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[12/08/1995 - 02/26/1996]

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Michael Waldman to Elena Kagan. Subject: RE: congratulations! (1 page)	01/24/1996	Personal Misfile
002. email	Stephen R. Neuwirth to Elena Kagan. Subject: Legal intern. (1 page)	02/05/1996	P6/b(6)

COLLECTION:

Clinton Presidential Records
 Automated Records Management System [Email]
 OPD ([Kagan])
 OA/Box Number: 250000

FOLDER TITLE:

[12/08/1995 - 02/26/1996]

2009-1006-F

wr13

RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Charles S. Konigsberg (KONIGSBERG_C) (OMB)

CREATION DATE/TIME: 8-DEC-1995 11:23:10.43

SUBJECT: ITEM VETO

TO: Alice M. Rivlin (RIVLIN_A) (OMB)
READ: 8-DEC-1995 16:10:16.33

TO: Charles E. Kieffer (KIEFFER_C) (OMB)
READ: 8-DEC-1995 14:36:59.43

TO: Lisa Kountoupes (KOUNTOUPES_L) (OMB)
READ: 8-DEC-1995 13:23:24.40

TO: Robert G. Damus (DAMUS_R) (OMB)
READ: 8-DEC-1995 11:41:59.34

TO: Joseph Minarik (MINARIK_J) (OMB)
READ: 8-DEC-1995 11:42:28.34

TO: Barry B. Anderson (ANDERSON_B) (OMB)
READ: 8-DEC-1995 11:26:54.62

TO: James J. Jukes (JUKES_J) (OMB)
READ: 8-DEC-1995 11:49:43.13

TO: Jill M. Blickstein (BLICKSTEIN_J) (OMB)
READ: 8-DEC-1995 12:57:19.25

TO: James C. Murr (MURR_J) (OMB)
READ: 8-DEC-1995 11:48:04.81

TO: Jacob J. Lew (LEW_J) (OMB)
READ: NOT READ

TO: Elena Kagan (KAGAN_E) (WHO)
READ: 8-DEC-1995 11:23:45.77

TO: Patrick J. Griffin (GRIFFIN_P) (WHO)
READ: NOT READ

TO: Barbara C. Chow (CHOW_B) (WHO)
READ: 8-DEC-1995 14:18:56.33

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ: 8-DEC-1995 14:24:32.14

TO: Laura D. Tyson (TYSON_L) Autoforward to: Thomas O'Donnel
READ: 8-DEC-1995 11:45:06.77

TO: John C. Angell (ANGELL_J) (WHO)
READ: 8-DEC-1995 11:57:14.34

TO: Martha Foley (FOLEY_M) (WHO)
READ: 8-DEC-1995 16:37:34.87

TO: Robert E. Litan (LITAN_R) (OMB)

READ: 8-DEC-1995 14:18:05.04

TO: T J Glauthier (GLAUTHIER_T) (OMB)

READ: 8-DEC-1995 13:27:10.97

TO: Gordon Adams (ADAMS_G) (OMB)

READ: 8-DEC-1995 13:41:41.41

TO: Kenneth S. Apfel (APFEL_K) (OMB)

READ: 8-DEC-1995 11:27:22.31

TO: Nancy-Ann E. Min (MIN_N) (OMB)

READ: 8-DEC-1995 12:01:49.53

TO: Stacey L. Rubin (RUBIN_S) (WHO)

READ: 8-DEC-1995 11:36:39.19

TO: Dena B. Weinstein (WEINSTEIN_D) (WHO)

READ: 8-DEC-1995 11:44:01.28

TO: Chantale Wong (WONG_C) (OMB)

READ: 9-DEC-1995 13:38:44.76

TO: Charles S. Konigsberg (KONIGSBERG_C) (OMB)

READ: 8-DEC-1995 11:23:42.92

TEXT:

Attached are the item veto recommendations I'm delivering this morning to staff for Domenici, Stevens, Exon, and Glenn -- on the understanding that this is for their use as they respond to the House and is NOT intended, at this time, for distribution as an official Administration position. (The idea is that these recommendations have more chance of acceptance by the House if presented to them as part of a Senate counter-offer -- rather than as Administration recommendations in a conference letter.)

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 8-DEC-1995 11:15:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Charles S. Konigsberg

TEXT:

PRINTER FONT 10_POINT_COURIER

TOP ODD

DRAFT -- \d

PRINTER FONT 12_POINT_COURIER

Summary of comments on House item veto offer #1:

1. Update the "special rule for fiscal year 1995," so that item veto authority also applies to FY 1996 appropriations.
2. Drop the Senate's mandatory "lockbox" language; the language is technically unclear and could impair the ability to pay for necessary supplementals.
3. In order to make the application to tax benefits more workable and effective, use the more generic definition of targeted tax benefit recommended in the attachment.
4. Constitutional concern: In applying the authority to direct spending and taxes, use "suspend" instead of "veto".
5. Constitutional concern: giving JCT authority to determine targeted tax benefits raises Chadha concerns.

6. In applying the authority to direct spending, use the terminology "new direct spending."

7. The language defining "item" is unnecessary and confusing.

8. Drop the Senate provision prohibiting the inclusion of non

-emergency items

in an emergency bill.

9. Add conforming amendments to the BEA to clarify that OMB discretionary spending reports and PAY

-GO reports, required under current law to be issued 5

days after enactment of legislation, need to be adjusted following a rescission of discretionary appropriations or suspension of new direct spending or targeted tax benefits.

10. Enhance the ability of the Administration to review carefully all tax and spending provisions by increasing the window for transmittal of special messages from 10 days to 20 days.

11. Delete the 3

-judge court judicial review mechanism but retain the

requirement for expedited consideration (considerable litigation experience has shown that 3

-judge courts are often inefficient and cumbersome and can actually cause considerable delay).

12. Include a severability provision in the legislation.

TOP EVEN

DRAFT -- \d

Comments on the House Offer:

? HOUSE OFFER: Include new direct spending.

The attached legislative language reflects two technical corrections. First, the authority should be applied to "new direct spending" rather than "any item of direct spending." The legislative draft defines "item of direct spending" as "any section that increases direct spending." This definition is problematic because direct spending is often the result of the interactive effects of many provisions and cannot be isolated in a section or sections of a bill. It is therefore more workable to permit the President simply to identify and suspend "new direct spending."

Second, the Department of Justice continues to urge, for constitutionality reasons, that the bill use the term "suspend" in lieu of "veto". The Presentment Clause of the Constitution provides that the President only can exercise his "veto" power before a provision becomes law, i.e. when a bill is presented for approval or disapproval -- whereas this legislation calls for a "veto" after a bill is signed. By contrast, the Supreme Court has long upheld the constitutionality of provisions that delegate to the President the power to suspend the operation of particular laws. This alternative approach is reflected in the attached language.

? HOUSE OFFER: Use JCT approved compromise language on new targeted tax benefits.

The Justice Department continues to urge that the bill use

the term "suspend" in lieu of "veto" (for the reasons described above); and the Treasury Department urges that a provision be added to authorize the IRS to take enforcement action against individuals or entities seeking to use a targeted tax benefit when that benefit has been suspended. Language reflecting these suggestions is set forth in the attachment.

The House offer would define targeted tax benefit as "any revenue

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-losing provision that provides a federal income tax deduction, credit, exclusion or preference to 100 or fewer beneficiaries" with several exceptions; the definition also includes transition rules that provide special treatment to 5 or fewer taxpayers, with exceptions.

The Treasury Department notes that it will be difficult, if

not impossible for anyone, including JCT, to determine the number of persons affected by any particular tax provision. This test requires too much precision and is too easy to avoid or manipulate in the drafting process and by taxpayers. It creates an incentive for tax benefit provisions to be drafted too broadly. In addition, it provides no time limit within which this "100 or fewer" standard must be met.

A definition of targeted tax benefit closer to the Senate definition is preferable -- i.e., causing a revenue loss and "having the practical effect of providing more favorable tax treatment to a particular taxpayer or limited group of taxpayers when compared with other similarly situated taxpayers." Language to accomplish this is set forth in the attachment.

In addition, the Justice Department notes that the language of the House offer presents a constitutional problem. The JCT determinations of what is a "targeted tax benefit" would apparently not be incorporated into bills. As a result, the scope of the President's "veto" authority would be established by JCT alone. In short, law would be made by a committee of Congress in a report, not by Congress as a whole in legislation. This would appear to violate the "[e]xplicit and unambiguous provisions" of the Constitution that prescribe "a single, finely wrought and exhaustively considered, procedure," by which laws are to be made: bicameral passage by both Houses of Congress followed by presentment to the President for his approval. *INS v. Chadha*, 462 U.S. 919, 945 (1983). This problem is remedied in the attached legislative draft which would give the President authority to determine when an item is a targeted tax benefit. However, even if this determination is to be made by the Congress it would, at a minimum, have to be made through the normal legislative process -- not by a committee of Congress acting unilaterally.

? HOUSE OFFER: Use Senate definition of "item" (including specific exceptions for limitations and reductions in BA)

□

-unnumbered paragraph

□

-numbered section

□
-allocation or suballocation within an unnumbered paragraph or numbered section

This proposal appears to be unnecessary and problematic. It was necessary -- as part of the Senate's separate enrollment legislation -- to very carefully identify "items" which were to be separately enrolled by congressional clerks. However, no such necessity exists under the House enhanced rescission legislation, since the President would be sending detailed

messages to Congress identifying amounts of budget authority being rescinded, as well as new direct spending and targeted tax benefits being suspended.

Moreover, the Senate definition is problematic. "Allocation or suballocation within a an unnumbered paragraph or numbered section" is unclear.

? HOUSE OFFER: Accept Senate lockbox language.

The Senate approach would require the President to reduce the statutory discretionary spending caps to reflect rescissions of discretionary budget authority and to reduce PAY

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-GO balances under the Budget Enforcement Act to reflect suspended direct spending or targeted tax benefits. This proposal is unclear and unworkable.
Technical concern: The bill language is unclear on two counts. First, it requires a reduction in discretionary caps "by the amount by which the Act would have increased the deficit...." Since the rescission authority is applied to items of discretionary spending, what does it mean to refer to the amount by which "the Act" increases the deficit? Second, since the amount of the cap reduction is tied to a deficit calculation, does this mean that only the outlay caps are to be affected?

Policy concern: With regard to discretionary spending -- a mandatory cap reduction would make it very difficult for Congress to provide necessary supplemental appropriations later in the year (as it did this year in response to the Oklahoma City bombing and the Northridge earthquake). Or, it could have the perverse effect of encouraging the increased use of emergency designations.

In addition, since the caps on total discretionary spending are carefully negotiated as part of multiyear budget plans, serious thought should be given as to whether it makes sense for an automatic budget mechanism to be changing the caps on an ad hoc basis.

