

TESTIMONY OF
ALICE M. RIVLIN
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET
BEFORE THE
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS
AND THE
HOUSE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

January 12, 1995

Mr. Chairmen, Members of the Committees, thank you for inviting me to offer the Administration's views on line-item veto authority. I am pleased to express the Administration's support for legislation that would enhance the President's authority to cut spending.

As you know, President Clinton has said repeatedly that he favors enactment of item veto legislation. During the 1992 campaign, the President stated that he supports such a tool "to eliminate pork-barrel projects and cut government waste." He repeated his support in the February 17, 1993 document, *A Vision of Change for America*, and in speeches and letters in the last Congress.

In a letter to the congressional leadership last week, he wrote:

The line item veto authority will help us cut unnecessary spending and reduce the budget deficit. It is a powerful tool for fighting special interests, who too often are able to win approval of wasteful projects through manipulation of the congressional process, and bury them in massive bills where they are protected from Presidential vetoes. It will increase the accountability of government. I want a strong version of the line item veto, one that enables the President to take direct steps to curb wasteful spending. This is clearly an area where both parties can come together in the national interest, and I look forward to working with the Congress to quickly enact this measure.

Let me only add that we commend you, Chairman Clinger and Chairman Roth, for holding these first, early, and joint hearings on this important subject. We believe that the line-item veto is a matter on which the Administration and Congress can agree quickly. We hope that Congress moves quickly, in a bipartisan manner, to enact this timely and much-needed budgeting reform.

As the President's letter indicates, he supports passage of the strongest version of the line-item veto, one

which ensures that he can cut unnecessary spending, reduce the budget deficit, and fight attempts by special interests to fund wasteful projects at taxpayers' expense. The Administration believes that the line-item veto must be broad in scope and become effective as soon as possible.

I would first like to discuss the current rescission process, and the characteristics of item-veto proposals, before turning to a discussion of the principal features of these proposals.

CURRENT LAW AND ITEM VETO PROPOSALS

Under the Impoundment Control Act of 1974, the President can request a rescission of discretionary budget authority, but Congress does not have to vote on it. That is, the current process does not require a vote. If Congress enacts no bill to affirm the President's rescission within 45 legislative days, the proposal is defeated and the President must release any withheld funds.

Line-item veto proposals seek to amend the Impoundment Control Act to expand the very limited authority that the current process provides. Two examples are S.4, introduced by Majority Leader Dole, Senator McCain, and others, and H.R.2, introduced by you, Chairman Clinger, and others. Under both S.4 and H.R.2, the President could send Congress proposed rescissions of budget authority in appropriations bills within 20 calendar days of a bill's enactment. Under S.4, the President also could make submissions along with his budget; and under H.R.2, the President could submit proposals to rescind narrowly-targeted tax benefits.

Congress would get 20 days to act on a bill to disapprove the rescission. Action on a disapproval bill comes with fast-track procedures. In addition, the President would get 10 days to review any disapproval bill passed by Congress, and Congress would get 5 calendar days of session to override any Presidential veto. The budget authority (or targeted tax benefit) is permanently cancelled unless Congress enacts a disapproval bill into law within a total of 35 days provided for congressional passage, presentment to the President, and (if necessary) veto override.

Another proposal is S.14, introduced by Chairman Domenici and Senator Exon. It is similar in its basic mechanism to the Stenholm-Penny-Kasich substitute to H.R. 4600 that passed the House in the last session. Under S. 14, the President could send Congress proposed cancellations of items of budget authority, direct spending, or targeted

But under all versions, Congress finally will have to vote on rescissions. The authors of special interest provisions tucked away in spending bills will have to defend them, and a project or projects would go forward only if they survived a vote. The proposals would shift the burden from proponents of a rescission to opponents.

Currently, rescissions apply only to discretionary budget authority provided in appropriations bills. Some proposals would apply it more broadly, to direct spending and targeted tax breaks. At its broadest, line item veto authority would apply to any budget items that increase the deficit on the spending or revenue sides. From the standpoint of controlling the deficit, that would be the most effective approach.

