conclusion of the Brookings Institution.

Your summons, Mr. Chairman, indicated that I was invited to testify on "the key budget process reforms that are currently being proposed in the House of Representatives". Even a simple listing of all suggested reforms is a tedious process, so I shall confine my oral testimony to the reforms which seem most likely to dominate the budget discussions this year: (1) Emergency Limitations; (2) Line-Item Veto (Expedited Rescission); (3) Sunset Commission, (4) Earmark Control, and (5) Discretionary Caps and Pay-Go.

My written testimony will include all the reforms I consider useful and important. Should I stray from the reforms which are the Committee's priorities, I am sure the Members will redirect my feet back on to the path of righteousness.

Last year, I testified on the Budget Process. The discussion and questioning focused on setting priorities, controlling spending, and Budget Act enforcement. Despite some good work by this Committee, my own impression is that no real improvements were adopted. The Act and its processes still do not seem to be serving any of the purposes noted above. The Deficit and the Public Debt continued to grow rapidly. Most observers predict no change this year.

#### EMERGENCY LIMITATIONS

Defining an appropriation as "an emergency" is one of the traditional congressional dodges to avoid limits already established. Critics say that it is a way for Congress to avoid keeping promises made to itself.

The President's Budget calls for a multi-adjective definition of Emergencies—necessary, sudden, urgent, unforeseen and not permanent. Those are all good words, and I would add as many more as anyone found helpful to confine the emergency designation to real emergencies.

Most catastrophes, which Congress feels require amelioration by the immediate application of Federal expenditures, are predictable. We can't predict the events, but

we know about what the costs are going to be each year. Over the years, we know pretty well what the average costs of fires, floods, hurricanes, droughts, and other catastrophes are. We ought to set up a reserve in each year's Budget to cover these expenses. The obvious emergencies, like Katrina, can be dealt with in the usual ways.

My own recommendation is to start with the President's definition, and then augment it with whatever additional constricting language you can find to narrow the remaining emergency loophole as much as possible. If this amended procedure reduces the annual emergency costs, the savings will be small, but you will have reduced a major irritant in the Budget Process.

#### EXPEDITED RECISSION

From a Legislator's point-of-view, the Line-Item Veto, or any form of it like Expedited Rescission, is usually seen as a "power-shift" which causes a erosion in the legislative branch's Constitutional Power of the Purse. Because I favor a Constitutional Amendment to create a real Line-Item Veto, I have never been moved by the argument that the Legislature ought to be concerned by the loss of power, or the change in the balance of power.

To me, the real power-shift occurred in 1974. Then, Congress stripped the President of his power of Impoundment when it passed the Budget Act. Therefore I strongly support the strengthening of the President's currently feeble power of rescission. I would prefer the real Line-Item Veto, a Constitutional Amendment, but I think the President has asked for about as much as the Congress is likely to give him, and as much as can pass constitutional muster in the courts.

#### SUNSET COMMISSION

The President's Budget message repeats his request, made last summer, for legislation creating a Sunset Commission and a Results Commission. Both have great promise, but both will be difficult to pass. At best, a Sunset Commission could force restructure or termination of agencies and programs in which the President recommends changes on a predetermined schedule unless they were reauthorized by the Congress.

In my day, it was said old programs never die because old Congressmen never die. Presumably it is not much different today. Both types of Commission, although they would operate differently, would pose problems similar to those posed by the Base Closing Commissions. These are all tough decisions for Members, especially for Appropriators, but both could be a great help to this Committee and its work of enhancing national fiscal sobriety.

These Commissions may be frightening because they represent a leap into the unknown, but every attempt to improve our fiscal position ought to be carefully examined and at least given some kind of operating test.

#### EARMARK CONTROL

Earmarks are likely to be decided outside of this Committee, probably in a bill dealing with lobbying, gifts and travel. But they are so much in the news these days that it is impossible not mention them. When I came to Congress, they were plenty of Earmarks, but their growth in recent years has been startling.

Without a lot of discussion, let it suffice to say here that some sort of control must be imposed lest the Earmarks kidnap the whole Appropriations Process. The control could be any thing from a ban to mere disclosure. The control could apply to all Earmarks, or only to those which creep into Conference reports without benefit of hearings, votes or authorization.

My only advice here is to suggest that if Earmarks are not controlled elsewhere, this Committee ought to examine the alleged problem, and take some action appropriate to its budget jurisdiction.

#### DISCRETIONARY SPENDING CAPS AND PAY-GO

I was one of the purple-hearted veterans of the Andrews Air Force base Budget Summit which produced the two limitations on spending; (1) Caps on Discretionary Spending, and (2) the Pay-as-you-go restrictions on Mandatory Spending and Taxes. As I have often testified before this Committee, I liked them both then and I like them now. I have not recanted.

However, the Senate has just narrowly defeated an attempt to reinstate Pay-Go in the Senate Budget Resolution, and it now is apparent that, whether there is a budget Resolution or not, there will be no Pay-Go in the FY '07 budget process.

Even so, I repeat my annual recommendation for this Committee to approve it.