Therefore, the language of the House

□
-passed bill, which authorizes the President to propose reductions in the discretionary caps without making the reductions automatic, is preferable.
With regard to the mandatory reductions in PAYGO balances, the House conferees are apparently proposing that any amounts saved by the President by suspending new direct spending or targeted tax benefits should not be added back to the PAYGO balances, and would thereby not be available to

offset other legislation. However, this is contrary to the

pay

-as

-you

-go concept of the Budget Enforcement Act, which has operated effectively, now, for 5 years. If mandatory funds or revenues are saved by reason of suspending tax benefits or new direct spending, it would be consistent with the BEA for those savings to be credited to the PAY

-GO

scorecard to be available as offsets for other legislation.

? HOUSE OFFER: Accept Senate emergency spending point of order, with a majority waiver requirement.

This refers to the Senate provision prohibiting the inclusion of non

-emergency items in an emergency bill (except for rescissions and reductions to pay for the emergency provisions) and providing a point of order against legislation that includes such items. This would impair an Administration's ability to develop appropriations packages which include both supplemental and emergency provisions, as was the case in the FY 1995 supplemental/rescission bill.

Additional Comments:

In addition to the issues raised in the House conferees' proposal to the Senate, the following changes to the House

-passed bill are recommended (and are reflected in the attached legislative language):

1. Enhance the ability of the Administration to review carefully all tax and spending provisions by increasing the window for transmittal of special messages from 10 days to 20 days.
2. Include a severability provision in the legislation.
3. Delete the 3

-judge court judicial review mechanism but retain the requirement for expedited consideration (considerable litigation experience has shown that 3

-judge courts are often inefficient and cumbersome and can actually cause considerable delay).

4. Update the "special rule for fiscal year 1995," so that item veto authority also applies to FY 1996 appropriations (i.e. bills enacted prior to enactment of line

-item veto authority). Provide twenty days following enactment for such authority to be exercised.

5. Make conforming changes to the Budget Enforcement Act to clarify that OMB discretionary spending reports and PAY

-GO

reports, required under current law to be issued 5 days after enactment of legislation, need to be adjusted following a rescission of discretionary appropriations or suspension of new direct spending or targeted tax benefits. This is reflected in the attached language.

RECOMMENDED AMENDMENTS TO HOUSE OFFER NUMBER 1
REGARDING S. 4 (Line

-item veto):
(Following is the legislative language proposed by the House conferees; proposed changes are indicated with line

-type and
bold

-face.)

PRINTER FONT 10_POINT_COURIER
104TH CONGRESS
1ST SESSION

S. 4

=====

AN ACT

An Act to give the President item veto authority respecting appropriations, increases in new direct spending, and tax benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act of 1995".

SEC. 2. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.-

-Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind in whole or in part any dollar amount of any item of discretionary budget authority provided in an appropriation act, veto suspend any item of new direct spending, or veto suspend any targeted tax benefit which is subject to the terms of this Act if the President--

(1) determines that--

(A) such rescission or item veto suspension would help reduce the Federal budget deficit;

(B) such rescission or item veto suspension will not impair any essential Government functions; and

(C) such rescission or item veto suspension will not harm the national interest; and

(2) notifies the Congress of such rescission or item veto suspension by a special message not later than ten twenty calendar days

(not including Sundays) after the date of enactment of an appropriation or authorization Act providing such budget authority or a revenue or reconciliation other Act containing a targeted tax benefit or new direct spending.

(b) DEFICIT REDUCTION.--In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(1) IN GENERAL.-

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-Not later than 45 days of continuous session after the President rescinds an item in an appropriations Act or vetoes

an item in an authorization, revenue, or reconciliation Act, the President shall--

(A) with respect to appropriations Acts, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear by the amount by which the Act would have increased the deficit in each respective year;

(B) with respect to a veto of direct spending or of a targeted tax benefit, reduce the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 by the amount by which the Act would have increased the deficit in each respective year.

(2) EXCEPTIONS.--

(A) This subsection shall not apply if the rescinded item in an appropriation Act or the vetoed item in an authorization, revenue, or reconciliation Act becomes law, over the objections of the President, before the President orders the reduction required by paragraph (1)(A) or (1)(B).

(B) If the rescinded item in an appropriation Act or the vetoed item in an authorization, revenue, or reconciliation Act becomes law over the objections of the President, after the President has ordered the reductions required by paragraph (1)(A) or (1)(B), then the President shall restore the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 or the balances under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect the limits and balances existing before the reduction ordered by the President in compliance with paragraph (1).

(c) SEPARATE MESSAGES.--(1) The President shall submit a separate special message for each appropriation Act, for each authorization Act, and for each revenue or reconciliation Act under this section.

(2) In the case of any such special message regarding an appropriation Act, that message shall specify--

(A) the amount of budget authority which he proposes to be rescinded, the direct spending to be suspended, or the targeted tax benefit to be suspended;

(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, or which has jurisdiction over the direct spending or targeted tax benefit affected, and the specific project or governmental functions involved;

(C) the reasons why the budget authority should be rescinded, or the direct spending or targeted tax benefit should be suspended;

(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or suspension; and

(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or suspension and the decision to effect the proposed rescission or suspension and to the maximum extent practicable, the estimated effect of the proposed rescission or suspension upon the objects, purposes, and programs for which the budget authority, direct spending, or tax benefit is provided.

(d) SPECIAL RULE FOR FISCAL YEAR 1995 and FISCAL YEAR 1996 APPROPRIATION MEASURES.-- Notwithstanding subsection (a)(2), in the case of any unobligated discretionary budget authority provided by any appropriation Act for fiscal year 1995 and for fiscal year 1996, the

President may rescind all or part of that discretionary budget authority under the terms of this Act if the President notifies the Congress of such rescission by a special message not later than ten twenty calendar days (not including Sundays) after the date of enactment of this Act.

(e) Amendments to the Budget Enforcement Act.--

(1) Section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting in the second sentence, following "within 5 calendar days after the enactment of any discretionary appropriations," the following: "or following a special message rescinding any amount of discretionary spending pursuant to the Line Item Veto Act of 1995 or after a disapproval bill relating thereto is enacted,".

(2) Section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting in the second sentence, following "within 5 calendar days after the enactment of any direct spending or receipts legislation enacted after the date of enactment of this section," the following: "or following a special message suspending any new direct spending or targeted tax benefit pursuant to the Line Item Veto Act of 1995 or after a disapproval bill relating thereto is enacted,".

SEC. 3. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Discretionary Budget Authority.--Any amount of discretionary budget authority rescinded under this Act as set forth in a special message by the President shall not be made available unless, during the period described in subsection (b), a disapproval bill making available all or part of the amount rescinded is enacted into law.

(2) New Direct Spending and Targeted Tax Benefits.--

(A) Any provision of law which increases provides new direct spending or provides a targeted tax benefit vetoed which has been suspended under this Act, as set forth in a special message by the President, shall take effect only if a disapproval bill restoring that provision is enacted into law during the period described in subsection (b). [Should "suspend" be further defined?]

(B) In the case of a suspension of a targeted tax benefit, the Internal Revenue Service is authorized and directed to take appropriate enforcement actions against individuals or entities seeking to use a targeted tax benefit that has been suspended.

(b) The period referred to in subsection (a) is--

(1) a congressional review period of twenty calendar days of session, beginning on the first calendar day of session after

the date of submission of the special message, during which Congress must complete action on the disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the disapproval bill; and

(3) if the President vetoes the disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto is, provided for congressional review.

[(c) If a special message is transmitted by the President under

this Act and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto suspension, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first

calendar day of session in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.] (The House offer displays this paragraph in brackets.)

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "item" means--

(A) with respect to an appropriation Act--

(i) any numbered section, or

(ii) any unnumbered paragraph;

but shall not include a provision which does not appropriate funds, direct the President to expend funds for any specified project, or create an express or implied obligation to expend funds and shall not include a provision that--

(I) rescinds or cancels existing budget authority;

(II) only limits, conditions, or otherwise restricts

the President's authority to spend otherwise appropriated funds; or

(III) imposes conditions on an item of appropriation not involving a positive allocation of funds by explicitly prohibiting the use of any funds; and

(B) with respect to an authorization, revenue, or reconciliation Act, any section that increases direct spending or provides a targeted tax benefit.

(2) The term "direct spending" means--

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

(B) entitlement authority as defined in section 3(9) of the Congressional Budget and Impoundment Control Act of 1974; and

(C) the food stamp program.

(3) (A) Except as otherwise provided in this paragraph, the term "targeted tax benefit" means any revenue

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-losing tax provision which is identified by the Joint Committee on Taxation President as--

(i) a provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries, a particular taxpayer or limited group of

taxpayers, or

(ii) a transitional rule or other provision which provides a special treatment for 5 or fewer beneficiaries to a particular taxpayer or limited group of taxpayers, or any portion of a provision that has substantially the same effect.

(B) A provision shall be treated as not described in subparagraph (A) (i) if the Joint Committee on Taxation President determines that--

(i) all persons engaged in the same type of activity receive the same treatment under the provision,
 (ii) all persons owning the same type of property, or issuing the same type of investment, receive the same treatment under the provision, or
 (iii) any difference in the treatment of persons is based solely on--

(I) in the case of entities, the size or type of the entities involved,
 (II) in the case of individuals, their filing status,
 (III) the amount involved, or
 (IV) a generally

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-available election made by

taxpayers. (C) A provision shall be treated as not described in subparagraph (A) (ii) if the Joint Committee on Taxation President determines that it provides for the retention of prior law with respect to all binding contracts in existence on the date of first public notice that a change in law is actively being considered by a committee of either House of Congress, either House of Congress, or a conference committee.

(D) For purposes of subparagraph (A)--

(i) all entities which are related shall be treated as 1 entity;
 (ii) all qualified plans of an employer shall be treated as 1 plan;
 (iii) all holders of tax

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-exempt bonds which are part of the

same issue shall be counted as 1 beneficiary, and
 (iv) shareholders of a corporation, partners in a partnership, and beneficiaries of a trust or estate, shall not be treated as beneficiaries if the corporation, partnership, trust, or estate is treated as a beneficiary.

(D) For purposes of subparagraph (A), a provision is "revenue-losing" when the Secretary of the Treasury determines that the provision, when compared to the rest of the bill if the provision were not included, reduces governmental receipts for any one of the four following periods--

(1) the first fiscal year for which the most recent budget has been submitted by the President;
 (2) the fiscal year immediately preceding the first fiscal year for which the most recent budget has been submitted by the President;
 (3) the period comprised of the first fiscal year for which the most recent budget has been submitted by the President and the four immediately succeeding fiscal years; or
 (4) the period comprised of the five fiscal years immediately succeeding the period described in paragraph (3).

(4) The term "disapproval bill" means a bill or joint resolution which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes suspensions of increases in new direct spending or of targeted tax benefits in a special message transmitted by the President under this Act and--

(A) which does not have a preamble;

(B) (i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on _____", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding item vetoes of increases in suspensions of new direct spending, the matter after the enacting clause of which is as follows: "That Congress disapproves each item veto of increases in suspension of new direct spending of the President as submitted by the President in a special message on _____", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(iii) in the case of a special message regarding item vetoes

suspensions of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each item veto suspension of targeted tax benefits of the President as submitted by the President in a special message on _____", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: "A bill disapproving the recommendations submitted by the President on _____", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(5) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(6) The term "appropriation Act" means any general or special appropriation Act, or any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 5. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.--

(1) Each special message transmitted under this Act 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 committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

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

(b) INTRODUCTION OF DISAPPROVAL BILLS.-

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-The procedures set forth in

subsection (c) shall apply to any disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 2.

