

106TH CONGRESS
1ST SESSION

S. 139

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

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. ROBB (for himself and Mr. HOLLINGS) 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 tax benefits unless such measure presents each
19 new direct spending or new tax benefit as a separate
20 item and the accompanying committee report for
21 that measure shall contain such level of detail as is
22 necessary to clearly identify the allocation of new di-
23 rect spending or new tax benefits.

24 (2) POINT OF ORDER.—If an authorization
25 measure is reported to the House or Senate that

1 fails to comply with paragraph (1), it shall not be
2 in order in that House to consider such measure. If
3 a point of order under this paragraph is sustained,
4 the measure shall be recommitted to the committee
5 of jurisdiction of that House.

6 (c) CONFERENCE REPORTS.—

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

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

21 (3) POINT OF ORDER.—If a conference report
22 is presented to the House or Senate that fails to
23 comply with either paragraph (1) or (2), it shall not
24 be in order in that House to consider such con-
25 ference report. If a point of order under this para-

1 graph is sustained in the House to first consider the
 2 conference report, the measure shall be deemed re-
 3 committed to the committee of conference.

4 **SEC. 3. WAIVERS AND APPEALS.**

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

12 **SEC. 4. SEPARATE ENROLLMENT.**

13 (a) IN GENERAL.—

14 (1) ENROLLMENT.—Notwithstanding any other
 15 provision of law, when any appropriation or author-
 16 ization measure first passes both Houses of Con-
 17 gress in the same form, the Secretary of the Senate
 18 (in the case of a measure originating in the Senate)
 19 or the Clerk of the House of Representatives (in the
 20 case of a measure originating in the House of Rep-
 21 resentatives) shall disaggregate the items as ref-
 22 erenced in section 5(4) and assign each item a new
 23 bill number. After disaggregation each item shall be
 24 treated as a separate bill to be considered under the
 25 following subsections. The remainder of the bill not

1 so disaggregated shall constitute a separate bill and
2 shall be considered with the other disaggregated bills
3 pursuant to subsection (b).

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

7 (A) shall be disaggregated without sub-
8 stantive revision; and

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

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

1 which shall be divided equally between the majority leader
 2 and the minority leader. A motion further to limit debate
 3 is not debatable. A motion to recommit the bills is not
 4 in order, and it is not in order to move to reconsider the
 5 vote by which the bills are agreed to or disagreed to.

6 **SEC. 5. DEFINITIONS.**

7 In this Act:

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

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

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

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

22 (A) with respect to an appropriations
 23 measure—

24 (i) any numbered section,

25 (ii) any unnumbered paragraph, or

(iii) any allocation or suballocation of an appropriation, made in compliance with section 2(a), contained in a numbered section or an unnumbered paragraph but shall not include a provision which does not appropriate funds, direct the President to expend funds for any specific project, or create an express or implied obligation to expend funds and—

(I) rescinds or cancels existing budget authority;

(II) only limits, conditions, or otherwise restricts the President's authority to spend otherwise appropriated funds; or

(III) conditions on an item of appropriation not involving a positive allocation of funds by explicitly prohibiting the use of any funds; and

(B) with respect to an authorization measure—

(i) any numbered section, or

(ii) any unnumbered paragraph,

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

4 (5) The term “tax benefit” means any provision
 5 estimated by the Joint Committee on Taxation as
 6 losing revenue for any one of the three following
 7 periods—

8 (A) the first fiscal year covered by the
 9 most recently adopted concurrent resolution on
 10 the budget;

11 (B) the period of the 5 fiscal years covered
 12 by the most recently adopted concurrent resolu-
 13 tion on the budget; or

14 (C) the period of the 5 fiscal years follow-
 15 ing the first 5 years covered by the most re-
 16 cently adopted concurrent resolution on the
 17 budget.

18 **SEC. 6. JUDICIAL REVIEW.**

19 (a) EXPEDITED REVIEW.—

20 (1) MEMBER OF CONGRESS.—Any Member of
 21 Congress may bring an action, in the United States
 22 District Court for the District of Columbia, for de-
 23 claratory judgment and injunctive relief on the
 24 ground that a provision of this Act violates the Con-
 25 stitution.