S.14 calls for cancelling items in appropriations bills, items of direct spending (i.e., entitlements), or any targeted tax benefit. S.14 defines the term "targeted tax benefit" quite broadly. On the other hand, H.R.2 would apply to budget authority and "targeted tax benefits," but would define that term narrowly to mean a tax provision benefitting 5 or fewer taxpayers. S.4 would apply only to budget authority provided in appropriations bills, just as the existing rescission authority does.

The problem of special interest provisions tucked away in large bills is not confined to appropriations; obviously, they can arise in huge tax measures. In this regard, the authority to veto a special interest tax provision only if it applies to five or fewer taxpayers would provide little help. A broader category of tax items would complement the application of a line-item veto to all items of budget authority.

Some item veto bills would apply such authority only for a limited period. For example, S.14 would apply only through September 1998. We believe that such authority should apply permanently.

And finally, because we don't know when Congress might enact the new authority, we believe that it should apply to any budget items enacted since the start of the 104th Congress. We hope that Congress moves quickly enough to make this last point a moot one.

CONCLUSION

The President supports enactment of the strongest version of line-item veto authority. This is an area where the President and Congress agree, and where strong reform

can make a real difference in how government operates. We want to work with the Committees and move forward quickly with a strong, well-designed and sensible proposal.

I'll be happy to answer any questions you may have.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

July 13, 1998

MEMORANDUM TO THE PRESIDENT

FROM: Jacob J. Lew 
Acting Director

SUBJECT: Follow-Up On Line Item Veto

The appropriations items that were canceled under the Line Item Veto Act are about to be released in response to the Supreme Court decision invalidating the Act. While certain members in Congress may call for you to propose to rescind these restored funds, in general we recommend not to do so.

The Justice Department has completed its review of the Supreme Court decision. The Department agrees that the decision should be interpreted in such a manner that the cancellations under the Act for appropriations items are void. This is consistent with the nearly universal view in Congress and the press. There were 40 discretionary appropriations items totaling \$197 million that were in effect at the time of the Supreme Court decision. The funds for these items had been held in the Treasury, and we will now release them.

When the release of the funds is announced, Senator McCain, and perhaps others, will very likely call for you to use your rescission authority under the Impoundment Control Act to propose rescission of these items. Under that authority, funds for these projects could be withheld for 45 legislative days while Congress considers the proposed rescission. Holding the funds for 45 days of congressional session at this late date in the fiscal year would, however, very likely cause some funds to lapse at the close of the fiscal year on September 30th. Furthermore, with regard to funds that are available only for one fiscal year, there is a longstanding policy not to rescind funds in the fourth quarter of the fiscal year, in order to avoid turning a rescission proposal into a de facto cancellation. Of the \$197 million in discretionary dollars canceled, \$38 million is one-year funding that will lapse September 30.

It is extremely unlikely that rescissions of these items, if proposed, would be adopted by the Congress. Senator Byrd is considering an amendment that would extend the availability of restored one-year funds beyond the end of the current fiscal year so that they can be effectively used before lapsing. However, Senator Byrd's proposal may be scored as a reappropriation, thus raising a substantial hurdle to its enactment. Withholding the funds that were just released from the line item veto cancellation could be viewed as unnecessarily prolonging the dispute over the items and could well lend support to the effort to extend the availability of the funds.

For the above stated reasons, the economic team, who I discussed this with last week, and I generally intend not to propose rescissions. At this time, we will only propose to rescind funds associated with the conveyance of Federal mineral rights to Montana, an item linked to the land acquisition to protect Yellowstone. During final negotiations on the FY 1998 Interior appropriations bill, we continued to oppose this transfer of mineral rights as inappropriate and a bad precedent for land acquisitions from willing sellers. The bill was passed with the understanding in Congress that we would cancel the transfer with the line item veto authority, and it was with that intent that your advisors recommended you sign the bill last year. For the other appropriations items canceled, we plan to release the funds and allow obligation if that can be accomplished in the remainder of the fiscal year.