

104TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
104-10

LEGISLATIVE LINE ITEM VETO ACT

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R E P O R T

OF THE

COMMITTEE ON THE BUDGET  
UNITED STATES SENATE

ON

S. 14

TOGETHER WITH

ADDITIONAL AND MINORITY VIEWS



FEBRUARY 27 (legislative day, FEBRUARY 22), 1995.—Ordered to be printed

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## LEGISLATIVE LINE ITEM VETO ACT

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Mr. DOMENICI, from the Committee on the Budget,  
submitted the following

### REPORT

[To accompany S. 14]

The Committee on Budget, to which was referred the bill (S. 14) a bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed cancellations of budget items, having considered the same, reports thereon an amendment in the nature of a substitute without recommendation.

#### I. PURPOSE

The purpose of S. 14, the Legislative Line Item Veto Act, is to provide the President with a legislative procedure to delete funding from appropriations Acts and targeted tax benefits from revenue Acts. While the Congressional Budget and Impoundment Control Act of 1974 provided legislative procedures for the consideration of the President's proposed spending reductions in a rescission bill, Congress has routinely ignored these procedures.

Many charge that the President's control over spending decisions has been diluted and Congress has escaped accountability for individual programs and projects by incorporating these items in large appropriations bills. S. 14 would increase the President's power over spending and the accountability of Congress by creating an expedited procedure that would guarantee a vote by Congress on the President's proposed rescissions and repeals of targeted tax benefits. Unless Congress votes against the President's proposed rescissions or repeal of targeted tax benefits, they would become law. S. 14 achieves these objectives without giving complete control over spending reductions to the President.

The major provisions of S. 14, as reported by the Committee, are as follows:

Within 20 days of the enactment of an appropriations bill or a revenue bill, the President could propose the reduction or repeal of new appropriations or the repeal of a targeted tax benefit;

A rescission bill limited to the President's proposals would be introduced in Congress and within 10 days Congress would have to vote on that bill;

No amendments are allowed to the President's rescission bill, but motions to strike are allowed with sufficient support; and

If Congress passes the bill and the President signs it into law, a lock box provides that any savings be devoted to deficit reduction by lowering the discretionary caps on spending.

## II. BACKGROUND

### *Overview*

The United States Constitution entrusts the "power of the purse" to the legislative branch of the United States. Pursuant to Article I, Section 8 Congress is empowered "[t]o lay and collect Taxes, Duties, Imposts, and Excises to pay the Debts and provide for the common Defence and General Welfare of the United States." The power of the purse is made more clear by Article I, Section 9 which provides that "[n]o money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."

However, the expenditure of funds pursuant to Congressional authorization is an executive function, consistent with the President's obligation under Article II, Section 3, that he "take Care that the Laws be faithfully executed". Presidents, at least since Thomas Jefferson, have asserted that the executive has some discretion in the expenditure of monies appropriated by Congress. This tug-of-war goes to the most basic tenet of the American democratic system of government—the balance of powers between the executive and the legislative branches of government—the power of the purse versus the impoundment power.

A review of writings on this subject shows that this conflict dates back to the earliest days of the Republic. The conflict has been made manifest through executive action, congressional legislation, and decisions of federal courts, including the United States Supreme Court.

The first significant impoundment of appropriated funds, was made by the third President, Thomas Jefferson, who in 1803 refused to spend \$50,000 appropriated by Congress to provide gun boats to operate on the Mississippi River. The conflict came to a head in the early 1970's when the 37th President, Richard Nixon, withheld from expenditure over \$12 billion for highway, water, and sewer projects, and millions of dollars in appropriated funds for housing, education, and health programs.

It was President Nixon's challenge to Congress' power of the purse that was a major impetus to the enactment of the Congressional Budget and Impoundment Control Act of 1974. Title X of this Act, the Impoundment Control Act of 1974, limited the President's management of appropriated funding by establishing procedures for the deferral or rescission of budget authority. In addition,

title X provided legislative procedures for congressional action on these proposals.

*Pre-1970 Impoundment Action*<sup>1</sup>

Following President Jefferson's withholding of \$50,000 for Mississippi river gun boats because he thought their use unnecessary, the next major action on impoundment authority did not occur until the U.S. Supreme Court decided a case entitled *Kendall v. United States ex rel. Stokes*, 37 U.S. (12 Pet.) 524 (1938). In that case, the Supreme Court held that the President could not withhold payment of a contract for delivery of the mail which Congress had authorized. The court saw this as a "ministerial" function which the President could not refuse in the faithful execution of the law. Just two years later in *Decatur v. Pauling*, 39 U.S. (12 Pet.) 497 (1840), the Court upheld a decision by the Secretary of the Navy to refuse payment to a window whose claim was based on a congressional resolution. The Court found that the Secretary of the Navy's duty in this case was not merely ministerial but required discretion and judgment and, so, the court refused the writ of mandamus.

In 1876 President Grant took up the impoundment mantle when he notified Congress that he did not intend to spend the total amount appropriated for harbor and river improvement projects because they were of a private or local interest rather than in the national interest. This mirrors the current debate over line item veto because proposed Presidential rescissions are often targeted to funding provided by Congress for specific projects (i.e. "pork barrel" projects) or for funding added by Congress above amounts requested by the Administration. However, Congress did not challenge Grant's action.

In the years following Grant's impoundment, U.S. Attorneys General stated in formal opinions that congressional intent had to be considered, and not just statutory language, in determining whether the Congress was mandating an expenditure of funds or simply permitting the President to spend these funds.

The executive impoundment of funds gained some legal status with the enactment of the Anti-Deficiency Acts of 1905 and 1906. In addition to providing a method to prevent excessive expenditures that could necessitate supplemental funding later in the fiscal year, these Acts allowed the waiver of spending appropriated funds in cases of unforeseen emergencies. President Roosevelt used this authority during the Great Depression and World War II. He also impounded flood control funding, which did evoke a legislative response from Congress in 1943 to prohibit any agency or official (other than the Commissioner of Public Roads) from impounding funds appropriated for highway construction. Although limited in scope, Congress had responded to executive impoundment of congressionally provided funding.

In the 1960s, Presidential impoundment of funds were largely limited to defense programs and projects as the President exercised his authority as "Commander in Chief" of the armed forces. How-

<sup>1</sup>The documentation for this section is largely taken from an article entitled "History and Practice of Executive Impoundment of Appropriated Funds," by Niles Stanton, printed in the *Nebraska Law Review*, v. 53, no. 1, 1974, pp. 1-30.

ever, President Johnson did withhold billions of dollars in funding for highway projects, which Congress had no mechanism to address.

#### *Nixon Impoundments*

President Richard Nixon brought the impoundment issued to the fore by withholding congressionally appropriated funds and claiming that historic precedent affirmed this authority.

Two court cases in 1973 addressed the impoundment of highway funds and water pollution control funds, but did not settle the legal question about the President's authority to impound funds. In *Missouri Highway Commission v. Volpe*, 479 F.2d 1099 (8th Cir 1973), affirmed 347 F. Supp. (W.D. Mo. 1972), the court of appeals held that highway funds could not be impounded for the stated purpose of trying to control inflationary pressures on the economy. In *City of New York v. Ruckelshaus*, 358 F. Supp. 669 (D.D.C. 1973), the court held that the Nixon Administration had not authority to direct the Environmental Protection Agency not to allocate appropriated funds to the states because this was determined to be ministerial duty.

The Administration and Congress again came to conflict when the President targeted rural loan and grant programs for termination through the mechanism of impounding the funds. Congress acted legislatively to thwart these actions but left the impoundment issue squarely before Congress for further action.

#### *Impoundment Control Act*

The 1974 Impoundment Control Act was preceded by the 1972 Federal Impoundment and Information Act, which required the President to submit reports to Congress and the General Accounting Office on funding which had been withheld. Such information, however, did not address what was perceived as a misuse of executive authority in refusing to spend funds appropriated by the Congress. Congress addressed this issue by establishing the current impoundment control procedures.

