

LINE ITEM VETO ACT

MARCH 21, 1996.—Ordered to be printed

Mr. CLINGER, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 4]

CONFERENCE REPORT (H. REPT. 104-491)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4), to grant the power to the President to reduce budget authority, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the "Line Item Veto Act".*

**SEC. 2. LINE ITEM VETO AUTHORITY.**

*(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by adding at the end the following new part:*

*"PART C—LINE ITEM VETO*

*"LINE ITEM VETO AUTHORITY*

*"SEC. 1021. (a) IN GENERAL.—Notwithstanding the provisions of parts A and B, and subject to the provisions of this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—*

*"(1) any dollar amount of discretionary budget authority;*

*"(2) any item of new direct spending; or*

“(3) any limited tax benefit;  
if the President—

“(A) determines that such cancellation will—

“(i) reduce the Federal budget deficit;

“(ii) not impair any essential Government functions;

and

“(iii) not harm the national interest; and

“(B) notifies the Congress of such cancellation by transmitting a special message, in accordance with section 1022, within five calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.

“(b) IDENTIFICATION OF CANCELLATIONS.—In identifying dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits for cancellation, the President shall—

“(1) consider the legislative history, construction, and purposes of the law which contains such dollar amounts, items, or benefits;

“(2) consider any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information; and

“(3) use the definitions contained in section 1026 in applying this part to the specific provisions of such law.

“(c) EXCEPTION FOR DISAPPROVAL BILLS.—The authority granted by subsection (a) shall not apply to any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any law that is a disapproval bill as defined in section 1026.

#### “SPECIAL MESSAGES

“SEC. 1022. (a) IN GENERAL.—For each law from which a cancellation has been made under this part, the President shall transmit a single special message to the Congress.

“(b) CONTENTS.—

“(1) The special message shall specify—

“(A) the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit which has been canceled, and provide a corresponding reference number for each cancellation;

“(B) the determinations required under section 1021(a), together with any supporting material;

“(C) the reasons for the cancellation;

“(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the cancellation;

“(E) all facts, circumstances and considerations relating to or bearing upon the cancellation, and to the maximum extent practicable, the estimated effect of the cancellation upon the objects, purposes and programs for which the canceled authority was provided; and

“(F) include the adjustments that will be made pursuant to section 1024 to the discretionary spending limits under section 601 and an evaluation of the effects of those

*adjustments upon the sequestration procedures of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.*

*“(2) In the case of a cancellation of any dollar amount of discretionary budget authority or item of new direct spending, the special message shall also include, if applicable—*

*“(A) any account, department, or establishment of the Government for which such budget authority was to have been available for obligation and the specific project or governmental functions involved;*

*“(B) the specific States and congressional districts, if any, affected by the cancellation; and*

*“(C) the total number of cancellations imposed during the current session of Congress on States and congressional districts identified in subparagraph (B).*

*“(c) TRANSMISSION OF SPECIAL MESSAGES TO HOUSE AND SENATE.—*

*“(1) The President shall transmit to the Congress each special message under this part within five calendar days (excluding Sundays) after enactment of the law to which the cancellation applies. Each special message shall be transmitted to the House of Representatives and the Senate on the same calendar day. Such special message shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session.*

*“(2) Any special message transmitted under this part shall be printed in the first issue of the Federal Register published after such transmittal.*

*“CANCELLATION EFFECTIVE UNLESS DISAPPROVED*

*“SEC. 1023. (a) IN GENERAL.—The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation. If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.*

*“(b) COMMENSURATE REDUCTIONS IN DISCRETIONARY BUDGET AUTHORITY.—Upon the cancellation of a dollar amount of discretionary budget authority under subsection (a), the total appropriation for each relevant account of which that dollar amount is a part shall be simultaneously reduced by the dollar amount of that cancellation.*

*“DEFICIT REDUCTION*

*“SEC. 1024. (a) IN GENERAL.—*

*“(1) DISCRETIONARY BUDGET AUTHORITY.—OMB shall, for each dollar amount of discretionary budget authority and for each item of new direct spending canceled from an appropriation law under section 1021(a)—*

“(A) reflect the reduction that results from such cancellation in the estimates required by section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 in accordance with that Act, including an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear; and

“(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 601(a)(2) by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

“(2) DIRECT SPENDING AND LIMITED TAX BENEFITS.—(A) OMB shall, for each item of new direct spending or limited tax benefit canceled from a law under section 1021(a), estimate the deficit decrease caused by the cancellation of such item or benefit in that law and include such estimate as a separate entry in the report prepared pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(B) OMB shall not include any change in the deficit resulting from a cancellation of any item of new direct spending or limited tax benefit, or the enactment of a disapproval bill for any such cancellation, under this part in the estimates and reports required by sections 252(b) and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(b) ADJUSTMENTS TO SPENDING LIMITS.—After ten calendar days (excluding Sundays) after the expiration of the time period in section 1025(b)(1) for expedited congressional consideration of a disapproval bill for a special message containing a cancellation of discretionary budget authority, OMB shall make the reduction included in subsection (a)(1)(B) as part of the next sequester report required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(c) EXCEPTION.—Subsection (b) shall not apply to a cancellation if a disapproval bill or other law that disapproves that cancellation is enacted into law prior to 10 calendar days (excluding Sundays) after the expiration of the time period set forth in section 1025(b)(1).

“(d) CONGRESSIONAL BUDGET OFFICE ESTIMATES.—As soon as practicable after the President makes a cancellation from a law under section 1021(a), the Director of the Congressional Budget Office shall provide the Committees on the Budget of the House of Representatives and the Senate with an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear.

“EXPEDITED CONGRESSIONAL CONSIDERATION OF DISAPPROVAL BILLS

“SEC. 1025. (a) RECEIPT AND REFERRAL OF SPECIAL MESSAGE.—Each special message transmitted under this part shall be referred to the Committee on the Budget and the appropriate committee or committees of the Senate and the Committee on the Budget and the appropriate committee or committees of the House of Rep-

representatives. Each such message shall be printed as a document of the House of Representatives.

“(b) *TIME PERIOD FOR EXPEDITED PROCEDURES.*—

“(1) There shall be a congressional review period of 30 calendar days of session, beginning on the first calendar day of session after the date on which the special message is received in the House of Representatives and the Senate, during which the procedures contained in this section shall apply to both Houses of Congress.

“(2) In the House of Representatives the procedures set forth in this section shall not apply after the end of the period described in paragraph (1).

“(3) If Congress adjourns at the end of a Congress prior to the expiration of the period described in paragraph (1) and a disapproval bill was then pending in either House of Congress or a committee thereof (including a conference committee of the two Houses of Congress), or was pending before the President, a disapproval bill for the same special message may be introduced within the first five calendar days of session of the next Congress and shall be treated as a disapproval bill under this part, and the time period described in paragraph (1) shall commence on the day of introduction of that disapproval bill.

“(c) *INTRODUCTION OF DISAPPROVAL BILLS.*—(1) In order for a disapproval bill to be considered under the procedures set forth in this section, the bill must meet the definition of a disapproval bill and must be introduced no later than the fifth calendar day of session following the beginning of the period described in subsection (b)(1).

“(2) In the case of a disapproval bill introduced in the House of Representatives, such bill shall include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all cancellations made by the President in the special message to which such disapproval bill relates.

“(d) *CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.*—(1) Any committee of the House of Representatives to which a disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill, except that such a motion may not be made after the committee has reported a disapproval bill with respect to the same special message. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

“(2) After a disapproval bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the bill is in order, except any Member if supported by 49 other Members (a quorum being present) may offer an amendment striking the reference number or numbers of a cancellation or cancellations from the bill. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

“(3) Appeals from decisions of the Chair regarding application of the rules of the House of Representatives to the procedure relating to a disapproval bill shall be decided without debate.

“(4) It shall not be in order to consider under this subsection more than one disapproval bill for the same special message except for consideration of a similar Senate bill (unless the House has already rejected a disapproval bill for the same special message) or more than one motion to discharge described in paragraph (1) with respect to a disapproval bill for that special message.

“(e) CONSIDERATION IN THE SENATE.—

“(1) REFERRAL AND REPORTING.—Any disapproval bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which a disapproval bill has been referred shall report the bill not later than the seventh day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, that committee shall be automatically discharged from further consideration of the bill and the bill shall be placed on the Calendar.

“(2) DISAPPROVAL BILL FROM HOUSE.—When the Senate receives from the House of Representatives a disapproval bill, such bill shall not be referred to committee and shall be placed on the Calendar.

*“(3) CONSIDERATION OF SINGLE DISAPPROVAL BILL.—After the Senate has proceeded to the consideration of a disapproval bill for a special message, then no other disapproval bill originating in that same House relating to that same message shall be subject to the procedures set forth in this subsection.*

*“(4) AMENDMENTS.—*

*“(A) AMENDMENTS IN ORDER.—The only amendments in order to a disapproval bill are—*

*“(i) an amendment that strikes the reference number of a cancellation from the disapproval bill; and*

*“(ii) an amendment that only inserts the reference number of a cancellation included in the special message to which the disapproval bill relates that is not already contained in such bill.*

*“(B) WAIVER OR APPEAL.—An affirmative vote of three-fifths of the Senators, duly chosen and sworn, shall be required in the Senate—*

*“(i) to waive or suspend this paragraph; or*

*“(ii) to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.*

*“(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a disapproval bill under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.*

*“(6) LIMIT ON CONSIDERATION.— (A) After no more than 10 hours of consideration of a disapproval bill, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or to table.*

*“(B) A single motion to extend the time for consideration under subparagraph (A) for no more than an additional five hours is in order prior to the expiration of such time and shall be decided without debate.*

*“(C) The time for debate on the disapproval bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.*

*“(7) DEBATE ON AMENDMENTS.—Debate on any amendment to a disapproval bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.*

*“(8) NO MOTION TO RECOMMIT.—A motion to recommit a disapproval bill shall not be in order.*

*“(9) DISPOSITION OF SENATE DISAPPROVAL BILL.—If the Senate has read for the third time a disapproval bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a disapproval bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to para-*

*graph (2), strike all after the enacting clause, substitute the text of the Senate disapproval bill, agree to the Senate amendment, and vote on final disposition of the House disapproval bill, all without any intervening action or debate.*

*“(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a disapproval bill shall be limited to not more than four hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.*

*“(f) CONSIDERATION IN CONFERENCE.—*

*“(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.*

*“(2) HOUSE CONSIDERATION.—(A) Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to a disapproval bill provided such report has been available for one calendar day (excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.*

*“(B) Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.*

*“(3) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a disapproval bill shall be limited to not more than four hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.*

*“(4) LIMITS ON SCOPE.—(A) When a disagreement to an amendment in the nature of a substitute has been referred to a conference, the conferees shall report those cancellations that were included in both the bill and the amendment, and may report a cancellation included in either the bill or the amendment, but shall not include any other matter.*

*“(B) When a disagreement on an amendment or amendments of one House to the disapproval bill of the other House has been referred to a committee of conference, the conferees shall report those cancellations upon which both Houses agree*



and may report any or all of those cancellations upon which there is disagreement, but shall not include any other matter.

