

gaining agreements shall be honored and agencies shall consult with employee labor representatives about the implementation of this order. Nothing herein shall be construed to impair or alter the powers and duties of Federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this order. Agencies shall review their current policy to confirm that agency policy comports with this order, and policy found not in compliance shall be revised to comply with the terms of this order.

Sec. 8. Cause of Action. This order does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person or affect in any way the liability of the executive branch under the Federal Tort Claims Act.

Sec. 9. Construction. Nothing in this order shall limit an agency head from establishing more protective policies on smoking in the Federal workplace for employees and members of the public visiting or using Federal facilities.

William J. Clinton

The White House,
August 9, 1997.

[Filed with the Office of the Federal Register,
8:45 a.m., August 12, 1997]

NOTE: This Executive order was published in the *Federal Register* on August 13.

**Remarks on Line Item Vetoes of the
Balanced Budget Act of 1997 and the
Taxpayer Relief Act of 1997 and an
Exchange With Reporters**

August 11, 1997

The President. Last week we took historic action to put America's economic house in order when I signed into law the first balanced budget in a generation, one that honors our values, invests in our people, prepares our Nation for the 21st century.

It includes the largest increase in college aid since the GI bill, the largest increase in children's health since the creation of Medicaid over 30 years ago, tax cuts that are the equivalent of a \$1,000 raise in take-home pay for the average family with two children, and much more that is good for America.

The new balanced budget law also offers the first opportunity to use a powerful new tool to protect taxpayers: the line item veto, a tool designed to fight against waste and unjustifiable expenditures, to ensure Government works for the public interests, not the private interests.

In the past, good legislation could be cluttered up with unjustifiable or wasteful spending or tax provisions, leaving the President no choice but to sign or veto the overall legislation. With the line item veto, the President can sign an overall bill into law that cancel a particular spending project or a particular tax break that benefits only a handful of individuals or companies.

Forty-three Governors throughout our Nation already have the line item veto power. Last year I signed the Federal line item veto into law. Last month the United States Supreme Court, on procedural grounds, rejected a challenge to this authority. Today, for the first time in the history of our country, the President will use the line item veto to protect taxpayers and to ensure that national interests prevail over narrow interests.

In reaching agreement with Congress on how to balance the budget, we worked very hard to be fair to all Americans and to avoid wasting our citizens' tax dollars. For the same reason, I've asked the members of my administration to work carefully over the final legislation to identify any specific spending or tax provisions that I should consider canceling. Here's what I told the budget team.

First, any provision I cancel must be one that was not included—and let me emphasize—not included—as a part of the balanced budget agreement process with Congress. Our agreement was entered into in good faith, and I will keep it. Second, any provision I cancel must be one that benefits just a few individuals, corporations, or States at the expense of the general interest. Finally, any provision I cancel must be one that is inconsistent with good public policy. Just because

something benefits a small number of people doesn't necessarily mean that it hurts the public interest or the American people at large.

After careful scrutiny and numerous meetings with my staff and Cabinet members, we have found three provisions that meet those criteria. In a few moments I will use the power of the line item veto to cancel a provision that would allow financial service companies to shelter income in foreign tax havens to avoid all U.S. taxation. I will also cancel a provision that singles out New York by allowing it to tap into the Federal Treasury to reduce its State expenditures through the use of health provider tax to match Federal Medicaid dollars that are impermissible in every other State in the country and actually in existence now in several other States. No other State in the Nation would be given this provision, and it is unfair to the rest of our Nation's taxpayers to ask them to subsidize it. Finally, I will cancel a provision that, though well-intended, is poorly designed. This provision would have allowed a very limited number of agribusinesses to avoid paying capital gains taxes, possibly forever, on the sales of certain assets to farmers' cooperatives. And it could have benefited not only traditional farm co-ops but giant organizations which do not need and should not trigger the law's benefits.

Because I strongly support family farmers, farm cooperatives, and the acquisition of production facilities by co-ops, this was a very difficult decision for me. And I intend to work with Congressman Stenholm and Hulshof and Senators Daschle, Dorgan, and Conrad and other interested Members of the Congress to redesign this effort so that it is better targeted and not susceptible to abuse.

