

Ronald Reagan Presidential Library Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Roberts, John G.: Files

Folder Title: JGR/Line-Item Veto
(1 of 2)

Box: 32

To see more digitized collections visit:

<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:

<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: reagan.library@nara.gov

Citation Guidelines: <https://reaganlibrary.gov/citing>

National Archives Catalogue: <https://catalog.archives.gov/>

WITHDRAWAL SHEET

Ronald Reagan Library

Collection: :Roberts, John G.: Files

Archivist: mjd/bcb

File Folder: JGR/Line Item Veto (1)

OA 12664 *12660*

Date: 4/13/98

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. memo	Fred Fielding to M.B. Oglesby re Mattingly-Evans line Item Veto Proposal, 2p.	9/20/84	P5
2. memo	Same as Item #1, 2p.	9/20/84	P5
3. draft	To Mattingly and Evans re line item veto authority, 1p.	9/19/84	P5
4. memo	Same as Item #1, 2p.	9/20/84	P5 <i>OB 12/14/00</i>

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P-1 National security classified information [(a)(1) of the PRA].
- P-2 Relating to appointment to Federal office [(a)(2) of the PRA].
- P-3 Release would violate a Federal statute [(a)(3) of the PRA].
- P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
- P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]


- F-1 National security classified information [(b)(1) of the FOIA].
- F-2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
- F-3 Release would violate a Federal statute [(b)(3) of the FOIA].
- F-4 Release would disclose trade secrets or confidential commercial or financial information [(b)(4) of the FOIA].
- F-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].
- F-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
- F-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA].
- F-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

THE WHITE HOUSE

WASHINGTON

October 18, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 
SUBJECT: Symposium at the Notre Dame
Law School on Line-Item Veto

Professor Douglas Kmiec of the University of Notre Dame Law School and the Thomas J. White Center on Law & Government has sent you the second number of the Notre Dame Journal of Law, Ethics and Public Policy, devoted to a discussion of the line-item veto. He asks that you send it on to the person in OPD who is researching this issue for the President.

I am not aware of anyone in OPD devoting any attention to the issue; it is now largely in the hands of Legislative Affairs and our office. The attached reply thanks Kmiec and advises that we will review the issue with interest. The reply also sends along a copy of the National Forum issue on the Bicentennial. The President's article contains a discussion of the line-item veto (and I'm trying to get rid of the 300 copies of the issue we received).

Attachment

THE WHITE HOUSE

WASHINGTON

October 18, 1985

Dear Professor Kmiec:

Thank you for your recent note transmitting a copy of the issue of the Journal of Law, Ethics and Public Policy devoted to the line-item veto. As you know, the President has long supported a constitutional amendment to provide this power to the Chief Executive.

As the President explained in an article on the Presidency for the issue of National Forum devoted to the Bicentennial of the Constitution, granting such power to the Chief Executive would not alter the constitutional balance but in fact restore the Framers' original design. In return for your sending along a copy of the Journal, I have taken the liberty of enclosing a copy of the National Forum issue containing this article.

Thank you again for the Journal issue, which I am certain will be helpful to those at the White House most actively involved with this timely topic.

With best wishes,

Sincerely,

Fred F. Fielding
Counsel to the President

Professor Douglas W. Kmiec
Notre Dame Law School
Notre Dame, IN 46556

FFF:JGR:aea 10/18/85

cc: FFFielding

JGRoberts

Subj

Chron

ID # 355896 CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

LE002

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 / 1

Name of Correspondent: Douglas W. Kmiec

☐ MI Mail Report

User Codes: (A) (B) (C)

Subject: Symposium at the Notre Dame Law
School on Line - Item Veto

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
OW Holland		ORIGINATOR	85/10/16 WS			1 / 1
OWAT18		Referral Note:	85/10/17 WS		S	85/10/27
		Referral Note:				1 / 1
		Referral Note:				1 / 1
		Referral Note:				1 / 1
		Referral Note:				1 / 1

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as EnclosureI - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments:

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

The Thomas J. White Center
on Law & Government
Notre Dame Law School
Notre Dame, Indiana 46556

355896 *CU*

September 24, 1985

Douglas W. Kmiec
Director

(219) 239-5913

Mr. Fred Fielding
Counsel to the President
The White House
Washington, DC 20500

Dear Fred:

I know that the President has strongly urged Congress to provide him with a Line Item Veto. The enclosed symposium contains a diversity of opinion which speaks directly to that topic. I would very much appreciate your passing it on to the person in OPD who is researching this issue for the President.

Warm personal regards,



Douglas W. Kmiec
Professor of Law

THE WHITE HOUSE

WASHINGTON

September 26, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Justice Report on S.J. Res. 162, Proposed
Amendment to the Constitution Authorizing
the President to Disapprove or Reduce an
Item of Appropriations

OMB has asked for our views on a proposed Justice report on S.J. Res. 162, a proposed constitutional amendment to give the President a line-item veto for appropriations. The amendment would authorize the President to reduce or disapprove particular items in appropriations bills. Any reduction or disapproval may be overridden as usual, by two-thirds vote of both Houses, except that only a majority vote of both Houses would be required to restore an item to its original amount.

The proposed report contains the usual boilerplate to the effect that the Executive has no direct role in proposing amendments, and goes on to note Administration support for a line item veto. The report objects that S.J. Res. 162 only applies to appropriations bills, and would permit reinstatement of original amounts by majority vote (rather than two-thirds).

I have reviewed the proposed report and have no objections. As you know, the President is on record as supporting a bill that would, in effect, grant temporary line item veto authority, by enrolling each item as a separate bill. He has also, however, consistently called for a permanent constitutional amendment. Since this report concerns only the latter, I see no need to discuss his support for the bill granting temporary authority.

Attachment

THE WHITE HOUSE

WASHINGTON

September 26, 1985

MEMORANDUM FOR GREGORY JONES
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Justice Report on S.J. Res. 162, Proposed
Amendment to the Constitution Authorizing
the President to Disapprove or Reduce an
Item of Appropriations

Counsel's Office has reviewed the above-referenced report,
and finds no objection to it from a legal perspective.

FFF:JGR:aea 9/26/85

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

September 26, 1985

MEMORANDUM FOR GREGORY JONES
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Justice Report on S.J. Res. 162, Proposed
Amendment to the Constitution Authorizing
the President to Disapprove or Reduce an
Item of Appropriations

Counsel's Office has reviewed the above-referenced report,
and finds no objection to it from a legal perspective.

