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2d Session

HOUSE OF REPRESENTATIVES

{ REPT. 109-505
Part 1

**LEGISLATIVE LINE ITEM
VETO ACT OF 2006**

R E P O R T

OF THE

COMMITTEE ON THE BUDGET
HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H.R. 4890

together with

MINORITY VIEWS



JUNE 16, 2006.—Ordered to be printed

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LEGISLATIVE LINE ITEM VETO ACT OF 2006

—————
JUNE 16, 2006.—Ordered to be printed
—————

Mr. NUSSLE, from the Committee on the Budget,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 4890]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Budget, to whom was referred the bill (H.R. 4890) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Legislative Line Item Veto Act of 2006”.

SEC. 2. LEGISLATIVE LINE ITEM VETO.

(a) **IN GENERAL.**—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by striking all of part B (except for sections 1016 and 1013, which are redesignated as sections 1019 and 1020, respectively) and part C and inserting the following:

“PART B—LEGISLATIVE LINE ITEM VETO

“LINE ITEM VETO AUTHORITY

“SEC. 1011. (a) **PROPOSED CANCELLATIONS.**—Within 45 calendar days after the enactment of any bill or joint resolution providing any discretionary budget authority, item of direct spending, or targeted tax benefit, the President may propose, in the manner provided in subsection (b), the cancellation of any dollar amount of such discretionary budget authority, item of direct spending, or targeted tax benefit. If the 45 calendar-day period expires during a period where either House of Congress

stands adjourned *sine die* at the end of a Congress or for a period greater than 45 calendar days, the President may propose a cancellation under this section and transmit a special message under subsection (b) on the first calendar day of session following such a period of adjournment.

“(b) TRANSMITTAL OF SPECIAL MESSAGE.—

“(1) SPECIAL MESSAGE.—

“(A) IN GENERAL.—The President may transmit to the Congress a special message proposing to cancel any dollar amounts of discretionary budget authority, items of direct spending, or targeted tax benefits.

“(B) CONTENTS OF SPECIAL MESSAGE.—Each special message shall specify, with respect to the discretionary budget authority, items of direct spending proposed, or targeted tax benefits to be canceled—

“(i) the dollar amount of discretionary budget authority, the specific item of direct spending (that OMB, after consultation with CBO, estimates to increase budget authority or outlays as required by section 1017(9)), or the targeted tax benefit that the President proposes be canceled;

“(ii) any account, department, or establishment of the Government to which such discretionary budget authority is available for obligation, and the specific project or governmental functions involved;

“(iii) the reasons why such discretionary budget authority, item of direct spending, or targeted tax benefit should be canceled;

“(iv) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation;

“(v) to the maximum extent practicable, all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and the estimated effect of the proposed cancellation upon the objects, purposes, or programs for which the discretionary budget authority, item of direct spending, or the targeted tax benefit is provided;

“(vi) a numbered list of cancellations to be included in an approval bill that, if enacted, would cancel discretionary budget authority, items of direct spending, or targeted tax benefits proposed in that special message; and

“(vii) if the special message is transmitted subsequent to or at the same time as another special message, a detailed explanation why the proposed cancellations are not substantially similar to any other proposed cancellation in such other message.

“(C) DUPLICATIVE PROPOSALS PROHIBITED.—The President may not propose to cancel the same or substantially similar discretionary budget authority, item of direct spending, or targeted tax benefit more than one time under this Act.

“(D) MAXIMUM NUMBER OF SPECIAL MESSAGES.—The President may not transmit to the Congress more than 5 special messages under this subsection related to any bill or joint resolution described in subsection (a), but may transmit not more than 10 special messages for any omnibus budget reconciliation or appropriation measure.

“(2) ENACTMENT OF APPROVAL BILL.—

“(A) DEFICIT REDUCTION.—Amounts of budget authority, items of direct spending, or targeted tax benefits which are canceled pursuant to enactment of a bill as provided under this section shall be dedicated only to reducing the deficit or increasing the surplus.

“(B) ADJUSTMENT OF LEVELS IN THE CONCURRENT RESOLUTION ON THE BUDGET.—Not later than 5 days after the date of enactment of an approval bill as provided under this section, the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise allocations and aggregates and other appropriate levels under the appropriate concurrent resolution on the budget to reflect the cancellation, and the applicable committees shall report revised suballocations pursuant to section 302(b), as appropriate.

“(C) ADJUSTMENTS TO STATUTORY LIMITS.—After enactment of an approval bill as provided under this section, the Office of Management and Budget shall revise applicable limits under the Balanced Budget and Emergency Deficit Control Act of 1985, as appropriate.

“PROCEDURES FOR EXPEDITED CONSIDERATION

“SEC. 1012. (a) EXPEDITED CONSIDERATION.—

“(1) IN GENERAL.—The majority leader of each House or his designee shall (by request) introduce an approval bill as defined in section 1017 not later than the fifth day of session of that House after the date of receipt of a special message transmitted to the Congress under section 1011(b).

“(2) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

“(A) REFERRAL AND REPORTING.—Any committee of the House of Representatives to which an approval bill is referred shall report it to the House without amendment not later than the seventh legislative day after the date of its introduction. If a committee fails to report the bill within that period or the House has adopted a concurrent resolution providing for adjournment *sine die* at the end of a Congress, it shall be in order to move that the House discharge the committee from further consideration of the bill. Such a motion shall be in order only at a time designated by the Speaker in the legislative schedule within two legislative days after the day on which the proponent announces his intention to offer the motion. Such a motion shall not be in order after a committee has reported an approval bill with respect to that special message or after the House has disposed of a motion to discharge with respect to that special message. The previous question shall be considered as ordered on the motion to its adoption without intervening motion except twenty minutes of debate equally divided and controlled by the proponent and an opponent. If such a motion is adopted, the House shall proceed immediately to consider the approval bill in accordance with subparagraph (C). A motion to reconsider the vote by which the motion is disposed of shall not be in order.

“(B) PROCEEDING TO CONSIDERATION.—After an approval bill is reported or a committee has been discharged from further consideration, or the House has adopted a concurrent resolution providing for adjournment *sine die* at the end of a Congress, it shall be in order to move to proceed to consider the approval bill in the House. Such a motion shall be in order only at a time designated by the Speaker in the legislative schedule within two legislative days after the day on which the proponent announces his intention to offer the motion. Such a motion shall not be in order after the House has disposed of a motion to proceed with respect to that special message. 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 disposed of shall not be in order.

“(C) CONSIDERATION.—The approval bill shall be considered as read. All points of order against an approval bill and against its consideration are waived. The previous question shall be considered as ordered on an approval bill to its passage without intervening motion except five hours of debate equally divided and controlled by the proponent and an opponent and one motion to limit debate on the bill. A motion to reconsider the vote on passage of the bill shall not be in order.

“(D) SENATE BILL.—An approval bill received from the Senate shall not be referred to committee.

“(3) CONSIDERATION IN THE SENATE.—

“(A) MOTION TO PROCEED TO CONSIDERATION.—A motion to proceed to the consideration of a bill under this subsection in the Senate shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed is agreed to or disagreed to.

“(B) LIMITS ON DEBATE.—Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours, equally divided and controlled in the usual form.

“(C) APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided and controlled in the usual form.

“(D) MOTION TO LIMIT DEBATE.—A motion in the Senate to further limit debate on a bill under this subsection is not debatable.

“(E) MOTION TO RECOMMIT.—A motion to recommit a bill under this subsection is not in order.

“(F) CONSIDERATION OF THE HOUSE BILL.—

“(i) IN GENERAL.—If the Senate has received the House companion bill to the bill introduced in the Senate prior to the vote required under paragraph (1)(C), then the Senate may consider, and the vote under paragraph (1)(C) may occur on, the House companion bill.

“(ii) PROCEDURE AFTER VOTE ON SENATE BILL.—If the Senate votes, pursuant to paragraph (1)(C), on the bill introduced in the Senate, then immediately following that vote, or upon receipt of the House com-

panion bill, the House bill shall be deemed to be considered, read the third time, and the vote on passage of the Senate bill shall be considered to be the vote on the bill received from the House.

“(b) AMENDMENTS PROHIBITED.—No amendment to, or motion to strike a provision from, a bill considered under this section shall be in order in either the Senate or the House of Representatives.

“PRESIDENTIAL DEFERRAL AUTHORITY

“SEC. 1013. (a) TEMPORARY PRESIDENTIAL AUTHORITY TO WITHHOLD DISCRETIONARY BUDGET AUTHORITY.—

“(1) IN GENERAL.—At the same time as the President transmits to the Congress a special message pursuant to section 1011(b), the President may direct that any dollar amount of discretionary budget authority to be canceled in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to the Congress.

“(2) EARLY AVAILABILITY.—The President shall make any dollar amount of discretionary budget authority deferred pursuant to paragraph (1) available at a time earlier than the time specified by the President if the President determines that continuation of the deferral would not further the purposes of this Act.

“(b) TEMPORARY PRESIDENTIAL AUTHORITY TO SUSPEND DIRECT SPENDING.—

“(1) IN GENERAL.—At the same time as the President transmits to the Congress a special message pursuant to section 1011(b), the President may suspend the implementation of any item of direct spending proposed to be canceled in that special message for a period not to exceed 45 calendar days from the date the President transmits the special message to the Congress.

“(2) EARLY AVAILABILITY.—The President shall terminate the suspension of any item of direct spending at a time earlier than the time specified by the President if the President determines that continuation of the suspension would not further the purposes of this Act.

“(c) TEMPORARY PRESIDENTIAL AUTHORITY TO SUSPEND A TARGETED TAX BENEFIT.—

“(1) IN GENERAL.—At the same time as the President transmits to the Congress a special message pursuant to section 1011(b), the President may suspend the implementation of any targeted tax benefit proposed to be repealed in that special message for a period not to exceed 45 calendar days from the date the President transmits the special message to the Congress.

“(2) EARLY AVAILABILITY.—The President shall terminate the suspension of any targeted tax benefit at a time earlier than the time specified by the President if the President determines that continuation of the suspension would not further the purposes of this Act.

“(d) EXTENSION OF 45-DAY PERIOD.—The President may transmit to the Congress not more than one supplemental special message to extend the period to suspend the implementation of any discretionary budget authority, item of direct spending, or targeted tax benefit, as applicable, by an additional 45 calendar days. Any such supplemental message may not be transmitted to the Congress before the 40th day of the 45-day period set forth in the preceding message or later than the last day of such period.

“IDENTIFICATION OF TARGETED TAX BENEFITS

“SEC. 1014. (a) STATEMENT.—The chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate acting jointly (hereafter in this subsection referred to as the ‘chairmen’) 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 targeted tax benefits. The chairmen shall provide to the committee of conference a statement identifying any such targeted tax benefits or declaring that the bill or joint resolution does not contain any targeted tax benefits. Any such statement shall be made available to any Member of Congress by the chairmen immediately upon request.

“(b) STATEMENT INCLUDED IN LEGISLATION.—

“(1) IN GENERAL.—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 chairmen, but only in the manner set forth in paragraph (2).

“(2) APPLICABILITY.—The separate section permitted under subparagraph (A) shall read as follows: ‘Section 1021 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 chairmen identify targeted 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 chairmen in such statement in the second blank space; or

“(B) in any case in which the chairmen declare that there are no targeted 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—

“(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in this section only with respect to any targeted 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 this section with respect to any targeted tax benefit in that law.

“TREATMENT OF CANCELLATIONS

“SEC. 1015. The cancellation of any dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit shall take effect only upon enactment of the applicable approval bill. If an approval bill is not enacted into law before the end of the applicable period under section 1013, then all proposed cancellations contained in that bill shall be null and void and any such dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit shall be effective as of the original date provided in the law to which the proposed cancellations applied.

“REPORTS BY COMPTROLLER GENERAL

“SEC. 1016. With respect to each special message under this part, the Comptroller General shall issue to the Congress a report determining whether any discretionary budget authority is not made available for obligation or item of direct spending or targeted tax benefit continues to be suspended after the deferral authority set forth in section 1013 of the President has expired.

“DEFINITIONS

“SEC. 1017. 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) APPROVAL BILL.—The term ‘approval bill’ means a bill or joint resolution which only approves proposed cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or targeted tax benefits in a special message transmitted by the President under this part and—

“(A) the title of which is as follows: ‘A bill approving the proposed 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 the Congress approves of proposed cancellations _____’, the blank space being filled in with a list of the 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;

“(D) which only includes proposed cancellations that are estimated by CBO to meet the definition of discretionary budgetary authority or items of direct spending, or that are identified as targeted tax benefits pursuant to section 1014;

“(E) if any proposed cancellation other than discretionary budget authority or targeted tax benefits is estimated by CBO to not meet the definition of item of direct spending, then the approval bill shall include at the end: ‘The President shall cease the suspension of the implementation of the following under section 1013 of the Legislative Line Item Veto Act of 2006: _____’, the blank space being filled in with the list of such proposed cancellations; and

“(F) if no CBO estimate is available, then the entire list of legislative provisions proposed by the President is inserted in the second blank space in subparagraph (C).

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

“(4) CANCEL OR CANCELLATION.—The terms ‘cancel’ or ‘cancellation’ means to prevent—

“(A) budget authority from having legal force or effect;

“(B) in the case of entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect;

“(C) in the case of the food stamp program, to prevent the specific provision of law that provides such benefit from having legal force or effect;

or

“(D) a targeted tax benefit from having legal force or effect; and to make any necessary, conforming statutory change to ensure that such targeted tax benefit is not implemented and that any budgetary resources are appropriately canceled.

“(5) CBO.—The term ‘CBO’ means the Director of the Congressional Budget Office.

“(6) 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.

“(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 or obligation limitation 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; or

“(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 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 DIRECT SPENDING.—The term ‘item of direct spending’ means any provision of law that results in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated consistent with the methodology used to calculate a baseline under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and included with a budget

submission under section 1105(a) of title 31, United States Code, in the first year or the 5-year period for which the item is effective. However, such item does not include an extension or reauthorization of existing direct spending, but instead only refers to provisions of law that increase such direct spending.

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

“(10) OMNIBUS RECONCILIATION OR APPROPRIATION MEASURE.—The term ‘omnibus reconciliation or appropriation measure’ means—

“(A) in the case of a reconciliation bill, any such bill that is reported to its House by the Committee on the Budget; or

“(B) in the case of an appropriation measure, any such measure that provides appropriations for programs, projects, or activities falling within 2 or more section 302(b) suballocations.

“(11) TARGETED TAX BENEFIT.—(A) The term ‘targeted tax benefit’ means any revenue-losing provision that provides a Federal tax deduction, credit, exclusion, or preference to only one beneficiary (determined with respect to either present law or any provision of which the provision is a part) under the Internal Revenue Code of 1986 in any year for which the provision is in effect;

“(B) for purposes of subparagraph (A)—

“(i) all businesses and associations that are members of the same controlled group of corporations (as defined in section 1563(a) of the Internal Revenue Code of 1986) shall be treated as a single beneficiary;

“(ii) all shareholders, partners, members, or beneficiaries of a corporation, partnership, association, or trust or estate, respectively, shall be treated as a single beneficiary;

“(iii) all employees of an employer shall be treated as a single beneficiary;

“(iv) all qualified plans of an employer shall be treated as a single beneficiary;

“(v) all beneficiaries of a qualified plan shall be treated as a single beneficiary;

“(vi) all contributors to a charitable organization shall be treated as a single beneficiary;

“(vii) all holders of the same bond issue shall be treated as a single beneficiary; and

“(viii) 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;

“(C) for the purpose of this paragraph, the term ‘revenue-losing provision’ means any provision that is estimated to result in a reduction in Federal tax revenues (determined with respect to either present law or any provision of which the provision is a part) 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; and

“(D) 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.

“EXPIRATION

“SEC. 1018. This title shall have no force or effect on or after October 1, 2012.”.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking “1017” and inserting “1012”; and

(2) in subsection (d), by striking “section 1017” and inserting “section 1012”.

(b) ANALYSIS BY CONGRESSIONAL BUDGET OFFICE.—Section 402 of the Congressional Budget Act of 1974 is amended by inserting “(a)” after “402.” and by adding at the end the following new subsection:

“(b) Upon the receipt of a special message under section 1011 proposing to cancel any item of direct spending, the Director of the Congressional Budget Office shall prepare an estimate of the savings in budget authority or outlays resulting from such proposed cancellation relative to the most recent levels calculated consistent with the methodology used to calculate a baseline under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, and trans-

mit such estimate to the chairmen of the Committees on the Budget of the House of Representatives and Senate.”

(c) CLERICAL AMENDMENTS.—(1) Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the last sentence.

(2) Section 1020(c) of such Act (as redesignated) is amended is amended by striking “rescinded or that is to be reserved” and insert “canceled” and by striking “1012” and inserting “1011”.

(3) 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 striking the contents for parts B and C of title X and inserting the following:

“PART B—LEGISLATIVE LINE ITEM VETO

“Sec. 1011. Line item veto authority.

“Sec. 1012. Procedures for expedited consideration.

“Sec. 1013. Presidential deferral authority.

“Sec. 1014. Identification of targeted tax benefits.

“Sec. 1015. Treatment of cancellations.

“Sec. 1016. Reports by Comptroller General.

“Sec. 1017. Definitions.

“Sec. 1018. Expiration.

“Sec. 1019. Suits by Comptroller General.

“Sec. 1020. Proposed deferrals of budget authority.”

(d) EFFECTIVE DATE.—The amendments made by this Act shall take effect on the date of its enactment and apply only to any dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit provided in an Act enacted on or after the date of enactment of this Act.

SEC. 4. SENSE OF CONGRESS ON ABUSE OF PROPOSED CANCELLATIONS.

It is the sense of Congress no President or any executive branch official should condition the inclusion or exclusion or threaten to condition the inclusion or exclusion of any proposed cancellation in any special message under this section upon any vote cast or to be cast by any Member of either House of Congress.

Introduction

OVERVIEW OF THE LEGISLATION

The concept of a presidential line item veto has long seemed a common-sense and straight-forward mechanism to help restrain spending. In its simplest and broadest form, it would allow the President to identify questionable spending items in bills passed by Congress, and get them promptly reconsidered, before the funding starts to flow. Thus it would establish an additional check against spending items that are excessive, unnecessary, merely parochial, or otherwise unable to stand on their own merits.

As is often the case, however, the execution is far more complicated than the concept.

The Legislative Line Item Veto Act of 2006 addresses each of the complications, from procedural to practical to constitutional, and creates a mechanism that will provide greater accountability and transparency to the process of spending taxpayers' money. A very brief description of the manager's amendment for the bill (offered by Mr. Ryan of Wisconsin), as reported by the Committee on the Budget, is as follows:

- ***Line Item Veto Authority.*** Within 45 days of the enactment of a law, the President may transmit a special message proposing to cancel any of three classes of budget provisions—an amount of discretionary budget authority, a direct spending item, or a targeted tax benefit. He can transmit up to five special messages per bill (an exception is made for omnibus bills), and there is no limitation on combining the three classes in any given special message.
- ***Procedures for Expedited Consideration.*** For each transmittal, Congress must introduce a bill (termed an “Approval Bill”) reflecting the proposed cancellations, bring that bill to the floor, and have a vote on it. Amendments or motions to strike provisions, or add provisions, are not allowed—it must be an up-or-down vote on the entire list of proposed cancellations.
- ***Presidential Deferral Authority.*** While Congress considers legislation to permanently cancel or repeal spending and tax provisions, the President may defer discretionary spending or suspend the implementation of direct spending or tax provisions. Those budget provisions may be deferred for no more than 45 calendar days. The President also is authorized to renew a deferral for an additional 45 days.
- ***Nature of the Approval Bill.*** The approval bill must meet certain conditions. Primary among these is that Congress defines

each cancellation that would produce budget authority or outlay savings, or would reduce revenue.

