

105TH CONGRESS  
1ST SESSION

# S. 592

To grant the power to the President to reduce budget authority.

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## IN THE SENATE OF THE UNITED STATES

APRIL 16, 1997

Mr. HOLLINGS (for himself, Mr. SPECTER, Mr. BIDEN, and Mr. ROBB) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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## A BILL

To grant the power to the President to reduce budget authority.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “The Separate Enroll-  
5       ment and Line Item Veto Act of 1997”.

6       **SEC. 2. STRUCTURE OF LEGISLATION.**

7       (a) APPROPRIATIONS LEGISLATION.—

8               (1) The Committee on Appropriations of either  
9       the House or the Senate shall not report an appro-  
10      priation measure that fails to contain such level of

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1 detail on the allocation of an item of appropriation  
2 proposed by that House as is set forth in the com-  
3 mittee report accompanying such bill.

4 (2) If an appropriation measure is reported to  
5 the House or Senate that fails to contain the level  
6 of detail on the allocation of an item of appropria-  
7 tion as required in paragraph (1), it shall not be in  
8 order in that House to consider such measure. If a  
9 point of order under this paragraph is sustained, the  
10 measure shall be recommitted to the Committee on  
11 Appropriations of that House.

12 (b) AUTHORIZATION LEGISLATION.—

13 (1) A committee of either the House or the  
14 Senate shall not report an authorization measure  
15 that contains new direct spending or new targeted  
16 tax benefits unless such measure presents each new  
17 direct spending or new targeted tax benefit as a sep-  
18 arate item and the accompanying committee report  
19 for that measure shall contain such level of detail as  
20 is necessary to clearly identify the allocation of new  
21 direct spending or new targeted tax benefits.

22 (2) If an authorization measure is reported to  
23 the House or Senate that fails to comply with para-  
24 graph (1), it shall not be in order in that House to  
25 consider such measure. If a point of order under this

1 paragraph is sustained, the measure shall be recom-  
2 mitted to the committee of jurisdiction of that  
3 House.

4 (c) CONFERENCE REPORTS.—

5 (1) A committee of conference to which is com-  
6 mitted an appropriations measure shall not file a  
7 conference report in either House that fails to con-  
8 tain the level of detail on the allocation of an item  
9 of appropriation as is set forth in the statement of  
10 managers accompanying that report.

11 (2) A committee of conference to which is com-  
12 mitted an authorization measure shall not file a con-  
13 ference report in either House unless such measure  
14 presents each direct spending or targeted tax benefit  
15 as a separate item and the statement of managers  
16 accompanying that report clearly identifies each  
17 such item.

18 (3) If a conference report is presented to the  
19 House or Senate that fails to comply with either  
20 paragraph (1) or (2), it shall not be in order in that  
21 House to consider such conference report. If a point  
22 of order under this paragraph is sustained in the  
23 House to first consider the conference report, the  
24 measure shall be deemed recommitted to the com-  
25 mittee of conference.

1 **SEC. 3. WAIVERS AND APPEALS.**

2 Any provision of section 2 may be waived or sus-  
3 pended in the House or Senate only by an affirmative vote  
4 of three-fifths of the Members of that House duly chosen  
5 and sworn. An affirmative vote of three-fifths of the Mem-  
6 bers duly chosen and sworn shall be required to sustain  
7 an appeal of the ruling of the Chair on a point of order  
8 raised under that section.

9 **SEC. 4. SEPARATE ENROLLMENT.**

10 (a)(1) Notwithstanding any other provision of law,  
11 when any appropriation or authorization measure first  
12 passes both Houses of Congress in the same form, the Sec-  
13 retary of the Senate (in the case of a measure originating  
14 in the Senate) or the Clerk of the House of Representa-  
15 tives (in the case of a measure originating in the House  
16 of Representatives) shall disaggregate the items as ref-  
17 erenced in section 5(4) and assign each item a new bill  
18 number. Henceforth each item shall be treated as a sepa-  
19 rate bill to be considered under the following subsections.  
20 The remainder of the bill not so disaggregated shall con-  
21 stitute a separate bill and shall be considered with the  
22 other disaggregated bills pursuant to subsection (b).