Title X of the Congressional Budget and Impoundment Control Act of 1974 requires that the President submit messages to the Congress if he proposes to defer (temporarily withhold) or rescind (permanently cancel) appropriated funds. A reading of the general history shows that executive impoundments have largely have undertaken to establish spending priorities. Presidents have tended to impound funds appropriated for programs that exceed his budget request or that represent specific projects of interest to Congress. With the exception of President Nixon's actions, the impoundment of funds has not traditionally been viewed as a significant tool to reduce federal spending.

#### *Deferrals*

The President can temporarily withhold from expenditure or delay the obligation of funds that are not currently needed. Congress can disapprove the deferral of funds through enactment of an impoundment resolution. However, since deferrals are now made largely for management rather than policy reasons, it is unusual

for Congress to act to disapprove deferrals, and the funds are generally released for expenditure.

#### *Rescissions*

The President can propose to rescind (permanently cancel) budget authority. In the case of rescissions, Congress has 45 calendar days (of continuous session excluding 3-day recess periods) within which to approve these rescissions. If Congress does not enact legislation to approve the proposed rescissions, in whole or in part, the President must make the funds available for expenditure. The Congress can substitute its own rescissions for the President's proposal, and often has. Under this process, there is no requirement that Congress consider and vote on the President's proposed rescissions.

The General Accounting Office (GAO) recently reported that since enactment of the Congressional Budget and Impoundment Control Act in 1974 through October 7, 1994, U.S. Presidents have officially proposed 1,084 rescissions of budget authority totaling \$72.8 billion. Congress has adopted only 399, or 37 percent, of the proposed rescissions in the amount of \$22.9 billion. Congress has also initiated 649 rescissions totaling \$70.1 billion, largely in response to the President's proposals and often to pay for other federal spending. In total, over the twenty years of the current budget process, Congress has enacted 1,048 rescissions totaling \$92.9 billion.

#### *Mandatory Spending and Tax Expenditures*

With rescission authority applying to only one-third of the overall federal budget, rescission authority, no matter what the form, is not the cure-all for reducing the federal deficit and balancing the budget. The remaining two-thirds of the federal budget is largely uncontrollable in that funding goes to mandatory or entitlement programs established by law and to payment of interest on the public debt.

Since the enactment of the 1974 Impoundment Control Act, discretionary spending (annual spending approved in appropriations acts) as a percentage of the total budget has shrunk from 53 percent to 37 percent of total outlays. During this same period (1974 to the present), mandatory spending (spending outside the direct control of the appropriations process) excluding net interest outlays has grown as a percentage of the total budget from 39 percent to 49 percent. The Congressional Budget Office estimates this disparity will grow over the next 10 years. By 2005, CBO estimates that mandatory spending will consume 62 percent of total outlays, with discretionary spending contributing to 27 percent of total outlays.

In recognition of this fact, some Members of Congress have sought to expand the scope of proposals for a legislative line item veto to mandatory spending. In addition, many argue that "special interest" tax expenditures inserted in large revenue bills also should be subject to the line item veto.

The Congressional Budget Act defines a tax expenditure as revenue losses resulting from provisions of law that grant special tax

relief.<sup>2</sup> These tax expenditures, or so-called tax breaks, include the net exclusion of pension contributions and earnings, home mortgage interest deductions, employer-paid health benefits exclusion, Social Security and Railroad Retirement benefits exclusion, State and local income and personal property tax deductions, and the charitable contribution tax deduction.

In 1971, tax expenditures totaled approximately \$52 billion, or 5 percent of GDP. The 1986 Tax Reform Act sought to eliminate many such tax breaks, and that effort was largely successful, taking tax expenditures down to \$293 billion in 1989. By 1994, however, the estimated level of tax expenditures is approximately \$429 billion and is leveling off at about 6.5 percent of GDP.

#### *Line Item Veto*

The current debate over the legislative line-item veto proposals transcends the historical context of executive impoundment of funds to set spending priorities other than those approved by Congress. The debate has now centered on the granting of additional authority to the President to reduce federal spending as Congress seeks to balance the federal budget.

According to the Congressional Research Service of the Library of Congress, at least ten Presidents since the Civil War have stated support for the line-item veto, including Presidents Grant, Hayes, Arthur, Franklin Roosevelt, Truman, Eisenhower, Nixon, Ford, Reagan, and Bush. More recently, President Clinton campaigned on a line item veto, claiming that he could reduce spending by \$9.8 billion over four years, and urged Congress again in this year's State of the Union address to give him the line item veto. Two Presidents—Taft and Carter—opposed the line-item veto authority for the President. It is also documented that the Governors of 43 of the 50 states have some form of line-item veto authority (see table I).

TABLE I.—GOVERNORS' VETO AUTHORITY

State	Item Veto	No Veto	No Item Veto
Alabama .....	X	.....	.....
Alaska .....	X	.....	.....
Arizona .....	X	.....	.....
Arkansas .....	X	.....	.....
California .....	X	.....	.....
Colorado .....	X	.....	.....
Connecticut .....	X	.....	.....
Delaware .....	X	.....	.....
Florida .....	X	.....	.....
Georgia .....	X	.....	.....
Hawaii .....	X	.....	.....
Idaho .....	X	.....	.....
Illinois .....	X	.....	.....
Indiana .....	.....	.....	X
Iowa .....	X	.....	.....
Kansas .....	X	.....	.....
Kentucky .....	X	.....	.....

<sup>2</sup> §3(3) of the Budget Act defines the term tax expenditure. For more information on tax expenditures, see *Tax Expenditures: Compendium of Background Material on Individual Provisions*, Committee on the Budget, U.S. Senate, S. Prt. 103-101, December 1994 (prepared by the Congressional Research Service).

TABLE I.—GOVERNORS' VETO AUTHORITY—Continued

State	Item Veto	No Veto	No Item Veto
Louisiana .....	X		
Maine .....			X
Maryland .....	X		
Massachusetts .....	X		
Michigan .....	X		
Minnesota .....	X		
Mississippi .....	X		
Missouri .....	X		
Montana .....	X		
Nebraska .....	X		
Nevada .....			X
New Hampshire .....			X
New Jersey .....	X		
New Mexico .....	X		
New York .....	X		
North Carolina .....		X	
North Dakota .....	X		
Ohio .....	X		
Oklahoma .....	X		
Oregon .....	X		
Pennsylvania .....	X		
Rhode Island .....			X
South Carolina .....	X		
South Dakota .....	X		
Tennessee .....	X		
Texas .....	X		
Utah .....	X		
Vermont .....			X
Virginia .....	X		
Washington .....	X		
West Virginia .....	X		
Wisconsin .....	X		
Wyoming .....	X		
TOTAL .....	43	1	6

Source: Senate Budget Committee. Compiled from information in House Committee on Rules, 99th Cong., 2d Session, Item Veto: State Experience and Its Application to the Federal Situation, Appendix C-1 (Comm. Print 1986), and Advisory Commission on Intergovernmental Relations, Significant Features of Fiscal Federalism, Vol. 1, p. 12, June 1994.

Congress has stopped short of considering a constitutional amendment to grant the President this authority, and has chosen to address the line-item veto authority by statute. During the 1980s three statutory approaches developed on the line-item veto.

Separate enrollment legislation would require each item in an appropriations or tax bill be enrolled as a separate Act, allowing the President to veto these individual items.

Enhanced rescission legislation would delegate to the President unilateral authority to rescind budget authority provided in appropriations Acts or repeal tax expenditures in revenue acts. The President's rescissions or repeals could only be overturned by passage of a separate law. Assuming the President's veto of a law overturning his own rescissions or repeals, it would take a two-thirds vote of each House to overturn his actions.

Expedited recession legislation, such as S. 14, would establish fast-track procedures for the consideration of the President's proposals to rescind budget authority provided in an appropriations act or repeal tax expenditures in revenue acts. These proposals would only go into effect if passed by a majority of each House and signed into law.

