

Calendar No. 27104TH CONGRESS }
1st Session }

SENATE

{ REPORT
104-14 }

LEGISLATIVE LINE ITEM VETO ACT

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

together with

ADDITIONAL AND MINORITY VIEWS

TO ACCOMPANY

S. 14

TO AMEND THE CONGRESSIONAL BUDGET AND IMPOUNDMENT
CONTROL ACT OF 1974 TO PROVIDE FOR THE EXPEDITED CON-
SIDERATION OF CERTAIN PROPOSED CANCELLATIONS OF BUDG-
ET ITEMS

MARCH 7 (legislative day, MARCH 6), 1995.—Ordered to be printed

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WASHINGTON : 1995

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MARCH 7 (legislative day, March 6), 1995.—Ordered to be printed

Mr. ROTH, from the Committee on Governmental Affairs,
submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany S. 14]

The Committee on Governmental Affairs, to which was referred the bill (S. 14) reports thereon with an amendment and without recommendations.

I. PURPOSE OF THE MEASURE

The purpose of S. 14, as ordered reported, is to provide for the expedited consideration of presidential recommendations to cancel “budget items.” The bill defines budget items as budget authority provided in an appropriation Act—except to fund direct spending (entitlements)—and targeted tax benefits. Under the reported bill, at least one House of Congress would have to consider and act upon presidential proposals to rescind funds or repeal targeted tax benefits.

II. BACKGROUND AND NEED

S. 14 is designed to remedy a serious defect in the Impoundment Control Act of 1974, which established a procedure for rescinding (terminating) budget authority. Under the 1974 statute, the President may recommend rescissions but those recommendations take effect only if both Houses of Congress pass an approval bill within 45 days of continuous session. Otherwise, the budget authority must be released to the agencies for obligation and expenditure. Congress is not required to act on or consider the President’s pro-

posals. It frequently happens that special messages submitted by the President to rescind funds receive no action at all by Congress.

The record since 1974 underscores the deficiencies of the Impoundment Control Act. Over the course of the life of this statute, Presidents have recommended \$72.8 billion in rescissions and Congress has granted its approval to only \$22.9 billion. On its own initiative, Congress has resorted to the regular legislative process to rescind a total of \$70 billion.

By relying on a procedure called "expedited rescission," S. 14 requires at least one House of Congress to consider and act on a presidential proposal to rescind budget authority or cancel targeted tax benefits. Under the procedures set forth in the bill, presidential proposals are transmitted to Congress in a special message identifying the particular items to be rescinded or canceled. The proposals would become law only if both Houses of Congress approved them during a designated review period. The burden would be on the President to obtain congressional approval during this period of time. Supporters of expedited rescission believe that the procedures in S. 14 prevent the transfer of the spending power from Congress in this regard, S. 14 forces a vote in Congress on a President's proposal and guarantees that congressional action and consideration be expedited. The procedures in S. 14 are designed to maintain a constitutional balance between the executive and legislative branches.

III. EXPEDITED PROCEDURES

The bill sets forth congressional procedures for expedited consideration of the President's special message. The President may propose the rescission of any budget authority provided in an appropriations Act or the repeal of any targeted tax benefit (as defined in S. 14). With regard to rescissions of budget authority, the President may transmit only one special message for a single Act except in one situation: when the President transmits a special message but Congress adjourns prior to the expiration of the ten days allowed for action by a chamber. A special message may be transmitted during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) beginning on the day after the date of enactment of the provision proposed to be rescinded/canceled or on the first day of a session of Congress for rescissions (1) contained in an Act enacted after Congress adjourns to end the preceding session or (2) in an Act enacted prior to a congressional adjournment to end the preceding session if the President transmitted a special message but Congress adjourned prior to the expiration of the 10 days of session allowed for action by a chamber. The President shall include with each special message a draft bill to rescind budget authority or cancel targeted tax benefits. As explained in the section-by-section analysis, the special message shall specify a number of facts.