(c) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.--(1) The 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 the 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. A motion to discharge may be made only by an individual favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day (typo?) after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a disapproval bill is reported or the 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 the bill is reported by a committee, it shall not be considered in the House until the first calendar day (excluding Saturdays, Sundays, and legal holidays) on which the report of that committee has been available to the Members of the House. 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 two hours equally divided and controlled by a proponent and an opponent of the bill. One motion to rise shall be in order. No amendment to the bill is in order, except any Member may move except from [unclear what is intended here?] the disapproval bill any item or items if supported by one

□
-fifth of the Members of the Committee of the Whole (a quorum being present). At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. 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 the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (b) shall be decided without debate.

(4) It shall not be in order to consider more than one bill

described in subsection (b) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this Act.

(d) CONSIDERATION IN THE SENATE.--

(1) Any disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this Act.

(2) Debate in the Senate on any disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any

debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(e) CONSIDERATION IN CONFERENCE--

(1) In the case of any disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees shall be promptly appointed and a conference promptly convened. If the committee of conference makes and files a report with respect to the bill not later than two calendar days before the expiration of the 20 calendar days of session period set forth in this section for congressional consideration, the conference report on the bill shall be highly privileged for consideration in both Houses until the expiration of the 20

□
-day period. Notwithstanding any other rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such 20

□
-day period.

(2) Debate in the House of Representatives on the conference report on any disapproval bill shall 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) The conference report on the disapproval bill shall be

highly privileged for consideration in the Senate. Debate in the Senate on any conference report on a disapproval bill shall be limited to no more than 2 hours equally divided and controlled by the majority leader and the minority leader or their designees.

(4) Complete congressional consideration of the disapproval bill and any conference report thereon shall not exceed the expiration of the 20 calendar days of session provided for this purpose as set forth in this section.

(f) POINTS OF ORDER.--

(1) It shall not be in order in the Senate to consider any disapproval bill that relates to any matter other than the rescission of budget authority or veto suspension of the provision of law transmitted by the President under this Act.

(2) It shall not be in order in the Senate to consider any amendment to a disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three

□
-fifths of the members duly
chosen and sworn.

SEC. 6. REPORTS OF THE GENERAL ACCOUNTING OFFICE.

Beginning on January 6, 1997, and at one

□
-year intervals
thereafter, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto suspension of an increase in new direct spending or of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each rescission of discretionary budget

authority or veto suspension of an increase in new direct spending or of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes suspensions of an increase in new direct spending or of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes suspensions of an increase in new direct spending or of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority or vetoes suspensions of an increase in new direct spending or of a targeted tax benefit initiated by Congress for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority or vetoes suspensions of an increase in new direct spending or of a targeted tax benefit initiated and accepted by Congress for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(6) A summary of the information provided by paragraphs (2), (3) and (5) for each of the ten fiscal years ending before the fiscal year during this calendar year.

SEC. 7. DUTIES OF CONGRESSIONAL COMMITTEES ADVISORY REPORT ON TARGETED TAX BENEFITS.

(a) IN GENERAL.-

-Any report accompanying a bill or joint resolution or a joint explanatory statement accompanying a conference report in which there is any Federal income tax benefit shall include a determination report by the Joint Committee on Taxation of whether it contains any targeted tax benefit and an identification of each such benefit.

(b) STATEMENT BY JOINT COMMITTEE ON TAXATION.-

-The Joint Committee on Taxation shall determine whether any bill, joint resolution, or conference report described in subsection (a) contains a targeted tax benefit.

(c) LEGISLATION SUBJECT TO POINT OF ORDER.-

-It shall not be in order in the Senate or the House of Representatives to consider any bill, joint resolution, or conference report that is not in compliance with subsection (a).

[(d) CONFORMING AMENDMENT TO THE RULES OF THE HOUSE OF REPRESENTATIVES.-

-Clause 2(1) of rule XI of the Rules of the House of Representatives is amended by redesignating subparagraphs (5), (6), and (7) as subparagraphs (6), (7), and (8), respectively, and by inserting after subparagraph (4) the following new subparagraph:

"(5) Each report of a committee that includes any Federal income tax benefit shall comply with section 7(a) of the Line Item Veto Act."]

[House offer shows this paragraph in brackets.]

SEC. 8. TREATMENT OF EMERGENCY SPENDING.

(a) EMERGENCY APPROPRIATIONS.-

-Section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not adjust any discretionary spending limit under this clause for any statute that designates appropriations as emergency requirements if that statute contains an appropriation for any other matter, event, or occurrence, but that statute may contain rescissions of budget authority."

(b) EMERGENCY LEGISLATION.-

-Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not designate any such amounts of new budget authority, outlays, or receipts as emergency requirements in the report required under subsection (d) if that statute contains any other provisions that are not so designated, but that statute may contain provisions that reduce direct spending."

(c) NEW POINT OF ORDER. -

-Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 if it also provides an appropriation or direct spending for any other item or contains any other matter, unless it rescinds budget authority or reduces direct spending, or reduces an amount for a designated emergency."

(d) CONFORMING AMENDMENT. -

-The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies."

SEC. 9. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW. --

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this Act violates the Constitution.

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

(3) Any action brought under paragraph (1) shall be heard and determined by a three

-judge court in accordance with section 2284 of title 28, United States Code.

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

(b) APPEAL TO SUPREME COURT. -

-Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall

be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.-

□

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

(d) SEVERABILITY.-

□

-If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of this Act shall not be affected thereby.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melinda D. Haskins (HASKINS_M) (OMB)

CREATION DATE/TIME:12-DEC-1995 09:31:15.65

SUBJECT: LRM 3254 -- Proposed Labor Report on H.R. 1834

TO: Janet L. Himler (HIMLER_J) (OMB)
READ:12-DEC-1995 09:32:40.11

TO: Barry White (WHITE_B) (OMB)
READ:12-DEC-1995 09:48:18.10

TO: Larry R. Matlack (MATLACK_L) (OMB)
READ:12-DEC-1995 11:13:18.26

TO: Lori R. Schack (SCHACK_L) (OMB)
READ:13-DEC-1995 10:13:01.58

TO: Ellen S. Seidman (SEIDMAN_E) (OPD)
READ:12-DEC-1995 09:36:52.22

TO: Elena Kagan (KAGAN_E) (WHO)
READ:12-DEC-1995 10:12:51.63

TO: Robert G. Damus (DAMUS_R) (OMB)
READ:12-DEC-1995 10:33:18.72

TO: Jennifer M. O'Connor (OCONNOR_J) (WHO)
READ:12-DEC-1995 09:31:41.22

TO: Jeremy D. Benami (BENAMI_J) (WHO)
READ:12-DEC-1995 10:11:05.77

TO: Michael T. Schmidt (SCHMIDT_MT) (OPD)
READ:12-DEC-1995 09:59:47.11

TO: Michael Waldman (WALDMAN_M) (OPD)
READ:NOT READ

TEXT:

If you plan to comment on LRM 3254 -- proposed Labor report on H.R. 1834 -- please provide me with comments by 10:30 AM today. Thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melissa Y. Cook (COOK_MY) (OMB)

CREATION DATE/TIME:15-DEC-1995 15:48:08.89

SUBJECT: SAP on S. 1470, Senate Social Security Earnings Limit Bill

TO: Kenneth S. Apfel (APFEL_K) (OMB)
READ:NOT READ

TO: Janet L. Himler (HIMLER_J) (OMB)
READ:15-DEC-1995 15:51:23.05

TO: Joseph Minarik (MINARIK_J) (OMB)
READ:18-DEC-1995 08:05:08.28

TO: Robert E. Litan (LITAN_R) (OMB)
READ:15-DEC-1995 15:50:42.20

TO: Karin L. Kizer (KIZER_K) (OMB)
READ:18-DEC-1995 12:05:26.53

TO: LAWRENCE J. HAAS (HAAS_L) (OMB)
READ:16-DEC-1995 13:19:13.75

TO: Barry B. Anderson (ANDERSON_B) (OMB)
READ:15-DEC-1995 15:52:05.67

TO: Barry White (WHITE_B) (OMB)
READ:15-DEC-1995 15:53:19.40

TO: Keith J. Fontenot (FONTENOT_K) (OMB)
READ:15-DEC-1995 17:00:46.38

TO: Jack A. Smalligan (SMALLIGAN_J) (OMB)
READ:15-DEC-1995 15:48:27.56

TO: Richard E. Green (GREEN_R) (OMB)
READ:15-DEC-1995 18:03:26.37

TO: Barry T. Clendenin (CLENDENIN_B) (OMB)
READ:15-DEC-1995 16:51:02.50

TO: Mark E. Miller (MILLER_ME) (OMB)
READ:15-DEC-1995 21:15:31.24

TO: Anne W. Mutti (MUTTI_A) (OMB)
READ:15-DEC-1995 17:00:23.41

TO: Laura A. Oliven (OLIVEN_L) (OMB)
READ:15-DEC-1995 16:09:50.08

TO: Robert G. Damus (DAMUS_R) (OMB)
READ:15-DEC-1995 16:14:04.01

TO: Arthur W. Stigile (STIGILE_A) (OMB)
READ:15-DEC-1995 16:16:26.81

TO: Alicia K. Kolaian (KOLAIAN_A) (OMB)

READ:15-DEC-1995 15:48:46.36

TO: Robert W. Kilpatrick (KILPATRICK_R) (OMB)

READ:15-DEC-1995 16:40:58.35

TO: Harry G. Meyers (MEYERS_H) (OMB)

READ:15-DEC-1995 16:11:24.70

TO: Wanda J. Foster (FOSTER_W) (OMB)

READ:15-DEC-1995 16:25:39.91

TO: Ellen S. Seidman (SEIDMAN_E) (OPD)

READ:15-DEC-1995 16:13:21.60

TO: Charles S. Konigsberg (KONIGSBERG_C) (OMB)

READ:15-DEC-1995 16:20:41.31

TO: Lydia Muniz (MUNIZ_L) (OMB)

READ:15-DEC-1995 19:31:19.72

TO: Lisa Kountoupes (KOUNTOUPES_L) (OMB)

READ:16-DEC-1995 18:06:47.52

TO: Charles E. Kieffer (KIEFFER_C) (OMB)

READ:15-DEC-1995 18:29:42.54

TO: Jeremy D. Benami (BENAMI_J) (WHO)

READ:15-DEC-1995 16:02:31.48

TO: Diana M. Fortuna (FORTUNA_D) (OPD)

READ:15-DEC-1995 18:26:00.75

TO: Molly Brostrom (BROSTROM_M) (WHO)

READ:15-DEC-1995 15:52:09.89

TO: Elena Kagan (KAGAN_E) (WHO)

