



TOM CARPER

UNITED STATES SENATOR • DELAWARE



FOR RELEASE: May 26, 2010
CONTACT: Emily Spain (202) 224-2441

SUBCOMMITTEE ON THE CONSTITUTION

COMMITTEE ON THE JUDICIARY

HEARING: "The Legality and Efficacy of Line-Item Veto Proposals"

A copy of Senator Thomas R. Carper's testimony as prepared for delivery:

Chairman Feingold, thank you for allowing me to testify at your hearing today.

Your testimony at my hearing last December on the same issue was quite insightful, and I value your commitment to eliminating wasteful spending.

As we all know, the size of our federal deficit this year continues to be a big problem. Moreover, our future projected deficits are equally concerning because they can add to our national debt and undermine our nation's fiscal stability.

One tool that I believe we could adopt right now that would reduce some of the wasteful spending that contributes to our deficits is an enhanced rescission authority.

Currently, when Congress sends a spending bill to the President, he or she can sign it and then propose that Congress take up specific cuts to the bill just signed into law.

As you know, the problem is that Congress is under no obligation to consider these rescissions. When Congress receives them, they are essentially dead on arrival.

Congress tried to fix this in 1996 by passing the Line Item Veto Act, but that ended quickly with the Supreme Court affirming that the bill was unconstitutional.

I agreed with that decision. The legislation extended extraordinary power to presidents that undermined the checks and balances that the Constitution provides for our executive and legislative branches. Most concerning was that this power was permanent.

That is why last year 21 of our colleagues – Democrats and Republicans – joined me in cosponsoring my rescissions bill S.907, the Budget Enforcement and Legislative Tools Act, which I believe is a much more tempered approach to fixing this problem.

Similar to an earlier proposal of mine that passed the U.S. House of Representatives in 1992 by a 3-1 margin, this new proposal modified the President's current rescission authority so that Congress can no longer ignore rescission proposals. We would have to actually vote on

them. And, our bill did not make that shift of authority permanent. Rather, it provided for what I call a four-year test drive, after which the Congress and the President may elect to extend that authority, amend it or allow it to end.

Under our proposal, a president's rescissions must be largely directed at discretionary spending. Entitlement spending and revenue changes could not be considered.

In order for the cuts proposed by a president to become law, they must pass both the House and Senate by a simple majority vote. If the vote fails in one chamber, the proposed rescissions are dead.

On Monday, the White House sent Congress a message that the President would like to see an expedited rescission bill passed into law. The President's suggested proposal is remarkably similar to our proposal.

One of the few differences is that our bill limited the amount the President could rescind if the spending item was authorized. If the President proposed a rescission of more than 25 percent of an authorized item, then this request would not get a vote.

The President's proposal does not distinguish between authorized items and unauthorized items, and allows for up to 100 percent of an authorized item to be rescinded.

Another more substantive difference is that the President's proposal allows for any member of the Senate to challenge a proposed cut IF the President attempts to abuse the authority by using it as a vehicle to make a significant policy change.

So, if the President's proposed rescission is actually a masked attempt to alter existing policy, then a Senator can raise a point of order against the bill. If the challenge is sustained, then the package loses its fast-track privilege.

When combined with the four-year sunset, this provision gives us one more way to ensure that a President is unlikely to abuse this new authority.

I will be reaching out to our 21 cosponsors to explore with them their interest in supporting a rescission proposal with all of the President's suggested modifications this week.

While expedited rescission authority is not a silver bullet for eliminating the deficit, it can serve as a helpful addition to our toolbox to eliminate wasteful spending.

I look forward to working with you, Senator Feingold, and our colleagues to pass the President's expedited rescission proposal – or something similar to it -- and to begin to restore a measure of fiscal sanity in the government of our nation.

###