FFF:JGR:aea 9/26/85

cc: FFFielding
JGRoberts
Subj
Chron

346971

ID #

CU

JV 1

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 1

Name of Correspondent:

James C. Murr☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject:

Justice report on S.J. Res. 162, which proposes
an amendment to the Constitution
authorizing the President to disapprove or
reduce an item of appropriations

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CUHOLL	ORIGINATOR	85.09.23			1 1
CUat 18	Referral Note: D	85.09.23		S	85.10.05
	Referral Note:	1 1			1 1
	Referral Note:	1 1			1 1
	Referral Note:	1 1			1 1
	Referral Note:	1 1			1 1

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered C - Completed
B - Non-Special Referral S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments:

Keep this worksheet attached to the original incoming letter.

Send all routing updates to Central Reference (Room 75, OEOb).

Always return completed correspondence record to Central Files.

Refer questions about the correspondence tracking system to Central Reference, ext. 2590.



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

September 16, 1985
LEGISLATIVE REFERRAL MEMORANDUM

346971 *cu*

TO: Department of the Treasury

SUBJECT: Justice report on S.J. Res. 162, which proposes an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with Circular A-19.

Please provide us with your views no later than

October 15, 1985

Direct your questions to Gregory Jones (395-3454), of this office.


James C. Murr for
Assistant Director for
Legislative Reference

Enclosures

cc: R. Greene F. Fielding
 J. Kent J. Cooney
 K. Wilson



U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable Strom Thurmond
Committee on the Judiciary
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This responds to your request for the views of the Department of Justice on S.J.Res. 162, which proposes an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations.

The proposed amendment would authorize the President to reduce or disapprove "any item of appropriation in any Act or joint resolution, except any item of appropriation for the legislative branch. . ." If the President approves an act, any item not reduced or disapproved becomes law. In order to disapprove, the President must "return with his objections any item of appropriation reduced or disapproved" to the originating House. Congress may reconsider any item which the President has disapproved or reduced by a two-thirds vote in each House as prescribed under Article I, section 7, "except that only a majority vote of each House" is required to restore an item to the original amount contained in the act. The last clause distinguishes S.J.Res. 162 from a number of earlier proposals, e.g., H.J.Res. 146, 88th Cong., 1st Sess. (1963).

In commenting on this proposed amendment, the Department of Justice fully recognizes that Article V of the Constitution assigns to Congress the responsibility for proposing constitutional amendments to the States, that the Executive branch has no direct role in this process, and in particular that the proposal is not subject to the veto power of the President, Hollingsworth v. Virginia, 3 Dallas (3 U.S.) 378 (1798).

The proposed amendment would give the President a new power to exercise a so-called "item veto." Article I, § 7,

cl. 2 of the Constitution, which provides that the President shall return to the House in which it originated, with his objections, any bill of which he does not approve, has been interpreted as not permitting item vetoes. 1/

The question of an item veto was not raised at the Constitutional Convention. However, a number of Presidents have supported such a proposal, and numerous proposals to give the President an item veto power have been introduced in Congress, none of them acted on favorably. Forty-two state governors currently have some form of item veto power. See The Book of the States 276-78 (1982-1983).

While this Administration has for some time strongly urged the Congress to give the President line item veto authority, we have several problems with the specific provisions of S.J.Res. 162. First, the proposed amendment would apply only to "any item of appropriation" in a bill or joint resolution, and thus would not have the impact outside the budget area which some state provisions have.

Second, the proposed amendment would permit Congress to reinstate the original amount after an item veto or reduction by only a majority vote of each House. The practical effect of this provision seems much more significant. If the President elects to use his item veto for particular appropriations, rather than vetoing an entire bill under Art. I, § 7, any item he disapproves may be reinstated by a majority vote in each House apparently without opportunity for the President to reconsider whether to veto the entire bill under Art. I, § 7. This clause could well eliminate the practical impact of the proposed amendment. It is true that the President could use the proposed amendment to ask Congress to focus separately on particular items. Whether Congress would do so, however, is another question. There is nothing to stop the original majority from simply reinstating the original figures. Reduction of "pork-barrel" appropriations and "log-rolling," which are viewed as the principal advantage of an item veto power, would be less likely under this clause: members of the original majority might stay together upon reconsideration for fear that by voting against others' "pork-barrel" they would lose their bargaining power in the next year's appropriation process. In sum, because of the last clause in the proposed amendment,

1/ See 33 Writings of George Washington 96 (1940); Taft, Chief Magistrate 14 (1916); Willoughby, II The Constitution of the United States 659-60 (2d ed. 1929).

S.J.Res. 162 would probably result in a much less meaningful addition to the President's power in the budget area than earlier proposals which have required a two-thirds majority to reinstate an item.

Third, because it applies only to appropriation items, the amendment would not generally empower the President to disapprove "non-germane" riders or to veto parts of bills containing two or more unrelated subjects, a power which many Presidents have believed they should have in order to play the role in the legislative process intended for them by Art. 1, § 7. We also note that the proposed amendment does not define "item," which may lead to controversy.

Finally, we note that S.J.Res. 162 appears to have a significant typographical error. In lines 12-13 of S.J.Res. 162, the phrase "reconsider any item disapproved by the President," in the context of the bill, grants no new powers. If it refers to the Article I, Section 7 override, it is redundant. If it refers to a new power to override a line-item veto, it is fully covered by the succeeding phrase: the power to "reconsider any item disapproved by the President" is a power granted by virtue of S.J. Res. 162, hence it is subsumed in the succeeding power to "reconsider any item disapproved or reduced under this section."

Subject to the foregoing comments this Department has no objection to enactment of S.J.Res. 162.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Phillip D. Brady
Acting Assistant Attorney
General

THE WHITE HOUSE

WASHINGTON

September 25, 1984

MEMORANDUM FOR DICK HAUSER

FROM: NANCY RISQUE *Nancy*

SUBJECT: Line Item Veto -- Mattingly/Evans.

Attached are copies of the presidential sent to Mattingly and Evans, Stockman's letter, and the revised Mattingly language.

Mattingly is now requesting a more specific letter from the President. B wants to accomodate this request.

Also attached is a draft letter that we would like to forward for signature.

May we have your concurrence on the letter? Thanks.