Table II shows Senate action over the past 12 years on these three approaches to the line-item veto. Even the legislative granting of such authority puts issues of the purse and the balance of powers between the Congress and the President squarely before the Congress.

TABLE II.—SELECTED SENATE FLOOR VOTES ON OR RELATING TO MEASURES TO PROVIDE EXPANDED RESCISSION AUTHORITY OR SEPARATE ENROLLMENT SINCE ENACTMENT OF THE IMPOUNDMENT CONTROL ACT

Congress	Measure	Sponsor	Date/Chamber	Vote	Type of proposal
103rd	Amendment 542 to S. 1134.	Bradley	6/24/93 Senate	53–45 (Budget Act waiver)	Separate enrollment.
103rd	Amendment 264 to S. Con. Res. 18.	Bradley	3/25/93 Senate	73–24	Separate enrollment.
103rd	Amendment 200 to S. Con. Res. 18.	Cohen	3/25/93 Senate	Voice vote	Expedited rescission.
103rd	Amendment 200 to S. Con. Res. 18.	Cohen	3/25/93 Senate	34–65 (to table)	Expedited rescission.
103rd	Amendment 73 to S. 460.	McCain	3/10/93 Senate	45–52 (Budget Act waiver)	Expedited rescission.
102nd	Amendment 3013 to H.R. 5677.	McCain/Coats	9/17/92 Senate	40–56 (Budget Act waiver)	Enhanced rescission.
102nd	Amendment 1698 to S. 479.	McCain	2/27/92 Senate	44–54 (Budget Act waiver)	Enhanced rescission.
101st	Amendment 1955 to S. 341.	McCain	6/6/90 Senate	43–50 (Budget Act waiver)	Enhanced rescission.
101st	Amendment 1092 to H.R. 3015.	Coats et al	11/9/89 Senate	40–51 (Budget Act waiver)	Enhanced rescission.
100th	Amendment 650 to H.J. Res. 324.	Evans	7/31/87 Senate	41–48	Separate enrollment.
100th	Amendment 1294 to H.J. Res. 395.	Evans	12/11/87 Senate	44–51	Separate enrollment.
99th	S. 43	Mattingly et al	7/18/85 Senate	57–42 (cloture)	Separate enrollment.
99th	S. 43	Mattingly et al	7/24/85 Senate	58–40 (cloture)	Separate enrollment.
99th	Amendment 2853 to S. 2706.	Quayle/Exon	9/19/96 Senate	34–62 (Budget Act waiver)	Expedited rescission.
98th	Amendment 2625 to H.J. Res. 308.	Armstrong	11/16/83 Senate	49–46 (to table)	Enhanced rescission.
98th	Amendment 3045 to H.R. 2163.	Mattingly	5/3/84 Senate	56–34 (out of order)	Separate enrollment.

Source: Memorandum to the Senate Budget Committee on the Line-Item Veto, Virginia McMurtry, Specialist in American National Government, Congressional Research Service, Library of Congress, February 14, 1995.

### III. LEGISLATIVE HISTORY

Senator Domenici introduced S. 14, the Legislative Line Item Veto Act, on January 4, 1995. S. 14 was the product of an effort to consolidate proposals that provided for expedited procedures for the consideration of reductions in spending or repeals of targeted tax benefits. Senators Exon, Craig, Bradley, and Cohen—all principal authors of such legislation—are original cosponsors of S. 14. In addition, Senators Dole and Daschle cosponsored the legislation.

The Senate Budget Committee first took action on line item veto legislation in 1990. During the markup of budget process reform legislation, the Committee defeated two proposals proposed by Senator Armstrong to grant the President enhanced rescission authority. The Committee did approve legislation put forward by Senator Hollings and reported S. 3181, the Legislative Line Item Veto Separate Enrollment Authority Act, on October 10, 1990 (Report No. 101-518).

During the 103rd Congress, the House passed two bills that were similar to S. 14. On April 29, 1993, the House passed H.R. 1578, the Expedited Rescissions Act of 1993. A little over a year later the House passed a stronger expedited rescission bill, H.R. 4600, on July 14, 1994. Although both House-passed bills were referred to the Senate Budget Committee, the committee did not take action on the legislation. The Committee did hold a hearing on line item veto legislation on October 5, 1994, 3 days prior to the date the Senate adjourned, essentially, to end the 103rd Congress. (The Senate did return on November 30 and December 1, but only for the purposes of consideration of legislation on the General Agreement on Tariffs and Trade).

The 104th Congress saw immediate action on line item veto legislation. On January 18, 1995, the Senate Budget Committee held hearings on line item veto legislation. The House passed H.R. 2, legislation that would grant the President enhanced rescission authority, on February 6, 1995.

The Senate Budget Committee marked up S. 14 and ordered it reported, without recommendation, on February 14. Senator Domenici offered a substitute amendment that was modified by amendments offered by Senators Exon and Nickles. The Exon amendment extended the rescission procedures to targeted tax benefits. The Nickles amendment narrowed the definition of targeted tax benefits as a benefit to 100 taxpayers or less. The Committee adopted the Domenici substitute with these amendments. The bill, as reported, modified S. 14 as follows:

- narrowed the definition of targeted tax benefits and dropped direct spending from the expedited rescission procedures;
- tightened the congressional procedures for consideration of rescissions; and,
- extended the sunset date to September 30, 2002.

#### IV. SECTION-BY-SECTION ANALYSIS

##### SECTION 1. SHORT TITLE

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

##### SECTION 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

Subsection (a) adds a new section, 1012A, to Title X of the Congressional Budget Act of 1974. This new section sets forth procedures under which the President proposes the rescission of budget authority and Congress considers and votes on such proposals. These procedures are also available to the President to repeal targeted tax benefits contained in revenue or reconciliation Acts.

This section is an optional avenue for the President to ensure Congressional disposition of his proposals for rescission of discretionary budget authority. The existing rescission procedures under section 1012 of the Budget Act are not superseded by this section.

*Subsection (a) of Section 1210A. Proposed Rescissions*

The President may transmit a special message and a draft bill proposing the rescission of any budget authority in an appropriation Act. The President may also propose the repeal of a targeted tax benefit contained in a revenue Act or a reconciliation Act. [The terms “budget authority”, “appropriation Act”, “rescission of budget authority” and “targeted tax benefit” are defined in subsection (f)].

Once the President proposes rescission of budget authority or repeal of a tax benefit under this new section, the President may not propose the same rescission or repeal again under title X of the Congressional Budget Act. This language requires the President to choose between transmitting his proposed rescission under current law or under the new procedures. A rescission proposal transmitted under the expedited authority in section 1210A could not be transmitted subsequently under section 1210.

*Subsection (b) of Section 1210A. Transmittal of the Special Message*

*(1) In General*

The President may transmit a special message proposing rescission of budget authority contained in an appropriations Act or repeal of a targeted tax benefit contained in revenue or reconciliation Act. The President is prohibited from transmitting more than one message under this section per Act and is prohibited from including rescissions or repeals from more than one Act in a special message. The language requires the President, if he chooses to transmit a message under this section, to include all of the rescissions or repeals that the proposes from that single Act. In addition, the language prohibits the President from packaging rescissions/repeals from more than one Act into one special message.

*(2) Time Limitations*

The President may transmit a special message during the 20 calendar day period after enactment of the provision proposed to be rescinded or repeals. The 20 day count excludes Saturdays, Sundays, and legal holidays.

A problem arises if this time limitation runs up against an adjournment date. Therefore, the President may also transmit a special message on the first day of a session of Congress where an Act was enacted after the sine die adjournment of preceding session of a Congress. In addition, the President is authorized to retransmit, notwithstanding the prohibition in subsection (a), a special message where the special message was originally transmitted within the 20-day time limited and Congress adjourned sine die prior to the expiration of the 10 days within which the Houses have to vote on the proposal.

