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EXPANDED PRESIDENTIAL POWER UNDER SENATE "LINE-ITEM VETO" UNLIKELY TO IMPROVE FISCAL DISCIPLINE

The Senate Budget Committee recently approved the Legislative Line Item Veto Act of 2006, a variation of an Administration proposal issued earlier this year, as part of a larger budget-process bill (S. 3521). The Senate proposal is likely to move to the floor this summer. The line-item veto, which would enable the President to reject individual items within spending bills passed by Congress rather than accept or reject the bill as a whole, would give the President significant new power, but likely would do little to improve fiscal discipline.

How It Would Work

The President could use the line-item veto to strike provisions of appropriations bills, provisions of bills that would create or increase benefits in any entitlement program, and provisions that would provide "targeted tax benefits." (The definition of "targeted tax benefits" is vague, but as explained below, the President's ability to veto new tax cuts would likely prove very limited.) In most cases, the President would have a full year to submit his proposed cancellations to Congress.

The President could submit no more than four cancellation packages over the course of a year, so each package would likely contain cancellations from a number of different bills — possibly including appropriations, entitlement, and tax bills. Congress would have to cast an up-or-down vote on each package of cancellations exactly as the President had constructed it, with no amendments permitted, within 13 days of receiving it.

When the President chose to strike items in appropriations acts, he could withhold the funds in question for up to 45 days, even if Congress rejected his cancellations within that period.

What It Would Mean

- **The proposal would give the President significant new leverage over Congress, providing him with a tool to try to strong-arm Congress into supporting his requests.** The President could package vetoes of egregious pork items (e.g., a new "bridge to nowhere") with vetoes of meritorious programs he opposed on ideological grounds and then force Congress to vote up-or-down on the package as a whole. Members who voted "no" could be attacked for refusing to curb the egregious pork. This could lead to the cancellation of programs a majority of Congress considers worthwhile.

  In addition, the President could cancel funding for programs even if Congress disapproved his vetoes, simply by submitting the veto package to Congress within 45 days of the end of the fiscal year. The funds could lapse even if Congress rejected the veto.

These new powers would give the President a powerful weapon to strong-arm Congress into supporting Administration priorities in a range of areas. He could threaten to line-item veto items favored by particular Members of Congress unless they agreed to back him on other, unrelated matters, such as new tax cuts, judicial nominees, or proposals benefiting special interests close to the Administration.

- **The influence of special interests would be as likely to grow as to decline.** The proposal's supporters claim it will reduce pork spending by enabling the President to pick out and eliminate special-interest projects favored by Members of Congress. But the proposal could just as easily aggravate this problem, since (as noted above) the President could use the threat of a line-item veto to pressure Congress into going along with special-interest projects *he* favored. The proposal seems to assume that the President will be less interested than Members of Congress in securing the financial and political support of special interests, an assumption not shared by independent analysts such as the American Enterprise Institute's Norman Ornstein. As Ornstein has stated, the line-item veto:

  > gives the president a great additional mischief-making capability, to pluck out items to punish lawmakers he doesn't like, or to threaten individual lawmakers to get votes on other things, without having any noticeable impact on budget growth or restraint.

- **The proposal would likely do little to reduce the deficit.** The Congressional Budget Office (CBO) has suggested that proposals like the Senate one might actually increase total spending rather than reduce it, because Congress might go along with some of the President's spending priorities in exchange for his pledge not to oppose its priorities.

  Similarly, a recent Congressional Research Service report concluded that Presidents would as likely use line-item veto authority to pressure lawmakers into supporting White House spending policies as to reduce total spending. And Douglas Holtz-Eakin, director of CBO from 2003 through 2005, recently testified before Congress that the line-item veto passed by the House (which is broadly similar to the Senate proposal) is "unlikely to greatly affect the budget's bottom line" in the absence of a political consensus to establish fiscal discipline.

  An important reason why the line-item veto would likely do little to reduce the deficit is that it would not apply to most new tax cuts, even though they increase deficits just as spending increases do. Under the Senate proposal, only "targeted tax benefits" — those that apply to a limited number of beneficiaries — would be subject to a veto. Moreover, Congress would determine whether a particular tax cut it had just passed constituted a "targeted tax benefit." Congress would be free to define that term very narrowly in order to prevent the President from line-item vetoing tax breaks it favored.

  The proposal thus treats entitlement expansions and special-interest tax breaks very differently. It would enable the President to veto entitlement expansions passed by Congress that would benefit millions of people, such as the poor, the unemployed, or the uninsured. But it generally would *not* allow the President to veto special-interest tax breaks for well-heeled interests and big campaign contributors.