Introduction of Bill.—Before the close of the second day of session of the Senate and the House of Representatives, after receiving the special message, the majority or minority leader of each House shall introduce (by request) the draft bill accompanying the special message. If the bill is not so introduced, on the third day of session of that House after the date of receiving the special mes-

sage, any Member of that House may introduce the bill to approve the President's proposal.

The approval bill shall be referred to the appropriate committee, which 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 bill shall be automatically discharged and placed on the appropriate calendar.

A vote on final passage of the bill shall be taken in each chamber 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 approving the rescissions or targeted tax benefits passes, the bill shall be transmitted to the other House on the next day of session of that House. If the bill of approval fails in one House, there would be no need for action in the other House because congressional acceptance requires approval by both Houses in a bill that is presented to the President. The proposed rescission of budget authority or repeal of a targeted tax benefit would be defeated if one House fails to approve the President's proposal.

Consideration in the House.—During consideration in the House of Representatives, a motion to proceed to the consideration of an approval bill 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. Any Member may move to strike any proposed rescission if supported by 49 other Members.

Debate in the House of Representatives on the approval bill shall not exceed four 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 the approval bill or to move to reconsider the vote by which the bill is agreed to or disagreed to. Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an approval bill shall be decided without debate.

Consideration in the Senate.—During consideration of the approval bill in the Senate, a motion to proceed to the consideration of the bill 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. Any Senator may move to strike any proposed rescission if supported by eleven other Senators. Debate in the Senate on an approval bill, and all debatable motions and related appeals shall not exceed ten hours. Debate on any debatable motion or related appeal shall be limited to not more than one hour. A motion to further limit debate on an approval bill is not debatable, nor is a motion to recommit an approval bill in order.

Amendments Between Houses.—Overall debate in either chamber necessary to resolve amendments between the Houses shall be limited to two hours at any stage of the proceedings. Debate on any motion, appeal, or point or order under this section shall be limited to 30 minutes. 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. 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.

Debate in either chamber on the conference report and any amendments in disagreement on any bill considered under this section shall be limited to not more than two hours. A motion further to limit debate is not debatable, nor is it in order to offer a motion to recommit the conference report or to move to reconsider the vote by which the conference report is agreed to or disagreed to.

If the conference committee fails to submit a conference report within five calendar days after the conferees have been appointed by each House, any Member of either chamber may introduce a bill containing only the text of the President's draft bill 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.

Except as otherwise provided in S. 14, no amendment to an approval bill shall be in order in either chamber. 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.

Temporary Presidential Authority.—At the same time that the President transmits a special message, 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. The same procedure applies to suspending the effectiveness of targeted tax benefits proposed to be canceled. Prior to the expiration of the 45-calendar-day period, the President may make any budget authority available for obligation or any targeted tax benefit available for execution if the President determines that suspension of the budget authority or targeted tax benefit would not further the purposes of this Act.

Definitions.—As explained in greater detail in the section-by-section analysis, the bill defines the terms “appropriation Act,” “budget authority,” “rescission of budget authority,” and “targeted tax benefits.”

Lock-box.—If Congress supports the President's proposal to rescind budget authority, a “lock box” will guarantee that any savings go to deficit reduction. Not later than five days after enacting a rescission bill, the President shall reduce the discretionary spending limits under Section 601 of the Congressional Budget Act for the budget year and each outyear affected by the rescission bill to reflect that amount. Not later than five days after enacting the rescission bill, the chairs of the Senate and House Committees on the Budget shall revise levels under section 311(a) and adjust the committee allocations under section 302(a) or 602(a) to reflect the re-

scission and the appropriate committees shall report revised allocations pursuant to section 302(b) or 602(b).

The procedures established in S. 14 would take effect on the date of enactment, apply only to budget authority provided in Acts enacted on or after the date of enactment of S. 14, and cease to be effective on September 30, 2002.