*(3) Draft Bill*

A draft bill is required to be included with the special message. The draft bill must include all of the rescissions of budget authority or repeals of targeted tax benefits that are proposed for rescission or repeal in that special message. The bill is to clearly identify the budget authority proposed for rescission or the tax benefit proposed for repeal and, where applicable, the program, project, or activity to which the rescission/repeal related. The President's discretion is limited to proposing the rescission, in whole or in part, of budget authority or the repeal of a targeted tax benefit only—no other matter shall be included in the text of the draft bill.

*(4) Contents of the Special Message*

The special message is required to specify, for each rescission and, where applicable, for each repeal: 1) the amount proposed for rescission/repeal, 2) the account, department, project, or function for which the budget authority was available, 3) the reasons for the rescission/repeal, 4) the affects of such rescission/repeal, and 5) all such other information relating to or bearing on the proposed rescission/repeal.

*(5) Deficit Reduction*

This paragraph establishes a lockbox. Five days after enactment of a bill under this section rescinding budget authority, the President is required to reduce the discretionary spending limits under section 601 of the Budget Act to reflect the savings in budget authority and outlays resulting from that rescission. The Chairman of the Senate and House Budget Committees are also required to adjust appropriate allocations to reflect that rescission.

*Subsection (c) of Section 1210A. Procedures for Expedited Consideration**(1) In General*

(A) Introduction. The Majority Leader or Minority Leader of the House or Senate is required to introduce the President's draft bill, by request, before the close of the second day of session following receipt of a special message. If the bill is not so introduced, then any Member of the House or Senator may introduce that bill on the following day of session. A "day of session" is intended to be a calendar day on which that House is in session.

(B) Referral and Reporting. The bill introduced following receipt of a special message shall be referred to the appropriate committee. The committee has five days of session in which to report, or the committee will be discharged from further consideration of the bill. The committee must not make substantive revisions to the bill and may report the bill, with or without recommendation.

(C) Final Passage. A vote on passage shall be taken in the House and Senate before the close of the 10th day of session following introduction of the bill in that House. This provision requires the Presiding Officer to lay the bill before the Senate on his own initiative prior to the recess or adjournment of the Senate on the appropriate day and requires an "up-or-down" vote on the bill.

*(2) Consideration in the House*

Subparagraph (A) provides that the motion to proceed is highly privileged and it not subject to debate, amendment, or a motion to reconsider. Subparagraph (B) provides that the only amendment in order is a motion to strike a rescission or repeal in the bill, if it is supported by 49 Members. Subparagraph (C) limits debate in the House to four hours, equally divided, provides for a non-debatable motion to further limit debate and prohibits motions to recommit or to reconsider. Subparagraph (D) provides that appeals are not debatable. Finally, subparagraph (E) provides that it is not in order to consider the bill under Suspension of the Rules or under a Special Rule. Except as provided above, the Rules of the House shall govern consideration of the bill.

*(3) Consideration in the Senate*

Subparagraph (A) provides that a motion to proceed is not debatable and is not subject to a motion to reconsider. Subparagraph (B) provides that the only amendment in order is a motion to strike a rescission or repeal in the bill, if it is supported by 11 Members. Subparagraphs (C) and (D) limit debate in the Senate. Debate on the bill, debatable motions and appeals, is limited to ten hours, while debate on those motions or appeals is limited to one hour. Debate is equally divided and controlled in the usual form. Subparagraphs (E) and (F) provide that a motion to further limit debate is not debatable and no motion to recommit is in order.

Subparagraph (G) provides procedures for consideration of the House bill. If the Senate receives the House companion bill prior to the vote required under this subsection, the Senate may consider and vote on the House bill. This provision clarifies that the vote required on passage in the Senate is not necessarily required to be on the bill that was introduced in the Senate; however, the Senate, presumably, will not consider the House bill unless no rescissions/repeals have been struck from that bill. If the Senate considers and votes on the Senate bill, then immediately following that vote the House bill will be considered.

If the House bill is identical to the Senate bill as voted upon, then the vote on the Senate bill will be deemed to be the vote on the House bill. If the House bill is not identical, the Senate will proceed to consideration of the House bill under the provisions of paragraph (3), except that a motion to strike all after the enacting clause and substitute the text of the Senate bill, as voted upon, is in order.

If the House bill has not been received in the Senate prior to the vote required under subsection (c), then upon receipt of the House bill the same procedures stated in the preceding paragraph apply.

Subparagraph (H) provides that overall debate on the motions necessary to resolve amendments between Houses, including the motions necessary to send the bill to conference, is limited to two hours. Debate on each motion, appeal, or point of order submitted to the Senate, is limited to 30 minutes. The time is equally divided and controlled in the usual form.

*(4) Conference*

(A) Authority of the Conferees. Where a motion to strike or a series of such motions is before the conference, the conferees may only recommend that a House recede from its disagreement and concur or recede from its amendment. Where an amendment in the nature of a substitute is before the conference, the conferees must retain all provisions that both Houses agreed to, and may include provisions that were included by either House, but may not include any other matter.

Where the two Houses cannot reach agreement concerning motions by the Houses to strike proposed rescissions or repeals, a conference, then, becomes necessary. This subparagraph limits the discretion of the conferees so that the conference agreement must contain all of the rescissions or repeals that both Houses agreed to, must not contain those rescissions and repeals that both Houses struck, and may contain those rescissions or repeals that either House had agreed to.

(B) Consideration of Conference Reports. Debate on the conference report and any amendments in disagreement is limited to two hours, equally divided and controlled in the usual form. A motion to further limit debate is in order and is not debatable, and no motion to recommit or to reconsider the vote is in order.

(C) Failure of Conference to Act. A conference report is required to be filed within five calendar days. If the conference fails to report in that time, any Member of either House may introduce the bill as originally drafted by the President on the next day of session and the bill shall be considered under the provisions of this section, except that a motion to strike is not in order.

SUBSECTION (D) OF SECTION 1210A. AMENDMENTS AND DIVISIONS  
PROHIBITED

Amendments to the bill considered under section 1210A are not in order, except an amendment to strike a rescission or a repeal or an amendment to strike all after the enacting clause of the House bill and substitute the text of the Senate bill. In the House of Representatives, a demand for division of the question is prohibited, as is a motion or a unanimous consent request to suspend this subsection.

SUBSECTION (E) OF SECTION 1210A. TEMPORARY PRESIDENTIAL  
AUTHORITY TO RESCIND

This language permits the President to delay 1) the obligation of budget authority that he proposes to rescind or 2) the effectiveness of a repeal of a tax benefit that he proposes for repeal under section 1210A for a period up to 45 days. The President may make budget authority available or make the tax benefit effective at a date earlier than the 45 days upon a determination that continuation of the delay would not further the purposes of this Act.

For example, if Congress rejects a President's proposed rescission prior to the expiration of the 45 day period, the committee expects the President to make that budget authority available after such rejection and this subsection provides the authority to the President to make that available at that earlier date.

## SUBSECTION (F) OF SECTION 1210A. DEFINITIONS

Appropriations Act means any general or special appropriations Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

Budget authority means any amount, in whole or in part, of budget authority provided in an appropriations Act. The term does not include budget authority in an appropriations Act to fund a direct spending program. The definition limits the budget authority to discretionary budget authority provided in an appropriation Act.

Rescission of budget authority means the rescission, in whole or in part, of budget authority provided in an appropriation Act.

Targeted tax benefit means any provision in a revenue Act or a reconciliation Act that the President determines provides a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. The definition clarifies that partnerships, limited partnerships, trusts, S-corporations, and any subsidiary or affiliate of the same parent corporation is a single beneficiary, regardless of the number of partners, beneficiaries of the trust, or affiliated corporate entities.

## SUBSECTION (G) OF SECTION 1210A. APPLICATION TO TARGETED TAX BENEFITS

Permits the President to propose the repeal of any targeted tax benefit, under the same conditions, and subject to the same Congressional consideration as a proposal under this section to rescind budget authority.