*Dick -
It's the
"crazy season"
as you know and
so I need this asap.
Many apologies.
NR*

THE WHITE HOUSE
WASHINGTON

September 21, 1984

Dear Mack:

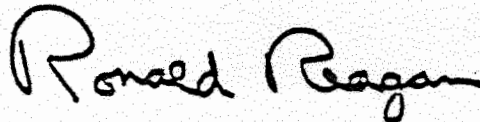
As you know, I have again and again called for line item veto authority, which I believe would work as a powerful tool against wasteful or extravagant Federal Government spending.

Forty-three of our fifty states grant their governors the right to veto individual items in appropriations bills without having to veto an entire bill. It only makes sense that this reform in our budget process would go a long way toward assisting our efforts to provide sound fiscal management at the Federal level.

I want to take this opportunity to applaud your leadership and efforts to achieve this important reform.

Thank you for your resolve and support.

Sincerely,

A handwritten signature in dark ink, reading "Ronald Reagan". The signature is written in a cursive, flowing style with a large initial "R".

The Honorable Mack Mattingly
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE
WASHINGTON

September 21, 1984

Dear Dan:

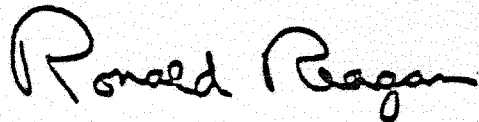
As you know, I have again and again called for line item veto authority, which I believe would work as a powerful tool against wasteful or extravagant Federal Government spending.

Forty-three of our fifty states grant their governors the right to veto individual items in appropriations bills without having to veto an entire bill. It only makes sense that this reform in our budget process would go a long way toward assisting our efforts to provide sound fiscal management at the Federal level.

I want to take this opportunity to applaud your leadership and efforts to achieve this important reform.

Thank you for your resolve and support.

Sincerely,

A handwritten signature in dark ink, reading "Ronald Reagan". The signature is written in a cursive, flowing style with a large initial "R".

The Honorable Daniel J. Evans
United States Senate
Washington, D.C. 20510

September 25, 1984
DRAFT

Dear Mack/Dan:

This is to urge you to proceed aggressively to secure your proposal that would provide me with a two year statutory veto authority.

It is important to make progress toward passage of a permanently established line item veto authority. I look forward to working with you in the future to achieve this necessary reform in our budget process that will go a long way toward assisting our efforts to provide sound fiscal management at the Federal level.

Sincerely,



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

SEP 2 1 1984

Honorable Mack Mattingly
United States Senate
Washington, D. C. 20510

Dear Mack:

I am writing to express strong Administration support for your proposal, co-sponsored by Dan Evans, to give the President two year statutory veto authority by providing that each item in an appropriations measure would be enrolled as a separate bill for purposes of presentment to the President.

The Administration believes that establishment of an effective statutory item veto authority would be very much in the public interest. Your proposal would create an important tool by which the President could eliminate ill-advised and wasteful appropriations from the budget. This mechanism could play a measurable role in efforts to reduce unnecessary federal spending.

As you will also appreciate from your prior efforts in this area, it is important that Congress continue to work on permanent confirmation of this power through passage of an Item Veto Amendment. Several versions of an Item Veto Amendment have been introduced by you and Senator Dixon and by Representatives Kemp, Hyde and Bereuter, among others. The Administration hopes that Congress will consider these proposals expeditiously, so that the item veto authority can be permanently established in our system of government, and will not lapse or become subject to dilution or elimination by subsequent legislation.

Subject to certain technical modifications of the original draft bill, and elimination of a section raising problems under the Supreme Court's decision in INS v. Chadha, which our staffs have fully resolved, the Administration considers your proposal a significant step forward in the control of federal spending, and strongly supports its enactment into law.

Sincerely,

David A. Stockman
Director

To provide that each item of any general or special bill, any bill or joint resolution making supplemental, deficiency, or continuing appropriations, and any conference report thereon that is enacted or adopted by the Congress shall be enrolled as a separate bill or joint resolution for presentation to the President.

IN THE SENATE OF THE UNITED STATES--99th Cong., 2d Sess.

H.R. ----

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

Statement intended to be proposed by Mr. Mattingly (for himself
and Mr. Evans)

Viz:

- 1 At the appropriate place in the bill, insert the
- 2 following new section:
- 3 SEPARATE ENROLLMENT OF ITEMS IN CERTAIN BILLS AND JOINT
- 4 RESOLUTIONS MAKING APPROPRIATIONS
- 5 Sec. (a) (1) Notwithstanding any other provision of
- 6 law, any rule of the House of Representatives, any standing
- 7 rule of the Senate, any concurrent resolution, or any
- 8 resolution of the House of Representatives or the Senate,
- 9 when any general or special appropriation bill, any bill or
- 10 joint resolution making supplemental, deficiency, or
- 11 continuing appropriations, ~~or any conference report thereon~~
- 12 has passed both Houses of the Congress in the same form, the
- 13 enrolling clerk of the House in which the bill or joint
- 14 resolution originated shall enroll each item of such bill or
- 15 joint resolution as a separate bill or joint resolution, at
- 16 the date may be.
- 17 (2) A bill or joint resolution enrolled pursuant to
- 18 paragraph (1)--
- 19 (a) shall be enrolled without substantive revision,
- 20 (b) shall conform to sections 101 or 102, as the case

in effect on the date of the enactment of this section), and

(c) shall bear the designation of the measure described in paragraph (1) of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) A bill or joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to an item shall be deemed to be ~~an act or joint resolution of the Congress~~ and shall be signed by the presiding officers of both Houses and presented to the President for his ~~signature~~ (and otherwise treated for all purposes) in the manner provided ~~for acts and joint resolutions generally~~. The vote by which ~~a~~ House of the Congress agreed to the measure of which such bill or joint resolution was an item prior to such enrollment shall be deemed to have been the vote of such House on such Act or joint resolution.

a.k.
Ar
Sec
Clav.
and 3
Const.

Approva
disappr.

in Ar
Sec
Clav
and 3
Const

(c) For purposes of this section, the term "item" means any numbered section and any unnumbered paragraph of any general or special appropriation bill, any bill or joint resolution making supplemental, deficiency, or continuing appropriations ~~and any conference report on any such bill or joint resolution~~

~~(d) The provisions of this section are enacted by the Congress--~~

~~(1) is an exercise of the rule-making power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they respectively apply, and such rules shall supersede~~

~~(2) With full recognition of the constitutional right
of citizens to place and remove their representatives
in such offices at any time, in the same manner, and to
the same extent as in the case of any other civil or prob-~~

~~ation.~~

~~(3)~~ The provisions of this section shall apply to bills, "joint resolutions, ~~and certain other legislative enactments~~ enacted or adopted by the Congress during the two-year period beginning with the date of the enactment of this section.