- ***Savings Go to Deficit Reduction.*** This bill would devote any savings from the Legislative Line Item Veto Act to deficit reduction. It would accomplish this primarily by reducing the limits established in the budget resolution by the amount of any savings.

Detailed descriptions of the legislation appear elsewhere in this report.

THE HISTORICAL CONTEXT

Transition

No one can grasp today's budget situation apart from the unique moment in history in which it occurs. The Nation's priorities have changed profoundly and permanently in the past 5 years; and the fiscal challenges of this period reflect the awkwardness of the adjustment.

By the beginning of 2001, the government had enjoyed 3 consecutive years of growing budget surpluses—after nearly 3 decades of seemingly insoluble deficits. In January that year, the Congressional Budget Office [CBO] estimated \$5.6 trillion in black ink over the succeeding 10 years. Federal Reserve Chairman Greenspan warned that the government might pay off all its debt by mid-decade and still be collecting more cash than it could spend. Even after enactment of President Bush's 2001 tax relief plan—and with signs of an economic slowdown beginning to show—CBO still projected surpluses of \$3.4 trillion over the next 10 years.

Yet even as myriad interests clamored for larger shares of these swelling Federal funds, a new and more demanding limit on spending took hold. Having balanced the overall budget (the "unified" budget) every year since 1998, Congress now insisted on balancing the budget *excluding* revenue credited to the Social Security Trust Funds. Since the mid-1980s, critics had complained that Social Security revenue—which exceeded annual benefit obligations by substantial amounts—masked the true size of the government's budget deficits. They also criticized the "raiding" of these dedicated funds to cover costs other than Social Security payments.

So once the government, in 1999, actually achieved this balance-excluding-Social Security status—known as balancing the "on-budget" budget—it became an imperative. No statute required such a discipline; and it had no real impact on the government's ability to pay Social Security benefits. But it became a *political* requirement nonetheless. It became so important that when the on-budget balance appeared threatened, the House Budget Committee drafted legislation authorizing the President to sequester any funds needed to maintain it, and scheduled a markup—for 11 September 2001.

The Change in Priorities

Understandably and necessarily, on that day the war against global terrorism took precedence over everything, including budget discipline—and did so in a bipartisan fashion. Congress opened its wallet to fund reconstruction in New York and at the Pentagon, to

shore up security measures within the United States, and to engage the terrorists directly in combat overseas. Congress and the President also kept commitments to a wide range of domestic priorities, including education, health, and veterans' benefits, delivering—among other things—prescription drug coverage in Medicare. By fiscal year 2006, Federal outlays in constant dollars were about 27 percent (\$491 billion) higher than in 2001.

All this new spending brought with it the inevitable temptations. For example, fiscal year 2006 appropriations bills contained roughly 10,000 parochial or special-interest “earmarks, costing about \$29 billion. Nevertheless, the commitment to budget discipline had been *suspended*, not terminated. It began to reawaken with the fiscal year 2004 budget debate, when the administration called for cutting deficits in half over the subsequent 5 years. Congress accepted the guideline, adhering to it through congressional budgets up to the present.

Much of the deficit reduction so far was accomplished through revenue growth, which has consistently outpaced estimates despite the acceleration of tax relief. Containing spending has been harder, especially with the continuing war in Iraq. Then, of course, came Katrina. The magnitude of the Nation's worst natural disaster, and the need for prompt Federal assistance in substantial amounts, threatened to shatter the fragile restraint that had begun to return. But Congress did ultimately recover—with a package of entitlement reforms saving nearly \$40 billion over 5 years (up from the previously planned \$35 billion), and an across-the-board reduction in appropriated spending. This year's budget, as passed by the House, took further steps, with another round of entitlement reforms, and the creation of a set-aside fund for natural disasters—the latter included for the first time ever. In addition, a lobbying reform bill passed by the House contains provisions aimed at reining in the use of special-interest earmarks that increasingly clutter spending bills.

No one budget or budget discipline can permanently master Congress's budgetary challenges. Progress is incremental. But each new step adds to those before it, and the gains do accumulate. The Legislative Line Item Veto Act is another step along that path.

Impoundments and Rescissions

During his January 1988 State of the Union Address, President Reagan memorably hefted a 14-pound, 1,053-page omnibus appropriations bill that Congress had passed near the end of the previous year. “Congress shouldn't send another one of these,” he admonished. “No, and if you do, I will not sign it.”

For several years, the President had urged Congress to pass a presidential line item veto law. Since 1974, presidents had been all but powerless to strike the extraneous or wasteful provisions that Congress tended to load into its spending bills. A president could only veto an entire bill or accept it with all its costly baubles. Naturally, the larger the bill, the worse the problem became, as with the omnibus measure. But all spending measures were subject to it.

This limitation on presidential budgetary discretion was partly constitutional: a product broadly of the Constitution's fundamental (though not absolute) separation of legislative and executive pow-

ers, and specifically the charter's article I section 7, which prescribes how bills are to become laws. But the budget reforms of 1974 arguably worsened the problem, by sharply restricting presidents' longstanding and legitimate "impoundment" authority, making even this management practice all but impossible.

Since the beginning of the republic, presidents have had the ability to defer or refuse to spend funds provided by Congress. As noted in testimony to the Budget Committee: "[I]n the first Congress, President Washington was given discretionary spending authority in at least three appropriations bills to spend as little or as much as he pleased, up to the limit of those spending authorities; and the remainder that was left over, if he didn't spend it all, would, of course, be restored to the Treasury." (Testimony of Charles J. Cooper, 8 June 2006) This authority remained during the 19th century and early 20th century, though the practice was seldom used. Still, the Congressional Research Service [CRS] concludes: "Virtually all Presidents have impounded funds in a routine manner as an exercise of executive discretion to accomplish efficiency in management." (CRS, *Item Veto and Expanded Impoundment Proposals*, 22 November 2004)

The 1950s and 1960s saw increasing tensions between the President and Congress over the use of impoundment authority. Yet it was not until the 1970s that the matter finally culminated in congressional action.

During his administration, President Nixon imposed a moratorium on subsidized housing programs, targeted certain farm programs for elimination, and suspended community development activities—all frustrating congressional intent. With the Clean Water Act, he went further. Congress handily overrode his veto of the act; but the President subsequently (and flagrantly) impounded funds from it anyway.

That was as much as Congress could stand. So it countered with a new law (in the midst of Nixon's Watergate troubles), the Impoundment Control Act (Title X of the Congressional Budget and Impoundment Control Act, or ICA) in 1974. The ICA restricted the President's ability to impound funds, providing a statutory framework for Congress to review impoundment actions by the President. It permitted the President to delay the expenditure of funds (deferral authority) and to cancel funds (rescission authority). The President was required to inform Congress of all proposed deferrals and rescissions and to submit specified information about them.

A rescission action by the President required approval by both the House and the Senate within 45 days of continuous session or funds were required to be made available again for obligation.

These presidential authorities, still in place today, have proved ineffective. Congress can simply ignore presidential rescissions, in which case they just fade away. Nothing requires Congress to act. So various proposals were introduced during the 101st, 102d, and 103d Congresses to strengthen the rescission framework. This trend reached a kind of critical mass in the spring of 1996, with the passage of the Line Item Veto Act (enacted on 9 April 1996, with an effective date of 1 January 1997).

The constitutionality of the Line Item Veto Act was soon challenged. Upon appeal, the Supreme Court decided in a 6–3 decision

that allowing the President to cancel provisions of enacted law violated the Constitution's presentment clause. (Detailed discussions of constitutional issues related to the line item veto and similar measures appear elsewhere in this report.) There the discussion ended—temporarily.

BENEFITS OF THE LEGISLATIVE LINE ITEM VETO ACT OF 2006

The Legislative Line Item Veto Act of 2006 builds on all previous efforts to strengthen and expedite the rescission process, refining their terms and practices and correcting their flaws. The principal advantages of the legislation are the following:

- ***Strengthens Current Practices.*** As noted above, the rescission process created by the Impoundment Control Act of 1974 is rarely used because it is largely ineffective. Congress can simply ignore rescissions submitted by the president. The Legislative Line Item Veto Act *requires* Congress to vote up or down on a stand-alone bill containing the items the President seeks to cancel.
- ***Provides Transparency and Accountability.*** It is well-known that earmarks and other special-interest items churn silently through the legislative mill and often fix themselves onto massive spending bills that Members never get an opportunity to read. This bill provides another opportunity to expose such measures to scrutiny. If they can stand on their own merits, they will survive.
There is a widespread public perception that the number of earmarked spending items is excessive. The large number of earmarks, the lack of transparency, and the lack of a rigorous justification process make it difficult to assure taxpayers that their dollars are being spent wisely. This bill helps Congress alter this course.
- ***The Bill is Constitutional.*** Unlike the Line Item Veto Act of 1996, this proposal has been adjudged by legal experts to be constitutional. It adheres to the procedures of article I. It keeps legislative and budgetary authority in Congress. Although it requires Congress to vote on the President's proposed rescissions, it assures that no law changes unless and until Congress votes to change it.
- ***It Is Comprehensive.*** The act applies the line item veto process to annual appropriations, items of "direct spending" (entitlements), and targeted tax benefits (as defined by the Chairmen of the tax-writing committees). Thus it covers all areas of spending and tax law subject to earmarking or special-interest spending.
- ***Taxpayers Are the Principal Beneficiaries.*** All savings would be used for deficit reduction, and could not be applied to augment other spending.

The Committee on the Budget reported the Legislative Line Item Veto Act of 2006 by a vote of 24–9. Subsequent text in this report describes the provisions of the measure in detail.

Summary of H.R. 4890, the Legislative Line Item Veto Act of 2006

BILL AS INTRODUCED

General Concept

H.R. 4890, the Legislative Line Item Veto Act was introduced by Congressman Paul Ryan on 7 March 2006. Under the bill as introduced, the President is authorized to send to Congress a request for a rescission of discretionary or mandatory spending, or a tax provision affecting fewer than 100 taxpayers (10 taxpayers in the case of a transitional relief provision).

To implement the rescissions and thereby cancel the spending Congress must vote to approve the proposals, and the President must sign the joint resolution.

Notwithstanding this requirement, the President has the authority to defer the spending (or tax benefit) for up to 180 days while Congress considers his recommendations.

Procedure

Expedited procedures are established to accelerate Congressional consideration of the President's proposal.

The President transmits proposed rescissions to Congress, and the majority leader in each House introduces a joint resolution implementing the President's proposed rescissions within 2 legislative days of the President's transmittal. The introduced bill is referred to the committee of jurisdiction, and must be reported without substantive change. (If the committee fails to act within 5 legislative days of introduction, it is discharged from consideration.) On the floor of both the House and the Senate, the resolution is highly privileged, and debate is limited to 10 hours in the Senate and 4 hours in the House. A vote on final passage occurs within 10 days of the bill's introduction.

Application

The President's authority to propose rescissions applies to three distinct types of provisions:

Discretionary Spending. The President may propose rescinding a "dollar amount" of discretionary spending. This means he may propose rescinding an entire dollar amount: specified in an appropriations law; required to be allocated by an appropriations law despite the absence of a specific dollar amount in the law; represented in a table, chart, or text in the committee report or joint statement of managers accompanying the law; and required by an

authorizing statute to be spent for a specific purpose for which budget authority has been provided by an appropriations law.

Items of Direct Spending. The President has broad authority to propose rescissions of direct (i.e., mandatory) spending. An item of direct spending includes any specific provision of law that results in a change (not just an increase) in budget authority or outlays, relative to current law. In addition, presidential authority to rescind items of direct spending extends to any direct spending provision enacted after enactment of H.R. 4890, regardless of when the President transmits his proposal.

Targeted Tax Benefits. Generally, a targeted tax benefit is defined as either a revenue-losing provision (relative to current law) benefiting 100 or fewer taxpayers, or a transitional relief provision benefiting 10 or fewer taxpayers. To refine the definition, several exceptions to the general rule are included. For example, a provision benefiting fewer than 100 taxpayers is not a targeted tax benefit if it provides a similar benefit to all taxpayers operating in the same industry, engaging in the same activity, using the same type of property, or issuing the same type of investment. In addition, a set of anti-avoidance rules prevents circumvention of the 100-taxpayer rule through formalistic distinctions—e.g., all corporations part of the same affiliated group (and therefore under common control) are treated as a single taxpayer.

SUMMARY OF THE MANAGER'S AMENDMENT

Line Item Veto Authority. Within 45 days of the enactment of a law, the President may transmit a special message proposing to cancel any of three classes of budget provisions: an amount of discretionary budget authority, a direct spending item or a targeted tax benefit. He can transmit up to five special messages, and there is no limitation on combining the three classes in any given special message.

Procedures for Expedited Consideration. Congress must introduce a bill reflecting the proposed cancellations, bring that bill to the floor, and have a vote on it. Amendments or motions to strike provisions, or add provisions, are not allowed it must be an up or down vote on the entire list of proposed cancellations.

Presidential Deferral Authority. Parallel to the authority to propose cancellations is the authority to temporarily suspend the implementation, or the obligation of certain budget authority, of budgetary resources and revenue measures. The President is authorized to withhold spending or suspend benefits up to 45 days. The President may not withhold or suspend any dollar amount until he transmits the special message.

The President may make funds available earlier if he concludes withholding or suspension of funds would not “further the purposes” of the Act. A vote of a House of Congress on an approval bill that does not receive sufficient support to pass would be an indication that the deferral should be ended. The President may renew the deferral for another 45 days if the Congress has not been able to consider the approval bill in the initial period, though it is not predicated on such a vote. The renewal period is authorized

automatically upon the transmittal of a supplemental special message.

Definition of the Approval Bill. The introduced approval bill, in order to effectuate the proposed cancellation of the budget provisions, must meet certain conditions. Primary among these is that the Congressional Budget Office [CBO] must estimate that each cancellation would produce budget authority or outlay savings. Another criterion is that the President must not have proposed the same cancellation in a separate special message either previously or in a contemporaneously transmitted special message. If two special messages are transmitted at the same time to the Congress, and those messages do contain the same proposed cancellation, the majority leader, in introducing the approval bill for each special message, may choose in which bill the individual proposed cancellation should be included.

For discretionary rescissions it is generally simple to identify the budgetary effect of a provision of discretionary spending. Generally an appropriation of budget authority follows a straightforward process: "There are hereby appropriated" an amount for a specified purpose.

Under the terms of this act, a proposed cancellation must propose the rescission of all of a specified appropriation. If the proposal is to rescind only an amount within the overall appropriation, the amount of the proposed cancellation must be identified for a specific purpose in the report or joint statement accompanying the bill (or a table or chart). In the unusual circumstance where an appropriation of budget authority is disputed between CBO and Office of Management and Budget [OMB] (for instance the year in which the budget authority is determined to be available), the estimate prepared by CBO governs the preparation of the approval bill with respect to that proposed cancellation of discretionary budget authority.

With respect to direct spending, there are unusual cases, though they occur more frequently than those for discretionary spending, when OMB, which prepares the special message initially identifying the items of direct spending, disagrees with CBO as to the effect legislative provisions might have. In this circumstance, the cancellation that CBO estimates to have no budgetary effect is not included in the approval bill prepared by the majority leader of that House of Congress. If it is included, the privileged nature of the bill to expedited consideration could be questioned. Because the CBO estimate determines whether an item of direct spending has a budgetary impact, and because both majority leaders are using this estimate, any approval bill introduced in the House or the Senate by the leaders will be identical.

For purposes of tax benefits, the approval bill may only include items from a specified list prepared at the time any conference report on a tax bill is prepared. A tax bill is defined as any bill that makes changes to the Internal Revenue Code of 1986, though a targeted tax benefit is revenue oriented and does not include spending items such as refundable tax credits (such as the Earned Income Tax Credit).

The specified list of targeted tax benefits is prepared by the Chairmen of the Senate Finance and House Ways and Means Com-

mittees and inserted into the tax bill that is then sent to the President. Once that bill is signed into law, the President may review that portion of the law and choose from the list any provision he believes is a targeted tax benefit that should be canceled.

If the chairmen believe there are no targeted tax benefits included in the tax bill to be enacted into law, then the section in question provides for a statement that there are no such benefits, and in such a situation, the President may not include any proposed cancellations of targeted tax benefits in a special message related to that public law. This does not preclude the President from identifying and proposing to cancel any item of direct spending related to the tax code, such as refundable tax credits, which are classified as direct spending. Any item increasing direct spending in such a case could be a proposed cancellation, but the legislative text of the proposal may not have an effect on revenue or it would be considered an inappropriate item to include in the approval bill.

Again, in any situation where OMB and CBO diverge in their estimates of the budgetary effects of the proposed cancellations, the latter shall determine whether a provision in the numbered list of cancellations proposed by the President may be included in a bill introduced by the majority leader of the respective House.

Government Accountability Office. When the President transmits a special message to the Congress, the Legislative Line Item Veto Act requires the Comptroller General to prepare a report determining whether any discretionary budget authority is not made available for obligation, item of direct spending or targeted tax benefit continues to be suspended after the deferral authority expires.

SUMMARY OF THE MAJOR CHANGES MADE BY THE MANAGER'S AMENDMENT

Number and Timing of Special Messages

H.R. 4890 as Introduced. No limit on number or timing.

Manager's Amendment. President may submit 5 special messages per enacted law, and 10 special messages per enacted omnibus reconciliation or appropriations law.

Withholding Period for Funds in Requested Rescission

H.R. 4890 as Introduced. 180 day withholding for funds proposed for rescission.

Manager's Amendment. President is authorized to withhold spending or suspend benefits up to 45 days. The President may not withhold or suspend any dollar amount until he transmits the special message. The President may make funds available earlier if he concludes withholding or suspension of funds would not "further the purposes" of the act. A vote of a House of Congress on an approval bill which does not receive sufficient support to pass would be an indication that the deferral should be ended. The President may renew the deferral for another 45 days if the Congress has not been able to consider the approval bill in the initial period, although his authority is not predicated on such a vote. The renewal

period is authorized automatically upon the transmittal of a supplemental special message.

Repeated Submissions of Proposed Cancellations

H.R. 4890 as Introduced. No limit on number of times an item may be submitted.

Manager's Amendment. President may not resubmit any proposed cancellation that is the same or substantially similar to one he has proposed previously.

Tax Application

H.R. 4890 as Introduced. Applies to tax benefits affecting 100 or fewer taxpayers (10 or fewer in the case of transitional relief). The President determines which provisions meet the definition of targeted tax benefit.

Manager's Amendment. Applies to tax benefits affecting a single beneficiary. The amendment includes references to "targeted tax benefit" throughout Part B to allow for consideration of repeal of these benefits under the same procedure as those for discretionary spending and direct spending. The Chairmen of the Ways and Means and Finance Committees identify targeted tax benefits and allows the President to only rescind those benefits on the list.

Mandatory Spending

H.R. 4890 as Introduced. Allows President to modify mandatory spending policies.

Manager's Amendment. Does not allow the President to "modify" direct spending items or targeted tax benefits, but does allow limited conforming changes to law to assure direct spending savings.

Legislative Text

H.R. 4890 as Introduced. A rescission bill is introduced exactly as proposed by the President.

Manager's Amendment. Defines an "approval" bill and identifies certain criteria the list of proposed cancellations must meet if they are to be included in that bill—e.g. all direct spending items must be scored by CBO as reducing budget authority or outlays.

