

THE ADMINISTRATION'S EXPEDITED RESCISSION PROPOSAL

HEARING

BEFORE THE

COMMITTEE ON THE BUDGET HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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THE ADMINISTRATION'S EXPEDITED RESCISSION PROPOSAL

THURSDAY, JUNE 17, 2010

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC.

The Committee met, pursuant to call, at 10:04 a.m., in room 210, Cannon House Office Building, Hon. John M. Spratt, Jr. [Chairman of the Committee] presiding.

Present: Representatives Spratt, Becerra, Doggett, Berry, Etheridge, McCollum, Scott, Connolly, Schrader, Ryan, Austria, Djou.

Also Present: Representative Minnick.

Chairman SPRATT. I call the Committee to order. The Committee meets today to examine the Administration's proposal for expedited rescission authority.

Expedited rescission is not a new idea. I introduced a bill myself on the subject it seems like 20 years ago, it was at least the early 1990s, as did others like Charlie Stenholm. But it may just be that it is an idea whose time has finally come.

Expedited rescission enhances fiscal discipline by allowing the President to sign spending bills into law or culling out unneeded, unjustified, or wasteful items and sending these back to Congress with a request that they be rescinded.

Congress is required to consider these recommendations as one package without amendment and on a fast-track basis guarantee an up or down vote within an expedited time frame.

The Administration and Congress inherited a \$1.3 trillion deficit and an economy reeling from the worst recession since the Great Depression. As the economy recovers, we need to see that the budget recovers along with it.

The statutory PAYGO rules that we enacted earlier this year are part of that purpose and discipline and so is the President's bipartisan fiscal commission.

Expedited rescission is also an addition to that effort. It will not wipe out our deficit, that is for sure, but it will be one more tool in our kit for disciplined spending.

We are bound to be good stewards of the taxpayers' money. It must be made clear to the taxpayers that we are spending their money wisely and well.

So the Administration's expedited rescission proposal is a welcome step forward. I introduced the Administration's bill by request with the caveat that we want to look at it very closely and

probably we will want to make some improvements. Today's hearing is the beginning of that process.

I was joined by 20 Democratic members as original co-sponsors of the bill and we have added at least a dozen or so more since then. I am pleased that there is such interest in expedited rescission on both sides of the aisle.

The Ranking Member, Mr. Ryan, has a long-standing interest in the subject and he has, I believe, filed his own proposal on expedited rescission. Other members have introduced expedited rescission proposals over the years and in this Congress as well.

Today we focus on the Administration's proposal for expedited rescission. Our witness is the Acting Deputy Director of the Office of Management and Budget, Jeff Liebman. This is his first testimony before the Committee, so we welcome him all the more heartily for that reason.

We are glad to have you and we appreciate your coming.

Before we turn to you for your testimony, let me recognize the Ranking Member, Mr. Ryan, for his statement.

Mr. Ryan.

Mr. RYAN. Thank you, Mr. Chairman. And thank you for scheduling this hearing.

Mr. Liebman, welcome to the Committee. Good to have you. Look forward to your testimony.

Four years ago, I introduced a Constitutional version of the line item veto. It is a bill that we passed in the House with bipartisan support and we marked it up right here in this Committee.

At the beginning of the year when the President visited us, the House Republicans, at the Baltimore retreat that we had, I asked him for support of the line item veto. And I am very excited and pleased that four months later, he has taken us up on the idea. That is a step in the right direction from my opinion.

If we actually enacted a line item veto, it could be used as an effective tool to eliminate some wasteful spending and devote the savings to deficit reduction. In that spirit, I have two specific concerns with the Administration's proposals. Constructive criticism is my goal here.

First, savings from the line item veto should be directed solely toward deficit reduction. As it stands, the measure would simply result in the Administration using this tool to fund other priorities and it would not save taxpayers a dime.

A second problem with this proposal, it does nothing to address new entitlement spending or special interest tax breaks. Believe me, I serve on the Ways and Means Committee, I have seen that stuff come around. Both parties do it.

Both were subject to the legislative line item veto that passed the House four years ago and both would make this a stronger tool.

Now, the bill I have with Senator Feingold does not do this, so I understand, you know, in the interest of compromise, that is not necessarily possible sometimes. But I think it is a better idea to add special interest tax breaks and direct spending as well.

But I have a much deeper concern within the context of this recommendation. The President and this Congress has increased spending by \$1.8 trillion. It passed the so-called Stimulus Bill with

a price tag that has grown to \$862 billion and it has failed to hold down unemployment as promised.

And they twisted the budget reconciliation process to force through a government takeover in the U.S. healthcare sector. Now, the Majority likes to tout the PAYGO rule in practice. With all due respect, it is a sham.

Take the recent so-called Extenders Bill. According to the CBO, this bill would increase the deficit by \$54 billion. But through the magic of the Majority's PAYGO counting, it is recorded as reducing the deficit by \$887 million.

The President's budget we are operating on drives the debt held by the public to an alarming 90 percent of GDP in ten years, but neither he nor the Democratic Majority have offered any specific proposals to tackle the problem. And it appears increasingly likely that for the first time since the adoption of the Modern Budget Act that we operate under, the House will fail to even bring a Budget Resolution to the floor.

What kind of message is this sending to American taxpayers and to financial markets around the world? Rather than bringing some real discipline to spending, I believe this Administration and Congress has opted to budget by press release.

The Administration recently asked Agency heads to submit proposals for a possible five percent reduction in spending next year. I just remind people that comes after these agencies have received an 84 percent increase in spending. This makes me a little more skeptical about getting spending under control in this current Congress with this Administration.

The President could right now send us a proposal cutting spending under their existing rescission authority. In fact, our leaders, Representative Boehner, Representative Cantor promised the President's support for bringing these cuts to the floor. Even if the President were serious about reducing spending, he faces a Democratic Congress that has zero interest in reducing spending or acting on these rescissions.

Despite my support for a strong Constitutional line item veto, much needed process reform is no substitute for actual spending restraint. And all the press releases, hearings, and Washington talk will not mean a thing if Congress and the President do not have the will to actually reduce spending.

This is an effective tool. It is a good tool if it is used correctly. The proceeds ought to go to deficit reduction, but let us not kid ourselves that it is some panacea that will get our fiscal house where it needs to be. We actually need real discipline and reform here.

But with that, I look forward to your testimony.

Chairman SPRATT. Before proceeding with Dr. Liebman, we have a member who has taken a signal interest in this, Walt Minnick, who would like to participate in the hearing this morning. I would like to ask unanimous consent that he be allowed to take one of the empty seats here and when his time comes at the end of the process ask questions. If there is no objection, so ordered.