## OTHER PROCESS REFORM SUGGESTIONS

Many other suggestions have been made and remade over the years. Budget process changes can't make miracles, and they cannot save a Congress from causing fiscal harm to the nation and its economy. Each of them has been calculated by its backers to make our Budgets more responsible. Most of them would probably be of some modest amount of help.

The ones we are sure of, Discretionary Caps and Pay-Go, have been tested and proved to be somewhat effective. Other plans to control mandatories would include caps or targets, which, if touched or exceeded, would force a special oversight process. I do think that would be terribly effective, but it might help a little. Points of Order against mandatory spending which causes a deterioration in unfunded obligations would also help.

The Joint Budget Resolution, seen by some observers as another power-shift, would also help by involving the President in the budget process at an earlier stage. A 2-year Budget Resolution has never appealed to me as helpful to improved fiscal controls, but it has many supporters.

An Automatic Continuing Resolution to be effective if appropriations were not enacted at the beginning of the new Fiscal Year is a plan I like, especially if the CR levels are set beneath last year's spending.

Not in the Budget, but supposedly a favorite of the President is an Entitlements Commission. That is, I think, not really within your jurisdiction, but might help the country's fiscal condition. Earmarks, also probably beyond your reach, can be most quickly controlled through use of Points of Order.

One of my long-time favorite suggestions is the Budget Concepts Commission. We have not had a significant dialog on this subject since before the Budget Act of 1974 was passed. I think such weird concepts and "negative outlays" need the harsh glare of sunlight, and certainly the Functions themselves and their enumeration could stand some rationalizing adjustments.

## CONCLUSION

This is going to be tough year. The Senate may not be able to pass a Budget Resolution of any kind. You will have your own particular difficulties, which may be no less severe. I believe the House will do it, and while you are at it I recommend that you pass all of the Budget Reforms mentioned in the President's Budget, especially the ones noted herein.

Mr. RYUN. Let me first of all thank all of our witnesses for their testimony.

And at the moment, we are waiting to determine a little bit about whether we are going to come back. We are serving members. See, first of all, if the witnesses would be willing to stay around.

So we will adjourn temporarily.

[Recess.]

Mr. RYUN. All right. I am going to go ahead and move with the first question while we sort of survey everyone to see if they are interested in coming back.

I will begin with former Chairman and Senator Nickles. You had mentioned earlier—actually, I agree with you with regard to earmark reforms. I know we need to work that through carefully. I personally believe that when you put earmarks through the regular process, then it is an acceptable way of having member representation. But I know that there are some abuses there.

What I really wanted to address is how you—your statement when you said really if you want to enforce spending, look at caps at discretionary spending. How would you enforce those caps? You have had the experience on the Senate side. Tell us what you might do to enforce those caps.

Mr. NICKLES. Well, again, I know more about the Senate than the House. But we were successful in working with Chairman Nussle and Ranking Member Spratt and others. We did come up

with an amount, similar to the \$873 billion that you are working on this year. And we enforced that. We enforced it in 2004. We enforced it 2003. We lived by those limits.

Now, granted, defense went up 7 percent and homeland security 10 percent. Other spending went up about 1 percent or a little less. That was really pretty darn good, pretty remarkable, particularly if you go back to President Clinton's terms when discretionary spending went up about 14 percent.

So we made some significant headway in that limited part of the budget. I happen to agree with my colleagues, though, you have to do some things on entitlements. The Budget Committee can do some things on entitlement.

Your question on discretionary spending, discretionary spending in the Senate, we had budget points of order that we could raise. If they were exceeding their allocation, their Committee allocation, I would raise the budget point of order. Usually I would do it or whoever is Chairman or Ranking Member of the Committee could raise it. And they would have to have 60 votes to waive that budget point of order. And that is how we did it in the Senate and that is how we would keep our discretionary cap, and it did work. That is the reason why I said that is so much more important if you are interested in fiscal discipline.

Then the earmark issue. Earmarks are kind of looking at the trees, but not the forest. Caps are looking at the forest. And the total spending is what, I think, the Budget Committees are really looking at. That is not so much the individual items. The individual items, I think, are going to require some discipline by the Appropriators.

Mr. RYUN. Thank you very much.

And in the interest of time, I am going to turn to Mr. Spratt for any questions he might have.

Mr. SPRATT. Let me just observe, Senator Nickles, a problem in the House is points of order get mowed over by the Rules Committee every day the rule is issued.

Just one question in the interest of time. Charlie Stenholm, I think you would agree that even the enhanced rescission itself could be subject to some abuse, used in a partisan way, used in a vindictive way.

What are your thoughts or reflections on how we could structure it so that it would not be usable by a President for vindictive purposes or for blatantly partisan purposes?

Mr. STENHOLM. Mr. Spratt, I am not sure that is one of the points that we ought to put too much emphasis on because it can happen. But that is the power of the President.

I opposed the line-item veto in 1995. I went with the modified rescission order at that time because of the concern of the constitutionality of it. And I always ask the question to people when they say they are for line-item veto, did it make any difference to you if it is President Reagan or President Kennedy. And if the person looked me in the eye and said, no, it does not make any difference, then I say you got an honest position and I am for you doing that.