SUMMARY OF THE AMENDMENTS ADOPTED IN COMMITTEE

Amendment Offered by Mr. Cuellar

Neither the bill as introduced nor the manager's amendment offered by Mr. Ryan included a "sunset" provision, which means the procedure set out by its terms would be permanent. Mr. Cuellar offered an amendment to include a specific date on which the procedure would expire, October 1, 2012. This 6-year time period does not mean that the Legislative Line Item Veto Act of 2006 is simply a short-term concept, but rather that it should be reviewed and if needed revised after that time period. This sunset builds in a fixed

time when the Congress must reconsider the procedure, determine what has worked and what, if anything, has not.

The amendment was agreed to by voice vote.

Amendment Offered by Mr. McCotter

Mr. Neal offered an amendment to include certain language within the text of Title X of the Impoundment Control Act of 1974. This language prohibited the President from using his authority to propose to cancel budgetary provisions of discretionary budget authority, item of direct spending, or targeted tax benefits to effect legislative negotiations with Members of Congress.

Mr. McCotter offered language to replace the text of the Neal amendment with his own. The McCotter substitute would not insert language into the Impoundment Control Act but rather would be a freestanding "Sense of Congress."

The language itself bore a resemblance to the Neal amendment insofar as it expressed the intent of Congress that the President should not "condition the inclusion or exclusion or threaten to condition the inclusion or exclusion of any proposed cancellation in any special message under this section upon any vote cast or to be cast by any Member of either House of Congress."

Mr. McCotter's substitute amendment was agreed to and the committee adopted that language as a new section of the measure.

Background and Purpose

CURRENT LAW

The Impoundment Control Act of 1974 (Title X of the Congressional Budget and Impoundment Control Act, P.L. 93-344), established two categories of impoundments: deferrals, or temporary delays in funding availability; and proposed rescissions, or permanent cancellations of discretionary budget authority (should they be agreed to by the U.S. Congress). With a rescission, the funds must be made available for obligation unless both Houses of Congress take action to approve the President's rescission request within 45 days of "continuous session."

Deferral authority is only allowed to the President for administrative reasons. If he defers budget authority for any reason, he has to explain to Congress in detail the following:

1. The amount of the budget authority proposed to be deferred;
2. Any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;
3. The period of time during which the budget authority is proposed to be deferred;
4. The reasons for the proposed deferral, including any legal authority invoked to justify the proposed deferral;
5. To the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed deferral; and
6. All facts, circumstances, and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances, and considerations in terms of their application to any legal authority, including specific elements of legal authority, invoked to justify such proposed deferral, and to the maximum extent practicable, the estimated effect of the proposed deferral upon the objects, purposes, and programs for which the budget authority is provided.

SUMMARY OF PROPOSED CHANGES

Although the Legislative Line Item Veto Act of 2006 retains the President's deferral authority embodied in current law, the proposal replaces the current rescission process with a new procedure to "cancel" budgetary provisions. This new procedure, proposed many times before, is often referred to as "expedited rescission."

The President may still transmit, as under current law, to the Congress a special message to propose to cancel specified spending or tax provisions (although current law only provides for special messages to propose the cancellation of discretionary budget au-

thority). The proposed cancellation procedure expands the current system, which is confined only to spending contained in appropriations measures, to include direct spending and targeted tax benefits.

It also enhances the expedited consideration procedures for an “approval” bill to enact into law the President’s proposed cancellations. Under the current system, although there are expedited procedures, Congress can easily circumvent the process. Congress is constitutionally empowered to deactivate any expedited consideration procedures if either House chooses, but the process outlined in the proposed bill provides stronger tools to address wasteful spending and a far more powerful procedure to require a vote on spending and tax cancellations.

The Legislative Line Item Veto Act of 2006 has the following main elements:

Line Item Veto Authority. The President is authorized under this act to transmit a “special message” that proposes to cancel provisions falling into one of three classes of budgetary provisions—discretionary budget authority, items of direct spending, or targeted tax benefits. The President must transmit this message no later than 45 days after signing the bill to which the cancellations apply into law. He may transmit no more than five special messages for each public law. The President may send 10 special messages for an omnibus appropriations bill or omnibus reconciliation bill signed into law. Each message may combine, in any fashion the President determines, the three classes of budgetary provisions.

Procedures for Expedited Consideration. Within 5 days of receiving a special message, the majority leader of each House of Congress must introduce an “approval bill” that includes the proposed cancellations. The bill is immediately referred to the committee or committees of jurisdiction and they have 7 days in which to consider the bill. The committee(s) must report the bill with or without recommendation, but may not amend. If a committee cannot or will not report the bill after that time period, a motion to discharge the committee may be brought to the floor by any Member of Congress. Upon adoption of that motion, the bill is considered on the floor. Amendments or motions to strike provisions, or add provisions, are not allowed—it must be an up-or-down vote on the entire list of proposed cancellations.

Presidential Deferral Authority. During the time Congress is considering the approval bill that will permanently cancel spending and tax provisions, the President may suspend discretionary spending or the implementation of direct spending and tax provisions.

This deferral may last for only 45 calendar days, although it may be extended for an additional 45 days.

If the 45 days elapse during a time the Congress is in an extended recess, such as between sessions of Congress, the President may transmit the message on the first day the Congress reconvenes.

Definition of an Approval Bill. The approval bill must meet certain conditions. The Congressional Budget Office must analyze the proposed cancellations and issue a report to Congress. Only

those items having a legitimate budgetary effect may be included in the approval bill. Even if the Office of Management and Budget asserts a provision has a budgetary effect, if the Congressional Budget Office disagrees, the proposed cancellation is not included in the approval bill considered by Congress.

Deficit Reduction. This bill would devote any savings from the Legislative Line Item Veto Act to deficit reduction. It would accomplish this primarily by reducing the limits established in the budget resolution by the amount of any savings.

PURPOSE OF PROPOSED CHANGES

The Legislative Line Item Veto Act of 2006 provides an effective mechanism for rooting out and eliminating particular, unnecessary spending items.

It will provide Congress an additional tool for reducing unnecessary spending and expressly dedicate any savings achieved by this procedure to deficit reduction. It brings transparency and accountability to spending bills, providing a strong deterrent to wasteful earmark project requests.

The bill establishes the means to more easily consider unnecessary entitlement spending. That form of spending poses a great long-term challenge to the Federal budget. The bill creates an expedited process for Congress to vote on the President's proposed rescissions of discretionary spending and other changes in budgetary provisions to reduce Federal spending. It requires Congress to act on the President's proposed legislative changes by requiring an up-or-down vote on his proposed cancellations of discretionary spending, direct spending, and targeted tax benefits.

Legislative History

BEFORE THE CONGRESSIONAL BUDGET ACT

During the 19th century and early 20th century, U.S. presidents had the ability to defer or refuse to spend funds provided by Congress. But the practice was seldom used, and tended to be employed in a specific manner. According to the Congressional Research Service: “Virtually all Presidents have impounded funds in a routine manner as an exercise of executive discretion to accomplish efficiency in management.” (CRS, *Item Veto and Expanded Impoundment Proposals*, 22 November 2004.)

That began to change during the administration of President Franklin D. Roosevelt, who at times refused to spend moneys for the purposes intended by Congress. The 1950s and 1960s saw increasing tensions between the President and Congress over the use of impoundment authority.

But it was not until the 1970s when the matter finally culminated in congressional action.

THE CLASH WITH NIXON

During his administration, President Nixon imposed a moratorium on subsidized housing programs, targeted certain farm programs for elimination, and suspended community development activities—all frustrating congressional intent.

With the Clean Water Act, he went further. The President vetoed the bill originally passed by Congress, and Congress then handily overrode his veto. Yet despite the veto override, the President imposed an impoundment involving the Clean Water Act funds.

Congress countered by passing the Impoundment Control Act (Title X of the Congressional Budget and Impoundment Control Act, or ICA) in 1974. The ICA restricted the President’s ability to impound funds, providing a statutory framework for Congress to review impoundment actions by the President. It permitted the President to delay the expenditure of funds (deferral authority) and to cancel funds (rescission authority). The President was required to inform Congress of all proposed deferrals and rescissions and to submit specified information on the same. A rescission action by the President required approval by both the House and Senate within 45 days of continuous session or funds were required to be made available again for obligation.

Various proposals were introduced during the 101st, 102d, and 103d Congresses to modify the framework for congressional review of rescissions by the President. More than two dozen proposals to strengthen the rescission power, or augment it with a statutorily derived veto, were introduced in the 103d Congress alone.

RECENT LEGISLATIVE ACTIONS

Expedited Rescissions Act of 1993

On 1 April 1993, Congressman John Spratt introduced the Expedited Rescissions Act of 1993 in the House of Representatives.

This bill amended the Congressional Budget and Impoundment Control Act of 1974 to allow the President to transmit to both Houses of the Congress, for expedited consideration, a special message that proposed to rescind all or part of any item of budget authority provided in an appropriation bill.

It would have required that the special message be transmitted no later than 3 days after the President approved the appropriation bill and be accompanied by a draft bill that would, if enacted, rescind the budget authority proposed to be rescinded. It set out House and Senate procedures for the expedited consideration of such a proposal.

The bill also would have terminated the President's authority 2 years following enactment.

On 29 April 1993, the House passed the bill on a recorded vote of 258–157 (Roll No. 150).

On 5 October 1994, the Senate Committee on the Budget held a hearing on the measure. It was not considered on the floor of the U.S. Senate.

Expedited Rescissions Act of 1994

On 17 June 1994, Congressman John Spratt introduced the Expedited Rescissions Act of 1994.

On 23 June 1994, the Committee on Rules reported the bill.

The bill would have amended the Congressional Budget and Impoundment Control Act of 1974 to allow the President to transmit to both Houses of the Congress, for expedited consideration, one or more special messages proposing to rescind amounts of budget authority or to repeal any targeted tax benefit provided in a revenue bill.

It would have required the special message be accompanied by a draft bill or joint resolution that rescinds the budget authority or repeals the targeted tax benefit.

It also would have required the bill to include a Deficit Reduction Account. The bill would have allowed the President to place rescinded amounts in the account. It would have set out House and Senate procedures for the expedited consideration of such a proposal.

Kasich Substitute. An Amendment in the nature of a substitute was made in order and offered by Representatives John Kasich and Charles Stenholm. It extended the rescission procedures to Presidential proposals to repeal “targeted tax benefits” in revenue bills; provided that 50 House Members could request a vote on a motion to strike an individual rescission from the President's proposed rescission package and that the special rescission procedures established by the substitute were permanent. It also applied the special rescission procedures proposed by the President to any time during the year. It did not apply the expedited consideration procedures to alternative rescission packages proposed by the Appropriations

Committees, and it specified that the President had the option of earmarking savings from proposed rescissions for deficit reduction. The amendment was adopted by a vote of 298–121.

On 14 July 1994, the House passed the bill on a recorded vote of 342–69.

On 5 October 1994, the Senate Committee on the Budget held hearings on the measure.

The Line Item Veto Act of 1996

Plans for an expanded rescission measure began moving forward early in the 104th Congress. On 4 January 1995, H.R. 2, the Line Item Veto Act, was introduced in the House. H.R. 2 granted the President line item veto rescission authority. The President was authorized to rescind all or part of any discretionary budget authority or to veto any targeted tax benefit if the President determined that such rescission: would help reduce the Federal budget deficit; would not impair any essential Government functions; and would not harm the national interest. The President was required to notify the Congress by special message of such a rescission or veto after enactment of an appropriations act providing such budget authority, or a revenue or reconciliation act containing a targeted tax benefit. H.R. 2, as amended, easily passed the House on 6 February 1995, by a vote of 294–134.

The Senate passed a companion bill, S.4., the Line Item Veto Act, which promoted a “separate enrollment” approach rather than the enhanced rescission approach favored by the House. Under this approach, each item of spending would be enrolled as a separate bill, so the President could address each separately.

The House and Senate struck a compromise implementing an enhanced rescission bill, which was signed into law on 9 April 1996 (Public Law 104–130), with an effective date of 1 January 1997. This legislation became known as the Line Item Veto Act of 1996.

The constitutionality of the Line Item Veto Act was soon challenged. Upon appeal, the Supreme Court decided in a 6–3 decision allowing the President to cancel provisions of enacted law violated the Constitution’s presentment clause.

Key Constitutional Doctrines

The principal doctrines to consider in examining possible challenges to the Legislative Line Item Veto Act are “standing,” “congressional standing,” “delegation of authority,” “separation of powers,” and “the presentment clause.” These are the same issues examined in the challenge to the Line Item Veto Act of 1996, which was ultimately found unconstitutional for violating the presentment clause.

SUMMARY OF THE DOCTRINES

Standing. Article III confines the jurisdiction of the Federal courts to actual cases and controversies. Among the essential elements of what the Court considers a case or controversy for purposes of determining if a plaintiff has standing to bring suit is an injured plaintiff. The requirement that a plaintiff show that he or she has suffered “injury in fact” is a key requirement of the Court’s doctrine of standing. To meet the requirements of standing, a plaintiff must allege personal injury fairly traceable to the defendant’s allegedly unlawful conduct and likely to be redressed by the requested relief. *Allen v. Wright*, 468 U.S. 737, 751, 104 S.Ct. 3315, 3324.

Congressional Standing. In *Raines v. Byrd*, 521 U.S. 811 (1997)—which concerned the 1996 Line Item Veto Act—the Court in addressing the matter of standing distinguished between a personal injury to a private right and an institutional (injury). The Court viewed the plaintiffs as alleging an institutional injury: they were injured in their official capacities as Members of Congress by the alteration of the effect of their votes and the shifting of power between the executive and legislative branches. The Court ultimately determined that the Members of Congress lacked standing to sue, and remanded the case to the lower court with instructions. The Members were not granted standing because they had not alleged a sufficiently concrete injury under article III.

Delegation Doctrine. The delegation doctrine maintains that broad delegations of authority to the administrative branch of government are unconstitutional. The delegation doctrine is a fundamental separation of powers principle that requires the legislative branch to make the laws. In the words of Montesquieu, who was taken quite seriously by the Framers: “When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.” Montesquieu, *The Spirit of Laws*, Book XI, Part 6 (G. Bell & Sons, ed., London 1914).

Separation of Powers. The Constitution was crafted with three branches of government: the legislative (article I), the executive (article II), and the judicial (article III). The separation of powers provides a system of shared power known as checks and balances. Each of these branches has certain powers, and each of these powers is limited, or checked, by another branch.

In its opinion in *Nixon v. Administrator of General Services*, 433 U.S. 425 (1977) the Court considered the charge of the appellant—President Nixon—of a violation of the separation of powers. The Court rejected the appellant’s argument that the separation of powers doctrine was an air-tight, rigidly compartmentalized structure, calling the interpretation unconvincing and “archaic.” The Court concluded that in determining whether the law in question (which determined the terms and conditions upon which public access may be granted to Presidential documents and recordings) disrupts the proper balance between the branches of government, the focus must rest on the extent to which the executive branch is prevented from accomplishing its constitutionally assigned functions. The Court found that the documents would remain within the control of the executive branch through the Administrator of General Services and the archivist, and the appellant’s interpretation of the separation of powers was incorrect and without merit.

Unlike the Court in *Nixon*, the Court in *Bowsher v. Synar* 478 U.S. 714 (1986), did find a violation of the separation of powers. The Court addressed whether the assignment by Congress to the Comptroller General of the United States of certain functions under the Balanced Budget and Emergency Deficit Control Act of 1985 violated the doctrine of separation of powers. The act (Public Law 99–177), also commonly known as the Gramm-Rudman-Hollings Act, set a maximum deficit amount for Federal spending for each of fiscal years 1986 through 1991. The act required across-the-board cuts in Federal spending to reach the targeted deficit level and accomplished the automatic reductions through a process spelled out in section 251. The Directors of the Office of Management and Budget [OMB] and the Congressional Budget Office [CBO] were required to report jointly their deficit estimates and budget reduction calculations to the Comptroller General, who—after reviewing the reports—was to submit his conclusions to the President. The President would then issue a sequestration order mandating the spending reductions specified by the Comptroller General. The Court held that the role of the Comptroller General in the deficit reduction process violated the separation of powers imposed under the Constitution. The District Court held (478 U.S. 714, 721) that:

[S]ince the powers conferred upon the Comptroller General as part of the automatic deficit reduction process are executive powers, which cannot constitutionally be exercised by an officer removable by Congress, those powers cannot be exercised and therefore the automatic deficit reduction process to which they are central cannot be implemented.

The decision was appealed and was heard by the Supreme Court pursuant to section 274(b) of the act. The Supreme Court also held

that congressional participation in the removal of executive officers was unconstitutional.

In *Metropolitan Washington Airports Authority v. Citizens for the Abatement of Aircraft Noise*, 501 U.S. 252 (1991) the Supreme Court considered whether or not Congress' retention of certain management and policy controls violated the separation of powers. Although Congress vested managing authority for Washington National and Dulles International Airports in a regional entity, Congress required that nine Members be included on a Board of Review that followed operative decisions made by the Board of Directors for possible veto action. The Court found that Congress' scheme of congressional control, including its retention of substantial authority over the appointment and removal of members of the board, did violate separation of powers principles because the Board of Review was found to be acting as an agent of Congress.

Congress passed new legislation that made adjustments to the control wielded by Congress over the Board of Directors. The Board of Review no longer retained veto authority over operative decisions, nor were Members of Congress required to sit on the Board of Review. But the Board was to comprise of persons drawn from a list determined by the Speaker of the House and the President pro tempore of the Senate. The Court of Appeals for the District of Columbia looked beyond the explicit terms of the revised statute [*Hechinger v. Metropolitan Washington Airports Authority*, 36 F.3d 97, 105 (D.C.Cir.1994)] and took into consideration its practical effect. The court found that there were practical consequences inherent in the Board of Review's ability to delay action by the Directors. The court concluded that the Board of Review still retained the ability to exercise undue influence over the authority. The court was particularly concerned by the Board's ability to delay and possibly overturn decisions made by the authority by referring the decisions to Congress for review. It concluded that the revised statute still violated the separation of powers.

Presentment Clause. The presentment clause contained in article I, section 7 of the Constitution requires every bill passed by the House and Senate (bicameral passage), before becoming law, to be presented to the President, and, if he disapproves, to be repassed by two-thirds of the Senate and House.

Before the 1996 Line Item Veto Act was struck down, President Clinton used his veto authority a total of 82 times. The constitutionality of the veto authority was challenged in *Clinton v. City of New York*, 524 U.S. 417 (1998). The case raised the question of whether or not a cancellation of an item of direct spending in the Balanced Budget Act of 1997, and a limited tax benefit in the Taxpayer Relief Act of 1997—both of which had already been enacted into law—constituted a violation of the Constitution's presentment clause. The Court determined that the actions of the President prevented one section of the Balanced Budget Act of 1997, and one section of the Taxpayer Relief Act of 1997, from having legal force and effect. From the Court's perspective, the President had amended two acts of Congress by repealing a portion of each, and "repeal of statutes, no less than enactment, must conform with article I," *INS v. Chadha*, 462 U.S. 919, 954, 103 S.Ct. 2764, 2785–2786. The Court emphasized that statutory repeals must conform to the pre-

sentment clause’s “single, finely wrought and exhaustively considered, procedure” for enacting a law. The Court determined that the cancellation procedures of the Line Item Veto Act did not conform to the tenets of the presentment clause and that nothing in the Constitution authorized the President to amend or repeal a statute, or portions of a statute, unilaterally.

HOW H.R. 4890 ADDRESSES CONSTITUTIONAL DOCTRINES

Delegation of Powers. The Legislative Line Item Veto Act of 2006 has two provisions that may engage the delegation concept: first, the deferral authority allowed to the President; and second, the direct influence in the legislative process given to the executive branch.