*Subsection (b) of Section 2. Exercise of Rulemaking Powers*

This subsection amends Section 904 of the Congressional Budget Act to include new Section 1210A as enacted as an exercise of the rulemaking powers of Congress. They are considered as part of the rules of each House or to the rules of the House to which they specifically apply. They are also enacted with full recognition of the constitutional right of either House to change such rules.

*Subsection (c) of Section 2. Clerical Amendments*

This subsection amends the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act to reflect the addition of the new section 1210A.

*Subsection (d) of Section 2. Effective Period*

The new section 1210A and other amendments in section 2 take effect on the date of enactment, apply only to budget authority or targeted tax benefits provided in Acts enacted on or after the date of enactment of this Act, and is sunset on September 30, 2002.

## V. COST ESTIMATE

Paragraph 11 of Rule XXVI of the Standing Rules of the Senate require reports accompanying measures to include an estimate of the costs that would be incurred in carrying out that measure. In accordance with that rule, the Congressional Budget Office has submitted the following cost estimate to the committee:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, February 22, 1995.*

Hon. PETE V. DOMENICI,  
*Chairman, Committee on the Budget, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 14, the Legislative Line Item Veto Act, as ordered reported without recommendation by the Senate Committee on the Budget on February 14, 1995.

S. 14 would grant the President the authority to propose legislation that would rescind all or part of any discretionary budget authority or repeal any targeted tax benefit (defined as any provision of a revenue or reconciliation bill that provides a federal tax benefit to 100 or fewer taxpayers) provided within a bill that has just been enacted. S. 14 would also establish procedures ensuring that the House and Senate vote on that legislation.

To exercise this authority, the President must transmit a special message to both houses of Congress specifying each amount proposed to be rescinded (or provision repealed) from appropriations (or tax provisions) within a particular bill just signed by the President. Furthermore, the message must include the governmental functions involved, the reasons for the veto, and—to the extent practicable—the estimated fiscal, economic, and budgetary effect of the action. This message must be transmitted within 20 calendar days (excluding Saturdays, Sundays, and holidays) of enactment of the legislation containing the vetoed items.

Along with the special message, the President must submit a draft bill that, if enacted, would carry out the proposed rescissions or vetoes. That draft bill must be introduced in each House within three days of its receipt. Within five days of session thereafter, the committee of jurisdiction in each house must report the bill. A vote on final passage shall be taken in each chamber within 10 days of session after introduction of the legislation. The only amendments allowed would be motions to strike proposed rescissions. S. 14 also provides procedures to expedite the resolution of any differences between the versions of bills passed by the House and Senate. If a rescission bill considered pursuant to this legislation is enacted, the President shall reduce the discretionary spending caps for all affected years to reflect the rescission. The provisions of S. 14 would be effective through September 30, 2002.

The budgetary impact of this bill is uncertain, because it would depend on the manner in which the President exercises the authority granted and the response of the Congress to the proposed bills; however, potential savings or costs are likely to be relatively small. Discretionary spending currently accounts for only one-third of total outlays and is ready tightly controlled. Mandatory spending, by far the larger part of the budget, is not affected by S. 14. By the same token, repealing a tax break that benefits fewer than 100 people is unlikely to generate large savings.

By itself, this bill would not affect direct spending or receipts, so there would be no pay-as-you-go scoring under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Enactment of this legislation would not directly affect the budgets of state and local governments. However, exercising the new

authority could affect federal grants to states, federal contributions towards shared programs or projects, and the demand for state and local programs to compensate for increases or reductions in federal programs.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact on this issue is Jeffrey Holland, who can be reached at 226-2880.

Sincerely,

JAMES L. BLUM  
(For Robert D. Reischauer, Director).

#### VI. REGULATORY IMPACT STATEMENT

Paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate requires the committee report accompanying each reported bill to include an evaluation of the regulatory impact of the reported legislation. That evaluation is to include an estimate of the economic, paperwork, and privacy impact on individuals, businesses, and consumers.

S. 14 provides for expedited consideration by Congress of rescission of new budget authority and repeals of new targeted tax benefits proposed by the President. The legislation addresses Federal legislative process and will affect only that process.

The legislation has no direct economic, paperwork, or privacy impact on individuals, businesses, or consumers. These groups are not involved in the processes covered by the legislation's requirements.

S. 14 could have a regulatory or paperwork impact only to the extent that its process permitted the rescission of budget authority or the repeal of a targeted tax benefit that resulted in such a regulatory or paperwork impact.

#### VII. COMMITTEE VOTES

Paragraph 7(b) of Rule XXVI of the Standing Rules of the Senate requires the committee report accompanying a measure reported from the committee to include the results of each roll call vote taken on the measure and any amendments thereto. In addition, paragraph 7(c) requires the report to include a tabulation of the vote cast by each member of the committee on the question of reporting the measure.

In accordance with the Standing Rules of the Senate, the following are roll call votes taken during Senate Budget Committee mark-up of S. 14, the Legislative Line-Item Veto Act, held on Tuesday, February 14, 1995.

(1) Exon amendment, to the Chairman's substitute, providing a legislative line-item veto for targeted tax benefits.

Amendment adopted by: Yeas 12 Nays 10.

YEAS	NAYS
Brown	Domenici
Gregg	Grassley
Exon	Nickles
Hollings	Gramm
Johnston <sup>1</sup>	Bond <sup>1</sup>
Lautenberg	Lott
Simon	Gorton

Conrad	Snowe
Dodd	Abraham
Sarbanes	Frist
Box <sup>1</sup>	
Murray	

(2) Exon amendment, to the Chairman's substitute, changing the sunset date to September 30, 1998.

Amendment rejected by: Yeas 10 Nays 12.

YEAS	NAYS
Exon	Domenici
Hollings	Grassley <sup>1</sup>
Johnston <sup>1</sup>	Nickles
Lautenberg	Gramm
Simon	Bond <sup>1</sup>
Conrad	Lott
Dodd	Brown
Sarbanes	Gorton
Boxer <sup>1</sup>	Gregg
Murray	Snowe
	Abraham
	Frist

(3) Hollings amendment, to the Chairman's substitute, codifying the existing Pay-as-you-go point of order in the Budget Act.

Amendment tabled by: Yeas 12 Nays 10.

YEAS	NAYS
Domenici	Exon
Grassley	Hollings
Nickles	Johnston <sup>1</sup>
Gramm	Lautenberg
Bond <sup>1</sup>	Simon
Lott	Conrad
Brown	Dodd
Gorton	Sarbanes
Gregg <sup>1</sup>	Boxer <sup>1</sup>
Snowe	Murray
Abraham	
Frist	

(4) Nickles amendment, to the Chairman's substitute, defining "targeted tax benefit".

Amendment adopted by: Yeas 12 Nays 10.

YEAS	NAYS
Domenici	Exon
Grassley <sup>1</sup>	Hollings <sup>1</sup>
Nickles	Johnston <sup>1</sup>
Gramm <sup>1</sup>	Lautenberg
Bond <sup>1</sup>	Simon
Lott <sup>1</sup>	Conrad
Brown	Dodd
Gorton	Sarbanes
Gregg <sup>1</sup>	Boxer
Snowe	Murray
Abraham	
Frist	

(5) Dodd amendment, to the Chairman's substitute, permitting relevant amendments.

Amendment rejected by: Yeas 9 Nays 12.

YEAS	NAYS
Exon	Domenici
Hollings <sup>1</sup>	Grassley <sup>1</sup>
Lautenberg <sup>1</sup>	Nickles
Simon <sup>1</sup>	Gramm <sup>1</sup>
Conrad	Bond <sup>1</sup>
Dodd	Lott <sup>1</sup>
Sarbanes	Brown
Boxer	Gorton
Murray	Gregg
	Snowe <sup>1</sup>
	Abraham
	Frist

Not voting: Johnston.

(6) Motion to report S. 14, as amended, without recommendation.

Motion adopted by: Yeas 13 Nays 8.

