

106TH CONGRESS
1ST SESSION

S. 100

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

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. MCCAIN introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one committee reports, the other committee have thirty days to report or be discharged

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 Separate Enrollment
5 and Line Item Veto Act of 1999”.

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

7 (a) APPROPRIATIONS LEGISLATION.—

8 (1) IN GENERAL.—The Committee on Appro-
9 priations of either the House or the Senate shall not

1 report an appropriation measure that fails to contain
2 such level of detail on the allocation of an item of
3 appropriation proposed by that House as is set forth
4 in the committee report accompanying such bill.

5 (2) POINT OF ORDER.—If an appropriation
6 measure is reported to the House or Senate that
7 fails to contain the level of detail on the allocation
8 of an item of appropriation as required in paragraph
9 (1), it shall not be in order in that House to con-
10 sider such measure. If a point of order under this
11 paragraph is sustained, the measure shall be recom-
12 mitted to the Committee on Appropriations of that
13 House.

14 (b) AUTHORIZATION LEGISLATION.—

15 (1) IN GENERAL.—A committee of either the
16 House or the Senate shall not report an authoriza-
17 tion measure that contains new direct spending or
18 new targeted tax benefits unless such measure pre-
19 sents each new direct spending or new targeted tax
20 benefit as a separate item and the accompanying
21 committee report for that measure shall contain
22 such level of detail as is necessary to clearly identify
23 the allocation of new direct spending or new targeted
24 tax benefits.

1 (2) POINT OF ORDER.—If an authorization
2 measure is reported to the House or Senate that
3 fails to comply with paragraph (1), it shall not be
4 in order in that House to consider such measure. If
5 a point of order under this paragraph is sustained,
6 the measure shall be recommitted to the committee
7 of jurisdiction of that House.

8 (c) CONFERENCE REPORTS.—

9 (1) APPROPRIATIONS.—A committee of con-
10 ference to which is committed an appropriations
11 measure shall not file a conference report in either
12 House that fails to contain the level of detail on the
13 allocation of an item of appropriation as is set forth
14 in the statement of managers accompanying that re-
15 port.

16 (2) AUTHORIZATIONS.—A committee of con-
17 ference to which is committed an authorization
18 measure shall not file a conference report in either
19 House unless such measure presents each direct
20 spending or targeted tax benefit as a separate item
21 and the statement of managers accompanying that
22 report clearly identifies each such item.

23 (3) POINT OF ORDER.—If a conference report
24 is presented to the House or Senate that fails to
25 comply with either paragraph (1) or (2), it shall not

1 be in order in that House to consider such con-
 2 ference report. If a point of order under this para-
 3 graph is sustained in the House to first consider the
 4 conference report, the measure shall be deemed re-
 5 committed to the committee of conference.

6 **SEC. 3. WAIVERS AND APPEALS.**

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

14 **SEC. 4. SEPARATE ENROLLMENT.**

15 (a) IN GENERAL.—

16 (1) ENROLLMENT.—Notwithstanding any other
 17 provision of law, when any appropriation or author-
 18 ization measure first passes both Houses of Con-
 19 gress in the same form, the Secretary of the Senate
 20 (in the case of a measure originating in the Senate)
 21 or the Clerk of the House of Representatives (in the
 22 case of a measure originating in the House of Rep-
 23 resentatives) shall disaggregate the items as ref-
 24 erenced in section 5(4) and assign each item a new
 25 bill number. After disaggregation each item shall be

1 treated as a separate bill to be considered under the
2 following subsections. The remainder of the bill not
3 so disaggregated shall constitute a separate bill and
4 shall be considered with the other disaggregated bills
5 pursuant to subsection (b).

6 (2) FORM.—A bill that is required to be
7 disaggregated into separate bills pursuant to para-
8 graph (1)—

9 (A) shall be disaggregated without sub-
10 stantive revision; and

11 (B) shall bear the designation of the meas-
12 ure of which it was an item prior to such
13 disaggregation, together with such other des-
14 ignation as may be necessary to distinguish
15 such measure from other measures
16 disaggregated pursuant to paragraph (1) with
17 respect to the same measure.