“DEFINITIONS

“SEC. 1026. As used in this part:

“(1) *APPROPRIATION LAW*.—The term ‘appropriation law’ means an Act referred to in section 105 of title 1, United States Code, including any general or special appropriation Act, or any Act making supplemental, deficiency, or continuing appropriations, that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

“(2) *CALENDAR DAY*.—The term ‘calendar day’ means a standard 24-hour period beginning at midnight.

“(3) *CALENDAR DAYS OF SESSION*.—The term ‘calendar days of session’ shall mean only those days on which both Houses of Congress are in session.

“(4) *CANCEL*.—The term ‘cancel’ or ‘cancellation’ means—

“(A) with respect to any dollar amount of discretionary budget authority, to rescind;

“(B) with respect to any item of new direct spending—  
“(i) that is budget authority provided by law (other than an appropriation law), to prevent such budget authority from having legal force or effect;

“(ii) that is entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect; or

“(iii) through the food stamp program, to prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect; and

“(C) with respect to a limited tax benefit, to prevent the specific provision of law that provides such benefit from having legal force or effect.

“(5) *DIRECT SPENDING*.—The term ‘direct spending’ means—

“(A) budget authority provided by law (other than an appropriation law);

“(B) entitlement authority; and

“(C) the food stamp program.

“(6) *DISAPPROVAL BILL*.—The term ‘disapproval bill’ means a bill or joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or limited tax benefits in a special message transmitted by the President under this part and—

“(A) the title of which is as follows: ‘A bill disapproving the cancellations transmitted by the President on \_\_\_\_\_’, the blank space being filled in with the date of transmission of the relevant special message and the public law number to which the message relates;

“(B) which does not have a preamble; and

“(C) which provides only the following after the enacting clause: ‘That Congress disapproves of cancellations \_\_\_\_\_’, the blank space being filled in with a list by ref-

erence number of one or more cancellations contained in the President's special message, 'as transmitted by the President in a special message on \_\_\_\_\_', the blank space being filled in with the appropriate date, 'regarding \_\_\_\_\_'; the blank space being filled in with the public law number to which the special message relates.

"(7) DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY.—(A) Except as provided in subparagraph (B), the term 'dollar amount of discretionary budget authority' means the entire dollar amount of budget authority—

"(i) specified in an appropriation law, or the entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

"(ii) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

"(iii) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law;

"(iv) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; and

"(v) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law.

"(B) The term 'dollar amount of discretionary budget authority' does not include—

"(i) direct spending;

"(ii) budget authority in an appropriation law which funds direct spending provided for in other law;

"(iii) any existing budget authority rescinded or canceled in an appropriation law; or

"(iv) any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or committee reports on the expenditure of budget authority for an account, program, project, or activity, or on activities involving such expenditure.

"(8) ITEM OF NEW DIRECT SPENDING.—The term 'item of new direct spending' means any specific provision of law that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(9) LIMITED TAX BENEFIT.—(A) The term 'limited tax benefit' means—

- “(i) any revenue-losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; and
- “(ii) any Federal tax provision which provides temporary or permanent transitional relief for 10 or fewer beneficiaries in any fiscal year from a change to the Internal Revenue Code of 1986.
- “(B) A provision shall not be treated as described in subparagraph (A)(i) if the effect of that provision is that—
- “(i) all persons in the same industry or engaged in the same type of activity receive the same treatment;
- “(ii) all persons owning the same type of property, or issuing the same type of investment, receive the same treatment; or
- “(iii) any difference in the treatment of persons is based solely on—
- “(I) in the case of businesses and associations, the size or form of the business or association involved;
- “(II) in the case of individuals, general demographic conditions, such as income, marital status, number of dependents, or tax return filing status;
- “(III) the amount involved; or
- “(IV) a generally-available election under the Internal Revenue Code of 1986.
- “(C) A provision shall not be treated as described in subparagraph (A)(ii) if—
- “(i) it provides for the retention of prior law with respect to all binding contracts or other legally enforceable obligations in existence on a date contemporaneous with congressional action specifying such date; or
- “(ii) it is a technical correction to previously enacted legislation that is estimated to have no revenue effect.
- “(D) For purposes of subparagraph (A)—
- “(i) all businesses and associations which are related within the meaning of sections 707(b) and 1563(a) of the Internal Revenue Code of 1986 shall be treated as a single beneficiary;
- “(ii) all qualified plans of an employer shall be treated as a single beneficiary;
- “(iii) all holders of the same bond issue shall be treated as a single beneficiary; and
- “(iv) if a corporation, partnership, association, trust or estate is the beneficiary of a provision, the shareholders of the corporation, the partners of the partnership, the members of the association, or the beneficiaries of the trust or estate shall not also be treated as beneficiaries of such provision.
- “(E) For purposes of this paragraph, the term ‘revenue-losing provision’ means any provision which results in a reduction in Federal tax revenues for any one of the two following periods—

“(i) the first fiscal year for which the provision is effective; or

“(ii) the period of the 5 fiscal years beginning with the first fiscal year for which the provision is effective.

“(F) The terms used in this paragraph shall have the same meaning as those terms have generally in the Internal Revenue Code of 1986, unless otherwise expressly provided.

“(10) OMB.—The term ‘OMB’ means the Director of the Office of Management and Budget.

“IDENTIFICATION OF LIMITED TAX BENEFITS

“SEC. 1027. (a) STATEMENT BY JOINT TAX COMMITTEE.—The Joint Committee on Taxation shall review any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 that is being prepared for filing by a committee of conference of the two Houses, and shall identify whether such bill or joint resolution contains any limited tax benefits. The Joint Committee on Taxation shall provide to the committee of conference a statement identifying any such limited tax benefits or declaring that the bill or joint resolution does not contain any limited tax benefits. Any such statement shall be made available to any Member of Congress by the Joint Committee on Taxation immediately upon request.

“(b) STATEMENT INCLUDED IN LEGISLATION.—(1) Notwithstanding any other rule of the House of Representatives or any rule or precedent of the Senate, any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 reported by a committee of conference of the two Houses may include, as a separate section of such bill or joint resolution, the information contained in the statement of the Joint Committee on Taxation, but only in the manner set forth in paragraph (2).

“(2) The separate section permitted under paragraph (1) shall read as follows: ‘Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall \_\_\_\_\_ apply to \_\_\_\_\_.’, with the blank spaces being filled in with—

“(A) in any case in which the Joint Committee on Taxation identifies limited tax benefits in the statement required under subsection (a), the word ‘only’ in the first blank space and a list of all of the specific provisions of the bill or joint resolution identified by the Joint Committee on Taxation in such statement in the second blank space; or

“(B) in any case in which the Joint Committee on Taxation declares that there are no limited tax benefits in the statement required under subsection (a), the word ‘not’ in the first blank space and the phrase ‘any provision of this Act’ in the second blank space.

“(c) PRESIDENT’S AUTHORITY.—If any revenue or reconciliation bill or joint resolution is signed into law pursuant to Article I, section 7, of the Constitution of the United States—

“(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) only to cancel any limited tax benefit in that law, if any, identified in such separate section; or

“(2) without a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) to cancel any limited tax benefit in that law that meets the definition in section 1026.

“(d) CONGRESSIONAL IDENTIFICATIONS OF LIMITED TAX BENEFITS.—There shall be no judicial review of the congressional identification under subsections (a) and (b) of a limited tax benefit in a conference report.”.

**SEC. 3. JUDICIAL REVIEW.**

(a) *EXPEDITED REVIEW.*—

(1) Any Member of Congress or any individual adversely affected by part C of title X of the Congressional Budget and Impoundment Control Act of 1974 may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) *APPEAL TO SUPREME COURT.*—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) *EXPEDITED CONSIDERATION.*—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

**SEC. 4. CONFORMING AMENDMENTS.**

(a) *SHORT TITLES.*—Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking “and” before “title X” and inserting a period;

(2) inserting “Parts A and B of” before “title X”; and

(3) inserting at the end the following new sentence: “Part C of title X may be cited as the ‘Line Item Veto Act of 1996.’”.