Walt, come up and take a chair. But if somebody arrives to claim that chair, you will have to yield to them.

Walt will have the authority as all members if unanimous consent is granted as usual to submit an opening statement for the record at this point. Without objection, so ordered.

[The prepared statement of Walt Minnick follows:]

PREPARED STATEMENT OF HON. WALT MINNICK, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF IDAHO

Chairman Spratt and Ranking Member Ryan, I come before the Committee today to speak on behalf of HR 5454, the "Reduce Unnecessary Spending Act of 2010."

Mr. Chairman, as a dedicated fiscal hawk and an original co-sponsor, this proposal creates a potent and critically important deficit reduction tool that will help us to restore fiscal discipline to federal spending.

The exploding trillion dollar plus budget deficit is the most serious single problem facing our country. It is the gravest threat to our future strength as a nation and to our children's standard of living. To solve this problem, Congress must change the way it does business, which is why I am pleased to offer this important bill along with the distinguished chairman and other of my colleagues, both liberal and conservative.

HR 5454 allows the President to propose elimination of wasteful or special interest spending within large appropriations bills. And, once identified, the bill requires those items be presented to Congress for a simple up-or-down vote. Because Congress retains the final say on whether these proposed cuts are approved, this process passes Constitutional muster.

Like the line item veto authority possessed by the President for 6 years in the 1990's, Expedited Rescission, as this process is called, should save the taxpayers many billions of dollars and help us to reduce the currently out of control federal budget deficit. Historically, this process has had bi-partisan support. It is endorsed by the Administration and incorporated into a companion bill introduced by our colleagues from both parties in the Senate.

As a longtime Idaho businessman and the primary author of this proposal within the 53 member Blue Dog Caucus, I look forward to working with the Committee as we move this critically important measure through Congress as rapidly as possible. Our children and grandchildren deserve no less.

I urge your support and yield back.

Chairman SPRATT. Let us proceed now with the hearing. Dr. Liebman, the floor is yours. We welcome you here and we look forward to your testimony and the questions we can put to you later. Thank you for coming and thank you for taking this initiative.

**STATEMENT OF JEFFREY LIEBMAN, ACTING DEPUTY
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET**

Mr. LIEBMAN. Thank you.

Chairman Spratt, Ranking Member Ryan, and members of this Committee, thank you for inviting me here this morning to talk about the President's new proposal, the Reduce Unnecessary Spending Act of 2010.

This legislation would create an expedited procedure that guarantees an up or down vote on certain rescissions proposed by the President, helping to eliminate unnecessary spending and discouraging waste in the first place.

Since taking office, the Administration has made a priority of identifying and cutting wasteful spending, proposing approximately \$20 billion of terminations, reductions, and savings in each of the 2010 and 2011 budgets.

While recent Administrations have seen between 15 and 20 percent of their proposed discretionary cuts approved by Congress, we worked with Congress last year to enact 60 percent of the proposed discretionary cuts in the fiscal year 2010 President's budget. And for that, I thank you and your colleagues.

Further, the Administration has worked with Congress to curb earmarks and the fiscal year 2010 appropriation bills enacted a significant decline in earmarks, a drop of 17 percent in volume and of 27 percent in dollar value.

These reductions build on the progress that Congress has made on earmarks since 2006, reductions prompted by a series of reforms that then Senator Obama helped to write with a bipartisan coalition which helped to bring more transparency and disclosure to the process.

In this year's budget, the Administration also committed to restraining spending more broadly and has proposed a three-year freeze on nonsecurity discretionary spending. This freeze will save \$250 billion over the next ten years relative to continuing the 2010 appropriation levels for these programs adjusted for inflation.

This spending restraint complements other measures in the budget that together produce more deficit reduction over the next ten years than any budget that has been introduced by any President in the last decade.

Furthermore, the Administration proposed and Congress enacted statutory Pay As You Go legislation. PAYGO forces us to live by a simple but important rule. The federal government can only spend a dollar on entitlement increases or tax cuts if it saves a dollar elsewhere which encourages the types of tough choices necessary to sustain fiscal discipline.

Significant progress has been made in cutting unnecessary spending including earmarks, but more can be done. The President's proposal for expedited rescission authority would create an important tool for reducing unnecessary spending. In short, the bill would provide the President with additional authority to propose a package of rescissions that would then receive expedited consideration in Congress and a guaranteed up or down vote.

Here is how it works. Under this new authority, the President can propose fast-track consideration of rescissions of discretionary and nonentitlement mandatory spending. The President is limited to proposing changes that reduce funding levels and cannot use this authority to produce any other changes in law. The fast-track process is thus limited only to simple funding reductions for which a straight up or down vote is appropriate.

After enactment of funding, the President has 45 days during which Congress is in session to decide whether to submit a rescission package using this expedited procedure. A rescission package submitted under this authority receives fast-track consideration in Congress. Debate is limited in both Houses and the package is guaranteed an up or down vote without amendment. From the package's introduction to its final vote in the Senate, the process can take no more than 25 days.

Following submission of a rescission request using this expedited procedure, the President may withhold funding for up to 25 days, after which funding must be released. This ensures the agencies do not obligate funds before Congress has had an opportunity to consider the rescission package.

The proposal has been crafted to preserve the Constitutional balance of power between the President and Congress. Under our proposal, Congress, which is empowered to set its own rules, changes

those rules under which it considers rescission packages proposed by the President using well-established fast-track procedures. Rescissions only occur if Congress affirmatively enacts them into law. In other words, our proposal does not expand the Presidential veto authority in any way.

A number of members have co-sponsored the Chairman's legislative version of the President's proposal and other members including the Ranking Member have sponsored similar proposals that would, like our proposal, target unnecessary spending by fast tracking consideration of rescissions.

Thank you, Chairman Spratt, and the members of your Committee who have sponsored the Reduce Unnecessary Spending Act. I also want to thank Representative Minnick for his leadership on this issue. We applaud these efforts and look forward to working with Congress to resolve any differences in the details of these various legislative proposals and to enact this authority into law.

Thank you.

[The prepared statement of Jeffrey Liebman follows:]

PREPARED STATEMENT OF JEFFREY B. LIEBMAN, ACTING DEPUTY DIRECTOR,
OFFICE OF MANAGEMENT AND BUDGET

Chairman Spratt, Ranking Member Ryan, and Members of the Committee, thank you for inviting me to testify this morning about the President's new proposal, the Reduce Unnecessary Spending Act of 2010. This legislation would create an expedited procedure that guarantees an up or down vote on certain rescissions proposed by the President, helping to eliminate unnecessary spending and discouraging waste in the first place.