READ:15-DEC-1995 15:52:18.48

TO: Janet Murguia (MURGUIA_J) (WHO)

READ:NOT READ

TO: Martha M. Gagne (GAGNE_M) (OMB)

READ:15-DEC-1995 15:51:12.00

CC: James C. Murr (MURR_J) (OMB)

READ:15-DEC-1995 16:06:25.49

CC: Janet R. Forsgren (FORSGREN_J) (OMB)

READ:15-DEC-1995 16:00:42.26

TEXT:

I just wanted to alert you that you should be receiving shortly the proposed SAP on S. 1470, the "Senior Citizens' Freedom to Work Act of 1995." The bill would raise the earnings limit for social security recipients. In addition, the bill also contains some debt limit provisions. Because we expect Senate floor action to occur quickly on this bill, the deadline for comments on this SAP is 5:00pm TODAY.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Charles S. Konigsberg (KONIGSBERG_C) (OMB)

CREATION DATE/TIME:15-DEC-1995 09:50:59.04

SUBJECT: ITEM VETO

TO: Charles S. Konigsberg (KONIGSBERG_C) (OMB)
READ:15-DEC-1995 09:57:48.28

TO: Charles E. Kieffer (KIEFFER_C) (OMB)
READ:15-DEC-1995 10:27:44.64

TO: Lisa Kountoupes (KOUNTOUPES_L) (OMB)
READ:16-DEC-1995 19:15:55.24

TO: Robert G. Damus (DAMUS_R) (OMB)
READ:15-DEC-1995 09:55:34.03

TO: Joseph Minarik (MINARIK_J) (OMB)
READ:18-DEC-1995 07:55:20.77

TO: Barry B. Anderson (ANDERSON_B) (OMB)
READ:15-DEC-1995 09:52:07.49

TO: James J. Jukes (JUKES_J) (OMB)
READ:15-DEC-1995 10:26:25.41

TO: Jill M. Blickstein (BLICKSTEIN_J) (OMB)
READ:15-DEC-1995 12:57:01.09

TO: James C. Murr (MURR_J) (OMB)
READ:15-DEC-1995 10:26:58.60

TO: Jacob J. Lew (LEW_J) (OMB)
READ:18-DEC-1995 12:43:09.46

TO: Elena Kagan (KAGAN_E) (WHO)
READ:15-DEC-1995 11:56:42.03

TO: Patrick J. Griffin (GRIFFIN_P) (WHO)
READ:16-DEC-1995 16:33:46.27

TO: Barbara C. Chow (CHOW_B) (WHO)
READ:15-DEC-1995 19:45:25.88

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ:15-DEC-1995 09:56:33.38

TO: Laura D. Tyson (TYSON_L) Autoforward to: Thomas O'Donnel
READ:NOT READ

TO: John C. Angell (ANGELL_J) (WHO)
READ:17-DEC-1995 12:12:34.99

TO: Martha Foley (FOLEY_M) (WHO)
READ:15-DEC-1995 20:14:57.66

TO: Robert E. Litan (LITAN_R) (OMB)

READ:15-DEC-1995 10:21:16.99

TO: T J Glauthier (GLAUTHIER_T) (OMB)

READ:18-DEC-1995 15:30:46.43

TO: Gordon Adams (ADAMS_G) (OMB)

READ:15-DEC-1995 11:38:43.52

TO: Kenneth S. Apfel (APFEL_K) (OMB)

READ:15-DEC-1995 14:25:04.31

TO: Nancy-Ann E. Min (MIN_N) (OMB)

READ:15-DEC-1995 11:22:45.74

TO: Stacey L. Rubin (RUBIN_S) (WHO)

READ:15-DEC-1995 10:35:05.23

TO: Dena B. Weinstein (WEINSTEIN_D) (WHO)

READ:15-DEC-1995 10:46:23.24

TO: FAX (9-622-9260,Clarissa Potter) (TLXA1MAIL_\F:9-622-9260\C:Clarissa Potter

READ:NOT READ

TO: FAX (9-414-0563,Dawn Johnsen) (TLXA1MAIL_\F:9-414-0563\C:Dawn Johnsen\

READ:NOT READ

TO: Betty I. Bradshaw (BRADSHAW_B) (OMB)

READ:15-DEC-1995 10:16:52.82

TEXT:

PRINTER FONT 12 POINT COURIER

WE MADE SOME SLIGHT CHANGES IN THE DEFINITION OF CANCEL. PLEASE TAKE A QUICK LOOK AT IT AND LET ME KNOW BY 2pm TODAY IF YOU HAVE ANY CONCERNS. NOTE THAT I ADDED "OR PAYMENTS DERIVING THEREFROM" TO THE LANGUAGE. THANKS.

DRAFT-

-NOT FOR DISTRIBUTION-

-DRAFT-

-NOT FOR DISTRIBUTION-

-DRAFT

I. DEFINITION OF "CANCEL": The House offer recommends use of the word "veto" in applying the new authority to direct spending and tax benefits. However, the Department of Justice has indicated constitutional problems inherent in authorizing a President to "veto" pieces of a bill, following signature of the overall bill.

While use of the word "suspend" is the preferred way of avoiding a constitutional defect, "cancel" may be another option if it is appropriately defined. Following is a definition for use of the word "cancel" with reference to new direct spending and targeted tax benefits:

NEW LANGUAGE TO BE ADDED TO SEC. 4. DEFINITIONS.

(7) The term "cancel" means--

(A) with respect to "new direct spending," withholding the authority to obligate the United States pertaining

thereto, and suspension of legal entitlement to claim any benefits or payments deriving therefrom; and

(B) with respect to "targeted tax benefits," the suspension of legal entitlement to claim any Federal tax deduction, credit, exclusion, preference or other tax benefit deriving therefrom.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Charles S. Konigsberg (KONIGSBERG_C) (OMB)

CREATION DATE/TIME:18-DEC-1995 11:08:09.47

SUBJECT: NEED COMMENTS BY 3PM

TO: Charles S. Konigsberg (KONIGSBERG_C) (OMB)
READ:18-DEC-1995 11:13:38.72

TO: Charles E. Kieffer (KIEFFER_C) (OMB)
READ:18-DEC-1995 12:10:45.74

TO: Lisa Kountoupes (KOUNTOUPES_L) (OMB)
READ:18-DEC-1995 15:53:26.54

TO: Robert G. Damus (DAMUS_R) (OMB)
READ:18-DEC-1995 11:33:51.09

TO: Joseph Minarik (MINARIK_J) (OMB)
READ:18-DEC-1995 14:16:23.79

TO: Barry B. Anderson (ANDERSON_B) (OMB)
READ:18-DEC-1995 11:10:30.24

TO: James J. Jukes (JUKES_J) (OMB)
READ:18-DEC-1995 11:15:15.86

TO: Jill M. Blickstein (BLICKSTEIN_J) (OMB)
READ:18-DEC-1995 11:09:34.34

TO: James C. Murr (MURR_J) (OMB)
READ:18-DEC-1995 11:11:51.53

TO: Jacob J. Lew (LEW_J) (OMB)
READ:19-DEC-1995 09:23:15.54

TO: Elena Kagan (KAGAN_E) (WHO)
READ:18-DEC-1995 11:09:39.33

TO: Patrick J. Griffin (GRIFFIN_P) (WHO)
READ:NOT READ

TO: Barbara C. Chow (CHOW_B) (WHO)
READ:18-DEC-1995 13:33:48.12

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ:18-DEC-1995 11:44:05.16

TO: Laura D. Tyson (TYSON_L) Autoforward to: Thomas O'Donnel
READ:18-DEC-1995 11:27:19.81

TO: John C. Angell (ANGELL_J) (WHO)
READ:18-DEC-1995 14:24:55.64

TO: Martha Foley (FOLEY_M) (WHO)
READ:18-DEC-1995 15:16:46.34

TO: Robert E. Litan (LITAN_R) (OMB)

READ:18-DEC-1995 11:53:50.75

TO: T J Glauthier (GLAUTHIER_T) (OMB)

READ:18-DEC-1995 11:58:54.18

TO: Gordon Adams (ADAMS_G) (OMB)

READ:18-DEC-1995 11:09:25.45

TO: Kenneth S. Apfel (APFEL_K) (OMB)

READ:18-DEC-1995 12:49:33.89

TO: Nancy-Ann E. Min (MIN_N) (OMB)

READ:18-DEC-1995 11:15:41.18

TO: Stacey L. Rubin (RUBIN_S) (WHO)

READ:18-DEC-1995 11:37:51.18

TO: Dena B. Weinstein (WEINSTEIN_D) (WHO)

READ:18-DEC-1995 12:26:46.20

TO: Betty I. Bradshaw (BRADSHAW_B) (OMB)

READ:18-DEC-1995 11:45:57.21

TEXT:

A bit more fine-tuning of the item veto language. In the attached WP file, I've added two pieces of clarifying language: (1) the first clarifies that the amount by which the PAYGO balances are to be adjusted for canceled direct spending or tax benefits is "the amount by which cancelled provisions would have INCREASED SPENDING OR REDUCED REVENUES"-- previously it had said the amt. by which the deficit increased, which is unclear; (2) I've added a phrase to the new section on emergency reserve accounts, as follows: "provided that this paragraph shall not be deemed to impose an offset requirement for such emergency legislation" to clarify that we do not intend to change the current law requirements. If you have any comments or concerns, please get back to me by 3pm. I plan to take the language to the Hill this afternoon. Thanks.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:18-DEC-1995 10:57:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Charles S. Konigsberg

TEXT:

PRINTER FONT 12_POINT_COURIER

DRAFT-

-NOT FOR DISTRIBUTION-

-DRAFT-

-NOT FOR DISTRIBUTION-

-DRAFT

I. DEFINITION OF "CANCEL": The House offer recommends use of the word "veto" in applying the new authority to direct spending and tax benefits. However, the Department of Justice has indicated constitutional problems inherent in authorizing a President to "veto" pieces of a bill, following signature of the

overall bill.

While use of the word "suspend" is the preferred way of avoiding a constitutional defect, "cancel" may be another option if it is appropriately defined. Following is a definition for use of the word "cancel" with reference to new direct spending and targeted tax benefits:

NEW LANGUAGE TO BE ADDED TO SEC. 4. DEFINITIONS.

(7) The term "cancel" means--

(A) with respect to "new direct spending," withholding the authority to obligate the United States pertaining thereto, and suspension of legal entitlement to claim any benefits or payments deriving therefrom; and

(B) with respect to "targeted tax benefits," the suspension of legal entitlement to claim any Federal tax deduction, credit, exclusion, preference or other tax benefit deriving therefrom.

II. LOCKBOX:

The lockbox language, in the Senate bill and included in the House offer, would require the President to: reduce the statutory discretionary spending caps to reflect rescissions of discretionary budget authority; and to eliminate from the PAYGO scorecard any positive balance that would otherwise have accrued from applying the item veto to new direct spending or tax benefits.

This is problematic, especially on the discretionary side, because the automatic lowering of spending caps, would make it more difficult to accommodate supplementals later in the year. In addition, the technical drafting of the lockbox language is unclear.