(b) *TABLE OF CONTENTS.*—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following:

*"PART C—LINE ITEM VETO**"Sec. 1021. Line item veto authority.**"Sec. 1022. Special messages.**"Sec. 1023. Cancellation effective unless disapproved.**"Sec. 1024. Deficit reduction.**"Sec. 1025. Expedited congressional consideration of disapproval bills.**"Sec. 1026. Definitions.**"Sec. 1027. Identification of limited tax benefits."*

*(c) EXERCISE OF RULEMAKING POWERS.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "and 1017" and inserting ", 1017, 1025, and 1027".*

**SEC. 5. EFFECTIVE DATES.**

*This Act and the amendments made by it shall take effect and apply to measures enacted on the earlier of—*

*(1) the day after the enactment into law, pursuant to Article I, section 7, of the Constitution of the United States, of an Act entitled "An Act to provide for a seven-year plan for deficit reduction and achieve a balanced Federal budget."; or*

*(2) January 1, 1997;*

*and shall have no force or effect on or after January 1, 2005.*

*And the House agree to the same.*

*That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:*

*In lieu of the matter proposed to be inserted by the House amendment to the title of the bill, insert the following: "An Act to give the President line item veto authority with respect to appropriations, new direct spending, and limited tax benefits."*

*And the House agree to the same.*

BILL CLINGER,  
GERALD SOLOMON,  
JIM BUNNING,  
PORTER GOSS,  
PETER BLUTE,

*Managers on the Part of the House.*

TED STEVENS,  
BILL ROTH,  
FRED THOMPSON,  
THAD COCHRAN,  
JOHN MCCAIN,  
PETE V. DOMENICI,  
CHUCK GRASSLEY,  
DON NICKLES,  
PHIL GRAMM,  
DAN COATS,  
JIM EXON,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4) to grant the power to the President to reduce budget authority, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

### BACKGROUND AND NEED FOR THE LEGISLATION

The American people consistently cite run-away federal spending and a rising national debt as among the top issues of national concern. Over the past fifteen years alone, the national debt of the United States has quintupled. From 1789 through 1981, our total national debt amounted to \$1 trillion. Yet today, just fifteen years later, that debt exceeds \$5 trillion, and without significant reforms an additional \$1 trillion will be added over the next four years. This astonishing growth in federal debt has fueled public support for measures to ensure greater fiscal accountability in Washington. This legislation, along with other measures to balance the federal budget considered in the 104th Congress, moves to meet that demand by enhancing the President's ability to eliminate wasteful federal spending and to cancel special tax breaks.

No one would contend that a line item veto on its own will be enough to restrain spending and bring the federal budget into balance. However, a January 1992 GAO report indicates that this type of fiscal discipline could have a significant impact upon federal spending, concluding that if Presidents had applied this authority to all matters objected to in Statements of Administration Policy on spending bills in the fiscal years 1984 through 1989, spending could have been reduced by a six-year total of about \$70 billion.

The conference report on S. 4, the Line Item Veto Act, delegates limited authority to the President to cancel new spending and limited tax benefits. This authority is in addition to the President's existing authority under the Impoundment Control Act of 1974 (title X of the Congressional Budget Act). The Impoundment Control Act permits the President to submit proposed rescissions of

discretionary budget authority to Congress, but prohibits those rescissions from taking effect without congressional approval. In addition to applying solely to appropriation laws, the statutory provisions of the Impoundment Control Act have proven too restrictive. While Congress has initiated and passed rescissions on its own, Congress has agreed to only \$23.7 billion of \$74 billion in rescissions proposed by Presidents (both Democrat and Republican) since enactment of title X in 1974.

#### PURPOSE

The purpose of the conference report is to promote savings by placing the onus on Congress to overturn the President's cancellations of spending and limited tax benefits. In addition, recognizing that discretionary spending represents only about one-third of the entire federal budget, the conference report expands the President's current rescission authority to include both new direct spending and limited tax benefits.

Under the conference report, the President may cancel any dollar amount of discretionary budget authority in an appropriation law or its accompanying reports, or may cancel any item of new direct spending or limited tax benefit from an authorization or revenue act. After notifying Congress of his cancellations in a special message, the Congress is given a specified period for expedited review of the President's proposal.

If Congress fails to enact disapproving legislation within the period for expedited consideration, the savings are set aside for deficit reduction through a lockbox mechanism.

#### SUMMARY OF THE SENATE BILL

The Senate bill was introduced by Senator Dole on Wednesday, January 4, 1995. On March 20, 1995, the Senate began consideration. During consideration in the Senate, Senator Dole (for himself, and Senators McCain, Coats and Domenici) offered an amendment in the form of a substitute.

The Senate bill gives the President line item veto authority by dis-aggregating certain types of bills under a procedure known as "separate enrollment." Separate enrollment requires that the enrolling clerks of the House and Senate separately enroll each item of spending in an appropriation bill and each item of new direct spending or any targeted tax benefit contained in an authorizing bill. Each of these individual bills is presented to the President. The President may exercise his Article I power to veto any one, or all, of the individual bills. The Congress may exercise its Constitutional prerogative to override the President's veto(es).

According to the Senate bill, the House and Senate Appropriations Committees report appropriation measures following current procedure except that any appropriation bill reported by the Committee must contain the same level of detail as is provided in the Committee report that accompanies the bill. This requirement ensures that appropriation bills do not contain large dollar lump sums with the details directing how the money should be expended noted only in the Committee report.

An authorization bill that contains an item of new direct spending or a targeted tax benefit that is brought to the floor must



contain such provision in a separate section and must identify the item of new direct spending or the targeted tax benefit in the report that accompanies the bill.

Any appropriation or authorization bill that fails to comply with the above requirements is subject to a point of order that may only be waived by a three-fifths vote of the House or Senate.

Upon passage of an appropriation or authorization bill, the enrolling clerk of the originating House is required to enroll each item contained in the legislation separately. After all the items are enrolled as separate bills, both the House and Senate vote on all the bills en bloc prior to their submittal to the President.

The provisions of the bill become effective on the date of enactment and sunset in five years.

As defined in the bill, an item in an appropriation bill is:

- (1) any numbered section;
- (2) any unnumbered paragraph; or
- (3) any allocation or suballocation contained in a numbered section or an unnumbered paragraph made to conform to the level of detail in the accompanying report.

The following items are not required to be separately enrolled:

- (1) provisions that do not appropriate funds;
- (2) provisions that do not direct the expenditures of funds for a specific project; and
- (3) provisions that create an express or implied obligation to expend funds and
  - (a) rescind budget authority;
  - (b) limit, condition or otherwise restrict the expenditure of budget authority; or
  - (c) place a condition on the expenditure of budget authority by explicitly prohibiting the use of the funds.

By not separately enrolling the items just noted, language that places restrictions or conditions on the expenditure of funds, also known as fencing language, may not be separately vetoed apart from some dollar amount.

An item in an authorization bill is (1) any numbered section, or (2) any unnumbered paragraph that provides new direct spending or a new targeted tax benefit.

A targeted tax benefit is any provision that (1) the Joint Committee on Taxation estimates would lose revenue in the first fiscal year and over the five fiscal years covered by the budget resolution, and (2) provides more favorable treatment to a taxpayer or a targeted group of taxpayers when compared to a similarly situated taxpayer or group of taxpayers.

The Senate bill contains a "lockbox" provision, a prohibition on emergency spending bills containing non-emergency spending items, and a sunset of all tax provisions at least every 10 years.

Finally, the Senate bill contains provisions allowing a Member of Congress to challenge the constitutionality of the bill under expedited procedures and a severability clause stating that if any one provision of the Act is found to be unconstitutional, the remainder of the Act will be held harmless.

## SUMMARY OF THE HOUSE AMENDMENT

The House amendment is based on the “enhanced rescission” format. It authorizes the President to rescind all or part of any discretionary budget authority or veto any targeted tax benefit if the President determines that such rescission; (1) will help reduce the federal budget deficit; (2) will not impair any essential government functions; and (3) will not harm the national interest.

The amendment requires the President to notify the Congress of such a rescission or veto by special message within 10 days (excluding Sundays) after enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

The amendment allows the President in each special message to propose to reduce the appropriate discretionary spending limit by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message. It also requires the President to submit a separate special message for each appropriation Act and for each revenue or reconciliation Act. The President may only transmit one special message for each Act.

The House amendment makes such a rescission effective unless the Congress enacts a disapproval bill. Any budget authority rescinded is no longer available for obligation and a tax benefit is not effective unless the Congress passes a disapproval bill within 20 days, and assuming a veto, overrides that veto within 5 days.

The House amendment provides special procedures for consideration of a rescission disapproval bill in each House.

Upon receipt of the President’s special message, if a disapproval bill is introduced, it is referred to the appropriate committee. The specific form of a disapproval bill is noted in the House amendment, and such disapproval bill must be introduced within 3 days in order to qualify for the special procedures in the House. The Senate committee is not required to report the bill and there is no provision mandating discharge.

The House committee to which the bill is referred shall report it without amendment, and with or without recommendation, no later than the eighth calendar day of session after the date of its introduction. If the Committee fails to report the bill, it is in order to move that the House discharge the bill from committee.

After a bill is discharged from Committee, it is in order to move that the House move to consideration of the bill. All points of order against the bill and its consideration are waived and the motion is highly privileged. Motions to reconsider the vote by which the motion is agreed to or disagreed to are not in order.

Consideration of the bill is limited to two hours equally divided between proponents and opponents of the bill. Amendments to the bill are not in order, except that a Member may make a motion to strike the disapproval of any rescission(s) of budget authority if such a motion is supported by at least 49 other Members. Motions to reconsider the vote on the disapproval bill are not in order. It is only in order in the House to consider one disapproval bill with respect to any specific Presidential rescission message.

If a rescission disapproval bill is considered by the Senate, debate is limited to 10 hours to be divided equally and controlled by

the Majority and Minority leaders. Debate on any motions or appeals in connection with the bill are limited to one hour each, divided equally. Motions to further limit debate are not debatable. A motion to recommit is not in order unless such motion is to recommit the bill with instructions that it be reported back within one day.

Further, the House amendment mandates that it is not in order in the Senate to consider any rescission disapproval bill relating to any matter other than the items noted in the President's special message. Amendments to a rescission disapproval bill are not in order. The provisions noted in this paragraph may only be waived by an affirmative vote of three-fifths of the Senate.

The House amendment provides for annual General Accounting Office (GAO) reports on Presidential use of the line item veto authority. It also specifically prohibits the President from using the authority under the Act to change prohibitions or limitations (fencing language) in an appropriation Act.

The bill generally defines a targeted tax benefit as a provision in a revenue or reconciliation Act that provides a tax deduction, credit, exclusion, preference, or concession to 100 or fewer beneficiaries.

Finally, the bill provides a process for expedited judicial review of provisions of this Act.

#### CONFERENCE AGREEMENT

##### *Section 1. Short title*

This bill, when enacted, may be cited as the "Line Item Veto Act."

##### *Sec. 2. Line item veto authority*

Section 2 of the conference report amends title X of the Congressional Budget and Impoundment Control Act of 1974 to add a new part C comprising sections 1021 through 1027.