IV. LEGISLATIVE HISTORY

S. 14 was introduced by Senator Domenici on January 4, 1995, with Senators Exon, Craig, Bradley, Cohen, and Dole as initial co-sponsors. The bill was referred jointly to the Committees on the Budget and Governmental Affairs, with instructions that if one committee reports, the other committee would have thirty days to report or be discharged.

The Senate Committee on the Budget held markup on February 14, 1995, and reported S. 14 without recommendation after adopting an amendment in the nature of a substitute as well as two amendments. Senator Domenici offered a substitute to his original bill by providing for an expedited rescission process for appropriations only. An amendment by Senator Exon to restore to the substitute the procedure for repealing targeted tax benefits was adopted by a vote of 12 to 10. An amendment by Senator Nickles, redefining targeted tax benefits to allow the President to veto any targeted tax provision for 100 or fewer beneficiaries (a definition included in the House-passed H.R. 2) was approved by a vote of 12 to 10. The committee acted to report the bill by a rollcall vote of 13 to 8.

A joint hearing was held on January 12, 1995 by the House Committee on Governmental Reform and Oversight and the Senate Committee on Governmental Affairs to explore changes to the rescission process in the Impoundment Control Act. The first panel heard testimony from Senators John McCain and Dan Coats and from Representatives Gerald Solomon, Jack Quinn, Mark Neumann, and Michael Castle. Also testifying at those hearings were Governor William Weld of Massachusetts; Dr. Alice Rivlin, Director of the Office of Management and Budget; Dr. Robert D. Reischauer, Director of the Congressional Budget Office; Judge Gilbert S. Merritt, Chief Judge of the Sixth Circuit and Chairman of the Executive Committee of the Judicial Conference; Joseph Winkelmann of Citizens Against Governmental Waste; David Keating of the National Taxpayers Union; and Dr. Norman Ornstein of the American Enterprise Institute.

V. COMMITTEE ACTION AND TABULATION OF VOTES

The Committee on Governmental Affairs held an additional hearing on February 23, 1995, at the request of Democratic Senators on the committee. Testimony was heard from Senator Bill Bradley, Representative Peter Blute, Louis Fisher of the Congressional Research Service, and Allen Schick of the George Mason University. Issues explored during the hearings included the extension of rescission authority to tax expenditures and the definition of targeted tax benefits; comparisons between S. 4, S. 14, and the House-passed enhanced rescission bill, H.R. 2; exempting the judiciary

from the President's exercise of rescission authority; the question of whether S. 4 and S. 14 could reach entitlements such as social security; and the balance between the executive and legislative branches, including the issue of how much legislative power may be delegated to the President.

On March 2, 1995, the Senate Governmental Affairs Committee held a markup on S. 14. Senator Cochran moved that the Committee report S. 14, without recommendation. Senator Levin modified the Cochran motion to report with recommendation. The vote on the Levin motion failed 6-8. The following Senators voted AYE on the Levin amendment: Glenn, Nunn, Levin, Pryor, Lieberman (by proxy), Akaka and Senator Dorgan. The following Senators voted NO: Roth, Stevens, Cohen (by proxy), Thompson, Cochran, Grassley, McCain (by proxy) and Smith. Senator Cochran then withdrew his motion.

Senator Glenn then moved that the Committee report out S. 14 with recommendation. Senator Roth then amended the Glenn motion to report out S. 14 without recommendation. A vote then occurred on the Roth amendment, the result was 9-6. The following Senators voted AYE on the Roth motion: Roth, Stevens, Thompson, Cochran, Grassley, McCain, Smith and Lieberman. Senators voting NO on the Roth motion: Glenn, Nunn, Levin, Pryor, Akaka, and Dorgan.

A final vote then occurred on the Glenn motion as amended by the Roth motion to report S. 14 without recommendation. By a roll-call vote of 13-2, the bill was reported from the Governmental Affairs Committee without recommendation. The following Senators were recorded as voting AYE: Roth, Stevens, Cohen, Thompson, Cochran, Grassley, McCain, Smith, Glenn, Nunn, Levin, Pryor and Lieberman. The following Senators were recorded as voting NO: Akaka and Dorgan.