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

7 (3) PANEL.—Any action brought under para-
8 graph (1) shall be heard and determined by a three-
9 judge court in accordance with section 2284 of title
10 28, United States Code.

11 (4) AUTHORITY OF HOUSES.—Nothing in this
12 section or in any other law shall infringe upon the
13 right of the House of Representatives or the Senate
14 to intervene in an action brought under paragraph
15 (1) without the necessity of adopting a resolution to
16 authorize such intervention.

17 (b) APPEAL TO SUPREME COURT.—Notwithstanding
18 any other provisions of law, any order of the United States
19 District Court for the District of Columbia which is issued
20 pursuant to an action brought under paragraph (1) of sub-
21 section (a) shall be reviewable by appeal directly to the
22 Supreme Court of the United States. Any such appeal
23 shall be taken by a notice of appeal filed within 10 days
24 after such order is entered; and the jurisdictional state-
25 ment shall be filed within 30 days after such order is en-

1 tered. No stay of an order issued pursuant to an action
2 brought under paragraph (1) of subsection (a) shall be
3 issued by a single Justice of the Supreme Court.

4 (c) EXPEDITED CONSIDERATION.—It shall be the
5 duty of the District Court for the District of Columbia
6 and the Supreme Court of the United States to advance
7 on the docket and to expedite to the greatest possible ex-
8 tent the disposition of any matter brought under sub-
9 section (a).

10 (d) SEVERABILITY.—If any provision of this Act, or
11 the application of such provision to any person or cir-
12 cumstance is held unconstitutional, the remainder of this
13 Act and the application of the provisions of such Act to
14 any person or circumstance shall not be affected thereby.

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

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

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

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

13 “POINT OF ORDER REGARDING EMERGENCIES

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

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

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

6 **SEC. 8. SAVINGS FROM RESCISSION BILLS USED FOR DEFICI-**
 7 **CIT REDUCTION.**

8 (a) IN GENERAL.—Not later than 45 days of continu-
 9 ous session after the President vetoes an appropriations
 10 measure or an authorization measure, the President
 11 shall—

12 (1) with respect to appropriations measures, re-
 13 duce the discretionary spending limits under section
 14 601 of the Congressional Budget Act of 1974 for the
 15 budget year and each outyear by the amount by
 16 which the measure would have increased the deficit
 17 in each respective year; and

18 (2) with respect to a repeal of direct spending,
 19 or a tax benefit, reduce the balances for the budget
 20 year and each outyear under section 252(b) of the
 21 Balanced Budget and Emergency Deficit Control
 22 Act of 1985 by the amount by which the measure
 23 would have increased the deficit in each respective
 24 year.

25 (b) EXCEPTIONS.—

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

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

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

19 (a) LEGISLATION FOR SUNSETTING TAX EXPENDI-
 20 TURES.—The President shall submit legislation for the
 21 periodic review, reauthorization, and sunset of tax expend-
 22 itures with his fiscal year 2000 budget.

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

1 “(31) beginning with fiscal year 2002, a Fed-
2 eral Government performance plan for measuring
3 the overall effectiveness of tax expenditures, includ-
4 ing a schedule for periodically assessing the effects
5 of specific tax expenditures in achieving performance
6 goals.”.

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

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

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

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

14 “(3) describe the framework to be utilized by
15 the Director of the Office of Management and Budg-
16 et, after consultation with the Secretary of the
17 Treasury, the Comptroller General of the United
18 States, and the Joint Committee on Taxation, for
19 undertaking periodic analyses of the effects of tax
20 expenditures in achieving performance goals and the
21 relationship between tax expenditures and spending
22 programs; and”.

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

1 “TAX EXPENDITURES

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

9 **SEC. 10. SEVERABILITY.**

10 If any provision of this Act, or the application of such
11 provision to any person or circumstance is held unconsti-
12 tutional, the remainder of this Act and the application of
13 the provisions of such Act to any person or circumstance
14 shall not be affected thereby.

15 **SEC. 11. EFFECTIVE DATE.**

16 The provisions of this Act and the amendments made
17 by this Act shall apply to measures passed by the Congress
18 beginning with the date of the enactment of this Act and
19 ending on September 30, 2004.

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