In general, part C grants the President the authority to cancel in whole any dollar amount of discretionary budget authority provided in an appropriation law or any item of new direct spending or limited tax benefit contained in any law. Congress has the authority to delegate to the President the ability to cancel specific budgetary obligations in any particular law in order to reduce the federal budget deficit.

The conferees note that while the conference report delegates new powers to the President, these powers are narrowly defined and provided within specific limits. The conference report includes specific definitions, carefully delineates the President's cancellation authority, and provides specific limits on this cancellation authority. The delegation of this cancellation authority is not separable from the President's duties to comply with these restrictions. To the extent the President broadly applies this new cancellation authority or reaches beyond these limits to expand the application of this new authority, the President will be reaching beyond the delegation of these authorities. Given the significance of this delegation, the conference report includes a sunset of this authority.

*Sec. 1021. Line item veto authority*

Section 1021(a) permits the President to cancel in whole any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States. The cancellation may be made only if the President determines such cancellation will reduce the federal budget deficit and will not impair any essential government function or harm the national interest. In addition the President must make any cancellations within five days of the date of enactment of the law from which the cancellations are made, and must notify the Congress by transmittal of a special message within that time.

The conferees specifically include the requirement that a bill or joint resolution must have been signed into law in order to clarify that the cancellation authority only becomes effective after the President has exercised the constitutional authority to enact legislation in its entirety. This requirement ensures that the President affirmatively demonstrates support for the underlying legislation from which specific cancellations are then permitted.

The term "cancel" was specifically chosen, and is carefully defined in section 1026. The conferees intend that the President may use the cancellation authority to surgically terminate federal budget obligations. The cancellation authority is specifically limited to any entire dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law. The President may only terminate the obligation of the Federal Government to spend certain sums of money through a specific appropriation or mandatory payment, or the obligation to forego the collection of revenue otherwise due to the Federal Government in the absence of a limited tax benefit.

Likewise, the terms "dollar amount of discretionary budget authority," "item of new direct spending," and "limited tax benefit" have been carefully defined in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to pay, or the specific tax benefit. "Fencing language" may not be canceled by the President under this authority. This means that the President cannot use this authority to modify or alter any aspect of the underlying law, including any restriction, limitation or condition on the expenditure of budget authority, or any other requirement of the law.

The conferees intend that, even once the federal obligation to expend a dollar amount or provide a benefit is canceled, all other operative provisions of the underlying law will remain in effect. If the President desires a broader result, then the President must either ask Congress to modify the law or exercise the President's constitutional power to veto the legislation in its entirety.

The lockbox provision of the conference report has also been included to maintain a system of checks and balances in the President's use of the cancellation authority. Any credit for money not spent, or for revenue foregone, is dedicated to deficit reduction through the operation of the lockbox mechanism. This ensures that

the President does not simply cancel a particular dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit in order to increase spending in other areas.

Section 1021(b) requires the President to consider legislative history and information referenced in law in identifying cancellations. It also requires that the President use the definitions in section 1026, and provides that the President use any sources specified in the law or the best available information.

Section 1021(c) states that the President's cancellation authority shall not apply to a disapproval bill, as defined in section 1026. The provision is intended to prevent an endless loop of cancellations.

*Sec. 1022. Special messages*

Section 1022 provides that, if the President cancels provisions within a law, a special message must be submitted to Congress. A separate special message must be submitted for each law from which a cancellation is made.

Similar to the requirements in section 1012 of the Impoundment Control Act of 1974, the conference report requires that the President's special message include relevant supporting material about each cancellation and its budgetary impact. The conferees intend this requirement to ensure that the Congress and the public receive sufficient information with which to judge the President's action.

Specifically, the President's special message must include:

- (1) the dollar amount of discretionary budget authority, items of new direct spending or limited tax benefits which have been canceled;
- (2) corresponding reference numbers of each cancellation;
- (3) the determinations required under section 1021 and any supporting material;
- (4) the reasons for each cancellation;
- (5) the estimated fiscal, economic and budgetary effect of each cancellation (to the maximum extent practicable);
- (6) all facts, circumstances and considerations relating to each cancellation;
- (7) the estimated effect of each cancellation upon the objects, purposes and programs for which the canceled authority was provided (to the maximum extent practicable); and
- (8) the adjustments that will be made pursuant to section 1024 ("Deficit Reduction") to the discretionary spending limits under section 601 of the Budget Act and an evaluation of the effects of those adjustments upon sequestration procedures.

The President's special message must specify any account, department or establishment of the government and any specific project or governmental functions impacted by each cancellation.

The conference report requires that, if applicable, the special message include the specific states and congressional districts impacted and the total number of cancellations imposed during the current session of Congress on those states and congressional districts. This is to ensure that the Congress has information to determine if there is a disproportionate impact on a particular state or congressional district.

The President's special message must be transmitted to the House of Representatives and to the Senate within five calendar days (excluding Sundays) of enactment (by the President's signature) of the law to which any cancellations apply. It is the intention of the conferees that the President's cancellations be made as soon as possible after the enactment of the law. The maximum time of five calendar days is provided to ensure that all supporting material required for inclusion in the special message can be provided by the Administration. It is the view of the conferees that additional time (beyond five calendar days) would unnecessarily prolong the process.

The special message must be transmitted to both Houses of Congress on the same day, and must be received by the Clerk of the House and to the Secretary of the Senate if either House is not in session on that day.

Any special message must be printed in the first issue of the Federal Register published after the transmittal.

*Sec. 1023. Cancellation effective unless disapproved*

Upon receipt of the President's special message in both the House of Representatives and the Senate, each dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit identified in the special message is immediately canceled. The cancellation of a dollar amount of discretionary budget authority automatically rescinds the funds. With respect to an item of new direct spending or a limited tax benefit, the cancellation renders the provision void, such that the obligation of the United States has no legal force or effect.

The cancellation of a dollar amount of discretionary budget authority, an item of new direct spending, or a limited tax benefit is nullified only if a disapproval bill is enacted into law. The conferees intend that, if a disapproval bill is enacted, the President shall expend the funds or implement a provision as originally directed by Congress. The effective date for any cancellation disapproved in a disapproval bill is the original date provided in the law to which the cancellation applied.

Section 1023(b) provides that, when a dollar amount of discretionary budget authority canceled by the President is part of a larger sum in an appropriation law, such cancellation will result in the commensurate reduction of each relevant appropriation account by that dollar amount. These reductions are a necessary conforming change to ensure that all sums required to be spent by the appropriation law accurately reflect the cancellation contained in the President's message. This is a technical mechanism to maintain mathematical consistency and does not grant the President any additional authority.

To illustrate the mechanism for commensurate reductions in discretionary budget authority the conferees provide the following example:

The FY '96 Agriculture Appropriations Act (Public Law 104-37) appropriates a total of \$421,929,000 for agricultural research and education, of which \$49,846,000 is made available for special grants for agriculture research. The conference report accompanying this law contains a

table that allocates the \$49,846,000 total into lesser dollar amounts all of which correspond to individual research programs. This table includes, for example, a \$3,758,000 allocation for: "Wood Utilization Research (OR, MS, NC, MN, ME, MI)".

Assuming the President exercised the authority to cancel this \$3,758,000, this dollar amount would be automatically subtracted from the \$421,929,000 total and from the \$49,846,000 earmark. If the \$3,758,000 was included in any other larger dollar amount in the appropriation law, then all such other dollar amounts would likewise be simultaneously reduced by \$3,758,000.

#### *Sec. 1024. Deficit reduction*

Section 1024 establishes a deficit reduction, or "lockbox", procedure for the cancellations of discretionary budget authority, new direct spending, or limited tax benefits. The conference report's lockbox procedures are incorporated into existing procedures governing discretionary spending limits and pay-as-you-go requirements under the Balanced Budget and Emergency Deficit Control Act.

The conference report requires the Office of Management and Budget (OMB) to estimate the discretionary budget authority and outlay savings that result from cancellations from an appropriation law and include those calculations as part of the estimate OMB must submit to Congress under section 251 of the Balanced Budget and Emergency Deficit Control Act. The conference report also requires OMB to calculate a reduction to the spending caps that is equal to the budget authority reduction and related outlay savings that result from a cancellation.

After the expiration of the time period for congressional consideration of a disapproval bill plus 10 days, OMB is required to adjust the spending caps downward by the amount of budget authority and outlay savings in its next sequester report.

In the case of the cancellation of direct spending or limited tax benefits, OMB is required to estimate the deficit decrease as a separate entry in its pay-as-you-go report to Congress. In order to ensure that the savings from the cancellation of new direct spending or limited tax benefits are devoted to deficit reduction and are not available to offset a deficit increase in another law, the conference report provides that the savings from these cancellations shall not be included in the pay-as-you-go balances under the Balanced Budget and Emergency Deficit Control Act. Similarly, if a disapproval bill is enacted that overturns the cancellation of an item of direct spending or a limited tax benefit, OMB will not score this legislation as increasing the deficit under pay as you go.

Section 1024 also requires the Congressional Budget Office (CBO) to submit its estimate of the savings resulting from a cancellation to the Budget Committees of House and Senate. This is consistent with existing provisions in the Balanced Budget and Emergency Deficit Control Act which require CBO estimates and require OMB to make comparisons of its estimates with those made by CBO. The conferees expect CBO and the Budget Committees to carefully monitor OMB's estimates of cancellations.

The conferees intend that any savings from a cancellation be dedicated to deficit reduction and not used as an offset for future spending. The conference report is silent on congressional enforcement mechanisms because existing scoring conventions will have the effect of dedicating any savings from these cancellations to deficit reduction. Under existing congressional scoring conventions, CBO and the Budget Committees only score the budgetary impacts that directly result from legislation. The cancellation of an item will represent an administrative action and will not be scored as savings. Therefore, the savings from a cancellation will not be available as an offset for congressional scoring purposes. During the period for consideration of a disapproval bill CBO should not score the cost associated with a disapproval of a cancellation.

If there is an effort to include in legislation a cancellation already made by the President and claim the savings from such a cancellation as an offset for a provision that increases the deficit, the conferees expect the Budget Committees to ensure these savings are not used as an offset.