VI. COMMITTEE AMENDMENTS

During the March 2, 1995, markup of S. 14, Senator Pryor offered an amendment to exclude Social Security from the line item veto. The amendment was adopted by a voice vote in the Governmental Affairs Committee markup. The amendment excludes from the definition of "budget authority" any budget authority provided the Social Security. The amendment ensures that the expedited rescission authority can not be used to reduce or eliminate the funds appropriated for the operating expenses of the Social Security Administration. While the funds appropriated in the Limitation on Administrative Expenses Account for the Social Security Administration's administrative expenses come from the Trust fund, the funds must be appropriated annually. Currently, the administrative budget of SSA is \$3.1 billion, which represents only 0.9% of total program costs. Without the Pryor amendment, those administrative funds could be subject to rescission by the President.

VII. SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title of the "Legislative Line Item Veto Act" for S. 14.

Section 2 establishes the procedures for expedited consideration of certain proposed rescissions of budget authority and certain proposed repeals of targeted tax benefits. Title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after section 1012 a new section (section 1012A) entitled "Expedited Consideration of Certain Proposed Rescissions of Budget Authority."

Presidential Proposals.—The President may propose, at the time and in the manner provided below, the rescission of any budget authority provided in an appropriations Act. Except as otherwise provided in the section, budget authority proposed for rescission under this section may not be proposed for rescission again under this title. The President may also propose the repeal of any targeted tax benefit (as defined in S. 14) in any bill that includes such a benefit, under the same conditions and subject to the same congressional consideration as the rescission of budget authority.

Subject to the time limitations provided in this bill, the President may transmit to Congress a special message proposing to rescind budget authority contained in an appropriations Act. Except as provided below, the President may transmit only one special message under this section for any single Act and that message shall propose to rescind budget authority contained in that single Act. A special message may be transmitted under this section (1) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded, or (2) on the first day of a session of Congress for rescissions contained in an Act enacted after the adjournment of the Congress to end the preceding session, or for rescissions in an Act enacted prior to an adjournment of Congress to end the preceding session, if a special message has been transmitted under the 20-calendar-day period but Congress adjourned prior to the expiration of the 10 days of session provided for congressional consideration in each House.

The President shall include with each special message transmitted under the procedures of S. 14 a draft bill, if enacted, would rescind budget authority proposed to be rescinded in that special message or would repeal targeted tax benefits. The draft bill shall clearly identify the targeted tax benefit to be repealed or the budget authority to be rescinded including, where applicable, each program, project, or activity to which the rescission relates.

Each special message shall specify, with respect to the budget authority proposed to be rescinded: (1) the amount of budget authority that the President proposes to be rescinded, (2) 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, (3) the reasons why the budget authority should be rescinded, (4) 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 (5) 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 au-

thority is provided. Similar special messages shall be prepared for the repeal of targeted tax benefits.

Lock-box.—S. 14 establishes procedures to guarantee that budget savings effected by this bill will be set aside for deficit reduction (“lock-box”). Not later than five days after the date of enactment of a bill containing rescissions of budget authority as provided in this bill, the President shall reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the fiscal year and any outyear affected by the rescission bill to reflect the rescission. Not later than five days after the date of enactment of a rescission bill as provided in S. 14, the chairs of the Senate and House Committees on the Budget 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).

Introduction of Bill.—S. 14 establishes procedures for the expedited consideration of presidential special messages. Before the close of the second day of session of the Senate and the House of Representatives, after the date of receiving a presidential special message transmitted under this bill, the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that 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 receiving that special message, any Member of that House may introduce the bill.

The bill shall be referred to the appropriate committee, which 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 bill shall be automatically discharged from committee and placed on the appropriate calendar.

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.