23 (2) A bill that is required to be disaggregated into  
24 separate bills pursuant to paragraph (1)—

25 (A) shall be disaggregated without substantive  
26 revision, and

1 (B) shall bear the designation of the measure of  
2 which it was an item prior to such disaggregation,  
3 together with such other designation as may be nec-  
4 essary to distinguish such measure from other meas-  
5 ures disaggregated pursuant to paragraph (1) with  
6 respect to the same measure.

7 (b) The new bills resulting from the disaggregation  
8 described in paragraph (1) of subsection (a) shall be im-  
9 mediately placed on the appropriate calendar in the House  
10 of origination, and upon passage, placed on the appro-  
11 priate calendar in the other House. They shall be the next  
12 order of business in each House and they shall be consid-  
13 ered and voted on en bloc and shall not be subject to  
14 amendment. A motion to proceed to the bills shall be non-  
15 debatable. Debate in the House of Representatives or the  
16 Senate on the bills shall be limited to not more than 1  
17 hour, which shall be divided equally between the majority  
18 leader and the minority leader. A motion further to limit  
19 debate is not debatable. A motion to recommit the bills  
20 is not in order, and it is not in order to move to reconsider  
21 the vote by which the bills are agreed to or disagreed to.

22 **SEC. 5. DEFINITIONS.**

23 For purposes of this Act:

24 (1) The term “appropriation measure” means  
25 any general or special appropriation bill or any bill

1 or joint resolution making supplemental, deficiency,  
2 or continuing appropriations.

3 (2) The term “authorization measure” means  
4 any measure other than an appropriations measure  
5 that contains a provision providing direct spending  
6 or targeted tax benefits.

7 (3) The term “direct spending” shall have the  
8 same meaning given to such term in section  
9 250(c)(8) of the Balanced Budget and Emergency  
10 Deficit Control Act of 1985.

11 (4) The term “item” means—

12 (A) with respect to an appropriations  
13 measure—

14 (i) any numbered section,

15 (ii) any unnumbered paragraph, or

16 (iii) any allocation or suballocation of  
17 an appropriation, made in compliance with  
18 section 2(a), contained in a numbered sec-  
19 tion or an unnumbered paragraph but  
20 shall not include a provision which does  
21 not appropriate funds, direct the President  
22 to expend funds for any specific project, or  
23 create an express or implied obligation to  
24 expend funds and—

1 (I) rescinds or cancels existing  
2 budget authority;

3 (II) only limits, conditions, or  
4 otherwise restricts the President's au-  
5 thority to spend otherwise appro-  
6 priated funds; or

7 (III) conditions on an item of ap-  
8 propriation not involving a positive al-  
9 location of funds by explicitly prohib-  
10 iting the use of any funds; and

11 (B) with respect to an authorization meas-  
12 ure—

13 (i) any numbered section, or

14 (ii) any unnumbered paragraph,

15 that contains new direct spending or a new tar-  
16 geted tax benefit presented and identified in  
17 conformance with section 2(b).

18 (5) The term “targeted tax benefit” means any  
19 provision:

20 (A) estimated by the Joint Committee on  
21 Taxation as losing revenue for any one of the  
22 three following periods—

23 (i) the first fiscal year covered by the  
24 most recently adopted concurrent resolu-  
25 tion on the budget;

1 (ii) the period of the 5 fiscal years  
 2 covered by the most recently adopted con-  
 3 current resolution on the budget; or

4 (iii) the period of the 5 fiscal years  
 5 following the first 5 years covered by the  
 6 most recently adopted concurrent resolu-  
 7 tion on the budget; and

8 (B) having the practical effect of providing  
 9 more favorable tax treatment to a particular  
 10 taxpayer or limited group of taxpayers when  
 11 compared with other similarly situated tax-  
 12 payers.

13 **SEC. 6. JUDICIAL REVIEW.**

14 (a) EXPEDITED REVIEW.—

15 (1) Any Member of Congress may bring an ac-  
 16 tion, in the United States District Court for the Dis-  
 17 trict of Columbia, for declaratory judgment and in-  
 18 junctive relief on the ground that a provision of this  
 19 Act violates the Constitution.