*Sec. 1025. Expedited congressional consideration of disapproval bills*

Section 1025 adopts the House provision with modifications providing for expedited procedures to consider disapproval bills. The conferees clearly intend this language to stand separate and apart from the language currently found in part B of title X of the Budget Act with regard to consideration of proposed rescissions, reservations, and deferrals of budget authority. The language of the conference report is directed solely at Congress' ability to respond to the cancellation authority of the Executive and is in no way intended to impact on or be defined by existing title X procedures.

The conference report provides Congress with 30 calendar days of session to consider a disapproval bill under expedited procedures. A "calendar day of session" is defined as only those days during which both Houses of Congress are in session. It is assumed Congress would want to act quickly on any disapproval bills. This time period is available to provide Congress with flexibility to schedule consideration of a disapproval bill during a busy legislative session.

During this time period, a disapproval bill may qualify for the expedited procedures in each House. However, upon the expiration of this period, a disapproval bill may no longer qualify for these expedited procedures in the House of Representatives. In the Senate, a disapproval bill which began consideration under these expedited procedures may continue within such procedures notwithstanding the expiration of the time period.

Upon final Congressional adjournment, if a disapproval bill relating to a special message was pending before either House of Congress or any committee thereof or was pending before the President (i.e. a pocket veto), and the time period has not expired, a new disapproval bill with respect to the same message may be introduced within the first five calendar days of session of the next Congress. This disapproval bill qualifies for the expedited procedures outlined above and the period for Congressional consideration begins anew.



A special Presidential message relating to a law could include a number of cancellations. In establishing expedited procedures for the consideration of a disapproval bill, the conference report seeks to find a balance between providing a procedure to guarantee that Congress can quickly disapprove the President's cancellations while giving Congress the flexibility to pick and choose among the cancellations to include in the disapproval bill. In both Houses of Congress, quick action is encouraged in that only one bill may ultimately be acted upon for each special message using these expedited procedures.

It should be noted that the expedited procedures provide strict time limitations at all stages of floor consideration of a disapproval bill. The conferees intend to provide both Houses of Congress with the means to expeditiously reach a resolution and to foreclose any and all delaying tactics (including, but clearly not limited to: extraneous amendments, repeated quorum calls, motions to recommit, or motions to instruct conferees). The conferees believe these expedited procedures provide ample time for Congress to consider the President's cancellations and work its will upon them.

Section 1025(a) provides for the receipt and referral of the special message in both Houses of Congress. Upon the cancellation of a dollar amount of discretionary budget authority, an item of direct spending or a limited tax benefit under section 1021(a), the President must transmit to Congress a special message outlining the cancellation as required by section 1022.

When Congress receives this special message it shall be referred to the Budget Committees and the appropriate committee or committees in each House. For example, the message pertaining to the cancellation of a dollar amount of discretionary budget authority from an appropriation law would be referred to the Committee on Appropriations of each House. A special message pertaining to the cancellation of an item of direct spending would be referred to the authorizing committee or committees of each House from which the original authorization law derived. Any special message relating to more than one committee's jurisdiction, i.e. a cancellation message from a large omnibus law such as a reconciliation law, shall be referred to the appropriate committees in each House. Each special message shall be printed as a document of the House of Representatives.

#### Procedures in the House of Representatives

In order for a disapproval bill to qualify for the expedited procedures in the House of Representatives as outlined in section 1025(b), it must meet two requirements. First, a disapproval bill must meet the definition of a disapproval bill as set forth in section 1026. Second, the disapproval bill must be introduced no later than the fifth calendar day of session following the receipt of the President's special message. Any disapproval bill introduced after the fifth calendar day of session is subject to the regular rules of the House of Representatives regarding consideration of a bill.

Any disapproval bill introduced in the House of Representatives must disapprove all of the cancellations in the special message to which the disapproval bill relates. Each such disapproval bill must include in the first blank space referred to in section

1026(6)(C) a list of the reference numbers for all of the cancellations made by the President in that special message.

Any disapproval bill introduced pursuant to 1025(c) shall be referred to the appropriate committee or committees. It is not the intention of the conferees that a disapproval bill pursuant to a special message regarding a reconciliation law be referred to the Budget Committee. Any committee or committees of the House of Representatives to which such a disapproval bill has been referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction.

If any committee fails to report the disapproval bill within that period, it shall be in order for any Member of the House to move that the House discharge that committee from further consideration of the bill. However, such a motion is not in order after the committee has reported a disapproval bill with respect to the same special message. This motion shall only be made by a Member favoring the bill and shall be made one day after the calendar day on which the Member offering the motion has announced to the House that Member's intention to make such a motion and the form of that motion. Furthermore, this motion to discharge shall only be made at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member gives the House proper notice.

This motion to discharge shall be highly privileged. Debate on the motion shall be limited to not more than one hour and shall be equally divided between a proponent and an opponent. After completion of debate, the previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion was agreed to or not agreed to shall not be in order. It shall not be in order to consider more than one such motion to discharge a disapproval bill pertaining to a particular special message.

After a disapproval bill has been reported or a committee has been discharged from further consideration, it shall be in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the disapproval bill. If the bill has been reported, the report on the bill must be available for at least one calendar day prior to consideration of the bill. All points of order against the bill and its consideration, except a point of order pertaining to a one-day layover requirement, shall be waived. If the bill has been discharged, all points of order against the bill and its consideration shall be waived. The motion that the House resolve into the Committee of the Whole shall be highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate on the disapproval bill shall be confined to the bill and shall not exceed one hour equally divided between and controlled by a proponent and an opponent of the bill. After completion of the one hour of general debate, the bill shall be considered as read for amendment under the five minute rule. Only one motion that the

Committee rise shall be in order unless that motion is offered by the manager of the bill.

No amendment shall be in order, except that any Member, if supported by forty-nine other Members (a quorum being present), may offer an amendment striking the reference number or reference numbers of a cancellation or cancellations from the disapproval bill. This process allows Members the opportunity to narrow the focus of the disapproval bill, striking references to cancellations they do not wish to disapprove, while retaining in the disapproval bill references to cancellations they wish to overturn. A vote in favor of the disapproval bill is a vote to spend the money the President sought to cancel. A vote against the disapproval bill is a vote to agree with the President to cancel the spending.

No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. At the conclusion of consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without any intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

All appeals of decisions of the Chair relating to the application of the rules of the House of Representatives to this procedure for consideration of the disapproval bill shall be decided without debate.

It shall be in order to consider only one disapproval bill pertaining to each special message under these expedited messages except for consideration of a similar Senate bill. However, if the House has already rejected a disapproval bill with respect to the same special message as that to which the Senate bill refers, it shall not be in order to consider that bill.

In the event of disagreement between the two Houses a conference should be promptly convened. It shall be in order to consider a conference report in the House of Representatives provided such report has been available to the House for one calendar day (excluding Saturdays, Sundays or legal holidays, unless the House is in session on such a day) and the accompanying statement has been filed in the House.

Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate shall not be debatable. A motion to recommit the conference report shall not be in order and it shall not be in order to reconsider the vote by which the conference report is agreed to or disagreed to.

#### Procedures in the Senate

Any member of the Senate may introduce a disapproval bill containing any combination of cancellations included in the President's special message. The disapproval bill shall be referred to the appropriate committee or committees. If necessary, referral to mul-

multiple committees is permissible to accommodate disapproval bills which relate to cancellations from omnibus bills (i.e. reconciliation bills). A committee shall report the bill with or without amendment within seven days during which the Senate is in session or be discharged. A disapproval bill received from the House of Representatives shall not be referred but shall be automatically placed on the Calendar. It is the intent of the conferees that only one disapproval bill for each special Presidential message be considered under the expedited procedures. This however, is not meant to limit the Senate's ability to choose between a Senate-originated and a House-originated disapproval bill, it is intended that there be only one legislative vehicle.

A motion to proceed to the consideration of a disapproval bill is not debatable. Section 1025(e)(6) provides a ten hour overall limitation for the floor consideration of a disapproval bill. Except as provided in section 1025(e)(9) (which addresses disposition of a Senate disapproval bill), this limit on consideration is intended to cover all floor action with regard to a disapproval bill. This section is specifically meant to preclude the offering of amendments or the making of dilatory motions after the expiration of the 10 hours. Consideration of a message from the House of Representatives with respect to a disapproval bill is limited to four hours, as is consideration of a conference report and any amendments reported in disagreement. Again the intent of the conferees is to preclude the offering of amendments or motions after the expiration of time so as to facilitate the adoption of any conference report or the disposition of any message from the House. In limiting the time for consideration the conferees do not intend to allow the process to be halted by the delay in the making of necessary and appropriate motions. Therefore motions to concur, disagree or disagree and request a new conference may be made at the expiration of time.

Amendments to a disapproval bill, whether offered in committee or from the floor of the Senate, are strictly limited to those amendments which either strike or add a cancellation that is included in the President's special message. The conferees note that these expedited procedures are reserved solely for disapproval bills which overturn one or more cancellations contained in a President's special message. No other matter may be included in such bills. To enforce this restriction in the Senate, a point of order (which may be waived by a three-fifths vote) would lie against any amendment that does anything other than strike or add a cancellation within the scope of the special message. To the extent that extraneous items are added to disapproval bills, and the Senate has not waived the point of order against such an item, the conferees intend that such legislation would no longer qualify for the expedited procedures.

The conference report also provides that any conferees on a disapproval bill must include any cancellations upon which the two Houses have agreed and may include any or all cancellations upon which the two Houses have disagreed, but may not include any cancellations not committed to the conference.

*Sec. 1026. Definitions*

(1) **Appropriation Law.** As used in this Act, the term “appropriation law” includes any Act which provides general, special, supplemental, deficiency, or continuing appropriations of federal funds, which has been presented to the President in accordance with Article I, section 7 of the Constitution of the United States, and which has been affirmatively signed into law by the President.

(2) **Calendar Day.** The term “calendar day” means a standard 24-hour period beginning at midnight.

(3) **Calendar Day of Session.** The term “calendar day of session” means only those days on which both Houses of Congress are in session. This definition excludes periods of recess and adjournment by either House.

(4) **Cancel.** In the case of discretionary budget authority, the term “cancel” means to rescind an entire dollar amount. The term rescind is clearly understood through long experience between the Executive and Legislative branches with respect to appropriated funds. The conferees do not intend that any new interpretation be applied to the term rescind, but rather intend to narrow the scope of cancellation authority as compared with the authority provided under section 1012 of the Budget Act.