WHITE HOUSE OFFICE OF RECORDS MANAGEMENT: Subject File

FILE TRANSFER
BY THE REAGAN LIBRARY STAFF

Previously filed: "36R/Line-item Veto (1) OA 12664
Roberts, John B. Jr: D/c)

New file location: FI 004 240965 CU (FOIA processed)

Date of transfer: 4/7/98 MSN

WHITE HOUSE OFFICE OF RECORDS MANAGEMENT: Subject File

FILE TRANSFER
BY THE REAGAN LIBRARY STAFF

Previously filed: JBR/Line-Item Veto (1) OA 12664
Roberts, John G, Jr: Files

New file location: LE002 227616

Date of transfer: 4/7/98 MJD

WHITE HOUSE OFFICE OF RECORDS MANAGEMENT: Subject File

FILE TRANSFER
BY THE REAGAN LIBRARY STAFF

Previously filed: 56R/Linc-Item Veto (1) O A 12664
Roberts, John G. Sr. Files

New file location: LE002 236675 CU

Date of transfer: 4/7/98 MSD

THE WHITE HOUSE
WASHINGTON

1/31/85

TO:

JGR

FROM: Richard A. Hauser *RAH*
Deputy Counsel to the President

FYI: _____

COMMENT: _____

ACTION: _____

Attached is ~~Washington~~
new bill (47 ^{new} cosponsors)
pls check to see if it
satisfies JGR's earlier
concerns.

99TH CONGRESS
1ST SESSION

S. 43

To provide that each item of any general or special appropriation bill and any bill or joint resolution making supplemental, deficiency, or continuing appropriations that is agreed to by both Houses of the Congress in the same form shall be enrolled as a separate bill or joint resolution for presentation to the President.

IN THE SENATE OF THE UNITED STATES

JANUARY 3, 1985

Mr. MATTINGLY (for himself, Mr. EVANS, Mr. BIDEN, Mr. THURMOND, Mr. ARMSTRONG, and Mr. KASTEN) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To provide that each item of any general or special appropriation bill and any bill or joint resolution making supplemental, deficiency, or continuing appropriations that is agreed to by both Houses of the Congress in the same form shall be enrolled as a separate bill or joint resolution for presentation to the President.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a)(1) notwithstanding any other provision of law, when
4 any general or special appropriation bill or any bill or joint
5 resolution making supplemental, deficiency, or continuing ap-

1 appropriations passes both Houses of the Congress in the same
2 form, the Secretary of the Senate (in the case of a bill or joint
3 resolution originating in the Senate) or the Clerk of the
4 House of Representatives (in the case of a bill or joint resolu-
5 tion originating in the House of Representatives) shall cause
6 the enrolling clerk of such House to enroll each item of such
7 bill or joint resolution as a separate bill or joint resolution, as
8 the case may be.

9 (2) A bill or joint resolution that is required to be en-
10 rolled pursuant to paragraph (1)—

11 (A) shall be enrolled without substantive revision,

12 (B) shall conform in style and form to the applica-
13 ble provisions of chapter 2 of title 1, United States
14 Code (as such provisions are in effect on the date of
15 the enactment of this Act), and

16 (C) shall bear the designation of the measure of
17 which it was an item prior to such enrollment, together
18 with such other designation as may be necessary to
19 distinguish such bill or joint resolution from other bills
20 or joint resolutions enrolled pursuant to paragraph (1)
21 with respect to the same measure.

22 (b) A bill or joint resolution enrolled pursuant to para-
23 graph (1) of subsection (a) with respect to an item shall be
24 deemed to be a bill under Clauses 2 and 3 of Section 7 of
25 Article 1 of the Constitution of the United States and shall be

1 signed by the presiding officers of both Houses of the Con-
2 gress and presented to the President for approval or disap-
3 proval (and otherwise treated for all purposes) in the manner
4 provided for bills and joint resolutions generally.

5 (c) For purposes of this concurrent resolution, the term
6 "item" means any numbered section and any unnumbered
7 paragraph of—

8 (1) any general or special appropriation bill, and

9 (2) any bill or joint resolution making supplemen-
10 tal, deficiency, or continuing appropriations.

11 (d) The provisions of this Act shall apply to bills and
12 joint resolutions agreed to by the Congress during the two-
13 calendar-year period beginning with the date of the enact-
14 ment of this Act.

○

September 19, 1984

DRAFT

Dick -
Please look
at earliest possible
need to clear
by a.m.
U. Riquie

Dear Mack (Mattingly)

Dear Dan (Evans)

As you know, I have again and again called for line item
veto authority, which I believe would work as a powerful
tool against wasteful or extravagant federal government
spending.

43 of our 50 states grant their governors the right to veto
individual items in appropriations bills without having to
veto an entire bill. It only makes sense that this reform
in our budget process would go a long way towards assisting
our efforts to provide sound fiscal management at the
federal level.

I want to take this opportunity to applaud your leadership
and efforts to bring this important reform to fruition.

Thank you for your resolve and support.



UNITED STATES SENATE
WASHINGTON, D. C. 20510

September 7, 1984

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing to request your support for an amendment that we intend to offer to the debt limit extension legislation or any other appropriate vehicle that will be considered by the Senate before adjournment.

Our amendment provides line item veto authority to the President through the use of a mechanism that is similar to one adopted by the House for consideration of debt limit increase legislation. Our amendment directs the enrolling clerks of the House and Senate to treat as separate pieces of legislation the numbered sections and unnumbered paragraphs of appropriation bills that have passed both Houses, been conferenced and have had the conference reports agreed to by the House and Senate. These items would be sent to the President for signature or veto.