YEAS	NAYS
Domenici	Exon
Grassley <sup>1</sup>	Hollings <sup>1</sup>
Nickles	Johnston <sup>1</sup>
Bond <sup>1</sup>	Lautenberg <sup>1</sup>
Lott	Dodd
Brown	Sarbanes
Gorton	Boxer
Gregg	Murray
Snowe <sup>1</sup>	
Abraham	
Frist	
Simon <sup>1</sup>	
Conrad	

Not voting: Gramm.

<sup>1</sup> Indicates vote by proxy

## VIII. ADDITIONAL AND MINORITY VIEWS

### ADDITIONAL VIEWS OF SENATOR SPENCER ABRAHAM

During my campaign for the U.S. Senate, I strongly supported enactment of a line-item veto. Forty-three governors use the line-item veto to strike egregious “pork-barrel” spending from budget bills. I believe the President of the United States should have the same authority.

The Senate Budget Committee has reported two versions of the line-item veto—S. 4, the McCain-Coats bill and S. 14, the Domenici bill. I voted with the majority to report S. 4 and S. 14—as amended—out of the Committee without recommendation. I believe that the line-item veto should apply only to government spending. The original version of S. 14 would have allowed the President to rescind not only appropriated and new mandatory spending, but new “targeted tax benefits” as well. In other words, under S. 14 the President would have been empowered to raise taxes by striking new tax deductions, credits, and exclusions.

I certainly oppose wasteful tax loopholes designed to benefit one taxpayer or a narrow group of taxpayers. However, I believe the general concept of “tax expenditures” is fundamentally flawed because it assumes that taxpayers’ income belongs to the Federal government first. The fact is that the government does not create money with which to spend on tax credits, deductions and exclusions. Tax dollars belong to American people first. Many of the so-called “tax expenditures” simply allow people to keep more of their own hard-earned tax dollars. Some examples include the home mortgage interest deduction, Individual Retirement Accounts, and the 25 percent health insurance deduction for self-employed individuals.

Further, the definition of what would constitute a “special tax benefit” in the original version of S. 14 was too broadly-defined. During the Committee’s January 18th hearing on the line-item veto, I asked Sen. Bill Bradley, one of the lead co-sponsors of S. 14, to provide his view of what would qualify as a special tax benefit that could be rescinded by the President. In response to my questioning, Sen. Bradley said that a capital gains tax reduction would qualify. In my judgement, a capital gains tax reduction is not a special tax benefit. In addition to directly benefitting millions of American families, retirees, homeowners, small businessowners and farmers, a capital gains tax cut would significantly enhance investment, productivity, job creation and U.S. international competitiveness. Further, the capital gains tax is an unfair “double tax” on the same stream of income. The government taxes income when it is earned. If this after-tax income is invested in a capital asset, the

government taxes it again when that asset is sold and a capital gain is realized.

During the Committee mark-up, I voted for an amendment to S. 14 offered by Sen. Don Nickles that limited the definition of special tax benefits to those that benefit 100 or fewer taxpayers. This language is identical to the targeted tax benefit language in the House-passed version of the line-item veto. I voted to report S. 14, as amended, to keep the process moving and to bring the line-item veto before the full Senate. But my clear preference would be to enact a line-item veto that is limited to spending because our Nation's budget deficit is caused by overspending, not undertaxation. In 1960, both Federal tax receipts and outlays as a percentage of Gross Domestic Product (GDP) stood at 18.3 percent. Although tax receipts had increased to 18.8 percent of GDP by 1994, spending had increased even more, rising to 22.3 percent of national income.

In summary, the American people believe that \$1.5 trillion that they spend on government programs is more than enough. They want us to make it work by reducing spending instead of raising taxes. A line-item veto would help restore fiscal responsibility to the budget process.

SPENCER ABRAHAM.

## MINORITY VIEWS OF SENATOR JIM EXON

I have been an ardent and long-time supporter of line-item veto legislation as a means to combat pork-barrel spending. Ideally, Congress should exhibit the type of self restraint and sacrifice that would swiftly put this wasteful practice to an end. We owe that to future generations of Americans and to our commitment to reduce the deficit.

However, I am a realist and I know that while some Members would voluntarily refrain from pork-barrell spending, others would continue with business as usual.

As of now, an enormous dilemma also faces the President. Pork-barrel spending projects are carefully woven into the appropriations legislation, or as Senator Bradley rightly observed, through targeted tax credits and expenditures in revenue acts. The President cannot simply pull out one thread without unraveling the entire bill. He does not have that authority.

The President must look at each bill as a whole, determining whether to accept the bad with the good—whether the bad outweighs the good. More often than not, it is a case of the President holding his nose and signing the spending bill.

The obvious solution is to grant the President the line-item veto. Today, 43 of the 50 State Governors have some form of veto authority. As Governor of the State of Nebraska, I was privileged to have the line-item veto authority. To me, it was an invaluable weapon in my arsenal to effectively control the spending of my state legislature.

I have long believed that the President too should have this power to challenge wasteful Government spending and keep us on the path of deficit reduction. All but two Presidents in the 20th century have supported some type of line-item veto authority. It is time we grant the President this power.

### A BI-PARTISAN COMPROMISE

On the first day of the 104th Congress, I joined in introducing the legislative line-item veto proposal, S. 14. It was co-sponsored by the distinguished Majority Leader and Democratic Leader, and by my colleagues, the Chairman of the Budget Committee, Senator Domenici, and Senators Bradley, Craig and Cohen.

The original S. 14 stood in stark contrast to some of the other line-item veto proposals, especially S. 4, sponsored by the Majority Leader, and Senators McCain and Coats, which was reported out of the Senate Budget Committee on February 14, 1995.

S. 14 bill would have forced Congress to vote on the cancellation of a budget item proposed by the President, but would still required approval of a simple majority of both Houses of Congress to put the President's proposed cancellation into effect.

In contrast, S. 4, Senator McCain's bill, would require a two-thirds vote of both Houses to stop a Presidential rescission from taking effect. And while Senator McCain's bill applies only to appropriations, my bill applies to appropriations, new entitlements, and new targeted tax benefits.

I believed that through S. 14—the Domenici-Exon bi-partisan compromise—we could finally move forward on the line-item veto. In S. 14, I had hoped that we had finally found the vehicle to carry us to the finish line. Unfortunately, S. 14, as originally written, was derailed during the markup.

#### THE COMMITTEE FAILED TO ADDRESS TAX EXPENDITURES

I will not conceal my disappointment about what occurred during the Budget Committee markup of S. 14. I am convinced it is the only concept that has a chance of passing the Senate. The language in the original bill was weakened to the point that I could not support the Domenici substitute.

My greatest concern about the Domenici substitute centered on one glaring absence: new tax expenditures would not be subject to a line-item veto. If we are serious about reducing the deficit, tax expenditures should be included in any line-item veto legislation. Anything else would be a half-measure. However, even though I voted against reporting out the flawed version of S. 14 in Committee, I still nurture the hope that the scope and bite of the legislation can be restored on the Senate floor.

On February 3, 1993, the Budget Committee held a hearing on the impact of tax expenditures on the Federal budget. What we found was startling. At that time, tax expenditures were projected to cost more than \$400 billion and were slated to increase to \$525 billion by 1997. Today, they are \$450 billion and are projected to rise to \$565 billion in 1999.

As with entitlement programs, tax expenditures cost the Treasury billions of dollars each year. And like entitlements, they receive little scrutiny once they are enacted into law. Even though they increase the deficit just like mandatory programs, tax expenditures escape any sort of fiscal control or oversight. Indeed, by masquerading as a tax expenditure, a program or activity that could not pass Congressional muster, could be indirectly funded.

Office of Management and Budget Director Dr. Alice Rivlin correctly summed up the situation: "Tax expenditures add to the Federal deficit in the same way that direct spending programs do."

However, not all tax expenditures are wrong, or unworthy. Some are aimed at the wealthy; others are certainly worthwhile. Regardless, all these shadow entitlements deserve the same kind of scrutiny and attention as we would devote to other Federal activities that increase the deficit. If we are willing to subject annual appropriations to the President's veto pen, then that same oversight should be granted to the President on tax expenditures. Pork is pork. We should be willing to say "no" to both spending pork and tax pork.