For items of new direct spending, three definitions are provided to specifically tailor the cancellation authority to the type of direct spending involved. In the case of direct spending that is budget authority provided by law other than an appropriation law, the term cancel means to prevent that budget authority from having legal force or effect. For example, in the case of budget authority that provides authority to contract for a particular project, the effect of a cancellation by the President would be to foreclose the ability of the Federal Government to enter into an agreement to pay the amount of money provided in the law. The cancellation affects only the money that would otherwise be spent, and may not be used to alter or terminate any condition contained in the law.

For entitlement authority, the term cancel means that the President may prevent the specific provision that results in the deficit-increasing obligation of the Federal Government from having legal force or effect. The cancellation affects only the legal obligation to pay a benefit, and does not change or affect any other aspect of the law.

With respect to direct spending that is conducted through the food stamp program, the term cancel means that the President may prevent the specific provision of law that results in an increase in expenditures from having legal force or effect. Again, the authority is narrowly defined, and is limited only to eliminating the increase in food stamp obligations that would otherwise occur. No other aspect of the law could be altered, terminated or otherwise affected.

Finally, with respect to limited tax benefits, the term cancel means to prevent the specific provision of law that provides the benefit from having legal force or effect. Again, the authority granted the President is very narrow—only to collect the tax that would otherwise not be collected or to deny the credit that would otherwise be provided. The President may not change, alter, or modify any other aspect of the law.

(5) Direct Spending. The term “direct spending” is an existing term that is defined in section 250(8) of the Balanced Budget and Emergency Deficit Control Act of 1985. The conference report makes technical modifications to the definition to make it appropriate for use in part C of title X, but the conferees intend the term “direct spending” to have the same meaning as it does under the Balanced Budget and Emergency Deficit Control Act.

(6) Disapproval Bill. For the purposes of the conference report, the term “disapproval bill” is defined as a bill or a joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending or limited tax benefits in a special message transmitted by the President under section 1022.

The disapproval bill is defined to include a list by reference number of one or more of the cancellations in the President’s special message, allowing the opportunity for amendments relating to specific cancellations. The structure of the disapproval bill is carefully defined and proscribed to ensure that only a list of reference numbers identifying cancellations from a particular special message, and nothing, more are included in a bill that is eligible for the expedited procedures that are provided under section 1025. Since it is the intent of the conferees to ensure that the expedited procedures are reserved for bills that only disapprove any or all of the President’s cancellations, the definition is designed to ensure that matters beyond the scope of the President’s special message are not permitted to be added to a disapproval bill. However, the conferees recognize the legitimate interest members may have in limiting the focus of a disapproval bill to include only a subset of the cancellations in a President’s special message.

Specifically, a disapproval bill referencing the President’s cancellations has the following title: “A bill disapproving the cancellations transmitted by the President on \_\_\_\_\_,” with the blank space being filled with the date of transmission of the relevant special message and the number of the relevant public law.

The disapproval bill does not have a preamble and provides only the following: “That Congress disapproves of cancellations \_\_\_\_\_, as transmitted by the President in a special message on \_\_\_\_\_, regarding \_\_\_\_\_.” The first blank space is to be filled in with a list by reference number of one or more of the cancellations contained in the President’s special message. The second blank space is to be filled in with the date of transmission of the President’s special message. The third blank space is to be filled in with the number of the public law to which the special message relates.

(7) Dollar Amount of Discretionary Budget Authority. The term “dollar amount of discretionary budget authority” is carefully defined in section 1026(7) in order to ensure that the President’s authority to cancel discretionary spending in appropriation laws is clearly delineated. The conference report delegates the authority to the President to cancel in whole any dollar amount specified in an appropriation law.

In addition, to increase the President’s discretion, the conference report allows the President to cancel a dollar amount of budget authority provided in an appropriation law by specific

amounts identified by the Congress in the statement of managers, the governing committee report, or other law. By limiting the delegation of authority, the conferees intend to preclude arguments between the Executive and Legislative Branches and to ensure that the delegation is not overbroad or vague. As is described in further detail below, the conferees have sought to provide the President the ability to rescind entire dollar amounts, even if not specified as a dollar amount in the law itself, so long as the dollar amount can be clearly identified and is in an indivisible whole with which Congress has previously agreed.

The conferees note that the definition specifically excludes certain types of budget authority that are addressed by other provisions in part C of title X, as well as any restriction, condition, or limitation that Congress places on the expenditure of budget authority or activities involving such expenditure. The exclusion of restrictions, conditions, or limitations is included to make clear that the President may not use the authority delegated in section 1021(a) to cancel anything other than a specific dollar amount of budget authority.

The cancellation authority cannot be used to change, alter, modify, or terminate any policy included by Congress, other than by rescinding a dollar amount. Obviously, if the Congress has included a restriction in the law that prohibits the expenditure of budget authority for any activity, there is no dollar amount to be rescinded by the President, nor would any money be saved for use in reducing the federal budget deficit, which is a requirement for the use of the authority provided under section 1021(a).

As described in subparagraph (A)(i), the President may cancel the entire dollar amount of budget authority specified in an appropriation law. The term "entire" means just that; the President may rescind, or "line out" the dollar amount of budget authority specified in the law, so that the dollar amount provided in the law becomes zero after the cancellation. For example, in Public Law 104-37, the Agriculture Appropriations Act for Fiscal Year 1996, \$49,486,000 was provided in the law for special grants for agriculture research. Using the authority granted under section 1021(a)(1), as defined under section 1026(7)(A)(i), the President could cancel only the entire \$49,486,000.

Further, again under subparagraph (A)(i), if the appropriation law does not include a specific dollar amount, but does include a specific proviso that requires the allocation of a specific dollar amount, then the President may rescind the entire dollar amount that is required by the proviso. A fictitious example of what the conferees intend in this case follows:

An appropriation law includes a provision that states "for the operation and maintenance of the Army, \$1,400,000,000, provided Fort Fictitious is maintained at Fiscal Year 1995 levels.". In this instance, the President could ascertain what the operation of Fort Fictitious cost in FY 1995, and could rescind that entire amount from the \$1.4 billion provided for Army O&M. The conferees note that the President would have to take the entire dollar amount required to operate Fort Fictitious in FY 1995, and

could not simply take part of that amount. It is intended to be an all or nothing decision.

As a further specific illustration, the conferees note that the General Construction Account in Public Law 104-46, the Energy and Water Development Appropriations Act, 1996, states:

“\$804,573,000 to remain available until expended, of which such sums as necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri \* \* \*”

In this example, the President could cancel the entire \$804,573,000 or could cancel an amount equal to the entire dollar amount that would be required to fund the rehabilitation costs of the Lock and Dam 25 project, noting in his message all information as required by section 1022.

In subparagraph (A)(ii) the President is given the authority to rescind the entire dollar amount represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report that accompanies an appropriation law. The term “governing committee report” is included to address the fact that the current practice in preparing the statement of managers for a conference report on an appropriation law is to simply address changes that were made in the statutory language and the accompanying committee reports, thus leaving intact and incorporating by reference tables, charts, and explanatory text in one of the two committee reports that were not modified by the conference.

An example of the authority described in subparagraph (A)(ii) is found in the Conference Report accompanying the FY 1996 Military Construction Appropriations Act (Public Law 104-32). The statement of managers accompanying the conference report contains a chart denoting allocations of dollars to various installations and projects. On page 38 there is an allocation of \$10,400,000 for a physical fitness center at the Bremerton Puget Sound Naval Shipyard. Except for this chart there is no other reference to the physical fitness center in either the statute or narrative explanation in the Conference Report. Under the authority provided by the definition in subparagraph (A)(ii), the President could cancel the entire \$10,400,000 provided for the physical fitness center, but could not cancel only a part of that amount.

The inclusion of subparagraph (A)(ii) is not intended to give increased legal weight or authority to documents that accompany the law that is enacted. Rather, as an exercise of its authority to specify the terms of the delegation to the President, Congress is choosing to use those documents as a means of allowing the President increased discretion to reduce dollar amounts of discretionary budget authority provided in an appropriation law. In order to ensure that the delegated authority is clear, the conferees have limited that authority to dollar amounts identified by Congress in the appropriation law, the accompanying statement of managers, the governing committee report or other law. Since Congress often pro-



vides detailed identification of dollar amounts in the accompanying documents, they represent an agreed upon set of dollar amounts that the President may rescind in their entirety.

Subparagraph (A)(iii) has been included by the conferees to address a specific circumstance where neither the appropriation law nor the accompanying statement of managers or committee reports include any itemization of a dollar amount provided in that appropriation law. However, another law mandates that some portion of the dollar amount provided in the appropriation law be allocated to a specific program, project, or activity that can be quantified as a specific dollar amount. In this case, the President could rescind the entire dollar amount required to be allocated by the other law, since that dollar amount has been identified by Congress as a specific dollar amount that must be spent. As is the case with the earlier provisions, the President could not rescind part of the dollar amount mandated by the other law. It is an all or nothing decision. Likewise, the President could not use the cancellation authority to change, alter, or modify in any way the other law.

An example of the authority provided in subparagraph (A)(iii) is found in section 132 of Public Law 104-106, the National Defense Authorization Act for Fiscal Year 1996. Section 132 states that "Of the amounts appropriated for Fiscal Year 1996 in the National Defense Sealift Fund, \$50,000,000 shall be available only for the Director of the Advanced Research Projects Agency for advanced submarine technology activities." In this example the President could "look through" the appropriation law to the authorization law that mandates that \$50 million is available only for advanced submarine technology activities, and could cancel the entire \$50 million.

However, had the appropriation law contained a provision that contradicted or otherwise made the mandate in the authorization law ineffective with respect to the allocation of the National Sealift Fund, then the President would not be able to use the amount in the authorization law as the basis for the cancellation of a dollar amount of discretionary budget authority. As with appropriation laws, the President cannot use the authority in subparagraph (A)(iii) to change, alter, or modify any provision of the authorization law.