Since taking office, the Administration has made a priority of identifying and cutting unnecessary spending, proposing approximately \$20 billion of terminations, reductions, and savings for fiscal year 2010 and 2011. While recent administrations have seen between 15 and 20 percent of their proposed discretionary cuts approved by Congress, we worked with Congress to enact 60 percent of proposed discretionary cuts in FY 2010. For that, I thank you and your colleagues.

Further, the Administration has worked with Congress to curb earmarks, and the FY 2010 appropriations bills enacted a significant decline in earmarks—a drop of 17 percent in volume and 27 percent in dollar value. These reductions build on the progress that Congress has made on earmarks since 2006, reductions prompted by a series of reforms that then-Senator Obama helped to write with a bipartisan coalition, which helped to bring more transparency and disclosure to the process.

In this year's Budget, the Administration also committed to restraining spending more broadly and has proposed a three-year freeze on non-security discretionary funding, saving \$250 billion over the next ten years relative to continuing the 2010 funding levels for these programs adjusted for inflation. This spending restraint complements other measures in the Budget that, together, produce more deficit reduction over the next ten years than any Budget has proposed in over a decade. Furthermore, the Administration proposed, and Congress enacted, statutory pay-as-you-go (PAYGO) legislation. PAYGO forces us to live by a simple but important principle—the Federal Government can only spend a dollar on an entitlement increase or tax cut if it saves a dollar elsewhere, which encourages the types of tough choices necessary to restore fiscal sustainability.

Significant progress has been made on cutting unnecessary spending, including earmarks, but more can be done. That is why, in recent weeks, the Administration has put forward additional measures to discipline the budget process. This includes tasking agencies with identifying their lowest-impact programs, providing agencies with incentives to cut administrative expenses, and establishing a process to better use our federal property and sell off the property we do not need. And, it includes the proposal about which I am here to testify today.

The President's proposal for expedited rescission authority would create an important tool for reducing unnecessary spending. In short, the bill would provide the President with additional authority to propose a package of rescissions that would then receive expedited consideration in Congress and a guaranteed up-or-down vote.

In more detail, here's how it works:

- **Scope.** Under this new authority, the President can propose fast-track consideration of rescissions of discretionary and non-entitlement mandatory spending. The President is limited to proposing changes that reduce funding levels and cannot use this authority to propose other changes in law, including new transfer authority, supplemental funding, or changes in authorizing legislation. The fast-track process is thus limited only to simple funding reductions, for which a straight up-or-down vote is desirable.

- **Proposing a rescission package.** After enactment of funding, the President has 45 days during which Congress is in session (excluding weekends and national holidays) to decide whether to submit a rescission package using this expedited procedure. The President is also limited to a single package of rescissions per bill under this procedure, and the requested rescissions must be limited to provisions in that bill.¹

- **Congressional procedure.** A rescission package submitted under this authority receives fast-track consideration in Congress. Debate is limited in both houses and the package is guaranteed an up-or-down vote without amendment. The package is first introduced and considered in the House and, if approved there, is taken up in the Senate. From the package's introduction to its final vote in the Senate, the process can take no more than 25 days. Note that, while Congress cannot amend the package, our proposal enables Congress to omit from the bill any proposed rescission that it believes goes beyond the scope allowed.

- **Withholding funding.** Following submission of a rescission request using this expedited procedure, the President may withhold funding for up to 25 days, after which the funding must be released. This ensures that agencies do not obligate funds before Congress has had an opportunity to consider the rescission package.

In sum, the proposal provides the President with important, but limited, powers that will allow the President and Congress to work together more effectively to eliminate unnecessary spending, including earmarks. Knowing this procedure exists may also discourage lawmakers from enacting such spending in the first place.

The proposal has been crafted to preserve the constitutional balance of power between the President and Congress. In 1996, Congress granted the President "line item veto" power over certain spending and tax bills, allowing the President to use his veto authority to strip out select provisions of legislation while signing the rest into law. The Supreme Court found this to violate the constitutional procedure for presenting a bill to the President for approval or veto of the entire bill. The Administration's proposal is fundamentally different from this. Under our proposal, Congress, which is empowered to set its own rules, changes those rules under which it considers rescission packages proposed by the President—using well-established fast-track procedures. Rescissions only occur if Congress affirmatively enacts them into law. In other words, our proposal does not expand the Presidential veto authority in any way.

Our proposal also preserves the President's two existing authorities for proposing rescissions. First, the President would retain the Constitutional authority to recommend legislation such as rescission packages to be considered under regular order in Congress. Second, the President would retain the power to recommend rescissions under the procedure already established under the Impoundment Control Act of 1974. This existing authority provides more limited fast-track protections to a Presidential rescission package than what we have proposed and, specifically, allows committee and floor amendments and so does not guarantee a clean up-or-down vote on a package submitted by the President.

I am encouraged that the Administration's proposal has received bipartisan and bicameral support. I thank Chairman Spratt for introducing the Reduce Unnecessary Spending Act and members on this Committee—Representatives Boyd, Dennis Moore, Larsen, Connolly, and Schrader—for joining as cosponsors. The proposal has also received strong support in the Senate from Senators Feingold, Carper, and McCain. I also commend Ranking Member Ryan for introducing a proposal similar to ours. We applaud these efforts, and look forward to working with Congress to hammer out the details and enact this authority into law.

We recognize that our proposal is not a magic bullet. While it lifts procedural barriers, the President and Congress will still have to make the tough choices to cut back unnecessary spending. Furthermore, restoring fiscal sustainability in the medium and long term will require not only targeting unnecessary spending in specific programs, which our proposal aids, but also making larger choices about overall

¹ There is one exception to the packaging rule: when a single appropriations bill includes funding that is in the jurisdiction of more than one appropriations subcommittee such as in an omnibus appropriations bill. In that case, the President may submit up to two packages.

budget priorities and revenue levels—a process now being facilitated by the President's National Commission on Fiscal Responsibility and Reform.

The Reduce Unnecessary Spending Act provides a new and important way for Congress and the President to ensure that taxpayer dollars are spent wisely. The Administration urges prompt and favorable consideration of our proposal, and we look forward to working with you on this matter in the coming weeks.

Chairman SPRATT. Thank you very much for your testimony. And, once again, thank you for coming today and for proposing this initiative.

There are still some features in the bill that are open to question in my mind. For example, 45 days it has allowed the Administration, those are 45 legislative days.

Typically it would be twice that many calendar days; would it not?

Mr. LIEBMAN. Yes, that could easily be.

Chairman SPRATT. That is three months which is a long period of time during which items in the budget could be rescinded.

Is there an empowerment problem here?

