

The Heritage Foundation **Backgrounder**

214 Massachusetts Avenue N.E.

Washington, D.C. 20002

(202)546-4400

10/25/89

117

Number

UPDATE

THE LEGISLATIVE LINE-ITEM VETO: TESTING IF CONGRESS TRULY WANTS DEFICIT REDUCTION

(Updating *Executive Memorandum* No. 236, "Time to Buck Congress's Code of Silence on the Line-Item Veto," May 17, 1989.)

The congressional budget process continues to malfunction. For the seventh time in eight years, Congress has failed to complete its work on the following year's budget before October 1, the start of the new fiscal year. Lawmakers this year also revived the tactic of rolling twelve of the government's thirteen appropriations bills into one large omnibus spending measure and then sending this hulk over to the Oval Office for the President's signature. The President's choice: sign it with its dozens of pork-barrel projects, or veto it and shut the government.

Even after missing its own deadline and resorting to dozens of shameless accounting gimmicks, such as moving programs "off budget," Congress still violated its Gramm-Rudman-Hollings deficit target by about \$20 billion, triggering the automatic "sequestration," across-the-board cuts in fat and lean alike.

This congressional gridlock underlines the case for serious reform of the 1974 Budget and Impoundment Control Act, the statute that provides the framework for today's congressional budget process. Congress next month will have a rare opportunity to introduce such a reform. Senators Dan Coats of Indiana and John McCain of Arizona, both Republicans, will attach their "Legislative Line-Item Veto" proposal as an amendment to a very appropriate vehicle: the bill raising the federal debt ceiling to \$3 trillion. A line-item veto allows the President to cut wasteful spending measures in a bill without resorting to the sledgehammer approach of vetoing the entire legislation. Remarkably, although this line-item budget tool is available to 43 governors and commands the support of 70 percent of the American people, according to a February Gallup poll, Congress has avoided a vote on the issue for over six years.

Going On Record. The Coats-McCain line-item veto bill, also known as the "Pork Buster," is the product of a careful compromise crafted this summer by six sponsors of various line-item veto proposals. Some 33 Senators already cosponsor the Coats-McCain amendment. It is endorsed by George Bush. It would empower the President to produce an itemized list of those programs in a spending bill that he wishes to trim or eliminate. Congress would be allowed to block these spending cuts by going on record with a resolution of disapproval — otherwise the cuts would stand. This would change the current rescission system under which Congress deliberately must endorse any move by the President to eliminate funds.

Nationwide Pork. Bush would have no shortage of opportunities to employ the line-item veto. As *The Washington Post* noted last month, the spending bills passed so far this year are crammed with “pork-barrel gravy for every region of the country.” Among them:

- ◆ ◆ \$15 million for the Strawberry Water Users Association in Utah.
- ◆ ◆ \$1.5 million to Smith College in Massachusetts, one of the nation’s wealthiest private institutions.
- ◆ ◆ \$85,000 to compensate Idaho ranchers whose sheep were attacked by grizzly bears in Yellowstone National Park.

Congressional skeptics of the line-item veto argue that such programs do not amount to much in a \$1.2 trillion budget, and thus the item veto would not save money. Yet state governors with the item reduction veto cut spending by an average of 1.5 percent per year with this tool alone. That would mean an \$18 billion reduction in the federal budget. The potential impact of the line-item veto also can be measured by examining presidential rescission requests that have been defeated through inaction by Congress. During the past three presidencies, \$35 billion of rescission requests – almost \$3 billion of wasteful spending per year – were ignored by Congress. This money might have been saved if the President had item veto authority. Apparently on Capitol Hill billions of dollars are regarded as just so much loose change.

Another obstacle to the line-item veto is the charge that it would transfer undue power over the federal purse strings to the executive branch. But for almost 200 years – until 1974 – the President had the authority to impound funds. With this impoundment power, Presidents could decide unilaterally to “reserve, withhold, delay, freeze, or sequester appropriated funds.” Examples: During World War II, Franklin Roosevelt routinely impounded congressional funding for public works and water projects to devote more funds to the war effort; in 1961 Congress appropriated \$380 million for the B-70 bomber, but John Kennedy chose to spend only \$200 million on the aircraft, impounding the remaining money. According to a 1986 report by the House Rules Committee, presidential impoundments were “functional equivalents to a line-item veto” until passage of the 1974 Budget Act. The Coats-McCain proposal does not even reinstate full impoundment power, since it gives Congress the right to restore any funding canceled through a line-item veto.

Critical First Step. If Congress again refuses to empower the President with a statutory line-item veto, he should immediately exercise his constitutionally implied item veto authority. Bush has repeatedly threatened to strike out clear cases of waste in spending bills in this manner. Several legal scholars believe the Constitution gives the President this implicit item veto, but no President has ever exercised it. Now Bush can take the issue away from a power-hungry Congress and test it in the courts and before the American public.

Congress has demonstrated repeatedly over the past two decades that it cannot “just say no” to spending. George Bush has pledged that he will, and take the political heat, if Congress gives him the budget tools he needs to do so. The line-item veto may be no substitute for strict enforcement of the Gramm-Rudman-Hollings law or a balanced budget amendment, but it is a critical first step to returning fiscal discipline and sanity to Washington.

Stephen Moore
Grover M. Hermann Fellow
in Federal Budgetary Affairs