The actions I take today will save the American people hundreds of millions of dollars over the next 10 years and send a signal that the Washington rules have changed for good and for the good of the American people. From now on, Presidents will be able to say no to wasteful spending or tax loopholes, even as they say yes to vital legislation. Special interests will not be able to play the old game of slipping a provision into a massive bill in the hope that no one will notice. For the first time, the President is exercising

the power to prevent that from happening. The first balanced budget in a generation is now also the first budget in American history to be strengthened by the line item veto. And that will strengthen our country.

And now I want to go and sign these provisions.

[The President signed the cancellation letters.]

Q. Mr. President, is that the only pork you can find in that budget?

The President. I think that my staff is going to brief you about it, but let me say that they have—the relevant Cabinet and staff members have gone over this quite extensively. Keep in mind, the primary use of the line item veto overwhelmingly was meant to be in the appropriations process, which is not even started yet. I don't have the first appropriations bill.

There are only a few spending items in this balanced budget that are part of the so-called entitlements process, so that—for example, you had the New York Medicaid provision there on provider taxes. With regard to the taxes, there were some 79 items certified to me, but that was only because of their size, that is, the number of people affected by it. Of those 79, 30, or more were actually recommendations by the Treasury Department to fix flaws in the present laws or to ease the transitions in the tax laws. And another dozen or more were put in by Congress by agreement with the Treasury Department to fix procedural problems in the law. Then there were a number of others that I agreed were good policy. So these are the ones that I think—and then there were several others that I might have line-item-vetoed, but they were plainly part of the understandings reached with Congress as a part of the budget process. So these seemed to me to be the ones, after being briefed by my staff, that both involved significant amounts of money and met the three criteria that I mentioned. And I believe it was the appropriate thing to do.

Q. May I ask another way, sir, the last question another way? Were these the most glaring examples of why you were given this power and, therefore, they might hold up better in a court challenge?

The President. Well, I wouldn't say that. I expect the most glaring examples to come up in the appropriations process, at least if the past is any prolog. Now, it may be that the use of the line item veto here will mean that it won't have to be used as much in the appropriations process, and that would please me greatly. But I think it's important that the American people understand that when the line item veto was given to the President, the primary assumption was that it would take out special projects that were typically funded in big bills, and those are those big appropriations bills, none of which have come to me yet.

But I do believe that this should withstand court challenge because the process by which the matters were reviewed at least was a very careful, exhaustive process, and I received input from people all over the country that had interests in it, through my Cabinet and staff members. But we worked very hard on this, and—well, since I told you after my press conference on Thursday that I would be meeting with my staff, and I had meetings and conversations each day since then before finally making these decisions.

Claire [Claire Shipman, CNN].

Q. Mr. President, it sounds as though, given the deliberations among your staff and the talk about the court challenge and the difficulty finding items in this particular tax and spending legislation, that you decided to act now largely for symbolic reasons instead of—

The President. No, I wouldn't say that. I think these three things are appropriate. But I just want to point out that I think that when the Congress certified, for example, 79 tax items to me, people said, "Well, maybe you ought to veto 76 of them." And I think it's important to recognize that there really never were 79 candidates for a line item veto there. The Congress is required—the Joint Tax Committee is required by law to certify to the President all the tax items that benefit fewer than 100 people, and there were—the vast majority of those were either put in by the Treasury Department or by the congressional committees with the support of the Treasury Department to actually clean up procedural problems in the law so that the numbers were smaller.

Then there were a number of things that, as I said, I might well have line-item-vetoed, but they were part of the overall budget process and that did a lot of good for the American people and I have to honor the agreements that were made and the process of it.

So these things I hope will be both real and symbolic in the sense that I'm hopeful that this will work out pretty much the way it did when I was Governor; that is, when you know the President is prepared to use the line item veto, that tends to operate as a deterrent against the most egregious kinds of projects that would otherwise not be funded. So it would suit me if, after a while, the use of the veto became quite rare because there was a disciplined agreement not to have projects that ought not be funded in the first place.