Mr. LIEBMAN. No. The purpose here is to have a very expedited process. And in most circumstances, one would not need 45 days.

The fear we had in trying to decide how long to put into this proposal was what happens if an Omnibus Bill comes in on December 20th, which is not that rare. And between the holidays and putting together the President's budget, we need time for our staff to go through the whole bill and find all the things that need to be rescinded.

So apart from that part of the year and that kind of Omnibus Bill, one would not need 45 days. So one thing one could do, which we did not do for simplicity, but you could do if you preferred it, would be to have a shorter time period, say 30 days, for general laws and the 45 day for Omnibus Bills or something like that so that one could have a much faster procedure for standard legislation rather than these big bills that come at the end of the year and may need appropriate amounts of time to—

Chairman SPRATT. We had this bill in the floor in the 1990s at least three times as I can recall. I was a floor manager twice, once with Ford and once on the Democratic side.

One of the ideas added to the bill by Charlie Stenholm, as I recall, was that you would guarantee the President an up or down vote on his resolution, but you would also be allowed to propose a congressional substitute, a pull-up substitute at least equal in amount to the President's proposal.

If the President's proposal were defeated, you could then vote upon the substitute. So Congress would have an incentive itself to go through spending and decide where it might be exorbitant or unnecessary or wasteful.

Do you have a problem with that idea?

Mr. LIEBMAN. I do not think so. I would have to see the details. But the point here is to work together to get rid of unnecessary spending and whatever procedures work for that, we're amenable to.

Chairman SPRATT. We have passed several tax bills, too, where there was widespread criticism that they would target benefits to limited numbers of taxpayers, substantial benefits, limited numbers.

And we offered something and passed it in the Government Operations Committee as it was called then which had jurisdiction of budget process which included targeted tax benefits. And the definition of that varied between ten and a hundred taxpayers. It was assumed that JCT could figure out which were limited to that few number of taxpayers.

Is there a reason that you did not include something like that in the bill and could you accommodate that idea as well?

Mr. LIEBMAN. Well, we share your interest in eliminating those kind of targeted tax provisions. But the challenge is that when one makes changes to the Tax Code, one often needs to make amendments to the statute and make legislative changes that are not simply a matter of taking a dollar amount and reducing it to zero or reducing it to a lower amount.

And so for tax provisions, tax provisions do not really fit into the very streamlined framework we have where the only thing that can happen is spending levels can be reduced. And so that is the reason we did not include it in this piece of legislation.

But if there is a way to apply a similar streamlined procedure to limited purpose tax provisions, we would be very much open to that. We just did not think it really worked given how we were trying to set up a way that could just simply reduce spending levels and do nothing else.

Chairman SPRATT. What about tax expenditures, irrespective of the number of beneficiaries, with a tax expenditure that is really using the Tax Code to promote some particular purpose or policy?

Mr. LIEBMAN. Yeah. Well, the Administration shares your interest in reforming tax expenditures. I think we eliminated or significantly reformed over two dozen provisions in our current budget. Those are typically proposals that actually need changes in legislative language.

So I do not think the kind of streamlined procedure we are talking about here works for that, but we very much think that tax expenditures need much more attention than they are getting right now in terms of reducing their use in bringing down the deficit.

Chairman SPRATT. Now, there are 12 different appropriation bills. Is the President seeking the right of rescission, power of rescission on each of those 12 so that it could be as many as 12 bills at the end of the fiscal year and the beginning of a new one?

Mr. LIEBMAN. Yes. On each bill, one would have the option of proposing a rescission package.

Chairman SPRATT. That would be the only bill for that particular bill, but still there would be 12, potentially 12. What happens if there is a supplemental or if there is a CR, continuing resolution? Would the President still have the power of rescission?

Mr. LIEBMAN. Yes. For any piece of legislation, within 45 days, one could propose rescissions.

Chairman SPRATT. Now, you have included something in your testimony about nonentitlement mandatory spending. Would you define and illustrate that for us?

Mr. LIEBMAN. So what happens sometimes is in an authorization bill, basically appropriations get accomplished just as they would in a standard appropriations bill, but a specific spending item will be provided for.

And in order to prevent there being a loophole in this provision where everyone simply shifts all their earmarks or their other wasteful spending to authorization bills, we wanted to make sure that direct spending that happens in authorization bills would be subject to the same procedures.

Chairman SPRATT. You also propose in this bill limited debate. To your way of thinking, what is limited debate? And does the legislator make the case to you that if I have got something in the bill that helps my particular jurisdiction that I worked hard to get through and believe that it will stand scrutiny if I can just get in the well of the House to explain it at adequate length, I do not want to be limited to one, two, or three minutes and unable to call supporting witnesses and supporting speakers and things like that, what do you think is fair debate for a single member with a single object?

Mr. LIEBMAN. I think we are willing to defer to you on that part of this bill. What we are trying to do is have a streamlined, fast-tracked procedure, something that cannot be filibustered in the Senate, something that will guarantee an up or down vote within a reasonable amount of time. But in terms of the exact time limits, we would absolutely be happy to defer to whatever your judgment is on that.

Chairman SPRATT. This is not a concern of the Administration because the President would like to have this authority, I am sure.

But Jim Wright used to tell us, Lloyd and the other Texans here, that if you really wanted to understand why a line item veto or expedited or enhanced rescission was a problem, ceding that much power to the President, you needed to serve under Lyndon Johnson.

From a Constitutional viewpoint, have you given any consideration to how you keep the scales evenly balanced at the same time we make this substantial rescission power to the president?

Mr. LIEBMAN. I think this proposal has been carefully crafted to preserve the existing balance of power. What it does is it gives the President who currently has the authority to propose legislation, the opportunity to propose an expedited rescission proposal, and then Congress which currently has the authority to alter its rules however it wants to deal with things on an expedited basis chooses to alter its rules to deal with these kinds of bills on an expedited basis.

And I think the way to think about this is it is a constructive tool for letting the President and Congress work together to go after wasteful and duplicative and unnecessary spending rather than as an attempt to change the balance of power.

Chairman SPRATT. Thank you very much for your testimony.

Mr. Ryan.

Mr. RYAN. Thank you. I will pick up where you left off, Chairman.

I have spent a lot of time on this issue over the years. When we wrote this bill originally four years ago, we consulted the attorney who successfully argued against the line item veto in 1996 at the Supreme Court to make sure that it is done in a way that is clearly Constitutional.

As a member of the Legislative Branch and a big fan of the Constitution, I very much am interested in preserving the Legislative Branch's prerogatives as separation of powers and not delegating law-making authority to the Executive Branch.