You know, it bothers me a little bit about who it is, for the reason you mentioned. But the current proposal that President Bush has submitted, I think, should be passed and I think it should be

given an opportunity to work because I think if we had done it in 1995, I suspect the earmark problems as proliferated would never have occurred.

Mr. SPRATT. Thank you, sir. And thanks for taking time to come testify.

Mr. RYUN. At this point, we will take one more question. At this time, we will turn to Mr. Simpson for any question he might have.

Mr. SIMPSON. Thank you, Mr. Chairman. I would like to have a discussion. I do not know that I can ask one question because it is—you have raised some interesting points, some of which I disagree and some of which I obviously agree with.

You are right. If you are going to get control of this budget, you have got to have discipline and you have got to have caps that you stay within.

I kind of disagree on the earmark and the line-item veto. And it is not whether it is any particular President. It is a legislative versus administrative issue. And if the President were not—maybe I could go for an enhanced rescission if we said in every conference committee, the administration cannot be represented.

But as you all know, a conference report is a compromise of what the administration wants, what the Senate wants, what the House wants. And to give then one individual in that compromise the authority to rip parts of it out and send it back and vote on that separately seems to me to break the deal that has been written. And I do not think any of these things, these gadgets that we are looking at will take the place of having some discipline and making some tough decisions.

The problem I have in this whole process—and this is a process—is that there is a disconnect between this committee, the Budget Committee, the appropriations process, and the authorizing committees.

And I was telling Charlie just before this that it frustrates me that—I sat on the Appropriations Committee, Labor, HHS, and Education. They come in and they say, okay, we have got this much in education. We are going to spend it here. We never go over and talk to the Authorizing Committee, who are the experts on education, saying if you have got this much money, where would you spend it.

And there needs to be a better engagement on how that all works. And this committee, frankly, we are going to vote on a cap on discretionary spending, we will go down to the floor. It is really easy to vote on a cap. Hell, we could lower it a hundred billion dollars and still vote on it and probably pass it because nobody knows what it is going to do in the individual appropriations and then you are not going to be able to pass them when they come out.

Somehow we have got to reform, I think, the process of this coordination between these three different areas.

And as far as earmarks go, I look at the numbers and they have increased. Last year, we had \$142 billion budget in Labor, HHS. They proposed earmarking \$2 billion of that, not one and a half percent. To suggest the administration does not earmark, the administration proposes a recommended budget. That is all it is.

We are responsible for setting the budget and for Congress to say we are going to have some priorities in here of how we want to

spend money relative to the administration and how they want to spend money, there is one organization that says if—that puts out pork in government—and they say if the President did not recommend it, then it is pork, and that is just nonsense.

It is Congress really saying we are going to have some priorities in here too. But I guess I got in trouble with the last few secretaries when I started asking them during hearings about Presidential earmarks within this budget.

Are there wasteful ones? Sure. To suggest that we gave—I do not know—\$90 billion to Hurricane Katrina and they spent it on \$2,000 cards getting tattoos and other things, that there is not waste if you give that money to the administration is false.

Ultimately this Congress has to do one thing that we do not do. We do not do enough oversight. And that to me is the bottom line. We can save money if we do oversight and we do not do it.

So I appreciate your comments. I always like to learn from those that have been here substantially. And you might disagree with me on what I said. I would be happy to hear your response.

Mr. FRENZEL. Well, I have a slightly different outlook on the line-item veto. The President is a part of the process. He can reject the bill.

Over the years, of course, Congresses have taken to building very large bills, sometimes continuing resolutions (CRs) that include almost the whole budget of the Government. Those CRs make it very hard for a President to close down the Government, although we saw one do it effectively in 1995.

It does seem to me that the President has been pretty effectively robbed of his veto by this conglomeration of all these wonderful earmarks and other wonderful appropriations. And he needs a way to reclaim that power, which I think the Framers wanted to give him.

So that is the way I look at it. I think he has lost something along the way because Congress has been clever enough. And when you say he should not be in the conference committee because he breaks the deal, he has got the right under the Constitution to break the deal. He can kill the whole thing. But you have made it very difficult for him to veto the whole bill.

Mr. STENHOLM. Line-item veto gives the President one-third plus one minority and that is where I totally agree with you, Mike, on the concern.

But modified rescission order gives the President 50 percent. And if the Congress does not choose to override the President on his decision, then Congress has made that decision.

Now, it may not be your decision, but it would be 218 of your colleagues that have made that decision. It seems to be a reasonable compromise between the extreme line-item veto which I agree with you the concerns there about the power it puts in the President's hand and it has already been held unconstitutional.

Mr. RYUN. The Chair is going to need to interrupt at this point. We have a series of ten votes on the floor. I do want to thank our witnesses for coming.

And at this point, I do now move that the committee stands in recess subject to the call of the Chair. Without objection, so ordered.

[Whereupon, at 10:45 a.m., the committee was adjourned.]