This concept, which would retain the two-thirds veto override provision mandated by the Constitution, would provide the Executive branch with a valuable budget tool and yet would avoid the questions of constitutionality that plagued our earlier attempt to pass such legislation in May of this year. As you may know, during that debate, a procedural vote on the line item veto proposal failed by only one vote and we believe

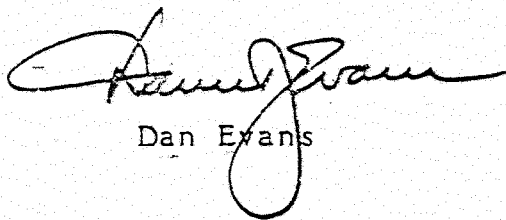
Mr. President
September 7, 19184
Page Two

that this new version of the amendment stands an excellent chance of success in the Senate. Our revised proposal includes the two year sunset provision contained in the earlier version. An endorsement by you of this effort could quite possibly be the difference between success and another narrow defeat.

We have enclosed a copy of the amendment and a fact sheet for your review. We hope that you will be able to quickly write back with an endorsement of the amendment, Mr. President.

Thank you for your assistance.

Sincerely,



Dan Evans



Mack Mattingly

Enclosures: Amendment
Fact Sheet

Senators Mattingly and Evans propose line-item veto legislation that:

- *** Establishes by statute a line-item veto on the basis of a precedent already established by the House (Gephardt Rule). Directs the Enrolling Clerk of the appropriate House to divide conferenced appropriation bills into items, which then stand as separate bills when transmitted to the President for action.
- *** Defines "Item" as unnumbered paragraphs and/or numbered sections. Assumes appropriation bills will be drafted in current structure and assumes that the Committee on Appropriations will comply with the legislation's intent.
- *** Retains the Constitutionally mandated two-thirds veto override by both Houses of Congress.
- *** Establishes a two-year sunset clause for the provisions of the proposal.
- *** Asserts that the provisions enacted are an exercise of the rule-making power of the House and the Senate and with the recognition that both Houses retain the right to change such rules at any time.
- *** Meets with the Parliamentarian's analysis that there is no basis for a Constitutional point-or-order.

Calendar No. ____

Purpose: To provide that each item of any general or special appropriation bill, any bill or joint resolution making supplemental, deficiency, or continuing appropriations, and any conference report thereon that is enacted or adopted by the Congress shall be enrolled as a separate bill or joint resolution for presentation to the President.

IN THE SENATE OF THE UNITED STATES--98th Cong., 2d Sess.

H.R. ____

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

Amendment intended to be proposed by Mr. Mattingly (for himself
and Mr. Evans)

Viz:

- 1 At the appropriate place in the bill, insert the
- 2 following new section:
- 3 SEPARATE ENROLLMENT OF ITEMS IN CERTAIN BILLS AND JOINT
- 4 RESOLUTIONS MAKING APPROPRIATIONS
- 5 Sec. . (a) (1) Notwithstanding any other provision of
- 6 law, any rule of the House of Representatives, any standing
- 7 rule of the Senate, any concurrent resolution, or any
- 8 resolution of the House of Representatives or the Senate,
- 9 when any general or special appropriation bill, any bill or
- 10 joint resolution making supplemental, deficiency, or
- 11 continuing appropriations, or any conference report thereon
- 12 has passed both Houses of the Congress in the same form, the
- 13 enrolling clerk of the House in which the bill or joint
- 14 resolution originated shall enroll each item of such bill or
- 15 joint resolution as a separate bill or joint resolution, as
- 16 the case may be.
- 17 (2) A bill or joint resolution enrolled pursuant to
- 18 paragraph (1)--
- 19 (A) shall be enrolled without substantive revision,
- 20 (B) shall conform to section 171 or 172, as the case

any law, of title 1, United States Code (as such section is in effect on the date of the enactment of this section), and

(C) shall bear the designation of the measure described in paragraph (1) of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) A bill or joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to an item shall be deemed to be ^{bill under Art I, § 7, cl 2+3} (an Act or joint resolution) of the Congress and shall be signed by the presiding officers of both Houses and presented to the President for his signature (and otherwise treated for all purposes) in the manner provided ^{Art I, § 7, cl 2+3} for (Acts and joint resolutions generally) [The vote by which a House of the Congress agreed to the measure of which such bill or joint resolution was an item prior to such enrollment shall be deemed to have been the vote of such House on such Act or joint resolution.]

for amendment or dismissal

SO WHAT?

(c) For purposes of this section, the term "item" means any numbered section and any unnumbered paragraph of any general or special appropriation bill, any bill or joint resolution making supplemental, deficiency, or continuing appropriations, and ² (any conference report) on any such bill or joint resolution.

(d) The provisions of this section are enacted by the Congress--

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede

their rules only to the extent that they are inconsistent
therewith; and

(2) with full recognition of the constitutional right
of either House to change such rules (so far as relating
to such House) at any time, in the same manner, and to
the same extent as in the case of any other rule of such
House.

*either
House can
get
out ? →
enactment*

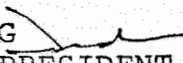
(e) The provisions of this section shall apply to bills,
joint resolutions, and conference reports enacted or adopted
by the Congress during the two-year period beginning with the
date of the enactment of this section.

THE WHITE HOUSE

WASHINGTON

September 20, 1984

MEMORANDUM FOR M. B. OGLESBY, JR.
ASSISTANT TO THE PRESIDENT
FOR LEGISLATIVE AFFAIRS

FROM: FRED F. FIELDING 
COUNSEL TO THE PRESIDENT

SUBJECT: Mattingly-Evans Line Item Veto Proposal

You have asked for our views on a bill to be introduced by Senators Mattingly and Evans. The bill would supposedly grant the President line item veto authority without the need for a Constitutional amendment. As presently drafted, however, the bill raises serious constitutional concerns. Furthermore, as a practical matter, the bill could be easily circumvented simply through a stylistic change in the manner in which appropriations bills are printed. Changes can be made in the bill to obviate constitutional problems, but the basic approach of the bill is such that it is not apparent that any change will prevent it from being meaningless as a practical matter.

The principal constitutional concern involves section (d) of the bill. That section appears to grant to either House the power to "opt out" of the bill's provisions. Any such attempt, however, would be invalid under the Supreme Court's teaching in Immigration and Naturalization Service v. Chadha. If this bill is a law, one House acting alone cannot alter its effectiveness. If it is simply an internal rule subject to change by either House, it cannot operate to separate into individual bills individual items in appropriations bills passed by both Houses. This constitutional problem can be cured by deleting section (d) in its entirety.

Other aspects of the bill cause needless confusion and should be corrected. At several points in the bill there are references to "conference reports" as if such reports were pieces of legislation. Conference reports are not the same as bills or joint resolutions, and the references suggesting that they are should be deleted.