I think this bill does that, so I think the way this is written, and it is very similar to our bills, I think it fits that fine line on the timing issues.

We spent lots of time with your predecessor agency, with the OMB in the last Administration. You have to find a way to deal with the Omnibus appropriation bills that hold over over the break. So I think the point you made is very, very valid. Perhaps you elongate the time for Omnibus bills and then shorten it for everything else. Maybe that is a good compromise.

But, you know, a lot of the spending gets done at the end of the session right before we leave. It is an Omnibus Bill that is ten inches thick that none of us had time to read before voting on it. And I think you need to accommodate that. I think that is a pretty important point.

Another point that I think is the targeted tax benefits. You get into the tax expenditure area, that is doing tax policy. And there is a good argument that tax expenditures have gotten out of control. A lot of us serve on Ways and Means and that is a good policy argument, but I think you need to limit that one to limited and that is why we had this definition of ten people. And then, you know, some of those people will not think are earmarks, you know, the orphan drug tax credit or something like that. But that is something we ought to consider on its own merits.

But I do believe there is a lot of waste in the Tax Code that are very narrowed, very limited that is worth considering. And I think you ought to consider that.

One quick question. Why not make sure that the savings go to deficit reduction? Now, there is a way to do this which is you lower the 302A. If we ever get caps in place, you lower the caps by the amount. Supposing the other body does not do it, you have some kind of reconciling procedure in a conference to lower the A by the lower of the two amounts is what I would do or split the difference or something like that. Why not make sure that this savings goes to deficit reduction? What is your opinion on that?

Mr. LIEBMAN. The only thing that can happen through the enactment of one of these expedited rescission proposals is spending can get reduced. It can get reduced to a lower level or it can be eliminated altogether. That is the only thing that can happen under the President's proposal. You cannot introduce new spending into the—at the same time, you cannot alter legislative text.

Mr. RYAN. Right.

Mr. LIEBMAN. All you can do is reduce spending. So that is what we are trying to do here.

Mr. RYAN. From your perspective. But you understand how it works here. That frees up fiscal space within the allocation to be spent somewhere else.

Mr. LIEBMAN. We are happy to talk to you about what the best procedures are, but the goal here is to get rid of wasteful spending.

Mr. RYAN. Right.

Mr. LIEBMAN. And whether one needs to combine this with some other procedure or not to accomplish that, we are open to.

There is also, I think, an interesting question of whether one also wants to be able to use this tool in cases where the purpose is okay, but the way the money is being spent is wrong. So a very heavily earmarked approach to spending where there might be a merit-based way to do the same thing.

If you also want to be able to go after that and reallocate spending, then you might not want to be adjusting the allocations. But our main purpose here is to reduce spending. And so if it seems like this is not going to work for the reasons you suggested, we would be happy to have a discussion with you about that.

Mr. RYAN. Yes. Okay. So what I am trying to get is the Administration, I know it is not in your proposal, but you are not opposed and you are generally supportive of making sure that the savings goes to deficit reduction?

Mr. LIEBMAN. Absolutely.

Mr. RYAN. Okay. We have, it is not as good as what this proposal or this idea offers, but we already have existing rescission authority today, meaning the law has that. The President can send us a rescission bill. The Committee of jurisdiction, if they have not acted in 25 days, the bill can just be discharged if 88 members co-sponsor it.

I would like to include into the record a letter from Mr. Boehner and Mr. Cantor, two letters from Mr. Boehner and Mr. Cantor to the President if I may.

Chairman SPRATT. Without objection.

[The attachments follow:]

Congress of the United States
Washington, DC 20515

February 4, 2010

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Ave, NW
Washington, D.C. 20500

Dear Mr. President,

The federal government is facing a fiscal crisis. Record levels of deficit spending are a direct threat not only to the prosperity of future generations, but also to our economic recovery. Unfortunately, rather than facing our fiscal problems head-on, there is a temptation for Washington to be Washington and offer little more than rhetorical lip service to the problem.

Here in the House of Representatives, there is no shortage of opportunities to vote on bills increasing spending or creating new programs, but very seldom do we consider bills to actually reduce spending or eliminate programs. Since increasing the debt limit by \$290 billion on December 16, the House has not considered one bill to reduce the national debt. And now the House has voted to increase the debt limit by another \$1.9 trillion. We believe America can no longer afford to have its elected representatives delay action on proposals to reduce excessive spending.

Mr. President, we have a number of procedures at our disposal that can become powerful tools in the fight to control spending. For example, a unique process was created in the Congressional Budget and Impoundment Control Act of 1974, whereby the President may propose specific spending reductions and those proposals would be subject to special consideration in the House and Senate. Specifically, if the proposals are not acted on by the relevant committee of jurisdiction within 25 days of introduction, one-fifth of the House (88 Members) may act to bring a motion to discharge the committee before the House. This procedure effectively ensures that Congress cannot simply ignore the President's proposals to reduce spending.

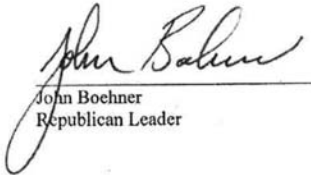
As part of your Fiscal Year 2011 Budget, you propose to terminate 47 discretionary programs and to reduce spending for an additional 26 programs -- a notion we applaud. You estimate that your proposals would save taxpayers \$10.3 billion next year. We support most of your proposed terminations and reductions, but oppose some that we believe are misguided, such as terminating funding for nuclear waste storage at Yucca Mountain. But while we may disagree on some specific recommendations, we firmly believe that Congress can no longer delay the debate over specific measures to reduce spending. In years past, any House Member could offer amendments during the appropriations process to achieve these goals. Unfortunately, when Speaker Pelosi ended the 220-year tradition of an open amendment process on spending bills, the opportunity for a meaningful debate on spending evaporated.

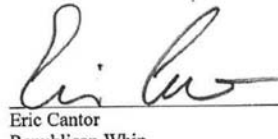
Therefore we ask you to send up for each discretionary program termination or reduction included in your budget a discrete, specific message under the terms of the Impoundment Control Act to rescind the funding already provided for Fiscal Year 2010. In turn, we will introduce each proposal as a stand-alone bill. And should the appropriate committee fail to act on each bill, we will move to discharge the committee and bring the bill before the House. We cannot guarantee you that each of your proposals will enjoy the support of 218 or even 88 Members, but we believe many of them will and, more importantly, we believe that Congress at least ought to debate each of your proposals to reduce spending.

Simply put, by acting together, we can take a meaningful step towards achieving real savings for taxpayers now rather than waiting until next year.

We stand ready to discuss this proposal with you at your convenience.