18 (b) PROCEDURE.—The new bills resulting from the
19 disaggregation described in subsection (a)(1) shall be im-
20 mediately placed on the appropriate calendar in the House
21 of origination, and upon passage, placed on the appro-
22 priate calendar in the other House. They shall be the next
23 order of business in each House and they shall be consid-
24 ered and voted on en bloc and shall not be subject to
25 amendment. A motion to proceed to the bills shall be non-

1 debatable. Debate in the House of Representatives or the
 2 Senate on the bill shall be limited to not more than 1 hour,
 3 which shall be divided equally between the majority leader
 4 and the minority leader. A motion further to limit debate
 5 is not debatable. A motion to recommit the bills is not
 6 in order, and it is not in order to move to reconsider the
 7 vote by which the bills are agreed to or disagreed to.

8 **SEC. 5. DEFINITIONS.**

9 In this Act:

10 (1) **APPROPRIATION MEASURE.**—The term “ap-
 11 propriation measure” means any general or special
 12 appropriation bill or any bill or joint resolution mak-
 13 ing supplemental, deficiency, or continuing appro-
 14 priations.

15 (2) **AUTHORIZATION MEASURE.**—The term “au-
 16 thorization measure” means any measure other than
 17 an appropriations measure that contains a provision
 18 providing direct spending or targeted tax benefits.

19 (3) **DIRECT SPENDING.**—The term “direct
 20 spending” shall have the same meaning given to
 21 such term in section 250(c)(8) of the Balanced
 22 Budget and Emergency Deficit Control Act of 1985.

23 (4) **ITEM.**—The term “item” means—

24 (A) with respect to an appropriations
 25 measure—

1 (i) any numbered section,
 2 (ii) any unnumbered paragraph, or
 3 (iii) any allocation or suballocation of
 4 an appropriation, made in compliance with
 5 section 2(a), contained in a numbered sec-
 6 tion or an unnumbered paragraph but
 7 shall not include a provision which does
 8 not appropriate funds, direct the President
 9 to expend funds for any specific project, or
 10 create an express or implied obligation to
 11 expend funds and—

12 (I) rescinds or cancels existing
 13 budget authority;

14 (II) only limits, conditions, or
 15 otherwise restricts the President's au-
 16 thority to spend otherwise appro-
 17 priated funds; or

18 (III) conditions on an item of ap-
 19 propriation not involving a positive al-
 20 location of funds by explicitly prohib-
 21 iting the use of any funds; and

22 (B) with respect to an authorization
 23 measure—

24 (i) any numbered section, or
 25 (ii) any unnumbered paragraph,

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

4 (5) The term “targeted tax benefit” means any
 5 provision—

6 (A) estimated by the Joint Committee on
 7 Taxation as losing revenue for any one of the
 8 three following periods—

9 (i) the first fiscal year covered by the
 10 most recently adopted concurrent resolu-
 11 tion on the budget;

12 (ii) the period of the 5 fiscal years
 13 covered by the most recently adopted con-
 14 current resolution on the budget; or

15 (iii) the period of the 5 fiscal years
 16 following the first 5 years covered by the
 17 most recently adopted concurrent resolu-
 18 tion on the budget; and

19 (B) having the practical effect of providing
 20 more favorable tax treatment to a particular
 21 taxpayer or limited group of taxpayers when
 22 compared with other similarly situated tax-
 23 payers.

24 **SEC. 6. JUDICIAL REVIEW.**

25 (a) EXPEDITED REVIEW.—

1 (1) MEMBER OF CONGRESS.—Any Member of
2 Congress may bring an action, in the United States
3 District Court for the District of Columbia, for de-
4 claratory judgment and injunctive relief on the
5 ground that a provision of this Act violates the Con-
6 stitution.

7 (2) INTERVENTION BY HOUSES.—A copy of any
8 complaint in an action brought under paragraph (1)
9 shall be promptly delivered to the Secretary of the
10 Senate and the Clerk of the House of Representa-
11 tives, and each House of Congress shall have the
12 right to intervene in such action.