It is unclear what purpose is served by the last sentence of section (b). There is no legal significance to the margin by which a bill passes before it is presented to the President, and accordingly there is no apparent need for this sentence. It should be deleted. Section (b) could be otherwise

clarified in several confusing parts by direct reference to the pertinent constitutional provisions and tracking the language of the Constitution. The attached marked-up version of the bill incorporates all of the foregoing suggestions.

If these changes are made the bill would not be legally objectionable, but, as noted, it may still not accomplish its stated purpose. The bill provides that any numbered section and any unnumbered paragraph of a bill would be treated as a separate "item" and enrolled as a separate bill. All any legislator or committee need do to avoid the potential line item veto threat is simply print appropriations bills without any numbered sections or unnumbered paragraphs.

cc: Michael Horowitz
Counsel to the Director
Office of Management and Budget

FFF:JGR:aea 9/20/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

September 20, 1984

MEMORANDUM FOR M. B. OGLESBY, JR.
ASSISTANT TO THE PRESIDENT
FOR LEGISLATIVE AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Mattingly-Evans Line Item Veto Proposal

You have asked for our views on a bill to be introduced by Senators Mattingly and Evans. The bill would supposedly grant the President line item veto authority without the need for a Constitutional amendment. As presently drafted, however, the bill raises serious constitutional concerns. Furthermore, as a practical matter, the bill could be easily circumvented simply through a stylistic change in the manner in which appropriations bills are printed. Changes can be made in the bill to obviate constitutional problems, but the basic approach of the bill is such that it is not apparent that any change will prevent it from being meaningless as a practical matter.

The principal constitutional concern involves section (d) of the bill. That section appears to grant to either House the power to "opt out" of the bill's provisions. Any such attempt, however, would be invalid under the Supreme Court's teaching in Immigration and Naturalization Service v. Chadha. If this bill is a law, one House acting alone cannot alter its effectiveness. If it is simply an internal rule subject to change by either House, it cannot operate to separate into individual bills individual items in appropriations bills passed by both Houses. This constitutional problem can be cured by deleting section (d) in its entirety.

Other aspects of the bill cause needless confusion and should be corrected. At several points in the bill there are references to "conference reports" as if such reports were pieces of legislation. Conference reports are not the same as bills or joint resolutions, and the references suggesting that they are should be deleted.

It is unclear what purpose is served by the last sentence of section (b). There is no legal significance to the margin by which a bill passes before it is presented to the President, and accordingly there is no apparent need for this sentence. It should be deleted. Section (b) could be otherwise

clarified in several confusing parts by direct reference to the pertinent constitutional provisions and tracking the language of the Constitution. The attached marked-up version of the bill incorporates all of the foregoing suggestions.

If these changes are made the bill would not be legally objectionable, but, as noted, it may still not accomplish its stated purpose. The bill provides that any numbered section and any unnumbered paragraph of a bill would be treated as a separate "item" and enrolled as a separate bill. All any legislator or committee need do to avoid the potential line item veto threat is simply print appropriations bills without any numbered sections or unnumbered paragraphs.

cc: Michael Horowitz
Counsel to the Director
Office of Management and Budget

FFF:JGR:aea 9/20/84

cc: FFFielding/JGRoberts/Subj/Chron

September 19, 1984

DRAFT

Dick -
Please look
at earliest possible
next to clear
by a.m.
U. R. R. R.

Dear Mack (Mattingly)

Dear Dan (Evans)

As you know, I have again and again called for line item veto authority, which I believe would work as a powerful tool against wasteful or extravagant federal government spending.

43 of our 50 states grant their governors the right to veto individual items in appropriations bills without having to veto an entire bill. It only makes sense that this reform in our budget process would go a long way towards assisting our efforts to provide sound fiscal management at the federal level.

I want to take this opportunity to applaud your leadership and efforts to bring this important reform to fruition.

Thank you for your resolve and support.



UNITED STATES SENATE
WASHINGTON, D. C. 20510

September 7, 1984

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing to request your support for an amendment that we intend to offer to the debt limit extension legislation or any other appropriate vehicle that will be considered by the Senate before adjournment.

Our amendment provides line item veto authority to the President through the use of a mechanism that is similar to one adopted by the House for consideration of debt limit increase legislation. Our amendment directs the enrolling clerks of the House and Senate to treat as separate pieces of legislation the numbered sections and unnumbered paragraphs of appropriation bills that have passed both Houses, been conferenced and have had the conference reports agreed to by the House and Senate. These items would be sent to the President for signature or veto.

This concept, which would retain the two-thirds veto override provision mandated by the Constitution, would provide the Executive branch with a valuable budget tool and yet would avoid the questions of constitutionality that plagued our earlier attempt to pass such legislation in May of this year. As you may know, during that debate, a procedural vote on the line item veto proposal failed by only one vote and we believe

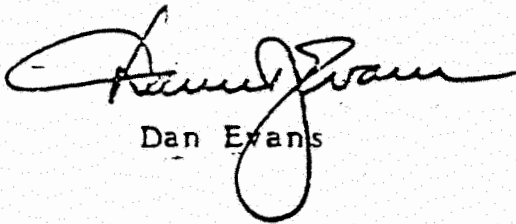
Mr. President
September 7, 19184
Page Two

that this new version of the amendment stands an excellent chance of success in the Senate. Our revised proposal includes the two year sunset provision contained in the earlier version. An endorsement by you of this effort could quite possibly be the difference between success and another narrow defeat.

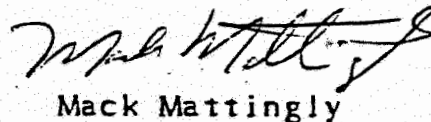
We have enclosed a copy of the amendment and a fact sheet for your review. We hope that you will be able to quickly write back with an endorsement of the amendment, Mr. President.

Thank you for your assistance.