Suggested improvement in the lockbox mechanism: Provide that the rescinded or canceled amounts be placed in an "emergency reserve" to be available to offset emergency supplementals and other emergency legislation. Although such "emergency legislation" does not legally require offsets, the availability of these emergency reserves might facilitate supplementals and other emergency legislation when needed.

In addition, the following amendments would: (1) clarify the amount by which spending caps are to be reduced; and (2) would delete the application of the discretionary lockbox to the outyears (application of lockbox to the outyears would create complications by changing previously negotiated caps before an appropriations cycle has even begun).

FOLLOWING IS THE CURRENT LOCK

-BOX LANGUAGE WITH PROPOSED CHANGES:

PRINTER FONT 10_POINT_COURIER

(1) IN GENERAL.-

-Not later than 45 days of continuous session after the President rescinds an item in an appropriations Act or vetoes cancels an item in an authorization, revenue, or reconciliation Act, the President shall--

(A) with respect to appropriations Acts, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each

outyear by the amount by which the Act would have increased the deficit in each respective year the President reduced budget authority and outlays pursuant to authority provided under this Act; and

(B) with respect to a veto cancellation of direct spending or of a targeted tax benefit, reduce the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 by the amount by which the Act cancelled provisions would have increased the deficit spending or reduced revenues in each respective year.

(2) EXCEPTIONS.--

(A) This subsection shall not apply if the rescinded item in an appropriation Act or the vetoed cancelled item in an authorization, revenue, or reconciliation Act becomes law, over the objections of the President effective due to enactment of a disapproval bill, before the President orders the reduction required by paragraph (1)(A) or (1)(B).

(B) If the rescinded item in an appropriation Act or the vetoed cancelled item in an authorization, revenue, or reconciliation Act becomes law over the objections of the President effective due to enactment of a disapproval bill, after the President has ordered the reductions required by paragraph (1)(A) or (1)(B), then the President shall restore the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 or the balances under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect the limits and balances existing before the reduction ordered by the President in compliance with paragraph (1).

(3) EMERGENCY RESERVE ACCOUNTS.

(A) Any amount by which the discretionary budget authority and outlay limits described in paragraph (1)(A) are reduced shall be credited to a special account to be called "the Section 251 emergency reserve account," provided that such amounts may be used as provided in paragraph (C).

(B) Any amount by which the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 have been reduced shall be credited to a special account to be called "the Section 252 emergency reserve account," provided that such amounts may be used as provided in paragraph (C).

(C) When making emergency designations under sections 251 or 252 of the Balanced Budget and Emergency Deficit Control Act of 1985,

the President and the Congress shall specify whether the requested emergency legislation is to be offset by amounts credited to a reserve account established under this paragraph, provided that this paragraph shall not be deemed to impose an offset requirement for such emergency legislation.

===== END ATTACHMENT 1 =====

FEDERAL ARRESTEE DRUG TESTING PROGRAM

QUESTIONS AND ANSWERS

Presidential Announcement:

The President will announce that the Federal Government is establishing a policy providing for drug testing for everyone arrested in the Federal criminal justice system. Federal prosecutors will seek appropriate sanctions, including periodic testing, when an offender tests dirty.

Questions and Answers:

THE DIRECTIVE

Q: What is the purpose of this directive?

There is a direct link between drug use and crime -- both because people commit crimes under the influence of drugs and because they commit crimes to sustain their drug use.

Through this directive, the President is ensuring that the criminal justice system will accurately and speedily identify the users of drugs. Once this identification is made, the justice system can order the user to undergo periodic testing while on release or, when appropriate, detain the user.

The result of this measure --- a reduced the level of drug use in the population of offenders under criminal justice supervision, which will lead to a reduction in criminal behavior.

The President's program will serve as a model for State criminal justice systems, where the majority of criminal cases are processed. Several State Attorneys General and local prosecutors have committed to working with their State legislatures to adopt similar programs.

Q: Why is this being proposed now?

The concept behind this Directive was recommended in the President's 1995 National Drug Control Strategy. It is strongly supported by several experts on crime and drugs. We have been working with them, the Justice Department, and the Federal courts for some time in the formulation of this initiative.

Q: How will it be accomplished?

The President will sign a Directive to the Attorney General directing her to develop a universal policy in which federal arrestee would be tested for drugs before decisions are made on whether to release them into the community pending trial. He would further direct her to establish a policy whereby federal prosecutors will request sanctions, such as detention, when appropriate or on-going testing for arrestee who fail these initial drug tests.

HOW IT WORKS

Q: How exactly will it work?

- 1) Offender is arrested for a Federal offense and given his/her rights.
- 2) Offender is taken to Federal booking station or other facility by agent where s/he is processed by a U.S. Marshal -- fingerprinted, photographed, etc.
- 3) Under this Directive, the government would at this stage request that offender take a drug test.
- 4) Within 48 hours, offender appears before a Federal Judge or Magistrate for initial appearance (during that 48 hours offender is in jail in the custody of the U.S. Marshal). It is at this appearance where the Judge/ Magistrate makes a bail determination.
- 5) Judge is made aware of drug test. Judge asks U.S. Atty for the Government's recommendation on bail. Based on results of the drug test and other information, Federal prosecutor will recommend detention or bail conditions, including regular drug testing.

Q: What happens if the arrestee fails the drug test?

The Federal prosecutor would request that the court require detention or impose appropriate conditions including additional testing and treatment.

Q: What happens if the arrestee refuses to submit to a drug test?

Prior to the first appearance before the judge, the government cannot compel an arrestee to take a drug test. Nevertheless, based on the results of a pilot program by the courts, over 80% of arrestee agreed to take the test when asked. If the arrestee refuses, the judge is made aware of that fact before making a bail determination.

CURRENT SITUATION AND IMPACT

Q. Doesn't drug testing already occur in every Federal District?

Only a few Districts in the Federal system have uniform testing of Federal arrestees. Most Districts attempt to "screen" an arrestee for drug use by means other than testing. If there are indications of such use, the court may order testing, treatment and other sanctions as appropriate.

The current situation lacks the certainty that will exist under the President's program. The Clinton Drug Testing Program requires offenders to be tested before their initial court appearance. This provides the judge with the best information before any decision is made on pre-trial release.

A 1988 Drug Act required the Federal Courts to establish and evaluate pretrial drug testing in several Districts. The report from that program recommended exactly what the Clinton Federal Arrestee Drug Testing Program will accomplish.

Q: How many people does this affect?

Between 45,000 to 50,000 individuals are arrested and processed through the Federal system for criminal felonies every year. Over 60% of those offenders are on pretrial release within a day.

Q: How much will it cost?

The Justice Department estimates that the first six months of the program would cost roughly \$3-5 million including treatment. The cost of the program is likely to decrease in the future as a result of advances in the technology and efficiency of drug testing.

By March 31, 1996, the Department of Justice will develop a plan to ensure the use of the most accurate and cost effective testing methods.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melinda D. Haskins (HASKINS_M) (OMB)

CREATION DATE/TIME:20-DEC-1995 10:44:14.50

SUBJECT: Draft Position Paper on Welfare Reform

TO: Kenneth S. Apfel (APFEL_K) (OMB)
READ:20-DEC-1995 10:48:43.04

TO: Janet L. Himler (HIMLER_J) (OMB)
READ:20-DEC-1995 10:47:17.97

TO: Barry White (WHITE_B) (OMB)
READ:20-DEC-1995 10:46:56.77

TO: Keith J. Fontenot (FONTENOT_K) (OMB)
READ:20-DEC-1995 10:52:45.65

TO: David J. Haun (HAUN_D) (OMB)
READ:20-DEC-1995 10:44:38.57

TO: Steven M. Mertens (MERTENS_S) (OMB)
READ:20-DEC-1995 10:49:10.05

TO: Wendy A. Taylor (TAYLOR_W) (OMB)
READ:20-DEC-1995 11:17:49.02

TO: Robert G. Damus (DAMUS_R) (OMB)
READ:20-DEC-1995 11:11:31.24

TO: Stephen C. Warnath (WARNATH_S) (OPD)
READ:28-DEC-1995 09:39:39.53

TO: Bruce N. Reed (REED_B) (WHO)
READ:20-DEC-1995 11:17:57.93

TO: Elena Kagan (KAGAN_E) (WHO)
READ:20-DEC-1995 11:22:07.83

TO: Diana M. Fortuna (FORTUNA_D) (OPD)
READ:20-DEC-1995 10:48:23.64

TO: Jennifer M. O'Connor (OCONNOR_J) (WHO)
READ:20-DEC-1995 10:44:16.72

TO: Randolph M. Lyon (LYON_R) (OMB)
READ:20-DEC-1995 10:51:55.42

TO: Thomas P. Stack (STACK_T) (OMB)
READ:20-DEC-1995 18:30:41.12

TO: Barry T. Clendenin (CLENDENIN_B) (OMB)
READ:20-DEC-1995 10:55:17.04

TO: Mark E. Miller (MILLER_ME) (OMB)
READ:20-DEC-1995 10:49:24.47

TO: Richard J. Turman (TURMAN_R) (OMB)

READ:20-DEC-1995 10:45:11.48

TO: Richard B. Bavier (BAVIER_R) (OMB)

READ:20-DEC-1995 10:44:36.80

TO: Bruce W. McConnell (MCCONNELL_B) (OMB)

READ:20-DEC-1995 11:03:39.40

TO: Martha M. Gagne (GAGNE_M) (OMB)

READ:20-DEC-1995 10:44:38.50

TO: Janet Murguia (MURGUIA_J) (WHO)

READ:20-DEC-1995 23:22:56.78

TO: Lisa B. Fairhall (FAIRHALL_L) (OMB)

READ:20-DEC-1995 10:50:45.64

TO: Ingrid M. Schroeder (SCHROEDER_I) (OMB)

READ:20-DEC-1995 10:58:28.59

CC: James C. Murr (MURR_J) (OMB)

READ:20-DEC-1995 11:31:57.52

CC: Janet R. Forsgren (FORSGREN_J) (OMB)

READ:20-DEC-1995 11:40:20.44

TEXT:

You should have received a copy of LRM 3322 -- the revised draft position paper on the welfare reform conference report. Comments are due by noon today.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: James J. Jukes (JUKES_J) (OMB)

CREATION DATE/TIME:21-DEC-1995 08:57:53.87

SUBJECT: HR 665 - Victim Restitution

TO: Kenneth L. Schwartz (SCHWARTZ_K) (OMB)
READ:21-DEC-1995 08:59:30.62

TO: David J. Haun (HAUN_D) (OMB)
READ:21-DEC-1995 08:58:40.87

TO: Steven D. Aitken (AITKEN_S) (OMB)
READ:21-DEC-1995 09:01:42.04

TO: James C. Murr (MURR_J) (OMB)
READ:21-DEC-1995 13:20:01.02

TO: Lydia Muniz (MUNIZ_L) (OMB)
READ:21-DEC-1995 09:56:18.77

TO: Charles S. Konigsberg (KONIGSBERG_C) (OMB)
READ:21-DEC-1995 09:55:31.38

TO: Dennis Burke (BURKE_D) (OPD)
READ:21-DEC-1995 14:14:18.71

TO: Elena Kagan (KAGAN_E) (WHO)
READ:21-DEC-1995 09:58:07.58

TO: Ronald E. Jones (JONES_RE) (OMB)
READ:11-JAN-1996 10:06:56.51

TO: Jeffrey A. Weinberg (WEINBERG_J) (OMB)
READ:21-DEC-1995 09:00:59.49

TEXT:

