

**Senate Judiciary Committee
Subcommittee on the Constitution**

Hearing on “The Legality and Efficacy of Line-Item Veto Proposals”

Statement of Chairman Feingold

May 26, 2010

Good morning and welcome to this hearing of the Constitution Subcommittee. This morning, the subcommittee will review the legality and efficacy of expedited rescission proposals, which are more commonly referred to as line-item veto proposals.

Every year since I was first elected to the U.S. Senate, I’ve held listening sessions in each of Wisconsin’s 72 counties. I’ve held over 1200 of them so far, and have heard from tens of thousands of people all across my home state. And while health care reform has been the top issue discussed at those listening sessions, the need to rein in wasteful spending, and especially wasteful earmark spending, has been raised consistently.

And it’s never been a more urgent issue.

That’s why it was especially encouraging to have the President come forward just two days ago with his own proposal for an expedited rescission, or line-item veto, measure.

When he took office, President Obama was handed perhaps the worst economic and fiscal mess facing any administration since Franklin Roosevelt took office in 1933. The legacy President Obama inherited poses a gigantic challenge.

There is no magic bullet that will solve all our budget problems. Congress has to make some tough decisions, and there will be no avoiding them if we are to get our fiscal house in order. But we can take some steps that will help Congress make the right decisions, and that can sustain the progress we make.

A line-item veto, properly structured and respectful of the constitutionally central role Congress plays, can help us get back on track. And that is what we will explore in today’s hearing.

I have advocated for giving the President expedited rescission, or line-item veto, authority for a long time. Over the past two Congresses, I have been pleased to join with my colleague from Wisconsin, Congressman Paul Ryan, the Ranking Member of the House Budget Committee, in offering a proposal that specifically targets earmark spending. He and I have worked on this issue for several years. While we belong to different political parties, and differ on many issues, we do share at least two things in common—our hometown of Janesville, Wisconsin, and an abiding respect for Wisconsin’s tradition of fiscal responsibility.

Among the many Members who have joined us in that particular effort is the Ranking Member of this Subcommittee, the Senator from Oklahoma, Dr. Tom Coburn. I am delighted to have Senator Coburn as a cosponsor of our bill. There is no more energetic foe of wasteful earmark spending, and I have been pleased to work with him on a number of different efforts to rein in that practice.

There have been a number of line-item veto proposals offered in the past several years. But the measure we proposed is unique in that it specifically targets the very items that every line-item veto proponent cites when promoting a particular measure, namely earmarks.

When President Bush asked for this kind of authority, the examples he gave when citing wasteful spending he wanted to target were congressional earmarks. When members of the House or Senate tout a new line-item veto authority to go after government waste, the examples they give are congressional earmarks. When editorial pages argue for a new line-item veto, they, too, cite congressional earmarks as the reason for granting the President this new authority.

While we have made some progress on earmarks, they continue to be a serious problem. By one estimate, in 2004 alone more than \$50 billion in earmarks were passed. Just last year, the Omnibus Appropriations bill for FY 2009, which passed in March of 2009, contained more than eight thousand earmarks costing \$7 billion. And the Consolidated Appropriations bill for FY 2010, which passed in December, included nearly five thousand earmarks, costing \$3.7 billion.

There is no excuse for a system that allows that kind of wasteful spending year after year, and while I have opposed granting the President line-item veto authority to effectively reshape programs like Medicare and Medicaid, for this specific category, I support giving the President this additional tool.

Under the bill Congressman Ryan and I proposed, wasteful spending would have nowhere to hide. It will be out in the open, so that both Congress and the President have a chance to get rid of wasteful projects before they begin. I invited my colleague from Wisconsin to testify today, but unfortunately, his schedule does not permit him to be with us in person. He will submit written testimony and we will include that in the hearing record.

Of course, there are other expedited rescission or line item veto ideas that have merit as well. The Senator from Delaware, Senator Carper, who will lead off our hearing today, has a proposal, which he may wish to discuss. I've been proud to work with Senator Carper on a number of critical budget issues, including the restoration of the PAYGO budget rule which was so central to our ability to balance the government's books during the 1990s. He has been a true champion of taxpayers, and his work in this area is another example of that leadership.

And then there is the President's expedited rescission, or line-item veto, proposal that Senator Carper and I will be introducing shortly. We are pleased to have Jeffrey Liebman from the Office of Management and Budget with us today to discuss the President's proposal, which is an exciting and important development. The President's approach includes most of what Congressman Ryan and I have targeted, and I believe what Senator Carper targets in his measure as well.

While we seek to find ways to support our goal of cutting wasteful spending, it is essential that any new budget tools we create be constitutional. That is part of the core mission of this Subcommittee, and to help us in this regard, we are privileged to have a distinguished Washington attorney and former Assistant Attorney General for the Office of Legal Counsel under President Reagan, Charles J. Cooper.

Helping us assess the potential value a line-item veto might bring to budget discipline is another of today's witnesses, Ryan Alexander, from Taxpayers for Common Sense, a respected budget watchdog group. Finally, joining Mr. Cooper and Ms. Alexander on the third panel will be Alison Fraser from the Heritage Foundation.

I look forward to an open dialogue on these important questions, and I thank the witnesses for the time they have devoted and the effort they have made to be here with us today.

At this point, I would typically turn it over to Senator Coburn, my Ranking Member, but he is tied up in another important meeting about our debt crisis. I do want to thank Senator Coburn for his cooperation in organizing this hearing, and I look forward to working with him on this issue.