During the markup of S. 14, the Committee, by a vote of 12 to 10, wisely restored the tax expenditure language that was stripped from the substitute bill offered by Chairman Domenici. I would point out that the restored language dealing with tax expenditures

closely tracks that contained in the so-called "Contract With America." I was encouraged that my amendment was adopted.

However, as we took an important step forward to reinstate the bite of this bill, we later took a big step backwards with an amendment sponsored by Senator Nickles. His amendment, which was ultimately accepted by the Committee along party lines, would limit line-item veto authority to targeted tax provisions that benefit 100 or fewer taxpayers. In addition, the President would determine whether the tax expenditure benefits 100 or more individuals. In effect, this gutted my successful amendment referenced in the preceding paragraph.

The American people do not need vague, fuzzy language subject to Presidential interpretation and vagaries. The Nickles amendment would also provide a "cottage industry" for tax attorneys who would somehow find a way to expand the pool beyond the 100 threshold. A proliferation of new tax loopholes is the last thing America needs. It's an open invitation to abuse and caused my eventual decision to oppose S. 14, as amended.

Tax expenditures are far too important an issue to be watered down in this manner. Once the bill reaches the Senate floor, I will do everything in my power to strip the Nickles Committee Amendment. With that, I could still vigorously support the measure.

#### THE COMMITTEE FAILED TO ADDRESS ENTITLEMENTS

I will also not conceal my frustration that the Domenici latter-day version of S. 14 was confined only to appropriated spending. Its limited scope underscores the enormous problem we face today.

For too long, many of our colleagues have clung to the thin reed that we can solve the deficit by cutting only appropriated spending. Unfortunately, the reed has given way and we are sinking in an ocean of red ink.

In spite of the pay-as-you-go provisions of the 1990 Budget Enforcement Act, entitlement spending is the largest and fastest growing part of the Federal budget. The terrible truth is that mandatory spending is projected to grow from about 55 percent of Federal spending in the current fiscal year to 62 percent in 2005.

The real surge occurs in Federal health care programs. They are the only programs that will grow at a rate significantly faster than the economy, increasing from 3.8 percent of GDP in Fiscal Year 1995 to 6 percent of GDP in 2005.

On the other hand, discretionary spending, which currently makes up only about one-third of all Federal spending, has been significantly curbed and is expected to decline as a percent of the economy over the same time period.

However, we cannot take much comfort in this success story. As much as we strip and shave away the fat and waste in appropriated spending, we get to a point of diminishing returns. The numbers tell us that we can only harvest so much deficit reduction from this field. We will not be able to balance the budget if we rely strictly on appropriated spending, and I would vigorously oppose greater cuts in defense spending, which could jeopardize our readiness.

We have to look to other pastures—greener pastures with much higher grass for deficit reduction—and direct spending is one of

them. Facts are facts. Sooner or later, we will have to look the deficit squarely in the eye and make some tough and painful choices. Entitlement spending and tax expenditures are two we can no longer avoid. Like "Pac Man," they are devouring everything in sight.

#### A SUNSET PROVISION HELPS THE BILL

I do not want to leave the impression that there are only flaws in S. 14 because there is much to praise. I am gratified that the legislation still contains a sunset provision, although the date has been pushed back from 1998 to 2002.

I have never understood why my colleagues get so vexed about sunset provisions. They are a common sight. We have had sunset provisions in everything from the crime bill, to school-to-work, to the 1990 farm bill. A sunset provision demonstrates our commitment to quality legislation that meets not only today's needs, but tomorrow's needs as well. I believe that they work well and have served the American people well.

In fact, a sunset provision will help, not hurt this bill. First, this is brand new legislation which is untried and untested. We only have the designers' assurances as to how it will work. The sunset provision gives us the equivalent of a shake-out cruise.

It will enable us to see how well the legislation is working. We will be able to look at any bugs, glitches and problems that may arise. In addition, if for some reason, the line-item veto does not perform to our expectations, we can trade it in and start anew.

Second, I have been stressing for some time that the only way to bring down the deficit is on a bipartisan basis. I support this legislation, but some of my colleagues have their reservations. They envision a lot of problems cropping up over time.

I believe a sunset provision will ease some of those concerns, because this bill will not be cast in stone. If my colleagues' fears are realized, we will be able to revisit the bill at a date certain and make changes. The sunset provision gives us the benefit of the doubt.

During the markup, I offered an amendment restoring the original 1998 sunset date. The legislative line-item veto does not exist in a vacuum. We will have to revisit the entire Budget Act in 1998. That is when the caps and the other major provisions, including the one that creates a 60-vote point of order and the entire system of sequesters, expire. What better time to reexamine the legislative line-item veto? The extended 2002 sunset date turns a blind eye to this opportunity.

#### CONCLUSION

In conclusion, the substitute S. 14 is terribly flawed, but it is not fatally flawed. I believe that during Senate floor consideration, we can undo the damage that was done during markup and pass a legislative line-item veto bill that is as good as its promise to the American people.

JIM EXON.

#### MINORITY VIEWS SENATOR BARBARA BOXER

I believe that the “enhanced rescissions” and “expedited rescissions” proposals voted out of this Committee create a dangerous shift of power from the Legislative to the Executive branch. The Constitution provides that Congress has the “power of the purse.” Under Article I, Section 9, “No Money shall be drawn from the Treasury but in Consequence of Appropriations made by Law.” In Federalist No. 48, James Madison stated that “the legislative department alone has access to the pockets of the people.”

The power of the purse, Madison said in Federalist No. 58, represents the “most complete and effectual weapon with which any constitution can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure.” Through this power, Congress—as the directly elected representatives of the people—can serve as a check on the Executive branch.

These expedited and enhanced rescissions proposals would dilute this power. The President would have the power to pick and choose which programs he likes and which he does not. This power could be used for political retribution or for political reward. For instance, will a state that traditionally votes Democratic see more of its programs in a Republican President’s rescissions request? Will a state that is traditionally Republican face an overwhelming number of cuts under a Democratic President?

Under both of these proposals, Congress would have an opportunity to vote on the President’s proposed rescissions, but neither the enhanced rescissions nor the expedited rescissions proposals would allow Congress to substitute its spending cuts for those proposed by the President. In effect, part of the power of the purse is being handed over to the President.

The goal of these process changes is to bring us closer to a balanced budget. I support this goal. But, no “expedited” or “enhanced” process change will serve as a substitute for changing spending priorities and making the tough choices. No amount of process change will reduce the pain of tough budget cuts.

The implication of these proposals is much broader than simply stemming the flow of federal red ink. They undermine our constitutional balance of powers. For this reason, I oppose these expedited and enhanced rescissions proposals.

BARBARA BOXER.

#### MINORITY VIEWS OF SENATOR PATTY MURRAY

I oppose both S. 4 and S. 14, two bills that grant the President line-item veto authority. I have read these bills and am convinced that they will achieve little to put this country's fiscal house in order.

I have experience with line-item veto authority. I served in my State legislature and saw first-hand the kind of horse-trading that can occur when the Executive has this power.

I came to the United States Senate as a representative of the people of my home State of Washington. They elected me to be their voice on a wide array of issues—from funding the Hanford clean-up to providing economic relief to our hard-hit timber communities. Under no circumstances do I want to transfer my power to fight for the people of Washington State to any administration. That is precisely what these bills would do.

Reducing our deficit takes courage. We must take tough votes. There is no assurance these bills will reduce the deficit. However, they definitely will just turn over more power to the White House. I say this at a time when the President is my friend and a member of my party.

Line-item veto authority for the President is not what the framers of our Constitution envisaged. These bills go against the grain of our traditional balance of power.

A number of amendments which would have gone a long way to improve these bills were voted down—largely on party lines—in this Committee. For that and all the abovementioned reasons, I voted against these bills in Committee.