Consideration in the House of Representatives.—In the House of Representatives, a motion 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. During consideration under this subsection in the House of Representatives, any Member may move to strike any proposed rescission if supported by 49 other Members.

Debate in the House of Representatives on a bill under this subsection shall not exceed four 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. Ap-

peals 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. 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.

Consideration in the Senate.—A motion to proceed to the consideration of a bill under this subsection 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. During consideration of a bill under this subsection, any Senate may move to strike any proposed rescission if supported by 11 other Members. Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate on individual motions or appeals) shall not exceed 10 hours, equally divided and controlled in the usual form. 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 one hour, to be equally divided and controlled in the usual form. A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

Consideration of the House Bill.—If the Senate has received the House companion bill to the bill introduced in the Senate prior to the vote required on or before the close of the 10th day of session of the Senate after introduction of the bill, then the Senate may consider, and the vote under the 10-day limit may occur, on the House companion bill. If the Senate votes pursuant to the 10-day limit 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, (1) if the House companion bill is identical to the version of the Senate bill on which the vote under the 10-day limit 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 of the bill received from the House, or (2) if the House companion bill is not identical to the Senate bill on which the vote under the 10-day limit 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.

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 two 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.

Conference.—Except as provided in the next sentence, 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. The

exception is as follows: 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.

Debate in the two chambers on the conference report and any amendments in disagreement on any bill considered under this section shall be limited to not more than two 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 the reconsider the vote by which the conference report is agreed to or disagreed to.

If the conference committee considering a bill under this section fails to submit a conference report within five 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.

Amendments and Divisions Prohibited.—Except as otherwise provided in this section, no amendment to a bill considered under this section shall be in order in either chamber. 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.

Temporary Presidential Authority to Rescind.—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. The President may make any budget authority not made available for obligation pursuant to the above paragraph 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.

Definitions.—For purposes of this section the term “appropriation Act” means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations. 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 (entitlements) programs. The term “rescission of budget authority” means the rescission in whole or in part of any budget authority provided in an appropriation Act. 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 sin-

gle beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

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 appropriation Act.

Amendments to Existing Law.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended (1) in subsection (a) by striking “and 1017” and inserting “1012A, and 1017” and (2) in subsection (d) by striking “section 1017” and inserting “sections 1012A and 1017.” The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following: “*Sec 1012A. Expedited consideration of certain proposed rescission of budget authority.*”

Effective Period.—The amendments made by this Act shall (1) take effect on the date of enactment of this Act, (2) apply only to budget authority provided in Acts enacted on or after the date of enactment of this Act, and (3) cease to be effective on September 30, 2002.

VIII. COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 2, 1995.

Hon. WILLIAM V. ROTH, Jr.,
*Chairman, Committee on Governmental Affairs,
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 Governmental Affairs on March 2, 1995.

S. 14 would grant the President the authority to propose legislation that would rescind all or part of any discretionary budget authority (except funds provided for Social Security) 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 already 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. Therefore, 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.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

IX. REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact that would be incurred in carrying out S. 14. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant economic responsibilities.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 14, as ordered reported. Paperwork is now generated by presidential requests under the Impoundment Control Act to rescind budget authority. Additional paperwork beyond the current level would be modest.

X. ADDITIONAL AND MINORITY VIEWS

MINORITY VIEWS OF SENATOR DANIEL K. AKAKA

I have long opposed granting the President line item veto authority because it represents a serious shift in power from the Legislative branch to the Executive branch of government.

I was, however, intrigued by the “enhanced rescission” measure, S. 14, as introduced by Senator Domenici and Senator Exon. Embodied in the original proposal was the right of a President to cancel a budget item while allowing Congress to override a rescission by a simple majority of both Houses. Moreover, the original measure would have applied to appropriations, new entitlements and new targeted tax benefits.

Regrettably, the bill, as amended and reported out of the Budget Committee and forwarded to the Governmental Affairs Committee, removed new tax expenditures and new entitlement spending. The only tax-related provision is one that would limit line item veto authority to targeted tax provisions that benefit 100 or fewer taxpayers.