The authority provided to the President to defer the obligation of discretionary spending authority, or the implementation of an item of direct spending, or a targeted tax benefit is distinct from legislative authority, because the discretion granted to the President has no permanent effect on the statute. Statutes enacted by Congress often provide at least a modicum of discretion to the executive branch in the ways budgetary resources are used. The deferral authority is indistinguishable from this insofar as it allows the President a set period of time (45 days, with a possible extension of another 45 days) to determine whether Congress will agree to cancel a given spending or tax provision. During this deferral period, the President is allowed to wait before committing the resources of the U.S. Government, *but it is not a permanent change in law unilaterally carried out by the executive branch*, and hence not legislative in nature.

The second issue arising under the Legislative Line Item Veto Act is the participation of the President in the legislative process. First and foremost, the President, by the nature of the Constitution, is intrinsically involved in the legislative process even if he is not a formal legislative actor. The line between legislative and executive is not a clear or bright one: The President signs legislation; the Vice President, under certain unusual circumstances, votes in the Senate—and may preside over the deliberations of that House; the President proposes legislation often and submits a budget—as required by Congress—on an annual basis.

The question is whether this act provides the President an undue amount of influence in the legislative process. In this case, the President is allowed to provide to the Congress a proposed list of legislative items in an enacted bill that he believes it should reconsider. The Congress is under no obligation through this statute to do so—it merely provides rules to move the proposal to the front of the line of those measures considered on the floor of the House or the Senate.

Presentment Clause. The Legislative Line Item Veto Act of 2006 is *specifically* designed to avoid violating the presentment clause. With the 1996 Line Item Veto Act, that clause, as delineated in the Court case previously cited, was violated because the statute was effectively being amended, according to the Court, after the fact without congressional approval. In the case of the Legisla-

tive Line Item Veto Act, however, the President merely *proposes* that a particular provision be canceled—he does not do so unilaterally. To invalidate budgetary resources under this act requires an act of Congress and the assent of the President, the same as any other law enacted pursuant to the Constitution of the United States.

Simply put, the “presentment” of a law to the President, under the Constitution, is undisturbed because only a subsequently enacted law amends the law under review. This is indistinguishable from any other exercise of legislative or executive power.

Principal Court Decisions

(In Reverse Chronological Order)

Clinton v. City of New York. The case of *Clinton v. City of New York*, 524 U.S. 417 (1998), resulted from President Clinton’s decisions to cancel, pursuant to the Line Item Veto Act of 1996, two provisions in bills that were presented to him and signed by him: a mandatory spending provision waiving the Federal Government’s right to recoupment of New York State taxes levied against Medicaid providers and a limited tax benefit providing capital gains tax relief to certain agricultural refining and processing companies.

The plaintiff-appellees, claiming injury as a result of President Clinton’s actions, filed suit arguing that the Line Item Veto Act of 1996 violated the U.S. Constitution. The U.S. Supreme Court ruled that: first, the appellees had standing to bring the suit; and second, the act violated the presentment clause of the Constitution. Therefore, the act was nullified.

In determining that the appellees had standing to bring suit under article III, the Court first ruled that the provision of the act that provided for “expedited review” (*i.e.*, allowing plaintiffs to skip the step of first appealing a Federal district court decision to a circuit court, and instead going straight to the Supreme Court) was available to governmental and organizational plaintiffs even though the act’s language referred to “individuals.” The Court then held that the appellees satisfied the requirement that they have a concrete personal stake in having an actual injury redressed, and therefore that the suits satisfied the “case and controversy” requirement for standing.

Next, the Court ruled that the Line Item Veto Act violated the presentment clause of the Constitution. From the Court’s perspective, the President had amended two acts of Congress by repealing a portion of each and “repeal of statutes, no less than enactment, must conform with article I”—specifically the presentment clause of article I, section 7. The Court considered significant that whereas constitutional veto power operated *before* a bill becomes a law, cancellation authority operated *after* a bill became law. The Court then emphasized that statutory repeals must conform to the presentment clause’s “single, finely wrought and exhaustively considered, procedure” for enacting a law. The Court determined that the cancellation procedures of the Line Item Veto Act did not conform to the tenants of the presentment clause—such as the requirement that a repeal of a statute be passed by both Houses of Congress—and that nothing in the Constitution authorized the President to amend or repeal a statute, or portions of a statute, unilaterally. Because the cancellation authority violated article I, section 7, the Court declared the Line Item Veto Act unconstitutional.

Raines v. Byrd. The Line Item Veto Act was enacted in April 1996 and became effective on 1 January 1997. Six Members of Congress who had voted against the act brought suit in the District Court for the District of Columbia challenging its constitutionality. In *Raines v. Byrd*, 521 US 811 (1997), the Court in addressing the matter of standing distinguished between a personal injury to a private right, and an institutional one.

The Court viewed the plaintiffs as alleging an institutional injury: they were injured in their official capacities by the alteration of the effect of their votes, and the shifting of the power between the executive and legislative branches. Although the Court in *Raines* gave consideration to *Coleman v. Miller*, 307 U.S. 433 (1939)—a case in which Kansas State legislators were found to have standing to bring suit against State officials for a claim of vote nullification—it did not find *Coleman* to be dispositive in the *Raines* case. There were significant differences in the facts of the two cases. In *Coleman* the vote was nullified due to a tie breaking vote cast by the State’s lieutenant governor. In *Raines*, the vote was not nullified, rather it was simply lost outright. The Court ultimately determined that the Members of Congress lacked standing to sue and remanded the case to the lower court with instructions. The Members were not granted standing because they had not alleged a sufficiently concrete injury under article III.

Metropolitan Washington Airports Authority v. Citizens for the Abatement of Aircraft Noise. In this 1991 case, the Supreme Court considered whether or not Congress’ retention of certain management and policy controls violated the separation of powers.

Although Congress vested managing authority for Washington National and Dulles International Airports in a regional entity, Congress required that nine Members be included on a Board of Review that followed operative decisions made by the Board of Directors for possible veto action. The Court found that Congress’ scheme of congressional control, including its retention of substantial authority over the appointment and removal of members of the board, did violate separation of powers principles because the Board of Review was found to be acting as an agent of Congress.

Congress passed new legislation that made adjustments to the congressional control wielded by Congress over the Board of Directors. The Board of Review no longer retained veto authority over operative decisions nor were Members of Congress required to sit on the Board of Review. But the Board of Review was to comprise persons on a list determined by the Speaker of the House and the President pro tempore of the Senate.

The Court of Appeals for the District of Columbia looked beyond the explicit terms of the revised statute and took into consideration the practical effect of the statute, *Hechinger v. Metropolitan Washington Airports Authority*, 36 F.3d 97, 105 (D.C.Cir.1994). The court found that there were practical consequences inherent in the Board of Review’s ability to delay action by the Directors. The court concluded that the Board of Review still retained the ability to exercise undue influence over the Authority. The court was particularly concerned by the Board’s ability to delay and possibly overturn decisions made by the Authority by referring the decisions to Con-

gress for review. It concluded that the revised statute was still a violation of the separation of powers.

Bowsher v. Synar. The Court in *Bowsher v. Synar*, 478 U.S. 714 (1986), addressed whether the assignment by Congress to the Comptroller General of the United States of certain functions under the Balanced Budget and Emergency Deficit Control Act of 1985 violated the doctrine of separation of powers.

The act (Public Law 99-177), commonly known as the Gramm-Rudman-Hollings Act, set a maximum deficit amount for Federal spending for each of fiscal years 1986 through 1991. The act required across-the-board cuts in Federal spending to reach the targeted deficit level, and accomplished the automatic reductions through a process spelled out in section 251.

The Directors of the Office of Management and Budget and the Congressional Budget Office were required to report jointly their deficit estimates and budget reduction calculations to the Comptroller General, who—after reviewing the reports—was to submit his conclusions to the President. The President would then issue a sequestration order mandating the spending reductions specified by the Comptroller General.

The suit challenging the constitutionality of Gramm-Rudman-Hollings was brought by Congressman Synar, who had voted against the act. A similar suit was also brought by the National Treasury Employees Union, who alleged an injury as a result of the automatic spending reduction of certain cost-of-living benefits to the union's members. A three-judge district court concluded that the union had standing because it had suffered an actual injury as a result of the suspension of member benefits, and that the Members of Congress had congressional standing to sue.

One of the issues raised before the district court was whether the delegation doctrine had been violated. The delegation doctrine maintains that broad delegations of authority to the administrative branch of government are unconstitutional. The court found that while the act delegated broad authority, delegation of similarly broad authority had been upheld in the past, thus rejecting the claim under the delegation doctrine. Nevertheless, the Court held that the role of the Comptroller General in the deficit reduction process violated the separation of powers created by the Constitution. The district court held (478 U.S. 714, 721) that:

“[S]ince the powers conferred upon the Comptroller General as part of the automatic deficit reduction process are executive powers, which cannot constitutionally be exercised by an officer removable by Congress, those powers cannot be exercised and therefore the automatic deficit reduction process to which they are central cannot be implemented.”

The decision was appealed and was heard by the Supreme Court pursuant to section 274(b) of the act. The Supreme Court also held that congressional participation in the removal of executive officers was unconstitutional.

Allen v. Wright. In this 1984 case, parents of public school children sought injunctive relief to bar the application of an Internal Revenue Service [IRS] code provision that granted tax-exempt sta-

tus to private schools. The parents, who were African-American, alleged that allowing private schools that discriminated on the basis of race to receive tax-exempt status was unlawful.

The parents asserted that they were harmed because the government's action constituted tangible Federal financial aid and other support for racially segregated educational institutions, and fostered and encouraged continued segregation contrary to the efforts of Federal courts, the Department of Health, Education, and Welfare, and local school authorities to desegregate public school districts that had been operating racially dual school systems. They asked for an order directing the IRS to replace its 1975 guidelines with standards consistent with the requested injunction.

The District Court determined that the plaintiff lacked standing to sue, and that the requested relief was contrary to the will expressed by Congress's 1979 ban on strengthening IRS guidelines. The Court of Appeals for the District of Columbia reversed, and granted standing on the basis that as African-American parents they were denigrated by the government's action in allowing tax-exempt status to a racially segregated private school.

Article III confines the jurisdiction of the Federal courts to actual cases and controversies. Among the essential elements of what the Court considers a case or controversy for purposes of determining if a plaintiff has standing to bring suit is an injured plaintiff. After reviewing the case upon writ of certiorari, the Supreme Court determined that the plaintiff lacked standing to sue. The Court's analysis of the standing doctrine considered several judicially self-imposed limits on the exercise of Federal jurisdiction, such as the general prohibition on a litigant's raising another person's legal rights, the rule barring adjudication of generalized grievances more appropriately addressed in the representative branches, and the requirement that a plaintiff's complaint fall within the zone of interests protected by the law invoked. The requirement of standing, however, has a core component, expressly that a plaintiff must allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief, 454 U.S. at 472. The Court concluded that plaintiff's injury did not constitute a judicially cognizable injury, and that the alleged injury was not fairly traceable to the assertedly unlawful conduct of the IRS.

INS v. Chadha. Mr. Chadha entered the U.S. on a non-immigrant student visa. Upon expiration of the visa, Mr. Chadha did not leave the United States as prescribed by law. Instead he stayed and was subject to deportation proceedings in which he was ordered by the Immigration and Naturalization Service [INS] to show cause why he should not be deported. Mr. Chadha applied for a suspension from deportation.

The suspension was granted pursuant to § 244(a)(1) of the Immigration and Naturalization Act, which authorizes the Attorney General, in his discretion, to suspend deportation. The suspension was reported to Congress as required by § 244(c)(1) of the act. The House of Representatives invoked its authority under § 244(c)(2) which authorizes either House of Congress, by resolution, to invalidate the decision of the executive branch, pursuant to authority delegated by Congress to the Attorney General, to allow a par-

ticular deportable alien to remain in the United States. The House passed a resolution pursuant to § 244(c)(2) vetoing the suspension and deportation proceedings were reopened.

Mr. Chadha challenged that § 244(c)(2) was unconstitutional and moved to terminate the deportation proceedings. The Board of Immigration Appeals dismissed the case for lack of authority to rule on the constitutionality of the matter. Mr. Chadha then filed a petition for review of the deportation order in the Court of Appeals. The INS joined Mr. Chadha arguing that § 244(c)(2) was unconstitutional. The Court of Appeals held that § 244(c)(2) violated the constitutional doctrine of separation of powers. The Attorney General was ordered to cease deportation efforts.

The Supreme Court in 1983 held that § 244(c)(2) was severable from the remainder of the act and that the action taken by the House pursuant to § 244(c)(2) was essentially legislative in purpose and effect, and thus was subject to the procedural requirements of article I, section 7, for legislative action. The presentment clause contained in article I, section 7 of the Constitution requires every bill passed by the House and Senate, before becoming law, to be presented to the President, and, if he disapproves, to be repassed by two-thirds of the Senate and House.

Nixon v. Administrator of General Services. Former President Nixon brought suit challenging the constitutionality of the Presidential Recordings and Materials Preservation Act (Public Law 93-526). *Nixon v. Administrator of General Services*, 433 U.S. 425 (1977). The Supreme Court faced the issue of whether the act was unconstitutional on its face as a violation of, among other doctrines, the separation of powers.

Soon after Nixon resigned the presidency, he asked the Archivist to send 42 million pages of documents and 880 tape recordings of conversations to him in California. To abrogate an agreement between Nixon and the Archivist, Congress passed and President Ford signed the Presidential Recordings and Materials Preservation Act, requiring the General Services Administration [GSA] to retain complete possession and control of the materials, and to issue regulations governing public access to the materials.

Nixon asserted that Congress impermissibly delegated to a subordinate executive branch official power over the President's materials, and therefore infringed on the separation of powers. The Court rejected this argument out of hand, finding that President Ford's role in signing the act, President Carter's intervention in favor of the act, and GSA's status as an executive branch agency under the President's direction, provided evidence of official executive branch involvement in the enacting and implementing the statutory scheme. The Court held that the separation of powers doctrine does not require treating the three branches as "three airtight departments," and characterized Nixon's view as archaic. According to the Court, the key concern of separation of powers is whether a legislative act prevents another branch from exercising its constitutionally assigned functions.

The *Nixon* Court went on to explain that only where such a disruption is possible should the Court enquire whether that impact is justified by an overriding need to promote the constitutional objectives of Congress. But because the act allowed an executive

branch agency to retain control of the materials and provided for safeguards before allowing non-executive persons to use the materials, the Court found that the act would not lead to a disruption of the executive branch's constitutional functions. Therefore, the act did not infringe upon the executive branch's power and did not violate the Constitution under the separation of powers doctrine.

Section by Section

SECTION 1. SHORT TITLE

This section names the bill the “Legislative Line Item Veto Act of 2006.”

SECTION 2. LEGISLATIVE LINE ITEM VETO

Subsection (a) amends Title X of the Congressional Budget and Impoundment Control Act of 1974 by striking all of part B (except sections 1016 and 1013, which are designated as sections 1019 and 1020, respectively). It then inserts the following new sections:

Section 1011. Cancellation of Budgetary Resources

Pursuant to subsection (a), after the enactment of any bill or joint resolution providing discretionary budget authority, or enacting an item of direct spending or a targeted tax benefit, the President may send a special message to Congress to cancel any specific provision in one or more of those budgetary classes. The President, though, must send the message to Congress within 45 calendar days of the enactment of the new law.

If the last day of that 45-day period falls on a day in which the Congress has been adjourned for an extended period (45 days or more) or if it falls on a day after which the Congress has adjourned at the end of the second session of that Congress, then the President’s authority to transmit a special message is extended to the first day the Congress reconvenes. The President may transmit the special message after the 45-day period has expired only in those specific circumstances.

The contents of the special message must specify the amount of budget authority, the specific item of direct spending, or the targeted tax benefit that the President proposes be canceled; any account, department, or establishment of the Government to which such budget authority or item of direct spending is available for obligation; and the specific project or governmental functions involved. It rescinds the discretionary BA or suspends the direct spending or tax procedures. It must, to the maximum extent practicable, explain the estimated fiscal, economic, and budgetary effects of the proposed cancellations.

The special message must include a numbered list of proposed cancellations—this would take the form of rescissions of amounts of discretionary budget authority and legislative language canceling the effects of items of direct spending and targeted tax benefits (and making appropriate conforming changes in law). Cancellations of targeted tax benefits must be drawn from a list of such provisions included in a tax measure, if such a list is provided. Any pro-

vision included in a special message that is not on that list will not be included in an approval bill for consideration by Congress.

The President is allowed to transmit to the Congress up to five special messages for any enacted law. All must be transmitted within the 45-day period of the signing of the bill, unless one of the exceptions already noted applies.

The President is not allowed to propose to cancel a specific budgetary provision more than one time. Although he is allowed five special messages for each enacted law, he may not repeatedly send to Congress the same proposed cancellation. Any savings resulting from cancellations enacted as part of an approval bill will go toward reducing the deficit.

Any amounts of discretionary budget authority, items of direct spending, or targeted tax benefits canceled when an approval bill is signed into law are dedicated to deficit reduction. After the enactment of an approval bill, the Chairmen of the Committees on the Budget of the Senate and the House of Representatives must revise the levels of the concurrent resolution on the budget in force at the time to ensure that the savings achieved are not used to finance other spending, whether discretionary or mandatory (or, in cases of increased revenues, are not used to reduce other taxes).

Correspondingly, when an approval bill is enacted, the Office of Management and Budget must revise the discretionary caps and the PAYGO scorecard to reflect the spending and revenue changes—if those spending controls are reauthorized so as to be in force when an approval bill is enacted. PAYGO and the discretionary caps expired at the end of fiscal year 2002.

Section 1012. Procedures for Expedited Consideration

Subsection (a) requires that, after Congress has received a special message from the President proposing cancellations, the majority leader of the House and the Senate respectively (or their designees) shall introduce a bill to approve such cancellations within 5 days of session of each applicable House.

Consideration in the House of Representatives

This subsection requires a committee of the House of Representatives, to which an approval bill is referred, to report the bill without amendment within 7 legislative days of the referral. If a committee does not report the bill within seven legislative days, any member may make a privileged motion to discharge the relevant committee or committees from consideration of the bill.

The Member offering the privileged motion to discharge must give notice to the House of his or her intent to do so, after which the Speaker must schedule a time to consider the motion within the next 2 legislative days. The privileged motion to discharge is debatable for 20 minutes after which the previous question is considered as ordered on the motion and a motion to reconsider the vote on which the motion is disposed of is not allowed. If the motion is agreed to, the House then moves to immediate consideration of the approval bill under the expedited procedures set out in this subsection. If the approval bill has been reported or a motion to

discharge has already been disposed of, the privileged motion to discharge provided in this subsection is not in order.

If an approval bill is reported from committee, or it has been discharged through regular House procedure, then it is in order for any Member to offer a privileged motion to proceed to consideration of the bill. It is a highly privileged motion and provides for the immediate consideration of the bill once agreed to. The Member offering the privileged motion to proceed to consideration must give notice to the House of his or her intent to do so, after which the Speaker must schedule a time to consider the motion within the next 2 legislative days. If the motion to proceed to consideration is agreed to, the approval bill must be immediately considered on the floor.

If the majority leader of the House, or his designee, has introduced an approval bill and Congress adopts a concurrent resolution providing for adjournment *sine die* at the end of a Congress and that approval bill has either not been reported by a committee or considered by the House, then it shall be in order for any Member to immediately give notice of his or her intention to offer either a privileged motion to discharge that approval bill from committee or a privileged motion to proceed to consideration of that approval bill as provided for in this subsection. When Congress adopts a resolution to adjourn *sine die*, that Congress does not immediately end: Certain types of legislation must still be considered before the Congress adjourns. If an approval bill has been introduced, and the House adopts a motion to proceed to consideration, the House must consider it under the specified procedures of this act. In this circumstance, it does not matter at what stage the approval bill is, as long as it has been introduced, a motion to discharge the bill and bring it to the House floor still would be in order.