===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE:20-DEC-1995 15:20:00.00

ATT BODYPART TYPE:B

ATT CREATOR: James J. Jukes

ATT SUBJECT: HR 665 - Victim Restitution

ATT TO: Ronald E. Jones (JONES_RE)

ATT CC: James C. Murr (MURR_J)

ATT CC: Jeffrey A. Weinberg (WEINBERG_J)

TEXT:

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeremy D. Benami (BENAMI_J) (WHO)

CREATION DATE/TIME:21-DEC-1995 14:44:59.02

SUBJECT: DC bill

TO: Martha Foley (FOLEY_M) (WHO)
READ:21-DEC-1995 16:52:19.80

TO: Nancy-Ann E. Min (MIN_N) (OMB)
READ:21-DEC-1995 20:31:44.74

TO: James Castello (CASTELLO_J) (WHO)
READ:21-DEC-1995 14:59:37.47

TO: Elena Kagan (KAGAN_E) (WHO)
READ:21-DEC-1995 14:58:23.08

TO: Betsy Myers (MYERS_B) (WHO)
READ:NOT READ

CC: Carol H. Rasco (RASCO_C) (WHO)
READ:22-DEC-1995 14:56:16.66

CC: Deborah L. Fine (FINE_D) (OPD)
READ: 2-JAN-1996 09:39:57.30

TEXT:

FYI

You all may know this, but. . .

The facilities ban in the DC bill (which we understand is out of the present Conference deal) would not have any real effect. The only facility it would affect is DC General, and they do not perform abortions.

This info is from NARAL - obviously not provided to encourage us not to oppose the bill, but in the interest of full disclosure. They feel VERY strongly that the facilities ban is a precedent setting action that raises the stakes to a different level. The whole thing is moot of course if it stays out of the agreement. I think the representation that the women's groups could live with signing the DC bill is contingent on this issue and on the ban being a one-year ban, not a permanent change to the DC Code.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Deborah L. Fine (FINE_D) (OPD)

CREATION DATE/TIME:16-JAN-1996 18:28:57.09

SUBJECT: OH ban

TO: Carol H. Rasco (RASCO_C) (WHO)
READ:16-JAN-1996 18:31:21.12

TO: Jeremy D. Benami (BENAMI_J) (WHO)
READ:16-JAN-1996 18:34:06.17

TO: Alexis M. Herman (HERMAN_A) (WHO)
READ:NOT READ

TO: Betsy Myers (MYERS_B) (WHO)
READ:16-JAN-1996 18:52:05.24

TO: Nancy-Ann E. Min (MIN_N) (OMB)
READ:16-JAN-1996 18:53:35.97

TO: James Castello (CASTELLO_J) (WHO)
READ:16-JAN-1996 18:29:20.68

TO: Elena Kagan (KAGAN_E) (WHO)
READ:17-JAN-1996 08:40:20.12

TO: Martha Foley (FOLEY_M) (WHO)
READ:16-JAN-1996 18:35:28.93

TO: George Stephanopoulos (STEPHANOPO_G) Autoforward to: Laura Capp
READ:16-JAN-1996 18:51:36.77

TO: Barbara C. Chow (CHOW_B) (WHO)
READ:16-JAN-1996 18:42:54.44

TO: Janet Murguia (MURGUIA_J) (WHO)
READ:23-JAN-1996 15:47:12.33

TO: Tracey E. Thornton (THORNTON_T) (WHO)
READ:16-JAN-1996 18:29:21.54

TO: John P. Hart (HART_J) (WHO)
READ:16-JAN-1996 18:29:48.34

TO: Laura Capps (CAPPS_L) (WHO)
READ:16-JAN-1996 18:51:36.77

TO: James I. Blount (BLOUNT_J) (OMB)
READ:16-JAN-1996 19:09:54.11

TO: Holly Carver (CARVER_H) (WHO)
READ:16-JAN-1996 18:36:01.85

TEXT:

FYI, on Friday the legislation in Ohio banning D&X for all abortions and banning post-viability abortions with narrow exceptions was found unconstitutional because it is too vague and

because the D&X procedure appears to pose less of a threat to the woman's health in some cases.

I do not have the opinion in writing yet, but can get more precise information for anyone who needs it when I do.

(Originally, the Judge had issued a preliminary injunction on the law for many reasons. The state has appealed his ruling.)

Please let me know if you need more information.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dennis Burke (BURKE_D) (OPD)

CREATION DATE/TIME:18-JAN-1996 16:24:42.23

SUBJECT: Callback

TO: Elena Kagan

(KAGAN__E) (WHO)

READ:18-JAN-1996 16:43:36.82

TEXT:

Sorry, for asking you to help me and then disappearing. I am working on that Missing Children Memorandum for tomorrow and it has had a few major blow ups.

I will call you as soon as I can get out of the woods. Thanks.

This is an interesting place to work.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dennis Burke (BURKE_D) (OPD)

CREATION DATE/TIME:19-JAN-1996 11:58:27.60

SUBJECT: RE: drugs

TO: Elena Kagan

(KAGAN_E) (WHO)

READ:19-JAN-1996 12:10:43.04

TEXT:

Good, I will come down.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dennis Burke (BURKE_D) (OPD)

CREATION DATE/TIME:19-JAN-1996 11:28:19.10

SUBJECT: RE: drugs

TO: Elena Kagan

(KAGAN_E) (WHO)

READ:19-JAN-1996 11:34:30.37

TEXT:

Yes, the event is done and it went well; Chris Cerf did an awesome job on this one.

Unfortunately, I have to do some background research for the State of the Union and Bruce Reed is about to fire me if I don't get it done immediately. I have to give a speech out of town and my flight leaves at 5:30 -- looks like I might be cancelling it.

Do you have anytime on Monday? This thing can't move until you have everything you need on it, anyways, so I am going to have to tell Rahm that we are backed up because of me.

I sent this info to Cathy Russell, too. She claims that some guy on the Deputy's staff says that Jurith is right but she was distracted and didn't remember much about her conversation w/ him.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)

CREATION DATE/TIME:19-JAN-1996 13:34:42.20

SUBJECT: RE: franking

TO: Elena Kagan (KAGAN_E) (WHO)

READ:19-JAN-1996 13:36:44.75

TEXT:

thanks. I am running around of state of the union stuff but will call as soon as I get a moment.
Again, many thanks.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Michael Waldman to Elena Kagan. Subject: RE: congratulations! (1 page)	01/24/1996	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([Kagan])
OA/Box Number: 250000

FOLDER TITLE:

[12/08/1995 - 02/26/1996]

2009-1006-F

wr13

RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Charles S. Konigsberg (KONIGSBERG_C) (OMB)

CREATION DATE/TIME:26-JAN-1996 19:53:14.66

SUBJECT: ITEM VETO--COMMENTS BY MONDAY, 2PM

TO: Charles S. Konigsberg (KONIGSBERG_C) (OMB)
READ:26-JAN-1996 19:56:53.90

TO: Charles E. Kieffer (KIEFFER_C) (OMB)
READ:29-JAN-1996 12:13:24.11

TO: Lisa Kountoupes (KOUNTOUPES_L) (OMB)
READ:30-JAN-1996 10:02:33.46

TO: Robert G. Damus (DAMUS_R) (OMB)
READ:27-JAN-1996 23:11:23.26

TO: Joseph Minarik (MINARIK_J) (OMB)
READ:30-JAN-1996 10:57:58.44

TO: Barry B. Anderson (ANDERSON_B) (OMB)
READ:26-JAN-1996 20:10:28.30

TO: James J. Jukes (JUKES_J) (OMB)
READ:28-JAN-1996 15:10:15.38

TO: Jill M. Blickstein (BLICKSTEIN_J) (OMB)
READ:28-JAN-1996 22:01:55.01

TO: James C. Murr (MURR_J) (OMB)
READ:29-JAN-1996 08:03:00.24

TO: Jacob J. Lew (LEW_J) (OMB)
READ:NOT READ

TO: Elena Kagan (KAGAN_E) (WHO)
READ:29-JAN-1996 08:42:52.10

TO: Patrick J. Griffin (GRIFFIN_P) (WHO)
READ:NOT READ

TO: Barbara C. Chow (CHOW_B) (WHO)
READ:30-JAN-1996 10:07:59.57

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ:29-JAN-1996 09:21:14.87

TO: John C. Angell (ANGELL_J) (WHO)
READ:29-JAN-1996 09:38:08.91

TO: Martha Foley (FOLEY_M) (WHO)
READ:29-JAN-1996 09:32:36.99

TO: Robert E. Litan (LITAN_R) (OMB)
READ:29-JAN-1996 07:56:16.51

TO: T J Glauthier (GLAUTHIER_T) (OMB)

READ:31-JAN-1996 10:15:51.46

TO: Gordon Adams (ADAMS_G) (OMB)
READ:NOT READ

TO: Kenneth S. Apfel (APFEL_K) (OMB)
READ:27-JAN-1996 11:08:53.04

TO: Nancy-Ann E. Min (MIN_N) (OMB)
READ:29-JAN-1996 09:33:19.65

TO: Stacey L. Rubin (RUBIN_S) (WHO)
READ:29-JAN-1996 08:21:18.23

TO: Laura D. Tyson (TYSON_L) Autoforward to: Thomas O'Donnel
READ:NOT READ

TO: Dena B. Weinstein (WEINSTEIN_D) (WHO)
READ:28-JAN-1996 16:17:25.94

TO: Betty I. Bradshaw (BRADSHAW_B) (OMB)
READ:29-JAN-1996 10:48:52.72

TEXT:

PRINTER FONT 12_POINT_COURIER

I have prepared the attached line

□

-item veto legislative language, in case a decision is made to include line

□

-item veto in bill language reflecting our January 18 budget offer.

If it is included, this would be the first time we have released specific legislative language on line

□

-item veto.

The attached legislative language reflects the proposed changes to the House

□

-passed bill which you have previously seen, and which we shared informally with Senate staff.

I would note that the attached language uses the term "cancel" with respect to direct spending and targeted tax benefits, rather than "suspend." We had originally proposed the term "suspend" to Senate staff, but when we learned that they intend to use "cancel" we proposed a definition of "cancel," which is included in this draft.

Since this reflects all of our previous work, I don't anticipate any additional changes to the attached language, but if you have any new comments, please let me know by 2pm Monday. Thanks.

I'll also send this as a word perfect file, since the margins got messed up converting this into an e

□

-mail...

PRINTER FONT 10_POINT_COURIER

Subtitle ____ - Line

□

-item Veto Authority

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act of 1996".