Sincerely,


John Boehner
Republican Leader


Eric Cantor
Republican Whip

JOHN A. BOEHNER
DR. C
 REPUBLICAN LEADER



WASHINGTON OFFICE
 400 HILL BUILDING
 WASHINGTON, DC 20515
 (202) 225-4000

Congress of the United States
 House of Representatives

May 4, 2010

The Honorable Barack Obama
 President of the United States
 The White House
 Washington, D.C. 20500

Dear Mr. President,

Three months ago, we sent you a [letter](#) inviting you to use your presidential rescissions authority to force votes in Congress on spending cuts, and pledged that if you do this, Republicans will stand with you and deliver the votes needed to ensure these spending cuts are debated in the House of Representatives. We are disappointed that to date, you and your administration have not responded to this opportunity for immediate bipartisan action to begin reducing spending in Washington.

The American people want less spending out of Washington. They recognize that out-of-control spending in Washington is hurting our nation's economy and impeding private-sector job creation across the United States, echoing a point made by more than 200 American economists in a recent letter to your administration. Unfortunately, Washington hasn't been listening.

Since the beginning of this year, the U.S. House of Representatives has considered 960 largely inconsequential bills under suspension of the rules, including 62 resolutions honoring sports teams and/or colleges, and 62 measures naming post offices and/or federal buildings, but no meaningful action has been taken to reduce net federal spending (the recent health care overhaul cut Medicare by hundreds of billions of dollars, and spent the money on a federal new entitlement program). Instead, government spending has continued to spiral out of control, and Congressional Democrats are now signaling they won't even pass a budget this year, instead opting to leave federal spending on autopilot for the coming year, complete with automatic spending increases that will put future generations of Americans even deeper in debt.

As we noted in our February 4 letter, as president, you have the authority under the Impoundment Control Act of 1974 to submit specific proposals to Congress rescinding spending that is already in place. By exercising this authority, you can force Congress to debate, for example, the spending reductions you proposed as part of your budget proposal for the coming fiscal year. We have pledged that if you send such rescission proposals to Capitol Hill, we will

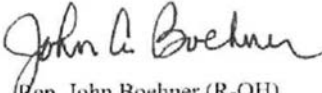
introduce each proposal as a stand-alone bill in the House and work with you to provide the 88 co-sponsors necessary to force floor votes on these rescission bills.


Since 1974, presidents have used rescissions authority to propose the elimination of approximately \$76 billion in unnecessary federal spending. Your budget proposal for the upcoming fiscal year included a list of proposed spending cuts that could be enacted this spring through the rescissions process. In a letter we sent to you last June, we identified additional cuts that could be considered, totaling approximately \$375 billion.

Respectfully, Mr. President, if you have determined that you will not use your presidential rescissions authority to force Congress to make spending reductions, the American people deserve to know why, particularly at a time when most Americans recognize that Washington's excessive spending is hampering the creation of new private-sector jobs. The bipartisan commission you have established to discuss solutions to the nation's growing debt crisis will not make recommendations until the end of the year, and even then the panel's recommendations are non-binding. There is no reason we cannot work together on a bipartisan basis right now to make preliminary reductions in federal spending while the debt commission conducts its discussions. Similarly, it is not too late for a rescissions package to be included in the supplemental appropriations bill, which is still being crafted by Democratic leaders on Capitol Hill at the time of this writing.

Thank you for your consideration of our invitation. We remain hopeful that we can work together in the coming days and weeks on a common-sense package of spending cuts that will serve as a model for the much more dramatic spending reductions that are needed to restore fiscal responsibility in Washington.

Sincerely,


Rep. John Boehner (R-OH)
House Republican Leader


Rep. Eric Cantor (R-VA)
House Republican Whip

Mr. RYAN. What we are trying to tell you is, and I understand the OMB Director said the other day it comes down to a question of whether it is a fruitless exercise or not, we are extending the olive branch. We need to cut spending now. And we are telling you we will get the 88 co-sponsors you need to make sure that your rescission requests are acted on here in the House.

So, please, send us some spending cuts. This is not a fruitless exercise. You will have the support you need if you are sincerely interested in cutting and rescinding spending.

What say you about that?

Mr. LIEBMAN. Well, in our last two budgets, we proposed—

Mr. RYAN. No. But now. I know in your budgets—

Mr. LIEBMAN. No. Let me be clear. We proposed \$20 billion in terminations and reductions through the appropriations process. We accomplished an historic amount. Sixty percent of the discretionary cuts actually happened.

Mr. RYAN. I understand all that.

Mr. LIEBMAN. So we think that, you know, where should we spend our energy in the next six or eight weeks to control spend-

ing, it is in making sure this year's appropriation bills stick to the freeze and that they cut these unnecessary programs.

And as you know, floor time is very precious, especially in the other body. You introduce one of these proposals. It gets amended. It goes on and on. What we want to do is control spending and we think that right now the best way to do it is through the regular appropriations process. But we need this tool that we are proposing today so that we can guarantee an up or down vote when we send up such a—

Mr. RYAN. All right. So you are not going to do it is what I am getting.

I would just simply say, first of all, the appropriations process is for the next fiscal year, not the current fiscal year. We have been on an enormous spending binge. Domestic discretionary spending has gone up in this session of Congress 84 percent.

I would like to think we could find some savings somewhere in this fiscal year to rescind spending to just show the credit markets, if anything, you know, we are getting serious about this stuff. But it sounds like the effort is not going to be expended.

Last thing I want to ask you—well, I guess the last thing I would ask you is let us try and work together to get this thing done the right way. I want you to know that we are sincerely interested in doing that.

The timing issues, I think that can be banged out to a mutually satisfactory level. The limits of debate, I think it is ten hours in the Senate, which I know it seems like a nanosecond in the Senate terms, but that is plenty I would argue over there in the Senate.

This is a good start, a good proposal. I think if we just finish the job of getting it to deficit reduction, that would be helpful.

Lastly I want to ask unanimous consent to include in the record a statement that Senator Feingold asked me to insert. Is there objection on the other side of the aisle to that?

Chairman SPRATT. Without objection.

[The prepared statement of Russ Feingold follows:]

PREPARED STATEMENT OF HON. RUSSELL D. FEINGOLD, A U.S. SENATOR
FROM THE STATE OF WISCONSIN

Mr. Chairman, thank you for permitting me to offer testimony as part of your Committee's hearing on the President's expedited rescissions proposal, more commonly referred to as his line item veto bill. I was pleased to join with Senator Tom Carper (D-DE), Senator John McCain (R-AZ), and others to introduce that legislation in the Senate as S. 3474, the Reduce Unnecessary Spending Act of 2010, and I very much hope we can enact that measure this year to give us another tool to go after wasteful spending.