The bill is considered as read. All points of order against consideration are waived. The previous question is considered as ordered. Five hours of debate are equally divided. One motion to limit debate on the bill is in order. A motion to reconsider the vote on passage is not in order. The bill is not open to amendments, including motions to strike individual cancellations.

Finally, an approval bill received from the Senate is not referred to committee and may be brought up for consideration as an alternative to the House-introduced bill.

Consideration in the Senate

A motion to proceed to the consideration of a bill in the Senate under this subsection is not debatable. It is not in order to move to reconsider the vote. Debate in the Senate on an approval bill, and all debatable motions and appeals may not exceed 10 hours, equally divided. Debate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, equally divided and controlled. A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit the bill is not in order.

If the Senate receives the House companion bill to the bill introduced in the Senate before the required vote, then the Senate may consider and vote on the House companion bill in lieu of considering and voting on the Senate bill.

If the Senate votes, pursuant to paragraph (1) , on the bill introduced in the Senate, then immediately following that vote, or upon receipt of the House companion bill, the House bill is deemed to be considered and read for the third time, and the vote on passage of the Senate bill shall be considered to be the vote on the bill received from the House.

Subsection (b) applies to both the Senate and the House and makes it clear that no amendment or motion to strike a provision from an approval bill is allowed to be considered. It is important the approval bill is not amended in either House so as to avoid different versions of the measures being passed by the two Houses of Congress. By avoiding these differences, the measure's consideration may be further expedited because it avoids a conference committee.

Section 1013. Presidential Deferral Authority

Subsection (a) affords the President the authority to choose not to obligate discretionary budget authority, and not to implement items of direct spending or targeted tax benefits (under certain limitations) for 45 calendar days beginning on the day a special message is received by either the House or the Senate.

The time for this deferral period runs consecutively, so that from the time the transmittal is received in either the House or the Senate, the period begins. It ceases after the 45th day after the day of transmittal. This period may, however, be renewed by the President at his discretion with two limitations: He may only extend the time period if he sends a special supplemental message to Congress notifying both Houses of the need to do so; and he must send that message after the 40th day of the first 45-day period.

A supplemental special message is simply that a supplement to the initial special message transmitted pursuant to the authority to defer budgetary provisions, explained in section 1011. The message must notify Congress that the President intends to extend his deferral authority, which is authorized under section 1013 of the act, by an additional 45 days.

As part of this supplemental special message, the President must specifically explain why special circumstances have arisen so that the original 45-day period is insufficient to accommodate the proposed cancellations and their consideration by the Congress. This extension may apply, for example, if Congress is in an extended recess and has been unable to consider a bill to approve the cancellations proposed by the President within the initial 45-day deferral period. Such a circumstance must be explained in detail in the supplemental special message.

Under no circumstances is this additional deferral authority to be used by the President subsequent to the defeat of an approval bill in either House of Congress. Once Congress acts on an approval bill, this deferral authority must be discontinued by the President, even though it is not legally or constitutionally required, and he must not extend it for the renewal period. The President cannot transmit a supplemental special message to Congress subsequent to a negative vote on an approval bill by either House.

Up to five special messages proposing cancellations of budgetary provisions may be transmitted for each public law enacted after

this act, but only one supplemental special message may be transmitted for each of those special messages for that law. A supplemental special message is an additional component of the original special message transmitted under the authority of this act. A supplemental special message does not count toward the five special messages allowed for each public law it is not a special message in and of itself. It is merely an adjunct of a previously transmitted special message. Its form is not set out specifically through legislative language, but its requirements and parameters are made clear in this report.

In addition, the President may submit a valid supplemental special message only after 40 calendar days have expired during the initial 45-day deferral period. This is to ensure Congress has enough time to consider the proposed cancellations before the President asks for more deferral authority. Though it is not legally or technically circumscribed, the authority to renew deferrals would occur during exceptional circumstances when the Congress has been unable to consider the approval bill that includes the proposed cancellations.

After the expiration of the 45-day period and absent a renewal, or after the expiration of the renewal 45-day period, the budgetary provisions proposed to be canceled and which have been deferred, must be implemented or obligated, as the case may be, as is required by the Constitution and the Congressional Budget and Impoundment Control Act of 1974.

As the special supplemental message may not be transmitted to Congress prior to 40 calendar days after the initial transmittal, once the 45-day period has expired, no special supplemental message may be transmitted; the authority to renew the deferral period has also expired. Hence, should the initial 45-day period expire, and no renewal special supplemental notice be transmitted during that period, immediately thereafter, the (for example) budget authority appropriated must be made available for obligation as if the deferral had never occurred.

Additionally, once the 45-day period has elapsed without a supplemental special message having been sent, the option of sending such a supplemental message is not available. Deferral authority under this act has entirely expired once the initial 45-day period has ended and no supplemental special message has been transmitted.

It is understood that the legislative calendar of the Congress is not relevant for the calculation of this deferral period, with the singular exception of last day on which the transmittal of the original special message may occur. If the Congress has adjourned to a future date when the initial deferral period expires, the supplemental special message is unaffected.

Even in the unusual circumstance when a supplemental special message is transmitted after the second session of a Congress has adjourned but before the first session of the next Congress has convened, the Congress still represents the people of the United States, and the Senate is a continuing body, so that the communication of such a transmittal is always valid to extend the deferral authority.

Although the authority to defer spending and certain tax benefits under the initial 45 days (and any applicable renewal period) is independent of legislative actions taken by Congress, it is the intent of the Committee that if a vote is taken on an approval bill by either House, and one approved bill is not agreed to by that House, then the suspension of any provision of law must be revoked and that provision put into effect as if it had always been effective under the terms of the public law in which it was originally included.

Out of constitutional concerns, the committee has not directly tied the suspension/deferral period to a failed vote or on approval. It does, though, indicate its intent that such a vote should have that effect. The President must immediately suspend the deferral of all budgetary provisions included in an approval bill of proposed cancellations that, after floor consideration of the bill, has not received the requisite votes to pass in a House of Congress.

Section 1014. Identification of Targeted Tax Benefits

Subsection (a) requires the Chairman of the House Committee on Ways and Means and the Chairman of the Senate Finance Committee to review a bill or joint resolution that amends the Internal Revenue Code of 1986 and that a conference committee is preparing for filing, to determine if it contains any targeted tax benefits. The two chairmen then must provide to the conference committee a statement identifying the targeted tax benefits or declaring that the bill or joint resolution does not contain any.

Subsection (b) authorizes a conference committee to include a statement described in subsection (a) as legislative text in the conference agreement to which the statement applies.

Subsection delineates the President's authority to propose the cancellation of targeted tax benefits. If any bill or joint resolution is signed into law, then the President may propose to cancel only targeted tax benefits identified in the specific section of the law containing the statement described in subsection (a). If such a statement is not included in the law, then the President may apply the statutory definition of targeted tax benefit to determine which tax provisions he may propose to cancel.

Section 1015. Treatment of Cancellations

This section makes it clear that a cancellation proposed by the President must be approved by Congress and signed into law before the elimination of the spending or tax provision is effective.

If the approval bill is not agreed to by Congress or is vetoed by the President, and hence the cancellations are approved, those spending or tax provisions proposed to be canceled remain in force and must be put into effect as if the deferral and the proposed cancellation had never been made.

If the approval bill is agreed to by Congress and signed into law by the President, and hence the cancellations are not approved, then the effect is to cause the deficit to be reduced (or the surplus increased) by the amount of the spending or tax provision canceled.

Section 1016. Reports by Comptroller General

This section requires the Comptroller General of the Government Accountability Office to prepare and transmit to Congress a report for each special message sent by the President to the Congress.

This report must identify the date on which the special message was transmitted to the Congress, the public law to which the special message applies, and the number of special messages transmitted relative to that public law as of the time of the preparation of the report.

It must also, if specifically requested by the Chairman of the House or Senate Budget Committee, the Budget of the House or the Chairman of the Committee on the Budget of the Senate, describe the extent to which a proposed cancellation in the message is similar to or different from another proposed cancellation in another special message arising from the same public law.

The report must assess whether any provision deferred by the President remains deferred after the authorized period provided to the President has expired.

This report is intended to be prepared as soon as practicable after the expiration of the deferral period defined in the act, which is 45 days without an extension, or 90 days if the President determines that an extension is necessary.

If an additional 45-day renewal period occurs because of the President's actions, then the report should note any reasons or justifications as to why the extension period is needed.

Section 1017. Definitions

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.

Approval Bill. This means a bill or joint resolution which only approves proposed cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or targeted tax benefits in a special message transmitted by the President.

The title of the approval bill is as follows: 'A bill approving the proposed cancellations transmitted by the President on _____.' Except for the limitations included in this definition, a bill with this title is entitled to the privileged status and expedited consideration procedures set out in this bill.

The blank space is filled in by the sponsor of the bill, the majority leader of each House of Congress (or designee), with the date of transmission of the special message and the public law number to which the message relates. It does not have a preamble. The bill outlined in the text includes a numbered list from the President's special message. In preparing the approval bill, the sponsor may include only proposed cancellations of spending estimated by CBO to meet the definition of discretionary budgetary authority or items of direct spending, and may include only proposed cancellations of tax provisions determined by the chairmen of the House Ways and

Means and Senate Finance Committees to be targeted tax benefits. If an approval bill includes a tax provision that has not been chosen from the prepared list, the bill's privileged status is jeopardized, and the majority leader will have failed to fulfill his or her responsibilities under this act. The Committee understands that this circumstance simply will not occur under House rules, procedures, precedent, and practice.

It is the intent of the Committee that a bill, even if it has the appropriate title, should not be conferred the privileged status of an approval bill if it includes items of direct spending that do not meet the criteria set out—if a bill termed an approval bill includes a provision from the special message that is not estimated by CBO to meet the appropriate criteria, or an item not in the special message is included, or the bill in some other fashion does not meet this definition of an “approval bill,” then the measure should not be accorded the privileged status that is set out for such a bill. Any bill receiving the expedited procedures provided for in the Legislative Line Item Veto Act of 2006 must strictly adhere to this definition and follow its parameters.

Proposed cancellations that CBO estimates do not meet the definition of an item of direct spending are included in a separate section of the approval bill—but this section specifies that the President must implement those provisions. The President must cease any deferral of those provisions, and must implement them using the effective date of the original public law in which they were included.

Though an approval bill is intended to allow for only those provisions that have been estimated as having a budgetary effect as estimated by CBO, the Committee understands that there may be a circumstance whereby a CBO estimate is not available prior to the introduction of the bill. In such a situation, the entire list of legislative provisions proposed by the President is inserted in the approval bill. This is only a contingency to assure the consideration of legislation is not hindered due to unforeseen circumstances. It is expected that CBO will be able to estimate the effects of any proposed cancellations included in an approval bill to allow the sponsor of such a measure to appropriately draft the language.

Calendar Day. This term means a standard 24-hour period beginning at midnight.

Cancel or Cancellation. These terms mean to prevent discretionary budget authority from being obligated, or a provision of direct spending or targeted tax benefit from being implemented. These proposed cancellations are included in an approval bill introduced by the majority leaders of the House and Senate. The majority leaders of the respective Houses are required to introduce the approval bills, much as they must introduce other expedited measures such as trade agreements considered pursuant to Trade Promotion Authority and measures considered pursuant to the base realignment and closure procedures.

A cancellation takes the form of legislative or appropriations text reflecting a rescission of a specific amount of discretionary budget authority, or a cancellation of the legal effects of a direct spending provision (within very limited confines) or a targeted tax benefit.

For a rescission of discretionary budget authority, a cancellation is simple—the language included in the special message merely needs to “rescind” a specific amount reflecting the entire amount of an appropriation, or a smaller amount of budget authority within an overall amount if there is an earmark set out in the joint statement or report on the appropriations bill in question. If there are no earmarks, then only the entire amount of the appropriation may be rescinded, not simply an arbitrary amount of the overall level.

In terms of an item of direct spending, the legislative change proposed by the President—that is, the proposed “cancellation”—must be narrow in scope: It must only be a “necessary, conforming statutory change” and only one that is to “ensure that * * * budgetary resources are appropriately canceled.”

The Legislative Line Item Veto Act of 2006 is not intended to allow the President to force Congress to consider policy proposals or interests of the President. Hence, any legislative text given preferential treatment under this measure must be narrowly tailored to have a salutary budgetary effect. It is not an open-ended invitation for a vote on the floor of the House and Senate for any legislation the President may desire to propose.

The Committee expects that the special procedure set out in the Legislative Line Item Veto Act of 2006 will be followed by conferees on any tax bill. That procedure requires the managers of any bill making changes to the Internal Revenue Code of 1986 to include a list of items that meet the definition of a “targeted tax benefit” in the bill. This list is prepared by the Chairmen of the Committees on Finance and Ways and Means and put into legislative language and included in the applicable measure. Upon enactment, the President may only choose items from that list to include in his special message with respect to proposed targeted tax benefit cancellations that he transmits to Congress for the purposes of this act. The President may only draft a list of his own choosing if the Chairmen of the Committees on Finance and Ways and Means do not include such a list in the tax bill.

If the two chairmen determine there are no targeted tax benefits in the bill they are preparing, then a statement may be included in the bill that no such targeted tax benefits exist and therefore the President is not permitted to transmit the proposed cancellation of any tax provisions in that bill which has become public law.

Congressional Budget Office. The term ‘CBO’ means the Director of the Congressional Budget Office.

Direct Spending. This term means budget authority provided by law other than an appropriation law; an entitlement; and the food stamp program.

Dollar Amount of Discretionary Budget Authority. This term means the entire dollar amount of budget authority or obligation limitation: specified in an appropriation law; required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included; represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law; required to be allocated for a specific program, project, or ac-

tivity 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; 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; or 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.

The term does not include direct spending; budget authority in an appropriation law which funds direct spending provided for in another law; any existing budget authority canceled in an appropriation law; or 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.

Item of Direct Spending. This term means any provision of law that CBO estimates increases budget authority or outlays for direct spending relative to the baseline projections of direct spending made after receipt of the President's budget submission. An item falls under this definition if it increases direct spending in the first year or the 5-year period for which the item is effective. An exception is provided for the extension or reauthorization of existing direct spending. This exception refers to specific items of direct spending rather than the level of direct spending assumed in the baseline. Accordingly, a reauthorization bill could have no cost in the aggregate relative to the baseline, but still contain new items of direct spending that could be proposed to be canceled for purposes of the legislative line item veto.

Office of Management and Budget. The term 'OMB' means the Director of the Office of Management and Budget.

Omnibus Reconciliation Act. An Omnibus Reconciliation bill is one reported by the Budget Committee pursuant a directive in a concurrent budget resolution. It is a multi-jurisdictional bill with a variety of authorizing committees being directed through the reconciliation process to make changes to laws in their jurisdiction. Though traditionally reconciliation bills have been used to reduce spending, they have also included new direct spending items and may include targeted tax breaks as well.

The intent of the act is to target narrowly based direct spending provisions that are tantamount to discretionary earmarks, and might not survive narrow legislative scrutiny. Although this is the case, the text of the act does not prevent broader new entitlement programs from being proposed for cancellation by the President.

Omnibus Appropriation Act. An Omnibus Appropriations bill is defined as any measure providing appropriations falling within the jurisdiction of 2 or more subcommittees of the Committee on Appropriations of either House of Congress. In general, appropria-

tions bills are considered separately as individual bills, each with a specified amount of budget authority for the programs the measure funds. Upon occasion, and due to a variety of reasons, two or more appropriation bills may be combined, usually at the end of the legislative season, and enacted as an “omnibus” appropriation. Because these can often be enormous bills, with labyrinthine appropriations and legislative text, they also merit a larger number of special messages—10 instead of merely five.

It must be mentioned that “supplemental” appropriations bills are often considered and have multi-jurisdictional spending components. These would also, generally, include spending that falls within the jurisdiction of two or more suballocations made to the subcommittees of the House or the Senate. Though these bills are generally of a smaller spending magnitude than those normally considered to be Omnibus bills, they are often of similar complexity and breadth of spending provisions. Accordingly, supplementals also merit 10 special messages instead of 5. Further, they often include “emergency” designations which in some circumstances allow the spending to escape normal budgetary controls. The Legislative Line Item Veto Act of 2006, however, is an extraordinary budgetary control, and instead of creating procedural hurdles to votes on spending bills rather insists on votes on specific spending items.

In this respect, this bill does not recognize “emergency” spending as opposed to “non-emergency spending,” but merely allows certain spending, or targeted tax benefits, to be reconsidered.

Targeted Tax Benefit. This term means any revenue-losing provision amending the Internal Revenue Code of 1986 and benefiting a single taxpayer in any fiscal year for which the provision is in effect. A revenue-losing provision is any provision that reduces Federal tax revenues either in the first fiscal year for which the provision is effective or the period of the 5 fiscal years beginning with the first fiscal year for which the provision is effective. The definition of revenue-losing’ includes both provisions that reduce revenue relative to current law, as well as provisions that reduce revenue relative a broader provision in the bill in which the provision is found. The Committee believes that rifle shot transitional rules that benefit a single taxpayer should constitute targeted tax benefits. Such special rules have the effect of retaining current law for a particular taxpayer, despite the fact that a broader class of taxpayers is affected adversely by the bill. Thus, they are appropriate candidates for inclusion in approval bills even if they do not reduce revenue relative to current law.

For example, a provision in the Tax Reform Act of 1986 included a favorable rule for banks, and also included a special exception treating certain non-banks as banks for purposes of the 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.” Pub. L. No. 99-514, 100 Stat. 2548, sec. 1215(c)(5). If the Chairmen of the Ways and Means Committee and the Senate Finance Committee expected only a single taxpayer to benefit from this special exception, it would constitute a targeted tax benefit.

For purposes of applying the single-beneficiary test, several aggregation rules treat certain groups of taxpayers as a single taxpayer. All businesses in the same affiliated group, all shareholders of the same corporation, all partners of the same partnership, all members of the same association, all beneficiaries of the same trust or estate, all employees of the same employer, all beneficiaries of the same qualified plan, all contributors to the same foundation or charity, and all holders of the same bond issue are treated as one beneficiary. In addition, if a corporation, partnership, association, trust, or estate is the beneficiary of a tax provision, then the shareholders of the corporation, the partners of the partnership, the members of the association, or the beneficiaries of the trust or estate are not also treated as beneficiaries of the provision. Thus, for example, a provision excluding from gross income all income of a particular corporation and all income of any shareholders in that corporation would be treated as having a single beneficiary.

Section 1018. Sunset

This section provides for an expiration date so that the Act has no force or effect on or after October 1, 2012. Effectively, this provides for a sunset of the Legislative Line Item Veto after 6 years, so after that time, it must be reconsidered and extended.

SECTION 3. TECHNICAL AND CONFORMING AMENDMENTS

Subsection (a) makes certain technical amendments to Section 904 of the Congressional Budget Act of 1974.

Subsection (b) requires the Congressional Budget Office to prepare an estimate of any special message transmitted by the President pursuant to the act.

Subsection makes certain clerical amendments. It strikes the last sentence of Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974. It also sets out a revised table of contents as follows:

PART B—LEGISLATIVE LINE ITEM VETO

Section 1011. Line item veto authority

Section 1012. Procedures for expedited consideration

Section 1013. Presidential deferral authority

Section 1014. Identification of targeted tax benefits

Section 1015. Treatment of cancellations

Section 1016. Reports by Comptroller General

Section 1017. Definitions

Section 1018. Expiration

Section 1019. Suits by Comptroller General

Section 1020. Proposed Deferrals of budget authority

Subsection (d) explains that the Legislative Line Item Veto Act only applies to laws enacted on or after this law is signed.