SEC. 2. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL. -

□

-Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind in whole or in part any discretionary budget authority provided in an appropriation act, cancel any new direct spending, or cancel any targeted tax benefit which is subject to the terms of this Act if the President--

(1) determines that--

(A) such rescission or cancellation would help reduce the Federal budget deficit;

(B) such rescission or cancellation will not impair any essential Government functions; and

(C) such rescission or cancellation will not harm the national interest; and

(2) notifies the Congress of such rescission or cancellation by a special message not later than twenty calendar days (not including Sundays) after the date of enactment of an appropriation or authorization Act providing such budget authority or a revenue or other Act containing a targeted tax benefit or new direct spending.

(b) DEFICIT REDUCTION. -

□

-In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) SEPARATE MESSAGES.--(1) The President shall submit a separate special message for each appropriation Act, for each authorization Act, and for each revenue or other Act under this section.

(2) In the case of any such special message that message shall specify--

(A) the amount of budget authority which he proposes to be rescinded, the direct spending to be cancelled, or the targeted tax benefit to be cancelled;

(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, or which has jurisdiction over the direct spending or targeted tax benefit affected, and the specific project or governmental functions involved;

(C) the reasons why the budget authority should be rescinded, or the direct spending or targeted tax benefit should be cancelled;

(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or

□

TOP EVEN

DRAFT -- NOT FOR DISTRIBUTION
cancellation; and

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

(d) SPECIAL RULE FOR FISCAL YEAR 1996 APPROPRIATION MEASURES.-- Notwithstanding subsection (a)(2), in the case of any unobligated discretionary budget authority provided by any appropriation Act for fiscal year 1996, the President may rescind all or part of that discretionary budget authority under the terms of this Act if the President notifies the Congress of such rescission by a special message not later than twenty calendar days (not including Sundays) after the date of enactment of this Act.

(e) Amendments to the Budget Enforcement Act.--

(1) Section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting in the second sentence, following "within 5 calendar days after the enactment of any discretionary appropriations," the following: "or following a special message rescinding any amount of discretionary spending pursuant to the Line Item Veto Act of 1995 or after a disapproval bill relating thereto is enacted,".

(2) Section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting in the second sentence, following "within 5 calendar days after the enactment of any direct spending or receipts legislation enacted after the date of enactment of this section," the following: "or following a special message cancelling any new direct spending or targeted tax benefit pursuant to the Line Item Veto Act of 1995 or after a disapproval bill relating thereto is enacted,".

SEC. 3. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Discretionary Budget Authority.-

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-Any amount of discretionary budget authority rescinded under this Act as set forth in a special message by the President shall not be made available unless, during the period described in subsection (b), a disapproval bill making available all or part of the amount rescinded is enacted into law.

(2) New Direct Spending and Targeted Tax Benefits.--

(A) Any provision of law which provides new direct spending or provides a targeted tax benefit which has been cancelled under this Act, as set forth in a special message by the President, shall take effect only if a disapproval bill restoring that provision is enacted into law during the period described in subsection (b).

(B) In the case of a cancellation of a targeted tax benefit, the Internal Revenue Service is authorized and directed to take appropriate enforcement actions against individuals or entities seeking to use a targeted tax benefit that has been cancelled.

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DRAFT -- NOT FOR DISTRIBUTION

(b) The period referred to in subsection (a) is--

(1) a congressional review period of twenty calendar days of session, beginning on the first calendar day of session after

the date of submission of the special message, during which Congress must complete action on the disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the disapproval bill; and

(3) if the President vetoes the disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto, provided for congressional review.

(c) If a special message is transmitted by the President under this Act and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or cancellation, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first calendar day of session in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "direct spending" means--

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

(B) entitlement authority as defined in section 3(9) of the Congressional Budget and Impoundment Control Act of 1974; and

(C) the food stamp program.

(2) (A) Except as otherwise provided in this paragraph, the term "targeted tax benefit" means any revenue

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-losing tax provision which is identified by the President as--

(i) a provision which provides a Federal tax deduction, credit, exclusion, or preference to a particular taxpayer or limited group of taxpayers, or

(ii) a transitional rule or other provision which provides special treatment to a particular taxpayer or limited group of taxpayers, or any portion of a provision that has substantially the same effect.

(B) A provision shall be treated as not described in subparagraph (A) (i) if the President determines that--

(i) all persons engaged in the same type of activity receive the same treatment under the provision,

(ii) all persons owning the same type of property, or the same type of investment, receive the same treatment under the provision, or

(iii) any difference in the treatment of persons is based solely on--

(I) in the case of entities, the size or type of the entities involved,

(II) in the case of individuals, their filing status,

(III) the amount involved, or

(IV) a generally

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-available election made by taxpayers.

(C) A provision shall be treated as not described in subparagraph (A)(ii) if the President determines that it provides for the retention of prior law with respect to all binding contracts in existence on the date of first public notice that a change in law is actively being considered by a committee of either House of Congress, either House of Congress, or a conference committee.

(D) For purposes of subparagraph (A), a provision is "revenue-losing" when the Secretary of the Treasury determines that the provision, when compared to the rest of the bill if the provision were not included, reduces governmental receipts for any one of the four following periods--

(1) the first fiscal year for which the most recent budget has been submitted by the President;

(2) the fiscal year immediately preceding the first fiscal year for which the most recent budget has been submitted by the President;

(3) the period comprised of the first fiscal year for which the most recent budget has been submitted by the President and the four immediately succeeding fiscal years; or

(4) the period comprised of the five fiscal years immediately succeeding the period described in paragraph (3).

(3) The term "disapproval bill" means a bill or joint resolution which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves cancellations of new direct spending or of targeted tax benefits in a special message transmitted by the President under this Act and--

(A) which does not have a preamble;

(B)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on _____", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding cancellations of new direct spending, the matter after the enacting clause of which is as follows: "That Congress disapproves each cancellation of new direct spending as submitted by the President in a special message on _____", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(iii) in the case of a special message regarding cancellations of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each cancellation of targeted tax benefits as submitted by the President in a special message on _____", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: "A bill disapproving the recommendations submitted by the President on _____", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(4) The term "calendar days of session" shall mean only

those days on which both Houses of Congress are in session.

(5) The term "appropriation Act" means any general or special appropriation Act, or any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

(6) The term "cancel" means--

(A) with respect to "new direct spending," withholding the authority to obligate the United States pertaining thereto, and suspension of legal entitlement to claim any benefits or payments deriving therefrom; and

(B) with respect to "targeted tax benefits," the suspension of legal entitlement to claim any Federal tax deduction, credit, exclusion, preference or other tax benefit deriving therefrom.

SEC. 5. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.--

(1) Each special message transmitted under this Act 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 committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

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

(b) INTRODUCTION OF DISAPPROVAL BILLS.-

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-The procedures set forth in subsection (c) shall apply to any disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 2.

(c) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.--(1) The 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 the 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. A motion to discharge may be made only by an individual favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House

equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a disapproval bill is reported or the 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 the bill is reported by a

committee, it shall not be considered in the House until the first calendar day (excluding Saturdays, Sundays, and legal holidays) on which the report of that committee has been available to the Members of the House. 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 two hours equally divided and controlled by a proponent and an opponent of the bill. One motion to rise shall be in order. No amendment to the bill is in order, except any Member may move to strike the disapproval of any rescission or rescissions of budget authority, or the disapproval of any cancellation of new direct spending or targeted tax benefits, as applicable, if supported by one

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-fifth of the Members of

the Committee of the Whole (a quorum being present). At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. 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 the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (b) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (b) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this Act.

(d) CONSIDERATION IN THE SENATE.--

(1) Any disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this Act.

(2) Debate in the Senate on any disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal

in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(e) CONSIDERATION IN CONFERENCE--

(1) In the case of any disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees shall be promptly appointed and a conference promptly convened. If the committee of conference makes and files a report with respect to the bill not later than two calendar days before the expiration of the 20 calendar days of session period set forth in this section for congressional consideration, the conference report on the bill shall be highly privileged for consideration in both Houses until the expiration of the 20

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-day period. Notwithstanding any other rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such 20

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-day period.

(2) Debate in the House of Representatives on the conference report on any disapproval bill shall 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) The conference report on the disapproval bill shall be highly privileged for consideration in the Senate. Debate in the Senate on any conference report on a disapproval bill shall be limited to no more than 2 hours equally divided and controlled by the majority leader and the minority leader or their designees.

(4) Complete congressional consideration of the disapproval bill and any conference report thereon shall not exceed the expiration of the 20 calendar days of session provided for this purpose as set forth in this section.

(f) POINTS OF ORDER.--

(1) It shall not be in order in the Senate to consider any disapproval bill that relates to any matter other than the rescission of budget authority or cancellation of the provision of law transmitted by the President under this Act.

(2) It shall not be in order in the Senate to consider any amendment to a disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three

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-fifths of the members duly chosen and sworn.

SEC. 6. REPORTS OF THE GENERAL ACCOUNTING OFFICE.

Beginning on January 6, 1997, and at one

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-year intervals thereafter, the Comptroller General shall submit a report to each

House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and cancellation of new direct spending or of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or cancellation of new direct spending or of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and cancellations of new direct spending or of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or cancellations of new direct spending or of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority or cancellations of new direct spending or of a targeted tax benefit initiated by Congress for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority or cancellations of new direct spending or of a targeted tax benefit initiated and accepted by Congress for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(6) A summary of the information provided by paragraphs (2), (3) and (5) for each of the ten fiscal years ending before the fiscal year during this calendar year.

SEC. 7. ADVISORY REPORT ON TARGETED TAX BENEFITS.

(a) IN GENERAL. -

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-Any report accompanying a bill or joint resolution or a joint explanatory statement accompanying a conference report in which there is any Federal income tax benefit shall include a report by the Joint Committee on Taxation of whether it contains any targeted tax benefit and an identification of each such benefit.

(b) LEGISLATION SUBJECT TO POINT OF ORDER. -

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-It shall not be in order in the Senate or the House of Representatives to consider any bill, joint resolution, or conference report that is not in compliance with subsection (a).

SEC. 8. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW. --

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this Act violates the Constitution.

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

each House of Congress shall have the right to intervene in such action.