Subparagraphs (A)(iv) and (A)(v) are variations on the authority granted in clauses (i) through (iii), and are intended to address the circumstance where Congress does not specify in the appropriation law, the accompanying documents, or other law a specific dollar amount, choosing instead to require the purchase of a particular quantity of goods. Subparagraphs (A)(iv) and (A)(v) allow the President to rescind the entire dollar amount of discretionary budget authority represented by the quantity specified in the law or documents. To determine the specific dollar amount, the President is required to multiply the estimated procurement cost by the total quantity of items specified in the law or documents. The President may then rescind the entire dollar amount represented by the product of those two figures. The conferees expect that the President will use the best available information, as represented by the President's budget submission or binding contract documents, to estimate the procurement cost.

The conferees have included the following examples in order to more clearly explain the definition of dollar amount of discretionary budget authority as defined by section 1026(7). These examples are used solely for illustrative purposes and the conferees are in no way commenting on the merit of any of these programs. The conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The FY 1996 Agriculture Appropriations Act (Public Law 104-37) appropriates \$49,846,000 in special grants for agriculture research. The Conference Report accompanying this law contains a table that allocates the \$49,846,000 total into lesser dollar amounts all of which correspond to individual research programs. This table, for example, contains a \$3,758,000 allocation for "Wood Utilization Research (OR, MS, MN, ME, MI)".

Using the definition in section 1026(7)(A) (i) and (ii), the President could cancel either the entire \$49,846,000 specified in the statute or the entire \$3,758,000 described in the chart in the Conference Report. However, because the Congress did not break down the allocations for each state associated with this project the President would not have the authority to take a portion of the \$3,758,000 allocated to wood utilization research.

The conferees intend that cancellation authority only applies to whole items. If an item (or project) occurs in more than one state, and the law or a report that accompanies an appropriation law lists an item (project) and then lists a series of states, it is the entire item that must be canceled.

In the example listed above, "Wood Utilization Research" appears in the report as: "Wood Utilization Research (OR, MS, NC, MN, ME, MI)."

The conferees believe it is important to note that this line in the report must be canceled in its entirety. The President's cancellation authority is strictly limited. The President has no authority in this example to cancel wood utilization research for Michigan only.

To further illustrate this example, the conferees submit the following example that corresponds to a chart contained in the same conference report: "Aflatoxin (IL), 133,000; Human Nutrition (AR), 425,000; Human Nutrition (IA), 473,000; Wool Research (TX, MT, WY) 212,000."

In this case, the President may cancel aflatoxin (IL), Human Nutrition (AR), Human Nutrition (IA), and/or Wool Research (TX, MT, WY). Although there are two human nutrition research projects listed in two different states, because of the manner in which they are listed, each project may be separately canceled. Again, the President may only cancel the entire wool research program and may not cancel only wool research in Texas.

Section 1026(7)(B) describes what is not included in the definition of "dollar amount of discretionary budget authority." Subparagraphs (B)(i) and (B)(ii) exclude items of new direct spending, for which cancellation authority is provided under other sections of part C of title X. Subparagraph (B)(iii) excludes from the definition any budget authority canceled or rescinded in an appropriation law in order to ensure that those cancellations or rescissions cannot be undone by the President using the cancellation authority.

As described earlier, subparagraph (B)(iv) excludes from the definition any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or governing committee report on the expenditure of budget authority or on activities involving such expenditure. The following two examples illustrate the conferees' intent that the President cannot use the cancellation authority to alter the Congressional policies included in these restrictions, conditions, or limitations.

The Labor, Health and Human Services and Education and Related Agencies Appropriations Act, H.R. 1217, as amended by the Senate Appropriations Committee contained the following section:

“SEC. 103. No amount of funds appropriated in this Act for fiscal year 1996 may be used to implement, administer, or enforce any executive order, or other rule or order, that prohibits Federal contracts with, or requires that debarment of, or imposes other sanction on, a contractor on the basis that such contractor or organizational unit thereof has permanently replaced lawfully striking workers.”

The President's cancellation authority only applies to entire dollar amounts. The above example of “fencing language” is a limitation and contains no dollar amount. Therefore, the President has no authority to alter or cancel this statement of Congressional policy.

If a limitation or condition on spending—“fencing language”—is not written as a separate numbered or unnumbered paragraph, but instead is written as a proviso to an appropriated amount, the President still has no power to cancel the proviso.

The Energy and Water Development Appropriations Act, 1996, (Public Law 104-46), Title II, Department of the Interior, General Administrative Expenses, states:

“For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, \$48,150,000, of which \$1,400,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377); *Provided*, that no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

Using this example, the President may cancel \$48,150,000 or the \$1,400,000 noted, but may not cancel or alter in any way the proviso restricting the use of other appropriated funds contained in this Act.

The conference report also allows the President to cancel the entire amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included. The conferees recognize that from time to time, budget authority may be mandated to be spent on a specific program or project without a specific dollar amount being listed.

However, in order to comply with the proviso, the President would have to expend appropriated funds.

(8) Item of New Direct Spending. The term "item of new direct spending" means a provision of law that results in an increase in budget authority or outlays relative to the baseline set forth pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Under the Balanced Budget and Emergency Deficit Control Act of 1985, a reauthorization or an extension of a major entitlement program would not result in an increase in direct spending. As a consequence, such legislation would not constitute an item of new direct spending pursuant to the conference report. This does not mean that legislation must result in a net increase in spending in order to be subject to this cancellation authority. A provision of a future law that increases direct spending would be subject to the President's cancellation authority whether or not it is offset by another provision that reduces direct spending or increases revenues in the same law.

Unlike an appropriation law, which specifically designates a dollar amount for a specific program, direct spending can arise from a number of interactions among provisions in a new law, other provisions in that same new law, and underlying law. The conference report provides the President with the authority to cancel the legal obligation provided by the new law that results in new direct spending. The cancellation authority is limited to the specific provisions in the new law signed by the President that result in the legal obligation to expend funds and does not extend to other previously enacted laws.

The following are examples of direct spending increases that have been enacted. These examples are given to illustrate how cancellation authority could apply to similar items of new direct spending if included in a law to which part C of title X would apply. These examples are used solely for illustrative purposes and the conferees are in no way commenting on the merit of any of these programs. The conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The 1995 Balanced Budget Act included provisions that increased direct spending, but this Act was vetoed in its entirety by the President using his Constitutional authority and thus no provisions of that Act would be subject to the cancellation authority under part C. In the Omnibus Budget Reconciliation Act of 1993, the Congress enacted provisions that led to a net reduction in direct spending of \$78.8 billion over five years. While this law led to a net reduction in direct spending, it included several provisions that increased direct spending. More specifically, the following are selected examples of provisions that increased direct spending that illustrate how the President's cancellation authority could be applied:

Section 13982 increased Forest Service payments and section 13983 increased Bureau of Land Management (BLM) payments to counties affected by the Northern Spotted Owl. These provisions were estimated to increase direct spending by \$43 million in fiscal year 1994 and \$215 million over the period of fiscal years, 1994-1998. The

President could cancel the entire amount of the legal obligation created by section 13982 for the Forest Service to make payments or the entire amount of the legal obligation in section 13983 for BLM to make payments.

Sections 13811 through 13813 dealt with Customs overtime pay, additional benefits, and user fees. Section 13812(c) provided cash awards for foreign language proficiency to Customs Officers that was estimated to increase direct spending by \$2 million in fiscal year 1994 and \$10 million over the period of fiscal years 1994–1998. The President could cancel that legal obligation for the entire amount of funding provided for cash awards to Customs Officers. However, the President could not reach to provisions that reduced direct spending, such as the extension of Customs fees and overtime reform or other provisions that did not directly deal with an increase in direct spending.

Sections 13901 through 13971 of that law made a number of changes to the food stamp program that were estimated to lead to a net increase in direct spending of \$56 million in fiscal year 1994 and \$2.7 billion over the period of fiscal years 1994–1998. More specifically, section 13923 increased direct spending by raising the asset test and indexed this asset test for inflation for determining eligibility for food stamps. The President would have the authority to cancel the entire specific legal obligation so that the increase in the asset test would have no legal force or effect. In addition, the President could cancel the entire legal obligation to make the inflation adjustment so that this asset test would not be indexed for inflation. However, the President's cancellation authority would not apply to provisions that did not affect direct spending or reduced direct spending, such as section 13951 that expedited claim collections and adjustments to error rate calculations.

(9) Limited Tax Benefit. In general, a "limited tax benefit" is any provision under the Internal Revenue Code that is either (1) a revenue-losing provision that provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries (unless the effect of the provision is that all similarly situated persons receive the same treatment); or (2) a provision that provides transitional relief to 10 or fewer beneficiaries.

The number of beneficiaries affected by a provision is determined by considering each fiscal year in which the provision will be in effect; if the number of beneficiaries falls below the requisite threshold for any one of those fiscal years, the provision could be identified as a limited tax benefit. For purposes of determining the number of beneficiaries, certain individuals and businesses would be aggregated: all businesses and associations which are related (within the meaning of Internal Revenue Code sections 707(b) and 1563(a)) would be treated as one beneficiary; all qualified plans of a single employer would be treated as one beneficiary; all holders of the same bond issue would be treated as one beneficiary. However, individual shareholders of a corporation, partners of a part-

nership, members of an association, or beneficiaries of a trust would not be counted as separate beneficiaries simply because a benefit is provided to the respective corporation, partnership, association, or trust.

Revenue-losing Provisions that Affect 100 or Fewer Beneficiaries. A provision is defined as “revenue-losing” if it results in a reduction in federal tax revenues for any one of the following two periods: (1) the first fiscal year for which the provision is effective; or (2) the period of the five fiscal years beginning with the first fiscal year for which the provisions is effective.

A revenue losing provision that affects 100 or fewer beneficiaries is not a limited tax benefit if one of the exceptions is met. First, if a provision has the effect of providing all persons in the same industry or engaged in the same activity with the same treatment, the item is not a limited tax benefit even if there are 100 or fewer persons in the affected industry. For example, a provision that sets forth the depreciation treatment for equipment that is used only by automobile manufacturers will not be treated as a limited tax benefit solely because there are fewer than 100 automakers located in the United States.