20 (2) A copy of any complaint in an action  
 21 brought under paragraph (1) shall be promptly de-  
 22 livered to the Secretary of the Senate and the Clerk  
 23 of the House of Representatives, and each House of  
 24 Congress shall have the right to intervene in such  
 25 action.

1           (3) Any action brought under paragraph (1)  
2       shall be heard and determined by a three-judge  
3       court in accordance with section 2284 of title 28,  
4       United States Code.

5 Nothing in this section or in any other law shall infringe  
6 upon the right of the House of Representatives or the Sen-  
7 ate to intervene in an action brought under paragraph (1)  
8 without the necessity of adopting a resolution to authorize  
9 such intervention.

10       (b) APPEAL TO SUPREME COURT.—Notwithstanding  
11 any other provisions of law, any order of the United States  
12 District Court for the District of Columbia which is issued  
13 pursuant to an action brought under paragraph (1) of sub-  
14 section (a) shall be reviewable by appeal directly to the  
15 Supreme Court of the United States. Any such appeal  
16 shall be taken by a notice of appeal filed within 10 days  
17 after such order is entered; and the jurisdictional state-  
18 ment shall be filed within 30 days after such order is en-  
19 tered. No stay of an order issued pursuant to an action  
20 brought under paragraph (1) of subsection (a) shall be  
21 issued by a single Justice of the Supreme Court.

22       (c) EXPEDITED CONSIDERATION.—It shall be the  
23 duty of the District Court for the District of Columbia  
24 and the Supreme Court of the United States to advance  
25 on the docket and to expedite to the greatest possible ex-

1 tent the disposition of any matter brought under sub-  
2 section (a).

3 (d) SEVERABILITY.—If any provision of this Act, or  
4 the application of such provision to any person or cir-  
5 cumstance is held unconstitutional, the remainder of this  
6 Act and the application of the provisions of such Act to  
7 any person or circumstance shall not be affected thereby.

8 **SEC. 7. TREATMENT OF EMERGENCY SPENDING.**

9 (a) EMERGENCY APPROPRIATIONS.—Section  
10 251(b)(2)(D)(i) of the Balanced Budget and Emergency  
11 Deficit Control Act of 1985 is amended by adding at the  
12 end the following new sentence: “However, OMB shall not  
13 adjust any discretionary spending limit under this clause  
14 for any statute that designates appropriations as emer-  
15 gency requirements if that statute contains an appropria-  
16 tion for any other matter, event, or occurrence, but that  
17 statute may contain rescissions of budget authority.”.

18 (b) EMERGENCY LEGISLATION.—Section 252(e) of  
19 the Balanced Budget and Emergency Deficit Control Act  
20 of 1985 is amended by adding at the end the following  
21 new sentence: “However, OMB shall not designate any  
22 such amounts of new budget authority, outlays, or receipts  
23 as emergency requirements in the report required under  
24 subsection (d) if that statute contains any other provisions

1 that are not so designated, but that statute may contain  
 2 provisions that reduce direct spending.”.

3 (c) NEW POINT OF ORDER.—Title IV of the Congres-  
 4 sional Budget Act of 1974 is amended by adding at the  
 5 end the following new section:

6 “POINT OF ORDER REGARDING EMERGENCIES

7 “SEC. 408. It shall not be in order in the House of  
 8 Representatives or the Senate to consider any bill or joint  
 9 resolution, or amendment thereto or conference report  
 10 thereon, containing an emergency designation for purposes  
 11 of section 251(b)(2)(D) or 252(e) of the Balanced Budget  
 12 and Emergency Deficit Control Act of 1985 if it also pro-  
 13 vides an appropriation or direct spending for any other  
 14 item or contains any other matter, but that bill or joint  
 15 resolution, amendment, or conference report may contain  
 16 rescissions of budget authority or reductions of direct  
 17 spending, or that amendment may reduce amounts for  
 18 that emergency.”.

19 (d) CONFORMING AMENDMENT.—The table of con-  
 20 tents set forth in section 1(b) of the Congressional Budget  
 21 and Impoundment Control Act of 1974 is amended by in-  
 22 serting after the item relating to section 407 the following  
 23 new item:

“Sec. 408. Point of order regarding emergencies.”.