**SECTION 4. SENSE OF CONGRESS ON ABUSE OF
PROPOSED CANCELLATIONS**

This section sets out a Sense of Congress that the President should not abuse the authority provided under the Legislative Line Item Veto Act of 2006.

Hearings

LINE-ITEM VETO—PERSPECTIVES ON APPLICATIONS AND EFFECTS

On 25 May 2006, the committee held a hearing titled: “Line Item Veto—Perspectives on Applications and Effects” and heard the following testimony:

Patrick J. Toomey, President, the Club for Growth, testified that the line-item veto gives Presidents a more effective check on runaway Federal spending. He believes that that line item veto is constitutional, is consistent with the primary conservative value of limited government, and is in the best interest of taxpayers.

Thomas A. Schatz, President, Citizens Against Government Waste, testified that the need exists for a constitutional Presidential line item veto. His rationale included the idea that Congress has confronted the President repeatedly with hastily crafted, 11th-hour omnibus bills that cover all or substantial portions of Federal spending for the year. This practice inhibits the exercise of the veto, which under such circumstances would have the effect of closing down the Federal Government. A line item veto would enhance the President’s budget role. It would make both the legislative and executive branches more accountable for our tax dollars, as it does on the State level in 43 States. While some have questioned whether a line item veto at the Federal level would threaten the separation of powers, experience with such authority at the State level indicates that would not be the outcome. The fear, Schatz explained, that the President could use the veto authority to expand his power exponentially and upset the checks and balances between the branches is addressed by restricting the President’s veto power to disapproving specific line items in appropriations bills. In this way, the line item veto would not give authority to the President to alter the budget priorities set by Congress in its spending decisions, as the veto can only be used to withhold funds for an item.

Edward Lorenzen, Policy Director, the Concord Coalition, testified that he believes that the proposed modified line item veto and similar proposals would not address the magnitude of our fiscal challenges. He testified that budget enforcement tools such as pay-as-you-go rules for all tax and spending legislation would reduce the deficit and would have a much greater impact on fiscal policy. Balancing the budget and establishing a fiscally sustainable course for the future will require Congress and the President to confront tough choices regarding tax and entitlement policy. However, he believes that granting the President modified line item veto authority could be a useful tool in improving the accountability of the budget process and achieving greater public confidence in the budg-

et process that will be necessary to make the tough choices on much larger fiscal issues.

James R. Horney, Senior Fellow, Center on Budget and Policy Priorities testified that he believes the most fundamental aspect of any line-item veto proposal is to shift power from the legislative branch to the executive branch. He testified that it was unwise to further enhance the power of the executive branch. He also indicated that a line item veto is not well-suited to getting at the biggest cause of the real, long-term budget problem—the fact that under current policies the cost of three big entitlement programs Social Security, Medicare, and Medicaid are projected to grow at a rate that will exceed the growth of the economy and revenues.

LINE-ITEM VETO—CONSTITUTIONAL ISSUES

On 6 June 2006, the committee held a hearing titled “Line-Item Veto—Constitutional Issues” and heard the following testimony:

Charles J. Cooper, Partner, Cooper & Kirk, PLLC testified that he believed the Supreme Court’s reasoning in striking down the Line Item Veto Act of 1996 would not apply against the Legislative Line Item Veto Act of 2006. In *Clinton v. City of New York*, 524 U.S. 417 (1998), the Court recognized and enforced the constitutional line established by article I, section 7, between the power to exercise discretion in the making, or unmaking, of law and the power to exercise discretion in the execution of law, which in the spending context has historically included the power to defer, or to decline, expenditure of appropriated funds. Congress cannot constitutionally vest the President with the former, but it can the latter, and has done so repeatedly throughout our Nation’s history. The powers granted to the President under the Legislative Line Item Veto Act of 2006 fall safely on the constitutional side of that line.

Viet D. Dinh, Professor of Law, Georgetown University Law Center testified that he believes that H.R. 4890 satisfies the Constitution’s bicameralism and presentment clauses, and does not suffer from the defects that doomed the previous line item veto legislation invalidated by the Supreme Court. He indicated he believed the act is consistent with the basic principle that Congress has broad discretion to establish procedures to govern its internal operations, including by adopting fast-track rules for the quick consideration of legislation proposed by the President.

Louis Fischer, Law Library Specialist, Library of Congress, testified that he believes that although it is useful to examine judicial precedents in judging the constitutionality of the Legislative Line Item Veto Act of 2006, the proper defender of the prerogatives of the legislative branch is the legislator, not the judge. He cited four causes of damage to the reputation and credibility of Congress: first, recognition of the inability of Congress to perform its constitutional duties; second, a public rebuke from the President on spending the President deems “unjustified”; third, further public criticism for failure to enact the President’s recommendations; and fourth, creation of a new tool for the President to coerce lawmakers and limit their independence.

Votes of the Committee

Clause 3(b) of House Rule XIII requires each committee report to accompany any bill or resolution of a public character, to include the total number of votes cast for and against on each roll call vote, on a motion to report and any amendments offered to the measure or matter, together with the names of those voting for and against. Listed below are the roll call votes taken in the House Budget Committee on the Legislative Line Item Veto Act of 2006. On 14 June 2006, the committee met in open session, a quorum being present.

Chairman Nussle asked unanimous consent that he be authorized, consistent with clause 4 of House Rule XVI, to declare a recess at any time during the committee meeting; and, in addition, the chairman and the ranking member be allotted 20 minutes equally divided to control the time for opening statements and to allow members to submit written statements for the record.

There was no objection to the unanimous consent request.

Chairman Nussle asked unanimous consent to dispense with the first reading of the bill and the bill be considered as read and open to amendment at any point.

There was no objection to the unanimous consent request.

The committee adopted and ordered reported the Legislative Line Item Veto Act of 2006. The following votes were taken by the committee:

1. Mr. Ryan offered an amendment in the nature of a substitute to H.R. 4890, the Legislative Line Item Veto Act of 2006. The amendment makes changes to the legislation such as allowing 45 calendar days for the President to transmit special messages for proposed cancellations to any of the three classes of budget provisions: an amount of discretionary budget authority; a direct spending item; and a targeted tax benefit. It prohibits duplicative proposals. Except for any omnibus budget reconciliation or appropriation measure, which is permitted not more than 10 messages, the President is limited to five special messages that may be transmitted on any bill or joint resolution. It also limits the amount of deferral time to 45 calendar days allowing for one extension of the deferral period. It refines the definition of targeted tax benefits in a manner consistent with appropriations earmarks and allows the President to make conforming changes to direct spending items or targeted tax benefits rather than allowing for modifications of the provisions. The Chairmen of the Ways and Means and Finance Committees identify a list of targeted tax benefits and the President may rescind only those benefits on the list. It defines an approval bill and details the criteria for proposed cancellations including the requirement that all direct spending items must be scored

by the Congressional Budget Office as reducing budget authority or outlays.

2. A perfecting amendment was offered by Representatives Moore, Case, Kind, Capps, Allen, Neal and Cooper to establish a pay-as-you-go [PAYGO] provision so legislation enacted before October 1, 2011, affecting direct spending or receipts would require an offsetting sequestration.

Reserving the right to object, a point of order was raised by Mr. Putnam that the amendment was not germane.

Unanimous consent was requested by Mr. Moore and received that all amendments be allowed 10 minutes of debate equally divided.

Unanimous consent was requested and received by Mr. Edwards that an additional 5 minutes for debate be allowed for both sides for the amendment currently under consideration.

Mr. Putnam withdrew his point of order.

The amendment was not agreed to by a roll call vote of 13 ayes and 18 noes.

VOTE NO. 1

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. NUSSLE, Chairman		X		Mr. SPRATT, Ranking	X		
Mr. RYUN (KS)		X		Mr. MOORE	X		
Mr. CRENSHAW		X		Mr. NEAL			
Mr. PUTNAM		X		Ms. DeLAURO			
Mr. WICKER				Mr. EDWARDS	X		
Mr. HULSHOF		X		Mr. FORD			
Mr. BONNER		X		Mrs. CAPPs	X		
Mr. GARRETT		X		Mr. BAIRD	X		
Mr. BARRETT		X		Mr. COOPER	X		
Mr. McCOTTER		X		Mr. DAVIS	X		
Mr. DIAZ-BALART		X		Mr. JEFFERSON			
Mr. HENSARLING		X		Mr. ALLEN	X		
Mr. LUNGREN		X		Mr. CASE	X		
Mr. SESSIONS				Ms. McKINNEY	X		
Mr. RYAN (WI)		X		Mr. CUELLAR	X		
Mr. SIMPSON				Ms. SCHWARTZ	X		
Mr. BRADLEY		X		Mr. KIND	X		
Mr. McHENRY							
Mr. MACK		X					

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. CONAWAY		X					
Mr. CHOCOLA		X					
Mr. CAMPBELL		X					

3. A perfecting amendment offered by Mr. Cooper to add a definition for reconciliation to Section 310 of the Congressional Budget Act.

The amendment was not agreed to by voice vote.

4. A perfecting amendment offered by Representatives Baird and Cooper to require a two-thirds majority vote in order to waive the 3-day layover requirement concerning the availability of reports.

The amendment was not agreed to by a roll call vote of 9 ayes and 19 noes.

VOTE NO. 2

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. NUSSLE, Chairman		X		Mr. SPRATT, Ranking	X		
Mr. RYUN (KS)		X		Mr. MOORE	X		
Mr. CRENSHAW		X		Mr. NEAL			
Mr. PUTNAM		X		Ms. DeLAURO			
Mr. WICKER				Mr. EDWARDS	X		
Mr. HULSHOF		X		Mr. FORD			
Mr. BONNER		X		Mrs. CAPPs	X		
Mr. GARRETT		X		Mr. BAIRD	X		
Mr. BARRETT		X		Mr. COOPER	X		
Mr. McCOTTER		X		Mr. DAVIS			
Mr. DIAZ-BALART		X		Mr. JEFFERSON			
Mr. HENSARLING		X		Mr. ALLEN			
Mr. LUNGREN		X		Mr. CASE	X		
Mr. SESSIONS				Ms. McKINNEY			
Mr. RYAN (WI)		X		Mr. CUELLAR	X		
Mr. SIMPSON		X		Ms. SCHWARTZ	X		
Mr. BRADLEY		X		Mr. KIND			
Mr. McHENRY							
Mr. MACK		X					
Mr. CONAWAY		X					

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. CHOCOLA		X					
Mr. CAMPBELL		X					

5. A perfecting amendment offered by Mr. Baird to require a 3-day approval bill layover. The amendment was withdrawn.

6. A perfecting amendment offered by Mr. Cooper to change the way earmarks are treated for the purpose of floor consideration.

The amendment was not agreed to by a roll call vote of 8 ayes and 19 noes.

VOTE NO. 3

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. NUSSLE, Chairman		X		Mr. SPRATT, Ranking	X		
Mr. RYUN (KS)		X		Mr. MOORE	X		
Mr. CRENSHAW		X		Mr. NEAL			
Mr. PUTNAM		X		Ms. DeLAURO			
Mr. WICKER		X		Mr. EDWARDS	X		
Mr. HULSHOF		X		Mr. FORD	X		
Mr. BONNER		X		Mrs. CAPPS	X		
Mr. GARRETT		X		Mr. BAIRD	X		
Mr. BARRETT		X		Mr. COOPER	X		
Mr. McCOTTER		X		Mr. DAVIS			
Mr. DIAZ-BALART		X		Mr. JEFFERSON			
Mr. HENSARLING		X		Mr. ALLEN			
Mr. LUNGREN				Mr. CASE			
Mr. SESSIONS				Ms. McKINNEY			
Mr. RYAN (WI)		X		Mr. CUELLAR	X		
Mr. SIMPSON		X		Ms. SCHWARTZ			
Mr. BRADLEY		X		Mr. KIND			
Mr. McHENRY							
Mr. MACK		X					
Mr. CONAWAY		X					
Mr. CHOCOLA		X					
Mr. CAMPBELL		X					

7. A perfecting amendment offered by Representatives Capps and Allen to exempt Social Security from the programs subject to the cancellation's proposal authority.

The amendment was not agreed to by a roll call vote of 10 ayes and 19 noes.

VOTE NO. 4

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. NUSSLE, Chairman		X		Mr. SPRATT, Ranking	X		
Mr. RYUN (KS)		X		Mr. MOORE	X		
Mr. CRENSHAW		X		Mr. NEAL	X		
Mr. PUTNAM		X		Ms. DeLAURO			
Mr. WICKER		X		Mr. EDWARDS	X		
Mr. HULSHOF		X		Mr. FORD	X		
Mr. BONNER		X		Mrs. CAPPS	X		
Mr. GARRETT		X		Mr. BAIRD			
Mr. BARRETT		X		Mr. COOPER	X		
Mr. McCOTTER		X		Mr. DAVIS			
Mr. DIAZ-BALART		X		Mr. JEFFERSON			
Mr. HENSARLING		X		Mr. ALLEN	X		
Mr. LUNGREN				Mr. CASE	X		
Mr. SESSIONS				Ms. McKINNEY			
Mr. RYAN (WI)		X		Mr. CUELLAR	X		
Mr. SIMPSON		X		Ms. SCHWARTZ			
Mr. BRADLEY		X		Mr. KIND			
Mr. McHENRY							
Mr. MACK		X					
Mr. CONAWAY		X					
Mr. CHOCOLA		X					
Mr. CAMPBELL		X					

8. A perfecting amendment offered by Representatives Allen and Davis to exempt Medicare from the programs subject to the cancellation's proposal authority.

The amendment was not agreed to by a roll call vote of 9 ayes and 19 noes.

VOTE NO. 5

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. NUSSLE, Chairman		X		Mr. SPRATT, Ranking	X		
Mr. RYUN (KS)		X		Mr. MOORE			
Mr. CRENSHAW		X		Mr. NEAL	X		
Mr. PUTNAM		X		Ms. DeLAURO	X		
Mr. WICKER		X		Mr. EDWARDS	X		
Mr. HULSHOF		X		Mr. FORD			
Mr. BONNER		X		Mrs. CAPPS	X		
Mr. GARRETT		X		Mr. BAIRD			
Mr. BARRETT		X		Mr. COOPER	X		
Mr. McCOTTER		X		Mr. DAVIS			
Mr. DIAZ-BALART		X		Mr. JEFFERSON			
Mr. HENSARLING		X		Mr. ALLEN	X		
Mr. LUNGREN				Mr. CASE	X		
Mr. SESSIONS				Ms. McKINNEY			
Mr. RYAN (WI)		X		Mr. CUELLAR	X		
Mr. SIMPSON		X		Ms. SCHWARTZ			
Mr. BRADLEY		X		Mr. KIND			
Mr. McHENRY							
Mr. MACK		X					
Mr. CONAWAY		X					
Mr. CHOCOLA		X					
Mr. CAMPBELL		X					

9. A perfecting amendment offered by Representatives Edwards and Kind that exempts veterans benefits from programs subject to the cancellation's proposal authority.

The amendment was not agreed to by a roll call vote of 11 ayes and 19 noes.

VOTE NO. 6

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. NUSSLE, Chairman		X		Mr. SPRATT, Ranking	X		
Mr. RYUN (KS)		X		Mr. MOORE	X		

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. CRENSHAW		X		Mr. NEAL	X		
Mr. PUTNAM		X		Ms. DeLAURO	X		
Mr. WICKER		X		Mr. EDWARDS	X		
Mr. HULSHOF		X		Mr. FORD			
Mr. BONNER		X		Mrs. CAPPS	X		
Mr. GARRETT		X		Mr. BAIRD			
Mr. BARRETT		X		Mr. COOPER	X		
Mr. McCOTTER		X		Mr. DAVIS	X		
Mr. DIAZ-BALART		X		Mr. JEFFERSON			
Mr. HENSARLING		X		Mr. ALLEN	X		
Mr. LUNGREN				Mr. CASE	X		
Mr. SESSIONS				Ms. McKINNEY			
Mr. RYAN (WI)		X		Mr. CUELLAR	X		
Mr. SIMPSON		X		Ms. SCHWARTZ			
Mr. BRADLEY		X		Mr. KIND			
Mr. McHENRY							
Mr. MACK		X					
Mr. CONAWAY		X					
Mr. CHOCOLA		X					
Mr. CAMPBELL		X					

10. A perfecting amendment offered by Representatives Cooper and Capps to provide for a 2-year sunset provision.

The amendment was not agreed to by a roll call vote of 10 ayes and 18 noes.

VOTE NO. 7

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. NUSSLE, Chairman		X		Mr. SPRATT, Ranking	X		
Mr. RYUN (KS)		X		Mr. MOORE	X		
Mr. CRENSHAW		X		Mr. NEAL	X		
Mr. PUTNAM		X		Ms. DeLAURO	X		
Mr. WICKER		X		Mr. EDWARDS	X		
Mr. HULSHOF		X		Mr. FORD			

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. BONNER		X		Mrs. CAPPS	X		
Mr. GARRETT				Mr. BAIRD			
Mr. BARRETT		X		Mr. COOPER	X		
Mr. McCOTTER		X		Mr. DAVIS	X		
Mr. DIAZ-BALART		X		Mr. JEFFERSON			
Mr. HENSARLING		X		Mr. ALLEN	X		
Mr. LUNGREN				Mr. CASE	X		
Mr. SESSIONS				Ms. McKINNEY			
Mr. RYAN (WI)		X		Mr. CUELLAR			
Mr. SIMPSON		X		Ms. SCHWARTZ			
Mr. BRADLEY		X		Mr. KIND			
Mr. McHENRY							
Mr. MACK		X					
Mr. CONAWAY		X					
Mr. CHOCOLA		X					
Mr. CAMPBELL		X					

11. A perfecting amendment offered by Mr. Cuellar to provide for a 6-year sunset provision.

The amendment was agreed to by voice vote.

12. A perfecting amendment offered by Mr. Neal for a prohibition on Presidential abuse of proposed cancellations. A substitute amendment to Mr. Neal's amendment was offered by Mr. McCotter to allow for a Sense of Congress on abuse of proposed cancellations.

The Chairman asked for and received unanimous consent that the McCotter amendment to the Neal amendment be accepted.

The amendment was agreed to by voice vote.

13. A perfecting amendment offered by Mr. Cooper relating to the tax provisions. The amendment was not agreed to by a roll call vote of 12 ayes and 20 noes.

VOTE NO. 8

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. NUSSLE, Chairman		X		Mr. SPRATT, Ranking	X		
Mr. RYUN (KS)		X		Mr. MOORE	X		
Mr. CRENSHAW		X		Mr. NEAL	X		
Mr. PUTNAM		X		Ms. DeLAURO			

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. WICKER		X		Mr. EDWARDS	X		
Mr. HULSHOF		X		Mr. FORD			
Mr. BONNER		X		Mrs. CAPPS	X		
Mr. GARRETT		X		Mr. BAIRD	X		
Mr. BARRETT		X		Mr. COOPER	X		
Mr. McCOTTER		X		Mr. DAVIS	X		
Mr. DIAZ-BALART		X		Mr. JEFFERSON			
Mr. HENSARLING		X		Mr. ALLEN	X		
Mr. LUNGREN		X		Mr. CASE	X		
Mr. SESSIONS				Ms. McKINNEY			
Mr. RYAN (WI)		X		Mr. CUELLAR	X		
Mr. SIMPSON		X		Ms. SCHWARTZ			
Mr. BRADLEY		X		Mr. KIND	X		
Mr. McHENRY							
Mr. MACK		X					
Mr. CONAWAY		X					
Mr. CHOCOLA		X					
Mr. CAMPBELL		X					

14. An amendment, in the nature of a substitute, offered by Mr. Spratt to apply to discretionary budget authority and target tax benefits and not include items of direct spending for cancellation consideration. It provided for a 2-year sunset provision.