13 (3) PANEL.—Any action brought under para-
14 graph (1) shall be heard and determined by a three-
15 judge court in accordance with section 2284 of title
16 28, United States Code.

17 (4) AUTHORITY OF HOUSES.—Nothing in this
18 section or in any other law shall infringe upon the
19 right of the House of Representatives or the Senate
20 to intervene in an action brought under paragraph
21 (1) without the necessity of adopting a resolution to
22 authorize such intervention.

23 (b) APPEAL TO SUPREME COURT.—Notwithstanding
24 any other provisions of law, any order of the United States
25 District Court for the District of Columbia which is issued

1 pursuant to an action brought under paragraph (1) of sub-
2 section (a) shall be reviewable by appeal directly to the
3 Supreme Court of the United States. Any such appeal
4 shall be taken by a notice of appeal filed within 10 days
5 after such order is entered; and the jurisdictional state-
6 ment shall be filed within 30 days after such order is en-
7 tered. No stay of an order issued pursuant to an action
8 brought under paragraph (1) of subsection (a) shall be
9 issued by a single Justice of the Supreme Court.

10 (c) EXPEDITED CONSIDERATION.—It shall be the
11 duty of the District Court for the District of Columbia
12 and the Supreme Court of the United States to advance
13 on the docket and to expedite to the greatest possible ex-
14 tent the disposition of any matter brought under sub-
15 section (a).

16 (d) SEVERABILITY.—If any provision of this Act, or
17 the application of such provision to any person or cir-
18 cumstance is held unconstitutional, the remainder of this
19 Act and the application of the provisions of such Act to
20 any person or circumstance shall not be affected thereby.

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

22 (a) EMERGENCY APPROPRIATIONS.—Section
23 251(b)(2)(D)(i) of the Balanced Budget and Emergency
24 Deficit Control Act of 1985 is amended by adding at the
25 end the following new sentence: “However, OMB shall not

1 adjust any discretionary spending limit under this clause
 2 for any statute that designates appropriations as emer-
 3 gency requirements if that statute contains an appropria-
 4 tion for any other matter, event, or occurrence, but that
 5 statute may contain rescissions of budget authority.”.

6 (b) EMERGENCY LEGISLATION.—Section 252(e) of
 7 the Balanced Budget and Emergency Deficit Control Act
 8 of 1985 is amended by adding at the end the following
 9 new sentence: “However, OMB shall not designate any
 10 such amounts of new budget authority, outlays, or receipts
 11 as emergency requirements in the report required under
 12 subsection (d) if that statute contains any other provisions
 13 that are not so designated, but that statute may contain
 14 provisions that reduce direct spending.”.

15 (c) NEW POINT OF ORDER.—Part A of title IV of
 16 the Congressional Budget Act of 1974 is amended by add-
 17 ing at the end the following new section:

18 “POINT OF ORDER REGARDING EMERGENCIES

19 “SEC. 407. It shall not be in order in the House of
 20 Representatives or the Senate to consider any bill or joint
 21 resolution, or amendment thereto or conference report
 22 thereon, containing an emergency designation for purposes
 23 of section 251(b)(2)(D) or 252(e) of the Balanced Budget
 24 and Emergency Deficit Control Act of 1985 if it also pro-
 25 vides an appropriation or direct spending for any other
 26 item or contains any other matter, but that bill or joint

1 resolution, amendment, or conference report may contain
 2 rescissions of budget authority or reductions of direct
 3 spending, or that amendment may reduce for that emer-
 4 gency.”.

5 (d) CONFORMING AMENDMENT.—The table of con-
 6 tents set forth in section 1(b) of the Congressional Budget
 7 and Impoundment Control Act of 1974 is amended by in-
 8 serting after the item relating to section 406 the following
 9 new item:

“Sec. 407. Point of order regarding emergencies.”.