Just a few weeks ago, I chaired a hearing of the Senate Judiciary Committee's Constitution Subcommittee at which this proposal and similar proposals were reviewed, and I am pleased to say that the consensus of that hearing is that the bill you are reviewing today is clearly constitutional.

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, as our legislation is, can help us get back on track.

Mr. Chairman, I have been working on this issue for some time now, and have been pleased to partner with my colleague from Wisconsin, the Ranking Member of

this Committee, Congressman Paul Ryan, on a bill strikingly similar to the President's proposal. Congressman Ryan and I belong to different political parties, and differ on many issues. But 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.

Earlier this year, in a critical moment in the evolution of this proposal, Congressman Ryan raised the line item veto issue directly with President Obama at a meeting in Baltimore, asking him to consider the legislation he and I had introduced. I don't think there is any doubt that the Congressman's comments helped develop the Administration's thinking in this area, and helped lead to the proposal the President made just a few weeks ago. I know the bill before you today may not be everything he wants to see in a line item veto measure, but Congressman Ryan's efforts have been absolutely central to the bill we are now considering, and I very much appreciate his dedication to this issue.

Mr. Chairman, the bill before you today, like the one we have introduced in the Senate, is a significant step forward in our efforts to provide the President with the kind of authority needed to cut wasteful spending. It provides the President the ability to get quick and definitive congressional action on cuts to individual programs in large spending bills.

Currently, the President must choose between vetoing a bill in its entirety, or signing it and possibly enacting billions of dollars of wasteful spending. With this bill, and the one we introduced in the Senate, the President will have a third option—signing a spending bill, but then submitting a package of proposed cuts from that spending bill to Congress for quick review. The package of cuts proposed by the President will get an up or down vote in the House and, if it passes there, an up or down vote in the Senate.

Mr. Chairman, our line item veto bills cover earmark discretionary spending as well as broader non-entitlement spending accounts. The measure excludes entitlement spending and tax expenditures from the expedited rescission approach. Spending done through entitlements and tax expenditures make up an enormous amount of the total spending done by the federal government. However, unlike the programmatic spending done in discretionary programs, where cuts can be made by zeroing out or reducing a number for a specific account, reducing spending in entitlements or tax expenditures often requires a change in the underlying policy. Indeed, Congress already has a fast-track procedure designed specifically for considering legislation that reduces spending done through entitlements and tax expenditures. It is called reconciliation, and it was used effectively in the 1990s to reduce the deficit.

As I mentioned, a key target of this new line item veto bill is the unauthorized earmark spending that too often finds its way into large appropriations bills. Earmark spending was what Congressman Ryan and I targeted in our line item veto proposal, and it is the example every line-item veto proponent cites when promoting their legislation.

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.

Unauthorized congressional earmarks are a serious problem. We won't solve our budget problems just by addressing earmarks, but if we are to get our fiscal house in order, eliminating earmarks has to be part of the solution. For all the lip service Congress pays to this issue, there are still thousands of earmarked spending provisions enacted every year. Just last year, the Omnibus Appropriations bill for FY 2009 passed in March of 2009 contained more than eight thousand earmarks costing \$7 billion, and the Consolidated Appropriations bill for FY 2010 passed in December of 2009 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 given the unwillingness of Congress to discipline itself in this regard, it is appropriate to provide the President some additional authority to seek an up or down vote in Congress on proposed cuts in this area of spending.

Mr. Chairman, some will argue that the President's line item veto proposal is not a cure-all, and they are right. We will not balance the budget just by passing a line item veto-like authority for the President. Nor will we balance the budget just by eliminating wasteful earmark spending. But we can make real progress in getting our fiscal house in order, and in changing the culture of Washington which over the last two decades has seen an explosion of spending done through unauthorized earmarks that circumvent regular congressional review and the scrutiny of the competitive grant process.

Like the measure Congressman Ryan and I introduced, under the President's proposal, wasteful spending doesn't have anywhere to hide. It's out in the open, so that both Congress and the President have a chance to get rid of wasteful projects before they begin. The taxpayers—who pay the price for these projects—deserve a process that shows some real fiscal discipline, and that is what this legislation promotes.

President Obama recognizes the pernicious effect earmarks have on the entire process. When he asked Congress to take the extraordinary step of sending him a massive economic recovery package, he knew such a large package of spending and tax cuts would naturally attract earmarks. He also recognized that were earmarks to be added to the bill, it would undermine his ability to get it enacted, so he rightly insisted it be free of earmarks.

I am delighted he has stepped forward to propose a new line item veto-like authority, and I am especially pleased to have joined with Senator Carper and others in introducing that proposal in the Senate, and to be working with you, Mr. Chairman, as the principal author of this measure in the House.

Thank you again for allowing me to offer testimony before your Committee today.

Mr. RYAN. All right. Thank you.

Chairman SPRATT. Mr. Doggett.

Mr. DOGGETT. Thank you very much. I appreciate your professed concern about unnecessary expenditures and I am reviewing what you propose to address it. But I am unequivocal in my concern and objection to what you and the Office of Management and Budget have not addressed in the way of expenditures.

As you well know, the amount of tax expenditures, the tax expenditures that are basically entitlement spending since they are outside of the budget process, are approximately the same as all of the discretionary spending that comes through this Committee.

Just to give you an example of the way this process is working today, in consideration over in the Senate, if you were to come on behalf of the Administration to this Committee and ask us to write a check or through the appropriations process for \$38 million for this year only to NASCAR, if you were to come and say that these big Wall Street banks that control 60 or 70 percent of our economy are just barely skimping by, can only afford to pay a few hundred million dollars in bonuses to their top executives, and so we need to write them a check for a billion, a couple billion, maybe even \$3 billion because of their overseas operations, you would be laughed out of this room.

And, yet, that is exactly the position that the Administration and a majority of this Congress, certainly not me, have taken with reference to the Extenders Bill because those provisions are in there as tax expenditures to do just that even in this rough economy.

I have raised this concern about tax expenditures with the Office of Management and Budget when Dr. Orszag was here in March of 2009, I raised it when the Deputy Director of OMB was here in November, I raised it again this year when Dr. Orszag came, that as far as evaluating tax expenditures, this Administration was doing nothing other than taking a Xerox machine and copying the language of nonengagement that the Bush Administration had in its last budget.

Since Dr. Orszag was here before this Committee in February of this year, has the Office of Management and Budget done a single thing to advance the cause of evaluating tax expenditures which keep going up?