PATTY MURRAY.

IX. CHANGES TO EXISTING LAW

Paragraph 12 of rule XXVI of the Standing Rules of the Senate requires the report to accompany a bill repealing or amending a statute to include a comparative print showing the proposed changes to existing law. Existing law proposed to be omitted is enclosed in black brackets while existing law to which no change is proposed is shown in roman. New matter is shown in italic.

**THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974**

SECTION 1. (a) SHORT TITLES.—\* \* \*

(b) TABLE OF CONTENTS.—

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TITLE X—IMPOUNDMENT CONTROL

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Sec. 1012. Rescission of budget authority.

Sec. 1012A. *Expedited consideration of certain proposed rescissions of budget authority.*

Sec. 1013. Proposed deferrals of budget authority.

\* \* \* \* \*

TITLE IX—MISCELLANEOUS PROVISIONS EFFECTIVE DATES

EXERCISE OF RULEMAKING POWERS

SEC. 904. (a) The provisions of this title (except section 905) and of titles I, III, IV, V, and VI (except section 601(a)) and the provisions of sections 701, 703, [and 1017] 1012A, and 1017 are ended by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

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(d) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or [section 1017] sections 1012A and 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between and controlled by, the mover

and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be. \* \* \*

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TITLE X—IMPOUNDMENT CONTROL

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PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY

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RESCISSION OF BUDGET AUTHORITY

SEC. 1012. (a) TRANSMITTAL OF SPECIAL MESSAGE.—\* \* \*

(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—

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EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS OF BUDGET AUTHORITY

SEC. 1012A. (a) PROPOSED RESCISSIONS.—*The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriations Act. Except as otherwise provided in this section, budget authority proposed for rescission under this section may not be proposed for rescission again under this title.*

(b) TRANSMITTAL OF SPECIAL MESSAGE.—

(1) SPECIAL MESSAGE.—

(A) IN GENERAL.—*Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to rescind budget authority contained in an appropriations Act. Except as provided in subparagraph (B)(ii)(II), only one special message shall be transmitted under this section for any single Act and that message shall propose to rescind budget authority contained in that single Act.*

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

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

(ii) *on the first day of a session of Congress—*

(I) *for rescissions contained in an Act enacted after the adjournment of the Congress to end the preceding session; or*

(II) *for rescissions in an Act enacted prior to an adjournment of Congress to end the preceding session, if a special message had been transmitted under clause (i) but Congress adjourned prior to the expiration of the 10 days of session under subsection (c)(1)(C).*

(2) DRAFT BILL.—*The President shall include with each special message transmitted under paragraph (1) a draft bill that,*

if enacted, would rescind budget authority proposed to be rescinded in that special message. The draft bill shall clearly identify the budget authority that is proposed to be rescinded including, where applicable, each program, project, or activity to which the rescission relates.

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

(A) the amount of budget authority that the President proposes be rescinded;

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

(C) the reasons by the budget authority should be rescinded;

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

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

(4) *DEFICIT REDUCTION.*—

(A) *DISCRETIONARY SPENDING LIMITS.*—Not later than 5 days after the date of enactment of a bill containing rescissions of budget authority as provided under this section, the President shall reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and any outyear affected by the rescission bill to reflect the rescission.

(B) *ADJUSTMENT OF COMMITTEE ALLOCATIONS.*—Not later than 5 days after the date of enactment of a rescission bill as provided under this section, the Chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 302(a) or 602(a) to reflect the rescission, and the appropriate committees shall report revised allocations pursuant to section 302(b) or 602(b).

(c) *PROCEDURES FOR EXPEDITED CONSIDERATION.*—

(1) *IN GENERAL.*—

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

that House after the date of receipt of that special message, any Member of that House may introduce the bill.

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

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

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

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

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

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

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

(E) *APPLICATION OF HOUSE RULES.*—Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

(3) *CONSIDERATION IN THE SENATE.*—

(A) *MOTION TO PROCEED TO CONSIDERATION.*—A motion to proceed to the consideration of a bill under this sub-

*section in the Senate shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed is agreed to or disagreed to.*

*(B) MOTION TO STRIKE.—During consideration of a bill under this subsection, any Senator may move to strike any proposed rescission if supported by 11 other Members.*

*(C) LIMITS ON DEBATE.—Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours, equally divided and controlled in the usual form.*

*(D) APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided and controlled in the usual form.*

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

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

*(G) CONSIDERATION OF THE HOUSE BILL.—*

*(i) IN GENERAL.—If the Senate has received the House companion bill to the bill introduced in the Senate prior to the vote required under paragraph (1)(C), then the Senate may consider, and the vote under paragraph (1)(C) may occur on, the House companion bill.*

*(ii) PROCEDURE AFTER VOTE ON SENATE BILL.—If the Senate votes, pursuant to paragraph (1)(C), on the bill introduced in the Senate, then immediately following that vote, or upon receipt of the House companion bill, as the case may be—*

*(I) if the House companion bill is identical to the version of the Senate bill on which the vote under paragraph (1)(C) was taken, the House bill shall be deemed to be considered, read the third time, and the vote on passage of the Senate bill shall be considered to be the vote on the bill received from the House; or*

*(II) if the House companion bill is not identical to the Senate bill on which the vote under paragraph (1)(C) was taken, the Senate shall proceed to the immediate consideration of the House companion bill, the procedures under this paragraph shall apply except that a motion to strike all after the enacting clause and insert the text of the Senate bill shall be in order.*

*(H) AMENDMENT BETWEEN HOUSES.—Overall debate on all motions necessary to resolve amendments between the Houses on a bill under this section shall be limited to 2 hours at any stage of the proceedings. Debate on any motion, appeal, or point of order under this section which is submitted shall be limited to 30 minutes, and such time shall be equally divided and controlled in the usual form.*

*(4) CONFERENCE.—*

(A) *AUTHORITY OF CONFEREES.*—

(i) *IN GENERAL.*—Except as provided in clause (ii), the conferees may only recommend that a House recede from a disagreement to an amendment of the other House, or recede from its own amendment, and that the other House concur in such action.

(ii) *EXCEPTION.*—If the second House has stricken all after the enacting clause of the first House, the amendment reported by the conferees shall include each provision that is included in the versions of both Houses, and may include a provision included by either House upon which the conferees have agreed, and may not include any other matter.

(B) *CONSIDERATION OF CONFERENCE REPORTS.*—Debate in the House of Representatives or the Senate on the conference report and any amendments in disagreement on any bill considered under this section shall be limited to not more than 2 hours, equally divided and controlled in the usual form. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(C) *FAILURE OF CONFERENCE TO ACT.*—If the committee on conference on a bill considered under this section fails to submit a conference report within 5 calendar days after the conferees have been appointed by each House, any Member of either House may introduce a bill containing only the text of the draft bill of the President on the next day of session thereafter and the bill shall be considered as provided in this section except that the bill shall not be subject to any motion to strike.

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

(e) *TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.*—

(1) *IN GENERAL.*—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

(2) *EARLY AVAILABILITY.*—The President may make any budget authority not made available for obligation pursuant to paragraph (1) available at a time earlier than the time specified by the President if the President determines that continuation of the rescission would not further the purposes of this Act.

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

(1) the term "appropriation Act" means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

(2) the term "budget authority" means an amount, in whole or in part, of budget authority provided in an appropriation Act, except to fund direct spending programs;

(3) the term "rescission of budget authority" means the rescission in whole or in part of any budget authority provided in an appropriation Act; and

(4) the term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(g) APPLICATION TO TARGETED TAX BENEFITS.—The President may propose the repeal of any targeted tax benefit in any bill that includes such a benefit, under the same conditions, and subject to the same congressional consideration, as a proposal under this section to rescind budget authority provided in an appropriations Act.

PROPOSED DEFERRALS OF BUDGET AUTHORITY

SEC. 1013. TRANSMITTAL OF SPECIAL MESSAGE.— \* \* \*

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