Q. Sir, can you tell me where in the Constitution the President is given this kind of power that hasn't been exerted until now?

The President. Well, the power is given by legislation. The real question is, does the Constitution permit or forbid the Congress to give the President this kind of power. I believe that since—if you look at the fact that 43 States have this power for the Governor, and it has been upheld in State after State after State, the provisions of most State constitutions are similar to the provisions of the Federal Constitution in the general allocation of executive authority and legislative authority.

So I think it is an implicit thing. As long as the legislature has the right to override the executive, then for the legislature to allow the executive to make reasoned judgments about particular items in these omnibus bills, I do not believe is an unconstitutional delegation of the legislature's authority to the President.

So keep in mind, they can override this. If they decide that they think I'm wrong, and two-thirds of them agree, they can override this.

Q. Do you welcome a challenge?

Q. Mr. President, Senator McCain sent you a note last week saying you ought to consider putting off a line item veto until you get the appropriations bills, on the grounds that it might be a blow to the spirit of co-

operation that produced the tax cut and the balanced budget bills in the first place. Did you give that any consideration?

The President. Absolutely. And when Senator McCain came to see me about the campaign finance issue and our common support for his legislation, we talked about it a little bit. As I've already said to you, that one of the reasons that we have decided on a relatively small number is I didn't want to touch anything that I thought where there was even a question that it might have been part of the negotiating process and a cooperative spirit with Congress.

If you look at these three things, they present three entirely different problems, but I think all three are outside the scope of the budget negotiating process and all three are the kinds of things that the line item veto was meant for: the first, the avoidance of Federal taxation in an inappropriate way; the second, giving a break to one State in a way that would immediately disadvantage several others and potentially disadvantage all the other States; and the third, as I said, I believe a very worthy goal, having incentives for farmers' co-ops to integrate with production facilities in a way that is overbroad and could lead to the total avoidance of taxation under circumstances, which are inappropriate, which would require a more disciplined fix. I think those are the kinds of things that the line item veto was meant to deal with in these contexts.

Now, when you get to the appropriations process it will be somewhat more straightforward: Should this project be built or not; should this road be built or not; should this money be given to this agency or not for this program? And I think that those are the things where typically it's in use at the State level. But in the context of taxes and the entitlements, I thought each of these three things presented a representative case where the veto was intended to be used.

Q. Are you running out of travel money, sir? [*Laughter*]

The President. I hope not; I'm trying to go on holiday. [*Laughter*]

NOTE: The President spoke at 12:30 p.m. in the Oval Office at the White House. The President signed cancellations affecting Public Law 105-33,

the Balanced Budget Act of 1997; and Public Law 105-34, the Taxpayer Relief Act of 1997.

Letter to Congressional Leaders Transmitting a Line Item Veto of the Balanced Budget Act of 1997

August 11, 1997

Dear Mr. Speaker: (Dear Mr. President:)

In accordance with the Line Item Veto Act, I hereby cancel one item of new direct spending, as specified in the attached report, contained in the "Balanced Budget Act of 1997" (Public Law 105-33; H.R. 2155). I have determined that this cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachment, constitutes a special message under section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Sincerely,

William J. Clinton

NOTE: Identical letters were sent to Newt Gingrich, Speaker of the House of Representatives, and Albert Gore, Jr., President of the Senate. The report detailing the cancellation was published in the *Federal Register* on August 12.

Letter to Congressional Leaders Transmitting Line Item Vetoes of the Taxpayer Relief Act of 1997

August 11, 1997

Dear Mr. Speaker: (Dear Mr. President:)

In accordance with the Line Item Veto Act, I hereby cancel two limited tax benefits, as specified in the attached reports, contained in the "Taxpayer Relief Act of 1997" (Public Law 105-34; H.R. 2154). I have determined that each of these cancellations will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachments, constitutes a special message under section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Sincerely,

William J. Clinton