Sincerely,



Dan Evans



Mack Mattingly

Enclosures: Amendment
Fact Sheet

...and Mr. Mattingly and Evans propose line-item veto legislation that:

- *** Establishes by statute a line-item veto on the basis of a precedent already established by the House (Gephardt Rule). Directs the Enrolling Clerk of the appropriate House to divide conferenced appropriation bills into items, which then stand as separate bills when transmitted to the President for action.
- *** Defines "Item" as unnumbered paragraphs and/or numbered sections. Assumes appropriation bills will be drafted in current structure and assumes that the Committee on Appropriations will comply with the legislation's intent.
- *** Retains the Constitutionally mandated two-thirds veto override by both Houses of Congress.
- *** Establishes a two-year sunset clause for the provisions of the proposal.
- *** Asserts that the provisions enacted are an exercise of the rule-making power of the House and the Senate and with the recognition that both Houses retain the right to change such rules at any time.
- *** Meets with the Parliamentarian's analysis that there is no basis for a Constitutional point-or-order.

THE WHITE HOUSE

WASHINGTON

September 20, 1984

MEMORANDUM FOR M. B. OGLESBY, JR.
ASSISTANT TO THE PRESIDENT
FOR LEGISLATIVE AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Mattingly-Evans Line Item Veto Proposal

You have asked for our views on a bill to be introduced by Senators Mattingly and Evans. The bill would supposedly grant the President line item veto authority without the need for a Constitutional amendment. As presently drafted, however, the bill raises serious constitutional concerns. Furthermore, as a practical matter, the bill could be easily circumvented simply through a stylistic change in the manner in which appropriations bills are printed. Changes can be made in the bill to obviate constitutional problems, but the basic approach of the bill is such that it is not apparent that any change will prevent it from being meaningless as a practical matter.

The principal constitutional concern involves section (d) of the bill. That section appears to grant to either House the power to "opt out" of the bill's provisions. Any such attempt, however, would be invalid under the Supreme Court's teaching in Immigration and Naturalization Service v. Chadha. If this bill is a law, one House acting alone cannot alter its effectiveness. If it is simply an internal rule subject to change by either House, it cannot operate to separate into individual bills individual items in appropriations bills passed by both Houses. This constitutional problem can be cured by deleting section (d) in its entirety.

Other aspects of the bill cause needless confusion and should be corrected. At several points in the bill there are references to "conference reports" as if such reports were pieces of legislation. Conference reports are not the same as bills or joint resolutions, and the references suggesting that they are should be deleted.

It is unclear what purpose is served by the last sentence of section (b). There is no legal significance to the margin by which a bill passes before it is presented to the President, and accordingly there is no apparent need for this sentence. It should be deleted. Section (b) could be otherwise

clarified in several confusing parts by direct reference to the pertinent constitutional provisions and tracking the language of the Constitution. The attached marked-up version of the bill incorporates all of the foregoing suggestions.

If these changes are made the bill would not be legally objectionable, but, as noted, it may still not accomplish its stated purpose. The bill provides that any numbered section and any unnumbered paragraph of a bill would be treated as a separate "item" and enrolled as a separate bill. All any legislator or committee need do to avoid the potential line item veto threat is simply print appropriations bills without any numbered sections or unnumbered paragraphs.

cc: Michael Horowitz
Counsel to the Director
Office of Management and Budget

FFF:JGR:aea 9/20/84

cc: FFFielding/JGRoberts/Subj/Chron

September 19, 1984

DRAFT

Dick -
Please look
at earliest possible
next to clear
by a.m.
U. Rissue

Dear Mack (Mattingly)

Dear Dan (Evans)

As you know, I have again and again called for line item veto authority, which I believe would work as a powerful tool against wasteful or extravagant federal government spending.

43 of our 50 states grant their governors the right to veto individual items in appropriations bills without having to veto an entire bill. It only makes sense that this reform in our budget process would go a long way towards assisting our efforts to provide sound fiscal management at the federal level.

I want to take this opportunity to applaud your leadership and efforts to bring this important reform to fruition.

Thank you for your resolve and support.



UNITED STATES SENATE
WASHINGTON, D. C. 20510

September 7, 1984

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing to request your support for an amendment that we intend to offer to the debt limit extension legislation or any other appropriate vehicle that will be considered by the Senate before adjournment.

Our amendment provides line item veto authority to the President through the use of a mechanism that is similar to one adopted by the House for consideration of debt limit increase legislation. Our amendment directs the enrolling clerks of the House and Senate to treat as separate pieces of legislation the numbered sections and unnumbered paragraphs of appropriation bills that have passed both Houses, been conferenced and have had the conference reports agreed to by the House and Senate. These items would be sent to the President for signature or veto.

This concept, which would retain the two-thirds veto override provision mandated by the Constitution, would provide the Executive branch with a valuable budget tool and yet would avoid the questions of constitutionality that plagued our earlier attempt to pass such legislation in May of this year. As you may know, during that debate, a procedural vote on the line item veto proposal failed by only one vote and we believe

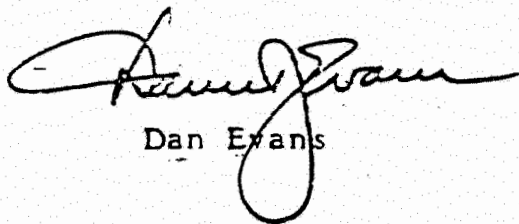
Mr. President
September 7, 19184
Page Two

that this new version of the amendment stands an excellent chance of success in the Senate. Our revised proposal includes the two year sunset provision contained in the earlier version. An endorsement by you of this effort could quite possibly be the difference between success and another narrow defeat.

We have enclosed a copy of the amendment and a fact sheet for your review. We hope that you will be able to quickly write back with an endorsement of the amendment, Mr. President.

Thank you for your assistance.

Sincerely,



Dan Evans



Mack Mattingly

Enclosures: Amendment
Fact Sheet

Senators Mettingly and Evans propose line-item veto legislation that:

- *** Establishes by statute a line-item veto on the basis of a precedent already established by the House (Gephardt Rule). Directs the Enrolling Clerk of the appropriate House to divide conferenced appropriation bills into items, which then stand as separate bills when transmitted to the President for action.
- *** Defines "Item" as unnumbered paragraphs and/or numbered sections. Assumes appropriation bills will be drafted in current structure and assumes that the Committee on Appropriations will comply with the legislation's intent.
- *** Retains the Constitutionally mandated two-thirds veto override by both Houses of Congress.
- *** Establishes a two-year sunset clause for the provisions of the proposal.
- *** Asserts that the provisions enacted are an exercise of the rule-making power of the House and the Senate and with the recognition that both Houses retain the right to change such rules at any time.
- *** Meets with the Parliamentarian's analysis that there is no basis for a Constitutional point-of-order.