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

(b) APPEAL TO SUPREME COURT. -

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

(c) EXPEDITED CONSIDERATION. -

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

(d) SEVERABILITY. -

-If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of this Act shall not be affected thereby.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Charles S. Konigsberg (KONIGSBERG_C) (OMB)

CREATION DATE/TIME:29-JAN-1996 15:56:26.45

SUBJECT: Follow-up on item veto

TO: Charles S. Konigsberg (KONIGSBERG_C) (OMB)
READ:29-JAN-1996 16:00:32.21

TO: Charles E. Kieffer (KIEFFER_C) (OMB)
READ:29-JAN-1996 18:01:12.08

TO: Lisa Kountoupes (KOUNTOUPES_L) (OMB)
READ:30-JAN-1996 10:08:57.60

TO: Robert G. Damus (DAMUS_R) (OMB)
READ:29-JAN-1996 16:35:32.72

TO: Joseph Minarik (MINARIK_J) (OMB)
READ:30-JAN-1996 09:04:45.55

TO: Barry B. Anderson (ANDERSON_B) (OMB)
READ:29-JAN-1996 16:12:26.27

TO: James J. Jukes (JUKES_J) (OMB)
READ:29-JAN-1996 16:07:46.00

TO: Jill M. Blickstein (BLICKSTEIN_J) (OMB)
READ:29-JAN-1996 16:13:00.06

TO: James C. Murr (MURR_J) (OMB)
READ:29-JAN-1996 16:04:55.67

TO: Jacob J. Lew (LEW_J) (OMB)
READ: 1-FEB-1996 15:14:55.05

TO: Elena Kagan (KAGAN_E) (WHO)
READ:29-JAN-1996 15:58:24.85

TO: Patrick J. Griffin (GRIFFIN_P) (WHO)
READ:NOT READ

TO: Barbara C. Chow (CHOW_B) (WHO)
READ:30-JAN-1996 10:13:26.65

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ:29-JAN-1996 16:20:21.43

TO: John C. Angell (ANGELL_J) (WHO)
READ:29-JAN-1996 17:36:10.23

TO: Martha Foley (FOLEY_M) (WHO)
READ:29-JAN-1996 19:12:31.09

TO: Robert E. Litan (LITAN_R) (OMB)
READ:29-JAN-1996 16:27:19.94

TO: T J Glauthier (GLAUTHIER_T) (OMB)

READ:31-JAN-1996 10:21:00.71

TO: Gordon Adams (ADAMS_G) (OMB)
 READ:NOT READ

TO: Kenneth S. Apfel (APFEL_K) (OMB)
 READ:29-JAN-1996 17:17:13.88

TO: Nancy-Ann E. Min (MIN_N) (OMB)
 READ:29-JAN-1996 16:15:47.18

TO: Stacey L. Rubin (RUBIN_S) (WHO)
 READ:29-JAN-1996 16:00:01.83

TO: Laura D. Tyson (TYSON_L) Autoforward to: Thomas O'Donnel
 READ:NOT READ

TO: Dena B. Weinstein (WEINSTEIN_D) (WHO)
 READ:29-JAN-1996 17:56:34.56

TO: Betty I. Bradshaw (BRADSHAW_B) (OMB)
 READ:29-JAN-1996 16:46:55.03

TEXT:
 PRINTER FONT 12_POINT_COURIER
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SENSITIVE - NOT FOR DISTRIBUTION

TO: Rivlin, Lew, Kieffer, Kountoupes, Damus, Minarik,
 Anderson, Jukes, Blickstein, Murr, Kagan (WH Counsel),
 Griffin, Chow, Weinstein (DPC), Angell, Foley, PADs,
 Potter (Treasury), Small/Johnsen (Justice), Moran,
 Bradshaw, Tyson
 FROM: Chuck Konigsberg
 OMB/LA, 395

□

-5069

RE: ITEM VETO - ADMINISTRATION LANGUAGE

FYI -- Attached is our line

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-item veto language, which I've given to Bob Damus for inclusion in the budget enforcement title of the January 18 bill. (We haven't discussed whether to include this in the budget enforcement title, or as a separate title -- but it probably makes sense to include this as a "budget enforcement" item since this will arguably assist future Administrations in living within the discretionary caps).

The attached revised draft reflects comments I received earlier today. Note that the section setting forth congressional procedures for consideration of disapproval bills has been omitted, on the grounds that we should not be proposing to the Congress how to structure its own internal procedures. Also, the sections pertaining to an advisory report by the JCT on targeted tax benefits, and an annual GAO report, have been deleted, on the same grounds.

Finally -- with respect to direct spending and targeted tax benefits -- DOJ has appealed the use of the term "cancel"; they continue to prefer "suspension," on the grounds that suspension might be construed as less similar to "repeal," and therefore

less constitutionally suspect. However, this draft uses the term "cancel," as defined in section 4 of the bill, because it is our understanding that the Senate has settled on this term, and it is in our interest to provide input into defining "cancel" -- rather than continuing to insist on "suspend."

WORD PERFECT FILE FOLLOWS.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Peter Jacoby (JACOBY_P) (WHO)

CREATION DATE/TIME:30-JAN-1996 15:08:57.65

SUBJECT: Campaign Finance Reform Meeting w/Cong. Marty Meehan

TO: Susan Brophy (BROPHY_S) Autoforward to: Stacey L. Rubi
READ:30-JAN-1996 15:14:37.57

TO: Elena Kagan (KAGAN_E) (WHO)
READ:30-JAN-1996 15:56:57.13

CC: Michael Waldman (WALDMAN_M) (OPD)
READ:30-JAN-1996 20:06:03.84

TEXT:

As you know, Congressman Marty Meehan has requested that a White House representative meet with him to discuss campaign finance reform legislation. That meeting is scheduled for Thursday 2/1 at 1 pm in 318 CHOB. I think the three of us should attend the meeting but we should meet prior to the meeting, perhaps at 12:15 pm in Susan's office, to discuss our message. Additionally, I have sent a packet of materials regarding the status of CFR legislation and the President's position to your attention.

Please let me know if this is good for both of you.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Ellen S. Seidman (SEIDMAN_E) (OPD)

CREATION DATE/TIME:30-JAN-1996 16:52:52.60

SUBJECT: Products

TO: Elena Kagan (KAGAN_E) (WHO)
READ:30-JAN-1996 18:29:40.06

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)
READ:31-JAN-1996 15:08:51.06

TO: Elgie Holstein (HOLSTEIN_E) (OPD)
READ:30-JAN-1996 17:52:12.94

TEXT:

Any interest in a constitutional law/federalism briefing from Cindy Lebow on products on Thursday between 11 and 1? She apparently did a fair piece of work on this over the holidays/furlough, and is convinced that there's at least an argument to be made if not a real possibility that much of the procedural structure in the Senate bill would be declared unconstitutional. Please e-mail back your interest. Kathy, do you think Bruce would be interested?
Ellen

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Stephen R. Neuwirth to Elena Kagan. Subject: Legal intern. (1 page)	02/05/1996	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([Kagan])
OA/Box Number: 250000

FOLDER TITLE:

[12/08/1995 - 02/26/1996]

2009-1006-F

wr13

RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Holly Carver (CARVER_H) (WHO)

CREATION DATE/TIME:22-FEB-1996 16:33:26.99

SUBJECT: HR 1833 Meeting

TO: Jeremy D. Benami (BENAMI_J) (WHO)
READ:22-FEB-1996 18:03:47.42

TO: Deborah L. Fine (FINE_D) (OPD)
READ:22-FEB-1996 16:35:53.55

TO: John P. Hart (HART_J) (WHO)
READ:22-FEB-1996 16:50:08.85

TO: Elena Kagan (KAGAN_E) (WHO)
READ:22-FEB-1996 18:17:28.14

TO: Lorraine McHugh (MCHUGH_L) (WHO)
READ:22-FEB-1996 16:58:54.89

TO: Barbara D. Woolley (WOOLLEY_B) (WHO)
READ:22-FEB-1996 19:13:43.02

TO: Floydetta McAfee (MCAFEE_F) (WHO)
READ:22-FEB-1996 18:49:22.11

TO: Betsy Myers (MYERS_B) (WHO)
READ:22-FEB-1996 16:40:27.54

TO: Lisa Ross (ROSS_LI) (WHO)
READ:22-FEB-1996 16:53:32.77

TO: Mary Ellen Glynn (GLYNN_M) (WHO)
READ:22-FEB-1996 16:48:01.05

TO: Marilyn Yager (YAGER_M) (WHO)
READ:23-FEB-1996 09:19:59.47

TO: Jennifer L. Klein (KLEIN_J) (OPD)
READ:22-FEB-1996 16:35:27.18

TO: Janet Murguia (MURGUIA_J) Autoforward to: Annette E. Jo
READ:22-FEB-1996 16:52:21.96

TEXT:

The follow-up to today's meeting will be on Monday, Feb. 26 at 4:00 pm in Alexis' office. Please plan to attend. Thank you.
Janet-Peter from your office attended today's meeting-please let him know if you would like him to attend Monday. thanks

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Holly Carver (CARVER_H) (WHO)

CREATION DATE/TIME:26-FEB-1996 15:59:13.07

SUBJECT: HR 1833 Postponed

TO: Deborah L. Fine (FINE_D) (OPD)
READ:26-FEB-1996 15:59:23.78

TO: Betsy Myers (MYERS_B) (WHO)
READ:26-FEB-1996 15:59:44.50

TO: Lisa Ross (ROSS_LI) (WHO)
READ:26-FEB-1996 18:31:29.06

TO: Jeremy D. Benami (BENAMI_J) (WHO)
READ:26-FEB-1996 16:15:11.37

TO: Jennifer L. Klein (KLEIN_J) (OPD)
READ:26-FEB-1996 16:13:06.54

TO: John P. Hart (HART_J) (WHO)
READ:26-FEB-1996 17:22:58.53

TO: Elena Kagan (KAGAN_E) (WHO)
READ:26-FEB-1996 16:11:00.08

TO: Janet Murguia (MURGUIA_J) Autoforward to: Annette E. Jo
READ:26-FEB-1996 15:59:35.95

TEXT:

I apologize for the late notice but due to the Cuba situation we will have to postpone today's meeting. I'll keep you posted. Please let anyone else know that I may have forgotten about.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Holly Carver (CARVER_H) (WHO)

CREATION DATE/TIME: 26-FEB-1996 20:25:08.05

SUBJECT: HR 1833 9am Tuesday in Alexis' Office

TO: Jeremy D. Benami (BENAMI_J) (WHO)
READ: 27-FEB-1996 08:15:48.85

TO: Deborah L. Fine (FINE_D) (OPD)
READ: 26-FEB-1996 20:25:16.59

TO: Betsy Myers (MYERS_B) (WHO)
READ: 27-FEB-1996 10:03:51.77

TO: Lisa Ross (ROSS_LI) (WHO)
READ: 27-FEB-1996 11:24:53.88

TO: John P. Hart (HART_J) (WHO)
READ: 27-FEB-1996 09:43:07.80

TO: Elena Kagan (KAGAN_E) (WHO)
READ: 27-FEB-1996 08:34:26.89

TO: Lorraine McHugh (MCHUGH_L) (WHO)
READ: 27-FEB-1996 07:44:23.97

TO: Barbara D. Woolley (WOOLLEY_B) (WHO)
READ: 27-FEB-1996 10:15:46.13

TO: Floydetta McAfee (MCAFEE_F) (WHO)
READ: 27-FEB-1996 09:20:07.56

TO: Marilyn Yager (YAGER_M) (WHO)
READ: 26-FEB-1996 20:36:00.80

TO: Mary Ellen Glynn (GLYNN_M) (WHO)
READ: NOT READ

TO: Jennifer L. Klein (KLEIN_J) (OPD)
READ: 27-FEB-1996 09:59:26.90

TO: Peter Jacoby (JACOBY_P) (WHO)
READ: 26-FEB-1996 20:51:47.57

TEXT:

I just paged all of you on this meeting but here's a reminder.