In addition to my concerns that S. 14 would dilute the power of the Legislative branch to serve as a check on the Executive branch and limit rescission authority to appropriations, I am also deeply troubled that the bill was reported out of the Government Affairs Committee without recommendation. I felt that S. 14 could serve as a basis for debate on enhanced rescissions, but without having an opportunity to consider amendments that would have been offered if debate had not been checked, I could not vote in favor of the measure.

I was prepared to support amendments that would have addressed the targeted tax expenditure issue and other provisions that would have better defined enhanced rescissions. I am hopeful that when we consider S. 14 on the floor we will have a better opportunity to debate the matter fully.

ADDITIONAL VIEWS OF SENATORS GLENN, LEVIN, AND
AKAKA

While S. 14 makes an earnest attempt to deal with wasteful spending on one side of the ledger sheet, we are greatly disappointed in its failure to effectively address the other component—special tax exemptions. Whether it occurs through discretionary spending or tax giveaways, we have to do away with all unnecessary spending.

Tax expenditures currently account for more than \$450 billion in yearly losses to the Federal Treasury. As with discretionary spending, many of these expenditures are worthy, but others are not. These expenditures are growing at a rate six times faster than discretionary spending. The latest projections show them costing us \$565 billion in Fiscal Year 1999.

Once these special provisions become part of the Tax Code they usually remain, with little or no review, in perpetuity. If we are to subject regular program accounts to periodic review, reauthorization, and appropriations we should do the same with tax expenditures. We simply cannot afford to have any new special tax breaks slipped into the Code never to see the light of day again.

S. 14 purports to provide the President with the authority to address these special provisions, but under the present language in the bill, the President can only “veto” tax expenditures if they affect 100 or fewer taxpayers. We believe that such a limitation is arbitrary, unworkable, totally unfair, and negates any serious consideration of “tax loopholes”.

Throughout the hearings, no one was able to provide any persuasive rationale for the magic number of one hundred. This averages out to just two taxpayers per State. As Senator Bradley stated in his testimony before this Committee, by the time a tax break for just a few people is inserted devised the break will have sold it to more than 100 clients. Arbitrary numerical limits defeat our purpose, which is to cut wasteful and frivolous spending.

Hearings on this bill also provided few answers as to how the President should determine the number of taxpayers that could be affected by a loophole. In truth, under S. 14, it does not matter how many taxpayers are actually affected. All that matters is the President’s estimate as to how many may be affected. So we could have a situation where the President estimates that 99 taxpayers may be affected and, in the end, 300—or many times 300—actually are. Or vice versa. Then what happens?

The bottom line is that federal bureaucrats—making estimates good or bad, and with little or no review—will ultimately determine the President’s line-item veto power. We doubt that this is the result that was intended.

Senator Glenn had a series of amendments he was prepared to offer which would have addressed this glaring deficiency. Unfortu-

nately, when it was clear that there would be no meaningful consideration of these amendments by the Majority, and any votes would not be based on the underlying merits, they were not put forth in Committee. We look forward to having the opportunity to fully and substantively consider such amendments on the Senate Floor.

Tax breaks in the Code drain the Federal Treasury, increase the deficit and, in effect, lead to higher tax rates for the rest of Americans. They do not deserve any special status, but should be placed on the table just like ordinary spending.

JOHN GLENN.
CARL LEVIN.
DANIEL K. AKAKA.

XI. CHANGES IN EXISTING LAW

The bill represents a new section (section 1012A) to be added after section 1012 of Title X of the Congressional Budget and Impoundment Control Act of 1974. Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended (1) in subsection (a) by striking "and 1017" and inserting "1012A, and 1017" and (2) in subsection (d) by striking "section 1017" and inserting "sections 1012A and 1017." The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following: "*Sec. 1012A. Expedited consideration of certain proposed rescissions of budget authority.*"