September 19, 1984

DRAFT

Dick -
Please look
at at-soonest possible
next to clear
by a.m.
M. Riquie

Dear Mack (Mattingly)

Dear Dan (Evans)

As you know, I have again and again called for line item veto authority, which I believe would work as a powerful tool against wasteful or extravagant federal government spending.

43 of our 50 states grant their governors the right to veto individual items in appropriations bills without having to veto an entire bill. It only makes sense that this reform in our budget process would go a long way towards assisting our efforts to provide sound fiscal management at the federal level.

I want to take this opportunity to applaud your leadership and efforts to bring this important reform to fruition.

Thank you for your resolve and support.



UNITED STATES SENATE
WASHINGTON, D. C. 20510

September 7, 1984

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing to request your support for an amendment that we intend to offer to the debt limit extension legislation or any other appropriate vehicle that will be considered by the Senate before adjournment.

Our amendment provides line item veto authority to the President through the use of a mechanism that is similar to one adopted by the House for consideration of debt limit increase legislation. Our amendment directs the enrolling clerks of the House and Senate to treat as separate pieces of legislation the numbered sections and unnumbered paragraphs of appropriation bills that have passed both Houses, been conferenced and have had the conference reports agreed to by the House and Senate. These items would be sent to the President for signature or veto.

This concept, which would retain the two-thirds veto override provision mandated by the Constitution, would provide the Executive branch with a valuable budget tool and yet would avoid the questions of constitutionality that plagued our earlier attempt to pass such legislation in May of this year. As you may know, during that debate, a procedural vote on the line item veto proposal failed by only one vote and we believe

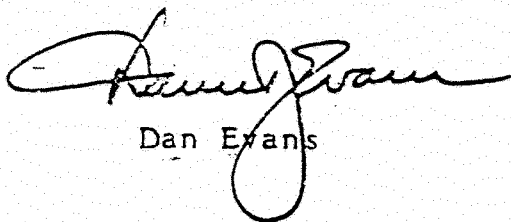
Mr. President
September 7, 19184
Page Two

that this new version of the amendment stands an excellent chance of success in the Senate. Our revised proposal includes the two year sunset provision contained in the earlier version. An endorsement by you of this effort could quite possibly be the difference between success and another narrow defeat.

We have enclosed a copy of the amendment and a fact sheet for your review. We hope that you will be able to quickly write back with an endorsement of the amendment, Mr. President.

Thank you for your assistance.

Sincerely,



Dan Evans



Mack Mattingly

Enclosures: Amendment
Fact Sheet

Senators Mattingly and Evans propose line-item veto legislation that:

- *** Establishes by statute a line-item veto on the basis of a precedent already established by the House (Gephardt Rule). Directs the Enrolling Clerk of the appropriate House to divide conferenced appropriation bills into items, which then stand as separate bills when transmitted to the President for action.
- *** Defines "Item" as unnumbered paragraphs and/or numbered sections. Assumes appropriation bills will be drafted in current structure and assumes that the Committee on Appropriations will comply with the legislation's intent.
- *** Retains the Constitutionally mandated two-thirds veto override by both Houses of Congress.
- *** Establishes a two-year sunset clause for the provisions of the proposal.
- *** Asserts that the provisions enacted are an exercise of the rule-making power of the House and the Senate and with the recognition that both Houses retain the right to change such rules at any time.
- *** Meets with the Parliamentarian's analysis that there is no basis for a Constitutional point-or-order.

Calendar No. ____

Purpose: To provide that each item of any general or special appropriation bill, any bill or joint resolution making supplemental, deficiency, or continuing appropriations, and any conference report thereon that is enacted or adopted by the Congress shall be enrolled as a separate bill or joint resolution for presentation to the President.

IN THE SENATE OF THE UNITED STATES--98th Cong., 2d Sess.

H.R. ____

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

Amendment intended to be proposed by Mr. Mattingly (for himself
and Mr. Evans)

Viz:

1 At the appropriate place in the bill, insert the
2 following new section:

3 SEPARATE ENROLLMENT OF ITEMS IN CERTAIN BILLS AND JOINT
4 RESOLUTIONS MAKING APPROPRIATIONS

5 Sec. . (a) (1) Notwithstanding any other provision of
6 law, any rule of the House of Representatives, any standing
7 rule of the Senate, any concurrent resolution, or any
8 resolution of the House of Representatives or the Senate,
9 when any general or special appropriation bill, any bill or
10 joint resolution making supplemental, deficiency, or
11 continuing appropriations, ~~or any conference report thereon~~
12 has passed both Houses of the Congress in the same form, the
13 enrolling clerk of the House in which the bill or joint
14 resolution originated shall enroll each item of such bill or
15 joint resolution as a separate bill or joint resolution, as
16 the case may be.

17 (2) A bill or joint resolution enrolled pursuant to
18 paragraph (1)--

19 (A) shall be enrolled without substantive revision,

20 (B) shall conform to section 121 or 122, as the case

of title 1, United States Code (as such section is in effect on the date of the enactment of this section), and

(C) shall bear the designation of the measure described in paragraph (1) of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) A bill or joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to an item shall be deemed to be ~~an Act or joint resolution of the Congress~~ and shall be signed by the presiding officers of both Houses and presented to the President for his signature (and otherwise treated for all purposes) in the manner provided ~~for Acts and joint resolutions generally~~. The vote by which a ~~House of the Congress~~ agreed to the measure of which such ~~bill or joint resolution~~ was an item prior to such enrollment shall be deemed to have been the vote of such House on such ~~Act or joint resolution~~.

a bill under Article I, section 7, clauses 2 and 3 of the Constitution,

approval or disapproval

in Article I, section 7, clauses 2 and 3 of the Constitution.

(c) For purposes of this section, the term "item" means any numbered section and any unnumbered paragraph of any general or special appropriation bill, any bill or joint resolution making supplemental, deficiency, or continuing appropriations, ~~and any conference report on any such bill or joint resolution~~.

~~(d) The provisions of this section are enacted by the Congress~~

~~(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede~~

~~shall apply only to the extent that they are inconsistent
therewith and~~

~~(2) with full recognition of the constitutional right
of either House to change such rules (so far as relating
to such House) at any time, in the same manner, and to
the same extent as in the case of any other rule of such
House~~

(e) The provisions of this section shall apply to bills,
joint resolutions, ~~and conference reports~~ enacted or adopted
by the Congress during the two-year period beginning with the
date of the enactment of this section.