10 **SEC. 8. SAVINGS FROM RESCISSION BILLS USED FOR DEFICI-**
 11 **CIT REDUCTION.**

12 (a) IN GENERAL.—Not later than 45 days of continu-
 13 ous session after the President vetoes an appropriations
 14 measure or an authorization measure, the President
 15 shall—

16 (1) with respect to appropriations measures, re-
 17 duce the discretionary spending limits under section
 18 601 of the Congressional Budget Act of 1974 for the
 19 budget year and each outyear by the amount by
 20 which the measure would have increased the deficit
 21 in each respective year; and

22 (2) with respect to a repeal of direct spending,
 23 or a targeted tax benefit, reduce the balances for the
 24 budget year and each outyear under section 252(b)
 25 of the Balanced Budget and Emergency Deficit Con-

1 trol Act of 1985 by the amount by which the meas-
 2 ure would have increased the deficit in each respec-
 3 tive year.

4 (b) EXCEPTIONS.—

5 (1) IN GENERAL.—This section shall not apply
 6 if the vetoed appropriations measure or authoriza-
 7 tion measure becomes law, over the objections of the
 8 President, before the President orders the reduction
 9 required by subsections (a)(1) or (a)(2).

10 (2) RESTORATION OF LIMITS.—If the vetoed
 11 appropriations measure or authorization measure be-
 12 comes law, over the objections of the President, after
 13 the President has ordered the reductions required by
 14 subsections (a)(1) or (a)(2), then the President shall
 15 restore the discretionary spending limits under sec-
 16 tion 601 of the Congressional Budget Act of 1974
 17 or the balances under section 252(b) of the Bal-
 18 anced Budget and Emergency Deficit Control Act of
 19 1985 to reflect the positions existing before the re-
 20 duction ordered by the President in compliance with
 21 subsection (a).

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

23 (a) LEGISLATION FOR SUNSETTING TAX EXPENDI-
 24 TURES.—The President shall submit legislation for the

1 periodic review, reauthorization, and sunset of tax expend-
2 itures with his fiscal year 2000 budget.

3 (b) BUDGET CONTENTS AND SUBMISSION TO CON-
4 GRESS.—Section 1105(a) of title 31, United States Code,
5 is amended by adding after paragraph (30) the following:

6 “(31) beginning with fiscal year 2002, a Fed-
7 eral Government performance plan for measuring
8 the overall effectiveness of tax expenditures, includ-
9 ing a schedule for periodically assessing the effects
10 of specific tax expenditures in achieving performance
11 goals.”.

12 (c) PILOT PROJECTS.—Section 1118(c) of title 31,
13 United States Code, is amended by—

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

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

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

19 “(3) describe the framework to be utilized by
20 the Director of the Office of Management and Budg-
21 et, after consultation with the Secretary of the
22 Treasury, the Comptroller General of the United
23 States, and the Joint Committee on Taxation, for
24 undertaking periodic analyses of the effects of tax
25 expenditures in achieving performance goals and the

1 relationship between tax expenditures and spending
 2 programs; and”.

3 (d) CONGRESSIONAL BUDGET ACT.—Part A of title
 4 IV of the Congressional Budget Act of 1974 is amended
 5 by adding at the end thereof the following:

6 “TAX EXPENDITURES

7 “SEC. 408. It shall not be in order in the House of
 8 Representatives or the Senate to consider any bill, joint
 9 resolution, amendment, motion, or conference report that
 10 contains a tax expenditure unless the bill, joint resolution,
 11 amendment, motion, or conference report provides that
 12 the tax expenditure will terminate not later than 10 years
 13 after the date of enactment of the tax expenditure.”.

14 **SEC. 10. SEVERABILITY.**

15 If any provision of this Act, or the application of such
 16 provision to any person or circumstance is held unconsti-
 17 tutional, the remainder of this Act and the application of
 18 the provisions of such Act to any person or circumstance
 19 shall not be affected thereby.

20 **SEC. 11. EFFECTIVE DATE.**

21 The provisions of this Act and the amendments made
 22 by this Act shall apply to measures passed by the Congress
 23 beginning with the date of the enactment of this Act and
 24 ending on September 30, 2004.

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