Line Item Veto and Rescission Authority

[The following is a reprint of the Foreward and Glossary from the February 1993 issue of the *Congressional Digest*. We are indebted to Mr. Griff Thomas, Managing Editor, *Congressional Digest* for permission to reprint these sections. Complete copies of this issue may be obtained by calling the *Congressional Digest* Customer Service Office (202) 333-7332.]

INTRODUCTION

Growing concern over the Federal deficit has led the last two Presidents to endorse proposals that would increase the power of the executive branch of government to control Federal spending.

The U.S. Constitution states that "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." Thus, Congress holds the "power of the purse" through enactment of appropriations bills, while the President exercises authority during the implementation process. Impoundment—whereby the President withholds or delays the spending of appropriated funds—is one way in which the President can exert control over government spending.

In the beginning of the appropriations process, the President submits his budget requests to Congress for the upcoming fiscal year. These requests are first considered by the House. Thirteen House appropriations subcommittees—each representing certain broad areas of government, such as Defense or Interior—prepare spending bills designed to meet the budgetary needs of the Federal departments and agencies within their jurisdictions. These bills are then reported to the full Appropriations Committee, which in turn reports them to the full House. Once each appropriations bill passes the House, it is referred to the Senate where the process is repeated. As the House and Senate reach agreement on individual appropriations bills, these are sent to the President for his signature.

The current debate on presidential authority arises out of the fact that Presidents can veto appropriations bills in their entirety but not in part. They cannot selectively reject line item spending for specific programs. To give the executive more control in this area, a number of proposals have been advanced in Congress. These proposals generally fall into three categories: line item veto, enhanced rescission authority, and expedited rescission authority.

The line item veto is currently available to the governors of 43 States mostly as a fiscal restraint tool. Although this authority differs from State to State, it generally allows a governor to reduce or eliminate items in appropriations bills. Some experts contend that a constitutional amendment would be required to grant item veto power to the President; others suggest that it can be accomplished through statute.

A request by the President to rescind (permanently cancel) certain funds requires congressional approval within 45 days of the request—otherwise, the appropriated funds are made available as intended. Proposals for enhanced rescission authority seek to reverse the burden of action in this procedure, by stipulating that the funds would remain canceled unless Congress acts to disapprove the President's request within a prescribed time frame.

Proposals for expedited rescission would force Congress to vote up or down on rescission requests within a specified number of days.

Legislation passed by the House of Representatives shortly before the adjournment of the 102nd Congress incorporated the expedited rescission authority approach. H.R. 2164, introduced by Congressman Thomas R. Carper (DE-D), gives the President three days after signing an appropriations bill to submit to Congress a rescission message relating to items in the bill. The President's request is referred to the Appropriations Committees, which must report it in the form of a resolution, unamended, to the full House and Senate. If either House fails to approve the resolution by a simple majority, the rescissions are rejected.

Supporters of the Carper bill believe that it would preserve the balance of power between Congress and the President while increasing spending accountability by both branches, thus helping to reduce the deficit.

Opponents argue that expedited rescission would not have a significant effect on the deficit, particularly since the largest portion of the Federal budget consists of mandatory spending. The real impact, they believe, would be on the allocation of funds.

As President-elect, Bill Clinton expressed support for expanded rescission authority. While not all members of the majority leadership share this view, the issue probably will receive close attention as the new Administration and Congress begin to consider the Fiscal Year 1994 budget.

GLOSSARY

Appropriations Act. Legislation initiated by the House and Senate Appropriations Committees, that provides authority for Federal agencies to incur obligations and to make payments out of the Treasury for specified purposes. An appropriations act is the most common means of providing budget authority. There are 13 regular appropriations acts for each fiscal year.

Authorizing Legislation. Legislation enacted by Congress that sets up or continues the operation of a Federal program or agency indefinitely or for a specific period of time. It may place a cap on the amount of budget authority that can be appropriated for a program or may authorize the appropriation of "such sums as necessary."

Budget Authority. The authority Congress gives to government agencies, permitting them to enter into obligations that will result in immediate or future outlays (expenditures). Such budget authority does not include the authority to insure the repayment of loans held by another person or government.

Budget Deficit. The amount by which the government's outlays exceed its revenues for a given fiscal year.

Continuing Resolution. Appropriations legislation enacted by Congress to provide temporary budget authority for Federal agencies to keep them in operation when their regular appropriations bill has not been enacted by the start of the fiscal year.

Deferral of Budget Authority. An action by the executive branch that delays the obligation of budget authority. Pursuant to the Congressional Budget and Impoundment Control Act of 1974, the President must provide advanced notice to the Congress of any proposed deferrals. A deferral may not extend beyond the end of the fiscal year in which the notification took place. Congress may overturn a deferral by passing disapproval legislation.

Fiscal Year. A fiscal year is a 12-month accounting period. The fiscal year for the Federal Government begins on October 1 and ends on September 30. The fiscal year is designated by the calendar year in which it ends: Fiscal Year 1993 is the year beginning October 1, 1992, and ending September 30, 1993.

Impoundment. Any executive action to withhold or delay spending appropriated funds as intended by the Congress. There are two kinds of impoundments: deferrals and rescissions.

Mandatory Spending and Entitlements. Programs that are not directly controlled through the annual appropriations process. The bulk of mandatory spending is attributable to entitlements—programs that require the payment of benefits on the basis of eligibility criteria. Over 200 programs fall into this category with most large entitlements for social welfare programs, like Medicare and Medicaid. Non-entitlement forms of mandatory spending include items like interest on the national debt.

Rescission of Budget Authority. The permanent cancellation of budget authority prior to the time when the authority officially terminates. The rescission process begins when the President proposes a rescission to the Congress for fiscal or policy reasons. Unlike the deferral of budget authority—which occurs unless Congress acts to disapprove the deferral—rescission of budget authority occurs only if both Houses of Congress approve, by simple majority, the rescission within 45 days of continuous session.

Sequestration. Sequestration refers to the issuance of a presidential order canceling budgetary spending in order to reduce the deficit by the required amount for that year.

Supplemental Appropriations. An act appropriating funds in addition to those provided for in the annual appropriations acts. Supplemental appropriations provide additional budget authority beyond the original estimates for programs or activities (including new programs authorized after the date of the original appropriations act) in cases where the need for funds is too urgent to be postponed until enactment of the next regular appropriations bill.