The amendment was not agreed to by a roll call vote of 12 ayes and 21 noes.

VOTE NO. 9

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. NUSSLE, Chairman		X		Mr. SPRATT, Ranking	X		
Mr. RYUN (KS)		X		Mr. MOORE	X		
Mr. CRENSHAW		X		Mr. NEAL		X	
Mr. PUTNAM		X		Ms. DeLAURO			
Mr. WICKER		X		Mr. EDWARDS	X		
Mr. HULSHOF		X		Mr. FORD			
Mr. BONNER		X		Mrs. CAPPS	X		

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. GARRETT		X		Mr. BAIRD	X		
Mr. BARRETT		X		Mr. COOPER	X		
Mr. McCOTTER		X		Mr. DAVIS	X		
Mr. DIAZ-BALART		X		Mr. JEFFERSON			
Mr. HENSARLING		X		Mr. ALLEN	X		
Mr. LUNGREN		X		Mr. CASE	X		
Mr. SESSIONS				Ms. McKINNEY			
Mr. RYAN (WI)		X		Mr. CUELLAR	X		
Mr. SIMPSON		X		Ms. SCHWARTZ	X		
Mr. BRADLEY		X		Mr. KIND	X		
Mr. McHENRY							
Mr. MACK		X					
Mr. CONAWAY		X					
Mr. CHOCOLA		X					
Mr. CAMPBELL		X					

16. Mr. Ryun made a motion that the committee report the bill as amended and that the bill do pass.

The motion was agreed to by a roll call vote of 24 ayes and 9 noes.

VOTE NO. 10

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. NUSSLE, Chairman	X			Mr. SPRATT, Ranking		X	
Mr. RYUN (KS)	X			Mr. MOORE		X	
Mr. CRENSHAW	X			Mr. NEAL		X	
Mr. PUTNAM	X			Ms. DeLAURO			
Mr. WICKER	X			Mr. EDWARDS	X		
Mr. HULSHOF	X			Mr. FORD			
Mr. BONNER	X			Mrs. CAPPS		X	
Mr. GARRETT	X			Mr. BAIRD		X	
Mr. BARRETT	X			Mr. COOPER	X		
Mr. McCOTTER	X			Mr. DAVIS		X	
Mr. DIAZ-BALART	X			Mr. JEFFERSON			

Representative	Aye	No	Present	Representative	Aye	No	Present
Mr. HENSARLING	X			Mr. ALLEN		X	
Mr. LUNGREN	X			Mr. CASE	X		
Mr. SESSIONS				Ms. McKINNEY			
Mr. RYAN (WI)	X			Mr. CUELLAR	X		
Mr. SIMPSON	X			Ms. SCHWARTZ		X	
Mr. BRADLEY	X			Mr. KIND		X	
Mr. McHENRY							
Mr. MACK	X						
Mr. CONAWAY	X						
Mr. CHOCOLA	X						
Mr. CAMPBELL	X						

Mr. Ryun made a motion that, pursuant to clause 1 of rule XXII, the Chairman be authorized to offer such motions as may be necessary in the House to go to conference with the Senate and staff be authorized to make any necessary technical and conforming changes to the bill.

The motion was agreed to without objection.

At the conclusion of the markup after all votes had occurred, Ms. McKinney requested and received permission to have a statement inserted into the record she was not in favor of final passage of the bill.

Other Items Required Under the Rules of the House of Representatives

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on the Budget's oversight findings and recommendations are reflected in the body of this report.

BUDGET ACT COMPLIANCE

The provisions of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and sections 402 and 423 of the Congressional Budget Act of 1974 submitted to the committee prior to the filing of this report are as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 16, 2006.

Hon. JIM NUSSLE,
*Chairman, Committee on the Budget,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4890, the Legislative Line Item Veto Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

DONALD B. MARRON, *Acting Director.*

Congressional Budget Office Cost Estimate

1. Bill number: H.R. 4890.
2. Bill title: Legislative Line Item Veto Act of 2006.
3. Bill status: As ordered reported by the House Committee on the Budget on June 14, 2006.
4. Bill purpose: H.R. 4890 would establish a new expedited procedure for considering Presidential proposals to cancel certain spending and tax provisions in newly enacted legislation. CBO estimates that enacting H.R. 4890, by itself, would not have any significant impact on the budget. Any impact on the budget would depend on

the extent of the President's use of the new cancellation procedure and on future Congressional actions.

The bill would establish a procedure for the President to propose canceling specified discretionary budget authority, items of direct spending, or targeted tax benefits (defined as any provisions of a revenue bill that provide a Federal tax benefit to only one beneficiary) and for Congressional consideration of such proposals. The President would transmit a special message to both Houses of Congress specifying the project or governmental functions involved, the reasons for the proposed cancellations, and—to the extent practicable—the estimated fiscal, economic, and budgetary effect of the action. The Congress could then approve or disapprove the President's proposals in legislation. (If approved, any such proposed cancellations would then become law.)

Under H.R. 4890, the President could submit up to five special messages for most acts and joint resolutions, and up to 10 special messages for reconciliation or omnibus appropriation acts. A message would have to be transmitted to the Congress within 45 calendar days of enactment of the legislation containing the items proposed for cancellation. Within 5 days of receiving a special message, the majority leaders of the House and Senate (or their designees) would be required to introduce a bill or joint resolution to approve the proposed cancellations; that approval bill would be considered under expedited procedures. H.R. 4890 also would amend the Congressional Budget Act to require that CBO prepare an estimate of savings in budget authority and outlays resulting from any cancellations proposed by the President.

Additionally, the President could withhold discretionary budget authority proposed for cancellation and suspend items of direct spending and targeted tax benefits for 45 days from the date on which a special message is transmitted. For each such transmittal, the Government Accountability Office would be required to submit a report to the Congress indicating whether any delay in obligation of discretionary authority, suspension of a direct spending item, or suspension of a targeted tax benefit continued after the President's authority to suspend them expired.

5. Estimated cost to the Federal Government: The impact of H.R. 4890 on future legislation would depend on both the nature of such legislation and on the actions of the President and the Congress in implementing the expedited cancellation procedure in H.R. 4890. Therefore, this bill would not—by itself—have any significant impact on the Federal budget. CBO estimates that any additional administrative costs for implementing H.R. 4890 would not be significant because both the executive branch and the Congress already carry out activities similar to those that would be involved in preparing and responding to Presidential budget proposals (including, for example, proposed rescissions of discretionary appropriations).

H.R. 4890 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and—by itself—would have no impact on the budgets of state, local, or tribal governments. Any budgetary impacts would depend on subsequent legislative action.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to provide both the President and the Congress improved tools to reconsider spending and tax provisions.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the committee finds the constitutional authority for this legislation in article I, section 8, clause 18, that grants Congress the power to make all laws necessary and proper for carrying out the powers vested by Congress in the Constitution of the United States or in any department or officer thereof.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the committee report incorporates the cost estimate prepared by the Director of the Congressional Budget Office pursuant to sections 402 and 423 of the Congressional Budget Act of 1974.

ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

FEDERAL MANDATES STATEMENT

The committee adopted as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

Pursuant to the terms of the referral of the bill to the committee, the committee adopted an amendment striking those provisions which were referred to the committee and inserting new text.

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the provisions of the bill referred to the committee, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

**CONGRESSIONAL BUDGET AND IMPOUNDMENT
CONTROL ACT OF 1974**

SHORT TITLES; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLES.—This Act may be cited as the “Congressional Budget and Impoundment Control Act of 1974”. Titles I through IX may be cited as the “Congressional Budget Act of 1974”. Parts A and B of title X may be cited as the “Impoundment Control Act of 1974”. [Part C of title X may be cited as the “Line Item Veto Act of 1996”.]

(b) TABLE OF CONTENTS.—

Sec. 1. Short titles; table of contents.

* * * * *

TITLE X—IMPOUNDMENT CONTROL

* * * * *

[PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESCISSIONS,
RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY

- [Sec. 1011. Definitions.
- [Sec. 1012. Rescission of budget authority.
- [Sec. 1013. Proposed deferrals of budget authority.
- [Sec. 1014. Transmission of messages; publication.
- [Sec. 1015. Reports by Comptroller General.
- [Sec. 1016. Suits by Comptroller General.
- [Sec. 1017. Procedure in House and Senate.

[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.]

PART B—LEGISLATIVE LINE ITEM VETO

- Sec. 1011. Line item veto authority.*
- Sec. 1012. Procedures for expedited consideration.*
- Sec. 1013. Presidential deferral authority.*
- Sec. 1014. Identification of targeted tax benefits.*
- Sec. 1015. Treatment of cancellations.*
- Sec. 1016. Reports by Comptroller General.*
- Sec. 1017. Definitions.*
- Sec. 1018. Expiration.*
- Sec. 1019. Suits by Comptroller General.*
- Sec. 1020. Proposed deferrals of budget authority.*

* * * * *

TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL
PROCEDURES

PART A—GENERAL PROVISIONS

* * * * *

ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

SEC. 402. (a) The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution

of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

(1) * * *

* * * * *

(b) *Upon the receipt of a special message under section 1011 proposing to cancel any item of direct spending, the Director of the Congressional Budget Office shall prepare an estimate of the savings in budget authority or outlays resulting from such proposed cancellation relative to the most recent levels calculated consistent with the methodology used to calculate a baseline under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, and transmit such estimate to the chairmen of the Committees on the Budget of the House of Representatives and Senate.*

* * * * *

TITLE IX—MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

* * * * *

EXERCISE OF RULEMAKING POWERS

SEC. 904. (a) The provisions of this title and of titles I, III, IV, and V and the provisions of sections 701, 703, and **[1017]** 1012 are enacted by the Congress—

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

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

* * * * *

(d) APPEALS.—

(1) PROCEDURE.—Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section **[1017]** 1012 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

* * * * *

TITLE X—IMPOUNDMENT CONTROL

* * * * *

【PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESCIS-
SIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY

【DEFINITIONS

【SEC. 1011. For purposes of this part—

【(1) “deferral of budget authority” includes—

【(A) withholding or delaying the obligations or expenditure of budget authority (whether by establishing reserves or otherwise) provided for projects or activities; or

【(B) any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority, including authority to obligate by contract in advance of appropriations as specifically authorized by law;

【(2) “Comptroller General” means the Comptroller General of the United States;

【(3) “rescission bill” means a bill or joint resolution which only rescinds in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under section 1012, and upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President’s message is received by the Congress;

【(4) “impoundment resolution” means a resolution of the House of Representatives or the Senate which only expresses its disapproval of a proposed deferral of budget authority set forth in a special message transmitted by the President under section 1013; and

【(5) continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress *sine die*, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 45-day period referred to in paragraph (3) of this section and in section 1012, and the 25-day periods referred to in sections 1016 and 1017(b)(1). If a special message is transmitted under section 1012 during any Congress and the last session of such Congress adjourns *sine die* before the expiration of 45 calendar days of continuous session (or a special message is so transmitted after the last session of the Congress adjourns *sine die*), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the 45-day period referred to in paragraph (3) of this section and section 1012 (with respect to such message) shall commence on the day after such first day.

【RESCISSION OF BUDGET AUTHORITY

【SEC. 1012. (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs for which it is provided or that such budget authority should be rescinded for fiscal policy or other reasons (including the determination of authorized projects or activities for which budget authority has been provided), or whenever all or part of budget au-

thority provided for only one fiscal year is to be reserved from obligation for such fiscal year, the President shall transmit to both Houses of Congress a special message specifying—

[(1) the amount of budget authority which he proposes to be rescinded or which is to be so reserved;

[(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

[(3) the reasons why the budget authority should be rescinded or is to be so reserved;

[(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or of the reservation; and

[(5) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or the reservation and the decision to effect the proposed rescission or the reservation, and to the maximum extent practicable, the estimated effect of the proposed rescission or the reservation upon the objects, purposes, and programs for which the budget authority is provided.

[(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved. Funds made available for obligation under this procedure may not be proposed for rescission again.

[(TRANSMISSION OF MESSAGES; PUBLICATION

[(SEC. 1014. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under section 1012 or 1013 shall be transmitted to the House of Representatives and the Senate on the same day, and 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. Each special message so transmitted shall be referred to the appropriate committee of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

[(b) DELIVERY TO COMPTROLLER GENERAL.—A copy of each special message transmitted under section 1012 or 1013 shall be transmitted to the Comptroller General on the same day it is transmitted to the House of Representatives and the Senate. In order to assist the Congress in the exercise of its functions under sections 1012 and 1013, the Comptroller General shall review each such message and inform the House of Representatives and the Senate as promptly as practicable with respect to—

[(1) in the case of a special message transmitted under section 1012, the facts surrounding the proposed rescission or the reservation of budget authority (including the probable effects thereof); and

[(2) in the case of a special message transmitted under section 1013, (A) the facts surrounding each proposed deferral

of budget authority (including the probable effects thereof) and (B) whether or not (or to what extent), in his judgment, such proposed deferral is in accordance with existing statutory authority.

[(c) TRANSMISSION OF SUPPLEMENTARY MESSAGES.—If any information contained in a special message transmitted under section 1012 or 1013 is subsequently revised, the President shall transmit to both Houses of Congress and the Comptroller General a supplementary message stating and explaining such revision. Any such supplementary message shall be delivered, referred, and printed as provided in subsection (a). The Comptroller General shall promptly notify the House of Representatives and the Senate of any change in the information submitted by him under subsection (b) which may be necessitated by such revision.

[(d) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under section 1012 or 1013, and any supplementary message transmitted under subsection (c), shall be printed in the first issue of the Federal Register published after such transmittal.

[(e) CUMULATIVE REPORTS OF PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY.—

[(1) The President shall submit a report to the House of Representatives and the Senate, not later than the 10th day of each month during a fiscal year, listing all budget authority for that fiscal year with respect to which, as of the first day of such month—

[(A) he has transmitted a special message under section 1012 with respect to a proposed rescission or a reservation; and

[(B) he has transmitted a special message under section 1013 proposing a deferral.

Such report shall also contain, with respect to each such proposed rescission or deferral, or each such reservation, the information required to be submitted in the special message with respect thereto under section 1012 or 1013.

[(2) Each report submitted under paragraph (1) shall be printed in the first issue of the Federal Register published after its submission.

REPORTS BY COMPTROLLER GENERAL

[SEC. 1015. (a) FAILURE TO TRANSMIT SPECIAL MESSAGE.—If the Comptroller General finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States—

[(1) is to establish a reserve or proposes to defer budget authority with respect to which the President is required to transmit a special message under section 1012 or 1013; or

[(2) has ordered, permitted, or approved the establishment of such a reserve or a deferral of budget authority;

and that the President has failed to transmit a special message with respect to such reserve or deferral, the Comptroller General shall make a report on such reserve or deferral and any available information concerning it to both Houses of Congress. The provisions of this part shall apply with respect to such reserve or defer-

ral in the same manner and with the same effect as if such report of the Comptroller General were a special message transmitted by the President under section 1012 or 1013, and, for purposes of this part, such report shall be considered a special message transmitted under section 1012 or 1013.

[(b) INCORRECT CLASSIFICATION OF SPECIAL MESSAGE.—If the President has transmitted a special message to both Houses of Congress in accordance with section 1012 or 1013, and the Comptroller General believes that the President so transmitted the special message in accordance with one of those sections when the special message should have been transmitted in accordance with the other of those sections, the Comptroller General shall make a report to both Houses of the Congress setting forth his reasons.

[PROCEDURE IN HOUSE AND SENATE

[SEC. 1017. (a) REFERRAL.—Any rescission bill introduced with respect to a special message or impoundment resolution introduced with respect to a proposed deferral of budget authority shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be.

[(b) DISCHARGE OF COMMITTEE.—

[(1) If the committee to which a rescission bill or impoundment resolution has been referred has not reported it at the end of 25 calendar days of continuous session of the Congress after its introduction, it is in order to move either to discharge the committee from further consideration of the bill or resolution or to discharge the committee from further consideration of any other rescission bill with respect to the same special message or impoundment resolution with respect to the same proposed deferral, as the case may be, which has been referred to the committee.

[(2) A motion to discharge may be made only by an individual favoring the bill or resolution, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a bill or resolution with respect to the same special message or the same proposed deferral, as the case may be); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the bill or resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

[(c) FLOOR CONSIDERATION IN THE HOUSE.—

[(1) When the committee of the House of Representatives has reported, or has been discharged from further consideration of a rescission bill or impoundment resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the bill or resolution. The motion shall be highly privileged and not debatable. An amendment to the

motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

【(2) Debate on a rescission bill or impoundment resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. In the case of an impoundment resolution, no amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a rescission bill or impoundment resolution is agreed to or disagreed to.

【(3) Motions to postpone, made with respect to the consideration of a rescission bill or impoundment resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

【(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any rescission bill or impoundment resolution shall be decided without debate.

【(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any rescission bill or impoundment resolution and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstances.

【(d) FLOOR CONSIDERATION IN THE SENATE.—

【(1) Debate in the Senate on any rescission bill or impoundment resolution, and all amendments thereto (in the case of a rescission bill) and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

【(2) Debate in the Senate on any amendment to a rescission bill shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the bill. Debate on any amendment to an amendment, to such a bill, and debate on any debatable motion or appeal in connection with such a bill or an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or resolution, except that in the event the manager of the bill or resolution is in favor in any such amendment, motion, or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of a rescission bill shall be received. Such leaders, or either of them, may, from the time under their control on the passage of a rescission bill or impoundment resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

【(3) A motion to further limit debate is not debatable. In the case of a rescission bill, a motion to recommit (except a motion to recommit with instructions to report back within a spec-

ified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution. In the case of an impoundment resolution, no amendment or motion to recommit is in order.

[(4) The conference report on any rescission bill shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

[(5) During the consideration in the Senate of the conference report on any rescission bill, debate shall be limited to 2 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.

[(6) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to one hour, to be equally divided, between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between, and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

[(7) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

【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

- if the President—
- [(3) any limited tax benefit;
 - [(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 251(c) of the Balanced Budget and Emer-

gency Deficit Control Act of 1985 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 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 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 com-

mittee or committees of the Senate and the Committee on the Budget and the appropriate committee or committees of the House of 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 in-

tervening 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 dis-

approval bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (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 reference 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; or

[(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 reduc-

tion 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.]

PART B—LEGISLATIVE LINE ITEM VETO

LINE ITEM VETO AUTHORITY

SEC. 1011. (a) PROPOSED CANCELLATIONS.—Within 45 calendar days after the enactment of any bill or joint resolution providing any discretionary budget authority, item of direct spending, or targeted tax benefit, the President may propose, in the manner provided in subsection (b), the cancellation of any dollar amount of such discretionary budget authority, item of direct spending, or targeted tax benefit. If the 45 calendar-day period expires during a period where either House of Congress stands adjourned sine die at the end of a Congress or for a period greater than 45 calendar days, the President may propose a cancellation under this section and transmit a special message under subsection (b) on the first calendar day of session following such a period of adjournment.

(b) TRANSMITTAL OF SPECIAL MESSAGE.—

(1) SPECIAL MESSAGE.—

(A) IN GENERAL.—The President may transmit to the Congress a special message proposing to cancel any dollar amounts of discretionary budget authority, items of direct spending, or targeted tax benefits.