Similarly, a provision that provides the same treatment for all persons who engage in research and development activities, or all persons who adopt children, or all persons who engage in drug testing, would not be treated as a limited tax benefit simply because 100 or fewer persons are expected to engage in that activity in any of the fiscal years in which the provision is effective. In such circumstances, the benefit is provided as an incentive to anyone who chooses to engage in the activity rather than to a closed group of specific taxpayers.

A second exception applies to provisions that have the effect of extending all persons owning the same type of property, or issuing the same type of investment instrument, the same treatment. For example, a provision that sets forth the depreciation treatment for a highly-specialized type of computer equipment that is owned by fewer than 100 taxpayers (who are not necessarily in the same industry) would not be treated as a limited tax benefit as long as any person who purchases such equipment is entitled to the same treatment. Similarly, a provision that affects the deductibility of interest with respect to certain types of debt instruments would not be a limited tax benefit, as long as any person who issued that type of debt instrument receives the same treatment.

The conference report further clarifies that a provision is not a limited tax benefit if the only reason the provision affects different persons differently is because of (1) the size or form of the business or association involved (e.g., a provision that gives preferential treatment to small businesses); (2) general demographic conditions affecting individuals, such as their income level, marital status, number of dependents, or tax return filing status; (3) the amount involved (e.g., a cap based on the dollar amount of a taxpayer’s investment or the number of units produced by a taxpayer); or (4) a generally-available election provided under the Internal Revenue Code (e.g., if taxpayers who engage in a certain activity are given a choice between two alternative treatments, and fewer than 100 taxpayers are expected to choose one of the alternatives).

### Transition Rules

Any Federal tax provision that provides temporary or permanent transitional relief to 10 or fewer beneficiaries in any fiscal year would be a limited tax benefit except to the extent that the provision provides for the retention of prior law for all binding contracts (or other legally enforceable obligations) in existence on a date contemporaneous with Congressional action specifying such a date. For example, a provision in a chairman's mark which retains current law with respect to binding contracts in existence on the date the mark is released would not be a limited tax benefit. In addition, a technical correction to previously enacted law (if it is scored as having no revenue effect) would not be a limited tax benefit for this purpose.

This provision covering transition rules is intended to address the type of special rules used extensively in prior tax legislation. For example, in the Tax Reform Act of 1986 (the "1986 Act"), which included a number of revenue raising tax provisions, various specifically identified taxpayers were provided special rules that exempted them from treatment under the general revenue raising provisions. One provision in the 1986 Act changed the rules for how multinational corporations could allocate interest expenses for foreign tax credit purposes. The provision included a favorable rule for banks, and also included a special exception allowing "certain" non-banks to use the favorable bank rule. The special exception applied to any corporation if "(A) such corporation is a Delaware corporation incorporated on August 20, 1959, and (B) such corporation was primarily engaged in the financing of dealer inventory or consumer purchases on May 29, 1985, and at all times thereafter before the close of the taxable year." Public Law 99-514, 100 Stat. 2548, sec. 1215(c)(5). If 10 or fewer taxpayers were expected to benefit from the special exception, this provision would constitute a limited tax benefit under the conference agreement definition, and would be subject to the President's cancellation authority.

The conferees submit the following two examples for what may or may not be a limited tax benefit. All examples are used solely for illustrative purposes and the conferees are in no way commenting on their merit. Furthermore, the conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The Omnibus Reconciliation Act of 1993 included a provision that created an income tax credit for entities that make qualified cash contributions to one of 20 "community development corporations" to be selected by the Secretary of Housing and Urban Development using certain selection criteria.

Under the conference report, the Joint Committee on Taxation (JCT) would estimate how many contributions would be designated as eligible for the credit, based on the information available to the Committee at the time the legislation was being considered. If the JCT determined more than 100 contributors would benefit from the credit, then the provision could not be canceled. If fewer than 100 contributors were estimated to benefit from the provision, then the provision could be canceled.

If the conference report did not include the information from JCT in the required form, then the President would have the authority to make the determination.

H.R. 831 (enacted in the 104th Congress) included a provision to restore a prior-deduction for 25 percent of the amount paid for health insurance for self-employed individuals and the individuals' spouses. The 25 percent deduction had expired after December 31, 1993. H.R. 831 restored the 25-percent deduction for 1994 and increased the deduction to 30 percent for taxable years beginning after 1994.

Under the conference report, this provision would not be a limited tax benefit because it applies to all self-employed individuals who purchase their own health insurance, and thus this provision would benefit more than 100 individuals.

(10) OMB. The term "OMB" means the Director of the Office of Management and Budget.

*Sec. 1027. Identification of limited tax benefits*

The conferees intend to limit the authority delegated to the President by Congress under section 1021 with respect to the application of that authority to limited tax benefits. A limited tax benefit is a carefully delineated provision under the definition in section 1026(9). This section ensures the proper application of this definition, and hence the President's cancellation authority, to any tax provision. The conference report provides the conferees on any revenue or reconciliation measure with the opportunity to identify for the President what may constitute a limited tax benefit, under the procedures in this section, in each revenue or reconciliation law.

The conference report states that the JCT shall examine any revenue or reconciliation bill or joint resolution (that amends the Internal Revenue Code) prior to its filing by a committee of conference in order to determine whether or not that bill or joint resolution contains any limited tax benefits under the definition in section 1026(9). The statement from the JCT shall state that the bill either contains no limited tax benefits or contains limited tax benefits.

In the case of a revenue or reconciliation bill or joint resolution containing one or more limited tax benefits the statement shall list each of those provisions. In the case of a revenue or reconciliation bill or joint resolution containing no limited tax benefits, the statement shall state that determination. This statement shall be submitted to the conference committee on such a bill or joint resolution and shall be made available by the JCT to any Member of Congress upon request.

If the conference report includes the information from the JCT and that information identifies provisions in the conference report which qualify as limited tax benefits under the definition in section 1026(9), then the President may cancel those, and only those, items as identified. On the other hand, if such a conference report contains a statement from the JCT stating that there are no provisions in the conference report qualifying under the definition in section 1026(9) as a limited tax benefit, then the President may not exercise the cancellation authority under section 1021(a)(3) because



Congress has provided that no tax provisions are eligible for cancellation under this authority.

The conference report specifies how the information provided by JCT may be included in the bill. At the end of the bill, the permitted separate section should read as follows: "Section 1021(a) of the Congressional Budget and Impoundment Control Act of 1974 shall \_\_\_\_\_ apply to \_\_\_\_\_", with the blank spaces being filled in with the appropriate information. In the case in which the JCT identifies limited tax benefits in a conference report, the word "only" would appear in the first blank and a list of all of the provisions of the bill or joint resolution identified by the JCT in that Committee's statement shall appear in the second blank. In the case in which the JCT declares that there are no limited tax benefits in the conference report, the word "not" would appear in the first blank and the phrase "any provision of this Act" would appear in the second blank.

The conferees intend that the decision to include the information provided by JCT in the bill or joint resolution that amends the Internal Revenue Code shall be left to the discretion of the appropriate conferees. With respect to any potential violations or any rules relating to the scope of a conference, the conferees intend that the inclusion of such an identification shall not constitute a violation of any rules of the House of Representatives or the Senate, respectively.

In the event the legislation amending the Internal Revenue Code is signed into law that does not contain the information provided by JCT, any identification of what constitutes a limited tax benefit under the definition in section 1026(9) may be made by the President. If any provision qualifies as a limited tax benefit (within the confines of the definition of such a benefit in section 1026(9)) and the President identifies such a benefit, the President may exercise the cancellation authority under section 1021(a)(3).

### *Section 3. Judicial review*

Any Member of Congress or other adversely affected individual is given standing to seek declaratory judgement and injunctive relief on the ground that any provision of this law violates the Constitution. Suit must be brought in the United States District Court for the District of Columbia. A copy of any complaint brought under this Act must be promptly filed with the Secretary of the Senate and Clerk of the House, and each House reserves the right to intervene in any action according to its own internal rules.

Appeals from the District Court must be filed within 10 calendar days after an order is entered and may be taken directly to the Supreme Court of the United States. A period of 30 calendar days is provided for filing a jurisdictional statement with the Supreme Court, and the conference report prohibits any single Justice from issuing a stay of the District Court's order. Both the District Court and the Supreme Court are directed to advance on the docket and expedite to the greatest extent possible any action brought with regard to the constitutionality of this law.

*Section 4. Conforming amendments*

Section 4 makes three conforming amendments. First, this section amends the short title of the Congressional Budget and Impoundment Control Act of 1974 to clarify that the short title of Impoundment Control Act shall refer to parts A and B of title X. The amendment further specifies that part C of title X shall be cited as the Line Item Veto Act of 1996.

Second, section 4 makes a conforming amendment to the table of contents in the Congressional Budget and Impoundment Control Act to include a listing of the contents of part C, referencing sections 1021 through 1027.

Third, section 4 amends section 904(a) of the Congressional Budget Act of 1974 to clarify that the provisions of sections 1025 and 1027, relating to Congressional consideration of a disapproval bill and identification of limited tax benefits, in an exercise of the rulemaking powers of the House of Representatives and the Senate. As a result, sections 1025 and 1027 are considered part of the rules of each House, respectively, and it supersedes other rules only to the extent that it is inconsistent with those rules. This is also a recognition of the constitutional right of both Houses to change these rules at any time, in any manner and to the same extent as in the case of any other rule of each House.

*Section 5. Effective dates*

Section 5 provides an effective date of the earlier of (1) the day after the enactment of an Act entitled "An Act to provide for a seven-year plan for deficit reduction and achieve a balanced Federal budget."; or (2) January 1, 1997. It provides that this part shall sunset January 1, 2005.

BILL CLINGER,  
GERALD SOLOMON,  
JIM BUNNING,  
PORTER GOSS,  
PETER BLUTE,

*Managers on the Part of the House.*

TED STEVENS,  
BILL ROTH,  
FRED THOMPSON,  
THAD COCHRAN,  
JOHN MCCAIN,  
PETE V. DOMENICI,  
CHUCK GRASSLEY,  
DON NICKLES,  
PHIL GRAMM,  
DAN COATS,  
JIM EXON,

*Managers on the Part of the Senate.*