1 **SEC. 8. SAVINGS FROM RESCISSION BILLS USED FOR DEFI-**  
2 **CIT REDUCTION.**

3 (a) Not later than 45 days of continuous session after  
4 the President vetoes an appropriations measure or an au-  
5 thorization measure, the President shall—

6 (1) with respect to appropriations measures, re-  
7 duce the discretionary spending limits under section  
8 601 of the Congressional Budget Act of 1974 for the  
9 budget year and each outyear by the amount by  
10 which the measure would have increased the deficit  
11 in each respective year;

12 (2) with respect to a repeal of direct spending,  
13 or a targeted tax benefit, reduce the balances for the  
14 budget year and each outyear under section 252(b)  
15 of the Balanced Budget and Emergency Deficit Con-  
16 trol Act of 1985 by the amount by which the meas-  
17 ure would have increased the deficit in each respec-  
18 tive year.

19 (b) EXCEPTIONS.—

20 (1) This section shall not apply if the vetoed  
21 appropriations measure or authorization measure be-  
22 comes law, over the objections of the President, be-  
23 fore the President orders the reduction required by  
24 subsection (a)(1) or (a)(2).

25 (2) If the vetoed appropriations measure or au-  
26 thorization measure becomes law, over the objections

1 of the President, after the President has ordered the  
 2 reductions required by subsection (a)(1) or (a)(2),  
 3 then the President shall restore the discretionary  
 4 spending limits under section 601 of the Congres-  
 5 sional Budget Act of 1974 or the balances under  
 6 section 252(b) of the Balanced Budget and Emer-  
 7 gency Deficit Control Act of 1985 to reflect the posi-  
 8 tions existing before the reduction ordered by the  
 9 President in compliance with subsection (a).

10 **SEC. 9. EVALUATION AND SUNSET OF TAX EXPENDITURES.**

11 (a) **LEGISLATION FOR SUNSETTING TAX EXPENDI-**  
 12 **TURES.**—The President shall submit legislation for the  
 13 periodic review, reauthorization, and sunset of tax expend-  
 14 itures with his fiscal year 1999 budget.

15 (b) **BUDGET CONTENTS AND SUBMISSION TO CON-**  
 16 **GRESS.**—Section 1105(a) of title 31, United States Code,  
 17 is amended by adding at the end the following paragraph:

18 “(30) beginning with fiscal year 1999, a Fed-  
 19 eral Government performance plan for measuring  
 20 the overall effectiveness of tax expenditures, includ-  
 21 ing a schedule for periodically assessing the effects  
 22 of specific tax expenditures in achieving performance  
 23 goals.”.

24 (c) **PILOT PROJECTS.**—Section 1118(c) of title 31,  
 25 United States Code, is amended by—

1           (1) striking “and” after the semicolon in para-  
2       graph (2);

3           (2) redesignating paragraph (3) as paragraph  
4       (4); and

5           (3) adding after paragraph (2) the following:

6           “(3) describe the framework to be utilized by  
7       the Director of the Office of Management and Budg-  
8       et, after consultation with the Secretary of the  
9       Treasury, the Comptroller General of the United  
10      States, and the Joint Committee on Taxation, for  
11      undertaking periodic analyses of the effects of tax  
12      expenditures in achieving performance goals and the  
13      relationship between tax expenditures and spending  
14      programs; and”.

15       (d) CONGRESSIONAL BUDGET ACT.—Title IV of the  
16   Congressional Budget Act of 1974 is amended by adding  
17   at the end thereof the following:

18                               “TAX EXPENDITURES

19       “SEC. 409. It shall not be in order in the House of  
20   Representatives or the Senate to consider any bill, joint  
21   resolution, amendment, motion, or conference report that  
22   contains a tax expenditure unless the bill, joint resolution,  
23   amendment, motion, or conference report provides that  
24   the tax expenditure will terminate not later than 10 years  
25   after the date of enactment of the tax expenditure.”.

1 **SEC. 10. EFFECTIVE DATE.**

2       The provisions of this Act shall apply to measures  
3 passed by the Congress beginning with the date of the en-  
4 actment of this Act and ending on September 30, 2002.

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