(B) CONTENTS OF SPECIAL MESSAGE.—Each special message shall specify, with respect to the discretionary budget authority, items of direct spending proposed, or targeted tax benefits to be canceled—

(i) the dollar amount of discretionary budget authority, the specific item of direct spending (that OMB, after consultation with CBO, estimates to increase budget authority or outlays as required by section 1017(9)), or the targeted tax benefit that the President proposes be canceled;

(ii) any account, department, or establishment of the Government to which such discretionary budget authority is available for obligation, and the specific project or governmental functions involved;

(iii) the reasons why such discretionary budget authority, item of direct spending, or targeted tax benefit should be canceled;

(iv) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation;

(v) to the maximum extent practicable, all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and the estimated effect of the proposed cancellation upon the objects, purposes, or programs for which the discretionary budget authority, item of direct spending, or the targeted tax benefit is provided;

(vi) a numbered list of cancellations to be included in an approval bill that, if enacted, would cancel discretionary budget authority, items of direct spending, or targeted tax benefits proposed in that special message; and

(vii) if the special message is transmitted subsequent to or at the same time as another special message, a detailed explanation why the proposed cancellations are not substantially similar to any other proposed cancellation in such other message.

(C) *DUPLICATIVE PROPOSALS PROHIBITED.*—The President may not propose to cancel the same or substantially similar discretionary budget authority, item of direct spending, or targeted tax benefit more than one time under this Act.

(D) *MAXIMUM NUMBER OF SPECIAL MESSAGES.*—The President may not transmit to the Congress more than 5 special messages under this subsection related to any bill or joint resolution described in subsection (a), but may transmit not more than 10 special messages for any omnibus budget reconciliation or appropriation measure.

(2) *ENACTMENT OF APPROVAL BILL.*—

(A) *DEFICIT REDUCTION.*—Amounts of budget authority, items of direct spending, or targeted tax benefits which are canceled pursuant to enactment of a bill as provided under this section shall be dedicated only to reducing the deficit or increasing the surplus.

(B) *ADJUSTMENT OF LEVELS IN THE CONCURRENT RESOLUTION ON THE BUDGET.*—Not later than 5 days after the date of enactment of an approval bill as provided under this section, the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise allocations and aggregates and other appropriate levels under the appropriate concurrent resolution on the budget to reflect the cancellation, and the applicable committees shall report revised suballocations pursuant to section 302(b), as appropriate.

(C) *ADJUSTMENTS TO STATUTORY LIMITS.*—After enactment of an approval bill as provided under this section, the Office of Management and Budget shall revise applicable limits under the Balanced Budget and Emergency Deficit Control Act of 1985, as appropriate.

PROCEDURES FOR EXPEDITED CONSIDERATION

SEC. 1012. (a) EXPEDITED CONSIDERATION.—

(1) *IN GENERAL.*—The majority leader of each House or his designee shall (by request) introduce an approval bill as defined in section 1017 not later than the fifth day of session of that House after the date of receipt of a special message transmitted to the Congress under section 1011(b).

(2) *CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.*—

(A) *REFERRAL AND REPORTING.*—Any committee of the House of Representatives to which an approval bill is referred shall report it to the House without amendment not later than the seventh legislative day after the date of its introduction. If a committee fails to report the bill within that period or the House has adopted a concurrent resolution providing for adjournment sine die at the end of a Congress, it shall be in order to move that the House discharge the committee from further consideration of the bill. Such a motion shall be in order only at a time designated by the Speaker in the legislative schedule within two legislative days after the day on which the proponent announces his intention to offer the motion. Such a motion shall not be in order after a committee has reported an approval bill with respect to that special message or after the House has disposed of a motion to discharge with respect to that special message. The previous question shall be considered as ordered on the motion to its adoption without intervening motion except twenty minutes of debate equally divided and controlled by the proponent and an opponent. If such a motion is adopted, the House shall proceed immediately to consider the approval bill in accordance with subparagraph (C). A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(B) *PROCEEDING TO CONSIDERATION.*—After an approval bill is reported or a committee has been discharged from further consideration, or the House has adopted a concurrent resolution providing for adjournment sine die at the end of a Congress, it shall be in order to move to proceed to consider the approval bill in the House. Such a motion shall be in order only at a time designated by the Speaker in the legislative schedule within two legislative days after the day on which the proponent announces his intention to offer the motion. Such a motion shall not be in order after the House has disposed of a motion to proceed with respect to that special message. 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 disposed of shall not be in order.

(C) *CONSIDERATION.*—The approval bill shall be considered as read. All points of order against an approval bill and against its consideration are waived. The previous question shall be considered as ordered on an approval bill to its passage without intervening motion except five hours of debate equally divided and controlled by the proponent and an opponent and one motion to limit debate on the bill. A motion to reconsider the vote on passage of the bill shall not be in order.

(D) *SENATE BILL.*—An approval bill received from the Senate shall not be referred to committee.

(3) *CONSIDERATION IN THE SENATE.*—

(A) *MOTION TO PROCEED TO CONSIDERATION.*—A motion to proceed to the consideration of a bill under this subsection in the Senate shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed is agreed to or disagreed to.

(B) *LIMITS ON DEBATE.*—Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours, equally divided and controlled in the usual form.

(C) *APPEALS.*—Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided and controlled in the usual form.

(D) *MOTION TO LIMIT DEBATE.*—A motion in the Senate to further limit debate on a bill under this subsection is not debatable.

(E) *MOTION TO RECOMMIT.*—A motion to recommit a bill under this subsection is not in order.

(F) *CONSIDERATION OF THE HOUSE BILL.*—

(i) *IN GENERAL.*—If the Senate has received the House companion bill to the bill introduced in the Senate prior to the vote required under paragraph (1)(C), then the Senate may consider, and the vote under paragraph (1)(C) may occur on, the House companion bill.

(ii) *PROCEDURE AFTER VOTE ON SENATE BILL.*—If the Senate votes, pursuant to paragraph (1)(C), on the bill introduced in the Senate, then immediately following that vote, or upon receipt of the House companion bill, the House bill shall be deemed to be considered, read the third time, and the vote on passage of the Senate bill shall be considered to be the vote on the bill received from the House.

(b) *AMENDMENTS PROHIBITED.*—No amendment to, or motion to strike a provision from, a bill considered under this section shall be in order in either the Senate or the House of Representatives.

PRESIDENTIAL DEFERRAL AUTHORITY

SEC. 1013. (a) *TEMPORARY PRESIDENTIAL AUTHORITY TO WITHHOLD DISCRETIONARY BUDGET AUTHORITY.*—

(1) *IN GENERAL.*—At the same time as the President transmits to the Congress a special message pursuant to section 1011(b), the President may direct that any dollar amount of discretionary budget authority to be canceled in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to the Congress.

(2) *EARLY AVAILABILITY.*—The President shall make any dollar amount of discretionary budget authority deferred pursuant to paragraph (1) available at a time earlier than the time specified by the President if the President determines that con-

tinuation of the deferral would not further the purposes of this Act.

(b) *TEMPORARY PRESIDENTIAL AUTHORITY TO SUSPEND DIRECT SPENDING.—*

(1) *IN GENERAL.—At the same time as the President transmits to the Congress a special message pursuant to section 1011(b), the President may suspend the implementation of any item of direct spending proposed to be canceled in that special message for a period not to exceed 45 calendar days from the date the President transmits the special message to the Congress.*

(2) *EARLY AVAILABILITY.—The President shall terminate the suspension of any item of direct spending at a time earlier than the time specified by the President if the President determines that continuation of the suspension would not further the purposes of this Act.*

(c) *TEMPORARY PRESIDENTIAL AUTHORITY TO SUSPEND A TARGETED TAX BENEFIT.—*

(1) *IN GENERAL.—At the same time as the President transmits to the Congress a special message pursuant to section 1011(b), the President may suspend the implementation of any targeted tax benefit proposed to be repealed in that special message for a period not to exceed 45 calendar days from the date the President transmits the special message to the Congress.*

(2) *EARLY AVAILABILITY.—The President shall terminate the suspension of any targeted tax benefit at a time earlier than the time specified by the President if the President determines that continuation of the suspension would not further the purposes of this Act.*

(d) *EXTENSION OF 45-DAY PERIOD.—The President may transmit to the Congress not more than one supplemental special message to extend the period to suspend the implementation of any discretionary budget authority, item of direct spending, or targeted tax benefit, as applicable, by an additional 45 calendar days. Any such supplemental message may not be transmitted to the Congress before the 40th day of the 45-day period set forth in the preceding message or later than the last day of such period.*

IDENTIFICATION OF TARGETED TAX BENEFITS

SEC. 1014. (a) *STATEMENT.—The chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate acting jointly (hereafter in this subsection referred to as the “chairmen”) 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 targeted tax benefits. The chairmen shall provide to the committee of conference a statement identifying any such targeted tax benefits or declaring that the bill or joint resolution does not contain any targeted tax benefits. Any such statement shall be made available to any Member of Congress by the chairmen immediately upon request.*

(b) *STATEMENT INCLUDED IN LEGISLATION.—*

(1) *IN GENERAL.*—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 chairmen, but only in the manner set forth in paragraph (2).

(2) *APPLICABILITY.*—The separate section permitted under subparagraph (A) shall read as follows: “Section 1021 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 chairmen identify targeted 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 chairmen in such statement in the second blank space; or

(B) in any case in which the chairmen declare that there are no targeted 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—

(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in this section only with respect to any targeted 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 this section with respect to any targeted tax benefit in that law.

TREATMENT OF CANCELLATIONS

SEC. 1015. The cancellation of any dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit shall take effect only upon enactment of the applicable approval bill. If an approval bill is not enacted into law before the end of the applicable period under section 1013, then all proposed cancellations contained in that bill shall be null and void and any such dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit shall be effective as of the original date provided in the law to which the proposed cancellations applied.

REPORTS BY COMPTROLLER GENERAL

SEC. 1016. With respect to each special message under this part, the Comptroller General shall issue to the Congress a report determining whether any discretionary budget authority is not made available for obligation or item of direct spending or targeted tax benefit continues to be suspended after the deferral authority set forth in section 1013 of the President has expired.

DEFINITIONS

SEC. 1017. 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) **APPROVAL BILL.**—The term “approval bill” means a bill or joint resolution which only approves proposed cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or targeted tax benefits in a special message transmitted by the President under this part and—

(A) the title of which is as follows: “A bill approving the proposed 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 the Congress approves of proposed cancellations _____”, the blank space being filled in with a list of the 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;

(D) which only includes proposed cancellations that are estimated by CBO to meet the definition of discretionary budgetary authority or items of direct spending, or that are identified as targeted tax benefits pursuant to section 1014;

(E) if any proposed cancellation other than discretionary budget authority or targeted tax benefits is estimated by CBO to not meet the definition of item of direct spending, then the approval bill shall include at the end: “The President shall cease the suspension of the implementation of the following under section 1013 of the Legislative Line Item Veto Act of 2006: _____”, the blank space being filled in with the list of such proposed cancellations; and

(F) if no CBO estimate is available, then the entire list of legislative provisions proposed by the President is inserted in the second blank space in subparagraph (C).

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

(4) **CANCEL OR CANCELLATION.**—The terms “cancel” or “cancellation” means to prevent—

(A) budget authority from having legal force or effect;

(B) in the case of entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect;

(C) in the case of the food stamp program, to prevent the specific provision of law that provides such benefit from having legal force or effect; or

(D) a targeted tax benefit from having legal force or effect; and

to make any necessary, conforming statutory change to ensure that such targeted tax benefit is not implemented and that any budgetary resources are appropriately canceled.

(5) CBO.—The term “CBO” means the Director of the Congressional Budget Office.

(6) 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.

(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 or obligation limitation 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; or

(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 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 au-

thority for an account, program, project, or activity, or on activities involving such expenditure.

(8) *ITEM OF DIRECT SPENDING*.—The term “item of direct spending” means any provision of law that results in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated consistent with the methodology used to calculate a baseline under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, in the first year or the 5-year period for which the item is effective. However, such item does not include an extension or reauthorization of existing direct spending, but instead only refers to provisions of law that increase such direct spending.

(9) *OMB*.—The term “OMB” means the Director of the Office of Management and Budget.

(10) *OMNIBUS RECONCILIATION OR APPROPRIATION MEASURE*.—The term “omnibus reconciliation or appropriation measure” means—

(A) in the case of a reconciliation bill, any such bill that is reported to its House by the Committee on the Budget; or

(B) in the case of an appropriation measure, any such measure that provides appropriations for programs, projects, or activities falling within 2 or more section 302(b) suballocations.

(11) *TARGETED TAX BENEFIT*.—(A) The term “targeted tax benefit” means any revenue-losing provision that provides a Federal tax deduction, credit, exclusion, or preference to only one beneficiary (determined with respect to either present law or any provision of which the provision is a part) under the Internal Revenue Code of 1986 in any year for which the provision is in effect;

(B) for purposes of subparagraph (A)—

(i) all businesses and associations that are members of the same controlled group of corporations (as defined in section 1563(a) of the Internal Revenue Code of 1986) shall be treated as a single beneficiary;

(ii) all shareholders, partners, members, or beneficiaries of a corporation, partnership, association, or trust or estate, respectively, shall be treated as a single beneficiary;

(iii) all employees of an employer shall be treated as a single beneficiary;

(iv) all qualified plans of an employer shall be treated as a single beneficiary;

(v) all beneficiaries of a qualified plan shall be treated as a single beneficiary;

(vi) all contributors to a charitable organization shall be treated as a single beneficiary;

(vii) all holders of the same bond issue shall be treated as a single beneficiary; and

(viii) 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;

(C) for the purpose of this paragraph, the term “revenue-losing provision” means any provision that is estimated to result in a reduction in Federal tax revenues (determined with respect to either present law or any provision of which the provision is a part) 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; and

(D) 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.

EXPIRATION

SEC. 1018. This title shall have no force or effect on or after October 1, 2012.

SUITS BY COMPTROLLER GENERAL

SEC. [1016] 1019. If, under this title, budget authority is required to be made available for obligation and such budget authority is not made available for obligation, the Comptroller General is hereby expressly empowered, through attorneys of his own selection, to bring a civil action in the United States District Court for the District of Columbia to require such budget authority to be made available for obligation, and such court is hereby expressly empowered to enter in such civil action, against any department, agency, officer, or employee of the United States, any decree, judgment, or order, which may be necessary or appropriate to make such budget authority available for obligation. No civil action shall be brought by the Comptroller General under this section until the expiration of 25 calendar days of continuous session of the Congress following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Speaker of the House of Representatives and the President of the Senate.

PROPOSED DEFERRALS OF BUDGET AUTHORITY

SEC. [1013] 1020. (a) * * *

* * * * *

(c) EXCEPTION.—The provisions of this section do not apply to any budget authority proposed to be [rescinded or that is to be reserved] *canceled* as set forth in a special message required to be transmitted under section [1012] 1011.

VIEWS OF COMMITTEE MEMBERS

Clause 2(l) of rule XI requires each committee to afford a 2-day opportunity for members of the committee to file additional, minor-

ity, or dissenting views and to include the views in its report. The following views were submitted:

MINORITY VIEWS

The United States faces a serious budget situation—structural deficits of \$300 billion-\$400 billion—which this bill barely addresses. Anything that can help bring the budget back to balance is worthy of discussion, but even its proponents do not claim that this bill will balance the budget. A well crafted expedited power of rescission could be a useful budget tool, but only if it is part of a framework that includes real budget enforcement, and these elements are still missing from this package.

Lack of Budget: First of all, the Congress has abdicated one of the basic tenets of governing by failing to budget. If we learned any lesson from the 1990s, it is that we need multi-year budget plans to bring large structural deficits down. But for this year, we do not have a concurrent budget resolution, much less a five-year plan.

PAYGO: Second, if we are in earnest about tools to bring down the deficit, we have tools that have proved their effectiveness, specifically, the Pay-As-You-Go (PAYGO) rules that worked well in the 1990s but that Congress let lapse in 2002. We are concerned that passage of today's bill by itself could lessen the likelihood of tougher measures, like PAYGO, becoming law.

Deficit Reduction: Third, if we are in earnest about bringing down the deficit, let's put in place rules that work to reduce the deficit. For example, Congress created the reconciliation process to make it easier to reduce the deficit by setting up special procedures for hard-to-pass budget cuts, yet this Congress now uses reconciliation to pass tax cuts that enlarge the deficit. We are concerned that this legislation could result in an increase in the deficit. A president with this virtual veto power could push a big spending bill, call members of Congress when a vote was coming up, solicit their support, and if it was not forthcoming, back up his request with a veiled threat—the rescission of something that member dearly wanted.

Enforce Rules: If we are serious about rooting out wasteful spending—as we think we should be—let's start by enforcing the requirement already on the books requiring that House members be given three days to review conference reports before they are brought up for a vote. The House Rules Committee routinely waives that rule and rushes bills to the floor hours or even minutes after multi-billion dollar bills are finalized. While we are exercising our three-day scrutiny, we should have a bright light shining on exactly where earmarked spending is going, yet this bill is silent on earmark reform. If this bill is an acknowledgment that Congress has failed to oversee spending, shouldn't we make some effort to correct our own procedures, rather than just surrendering immense powers to the president?

What Democrats Support: This bill is an improved version of the bill as originally filed. But it cedes too much power to the Presi-

dent, and we think that these powers could still be pared back, so that the risk of abuse or manipulation is reduced. We're not opposed to a properly crafted, limited expedited rescission legislation as one part of a tool kit that will bring the budget under control. In the 1990s, some Democrats filed and brought to the floor a balanced bill that required the President to act swiftly in order to wield a line-item veto and gave him a clean chance—but only one—to eliminate a particular item.

This legislation is materially different from what many Democrats supported in the 1990s. That legislation protected Social Security and Medicare because it excluded mandatory spending from its reach. This bill would apply to all mandatory spending programs. This bill gives the President 45 days to send the Congress an expedited rescission message. But the measure in the 1990s gave the president only three calendar days. The legislation in the 1990s also gave the Congress the power to amend the President's package and contained a two-year sunset so that the Congress could assess the value of the bill. This bill has a six-year sunset and no Congressional power to amend. Finally, the legislation in the 1990s was proposed when PAYGO and discretionary spending caps were in force, and was complementary to those rules.

In Committee markup, Democrats proposed a number of amendments to improve this bill, including a substitute amendment (described below). If this bill could be closer to the form that many Democrats supported in the 1990s, and if we could add the PAYGO rule that was in force when we considered expedited rescission in the 1990s, and bar the Rules Committee from overriding our points of order, some of us might view it in a different light. But if the goal is deficit reduction, and the means are transparency, this package has a way to go before it is worthy of passage.

BRIEF SUMMARY OF SPRATT SUBSTITUTE

Key features:

- Reinstates statutory two-sided Pay-As-You-Go (PAYGO) rules for both mandatory spending and revenues.
- Amends the Budget Act to prevent reconciliation from being used to make the deficit worse or the surplus smaller.
- Enforces the three-day layover requirement in House rules to give Members adequate time to review legislation.
- Adds earmark reform provisions.
- Deletes all provisions concerning mandatory spending, thus protecting programs like Social Security, Medicare, and veterans' benefits.
- Prohibits the President or executive branch officials from using the rescission authority as a bargaining tool to secure votes on other legislation.
- Provides for a motion to strike in the House and the Senate, if 100 House Members or 16 Senators propose it. If, as a result of successful motions to strike, the House and Senate pass different versions of the rescission bill, then a conference committee would have only a limited amount of time to produce a conference report on the bill. If 20 days passed without a conference report being produced, then the House and Senate would consider the President's

proposed package again—and this time no amendments would be permitted.

- Adds a two-year sunset to the bill.

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