Mr. LIEBMAN. We have been working hard in analyzing tax expenditures. I think in the table in the chapter of the budget that you are referring to, there are 173 tax expenditures and there are

more than 20 that in our current budget we propose to either end or to significantly reform.

We propose to eliminate 12 different tax expenditures for fossil fuel producers. We propose to cap Schedule A deductions.

Mr. DOGGETT. We can discuss the merits of your budget proposal. We had that when Peter was here in front of the Committee in February. But there was no evaluation process going on and no reason to believe that next year when we get the budget that that table and that evaluation process will be any different than it was when the Bush Administration left office.

What, if anything, is the, other than a couple, three, twenty provisions that you propose to eliminate, what has been done since February to get into serious and critical evaluation of these tax expenditures?

Mr. LIEBMAN. With all due respect, the way we come up with the specific proposals, the over two dozen proposals to either eliminate or reform these tax expenditures, is through doing careful analysis of these just as we do with other budget provisions. And as we go through the year and as we get toward the next budget, we will continue to study ways—

Mr. DOGGETT. Is there any reason to believe that we will see an appendix to the budget as far as evaluation of all of these provisions that will look any different next year than it did this year or last year or in the last year of the Bush Administration?

Mr. LIEBMAN. Again, that chapter of the budget goes through and really the chapter next to it on our tax policies goes through the changes we have proposed to lots of tax expenditures and explains our rationale for that.

Mr. DOGGETT. You are talking about specific provisions and I am talking about a critical evaluation process that looks at tax expenditures the way we look at direct expenditures. And it sounds to me like the answer is not anything.

On May the 24th, when Dr. Orszag had his conference call about this particular proposal, he indicated that you were open to the idea of covering some of these tax breaks. Both the Chairman and the Ranking Member, in fact, the Chairman, when he introduced a proposal similar to this in prior years included at least some of the special interest tax breaks that were in there.

Has anything happened since that declaration of openness about tax benefits or is the attitude of the Administration that it does not want to deal with tax at all in this proposal and does not have any other proposals to deal with the rescission or even the evaluation of tax provisions?

Mr. LIEBMAN. If there is a way to preserve the streamlined up or down process, fast-track procedure that this legislation is meant to achieve and to include tax provisions, we are all for it.

But the question is whether one can simply eliminate levels of tax provisions without having to rewrite the Tax Code. And many tax provisions interact with each other. And so in order to get rid of them, you have to not only zero them out, you have to change alternative parts of the Tax Code.

And once you are into that kind of legislative drafting, we fear that one would lose the fast-track ability to get a vote quickly, just

have an up or down vote. But if there is a way to do it, we are completely open to that.

Mr. DOGGETT. Well, we kind of look to you for proposals of ways to do things. And I gather you do not have one this morning. And as long as we continue to draw this distinction and add to limitations on direct expenditures but do not apply them to tax expenditures, we will have more and more \$38 million unnecessary and unjustified expenditures to NASCAR.

Thank you.

Chairman SPRATT. Thank you, Mr. Doggett.

Mr. Djou.

Mr. DJOU. Thank you, Mr. Chairman.

Dr. Liebman, a few quick questions. First off, I like this proposal. It is good. Anything to reduce the overall spending I think in our federal government is a positive thing.

But I have a few questions to begin with, and that is, could you explain to me the Administration's position on line item veto and why—actually, what is the Administration's position on just going forward with line item veto?

Mr. LIEBMAN. The line item veto, at least as it was enacted in the 1990s, was determined by the Supreme Court.

Mr. DJOU. A Constitutional amendment to adopt the line item veto.

Mr. LIEBMAN. I see. I am not sure that we have a formal position on that. I mean, we think that the proposal we have before us is the best way to move forward because it preserves the existing balance of power.

Mr. DJOU. Okay. So the Administration is neutral on a Constitutional amendment to line item—

Mr. LIEBMAN. I do not know that we have explicitly had a discussion around it. I will have to check.

Mr. DJOU. Okay. All right. A few other questions.

Chairman SPRATT. Will the gentleman yield?

Mr. DJOU. Yes, Mr. Chairman.

Chairman SPRATT. There was a line item veto proposed in the mid 1990s, mainly by Republican supporters, and it was held under the Constitution.

Mr. DJOU. So I am asking the Obama Administration's position on a Constitutional amendment—

Chairman SPRATT. Oh, I beg your pardon. Okay.

Mr. DJOU [continuing]. For a line item veto. Thank you, Mr. Chairman.

A few other quick questions, Dr. Liebman. Whether or not this rescission proposal passes, will the Administration voluntarily comply with it and submit proposals for rescission whether or not—because you can do it anyway?

I mean, the Administration can submit these even if this measure does not pass. And it is up to the Congress. I mean, at least so the public can understand what the Administration believes should be cut in a budget.

So will the Administration voluntarily comply with its own proposal whether or not this legislation eventually passes the Congress?

Mr. LIEBMAN. Well, we have a current mechanism for us indicating which proposals should be eliminated and that is the termination and reduction line of the budget. So that is the first step we take.

Then we try through the appropriations process to get those provisions eliminated. And we are working on that at the moment now.

You know, whether at a particular point in time an expeditious rescission package is or is not the best way to go about getting after wasteful spending will determine, you know, depend on the circumstances. But we very much are dedicated to finding ways to eliminate duplicative and wasteful and unnecessary spending.

Mr. DJOU. I am going to try and pin you down here a little bit. So the Administration likes this proposal. I like this proposal. I do not think you actually need a law from Congress.

Nevertheless, after the appropriation bills are done for the Administration to come back and say these are the programs we think should be eliminated from the budget, will you do that regardless of whether this bill is passed?

Mr. LIEBMAN. Well, we have already indicated which programs we want eliminated from the budget. In terms of whether we would make a formal rescission request under the existing rescission authority, we are concerned that when one does that, one does not get an up or down vote and that it basically—

Mr. DJOU. Right, right. I know that that is a—

Mr. LIEBMAN [continuing]. Sets up a fruitless process. So, you know, we want to work at any point in time in whatever the best way is to accomplish the terminations and reductions that we have proposed.

Mr. DJOU. No, I know you are not going to get an up or down vote because you need this law. What I am saying here is will you do it anyway? Will you put a proposal so the American people can see what the Administration would have wanted to have cut anyway regardless because I think highlighting the spending is oftentimes as powerful as actually the legislative act itself? So I want to know, will the Administration comply with this proposal whether or not it passes Congress?

Mr. LIEBMAN. And the way we tell the American people what we want to cut is the volume of the budget that has terminations and reductions.

At times, for example, on some of the weapons systems that the Defense Department thinks should be eliminated, we will indicate that the President's advisors are issuing a recommendation of a veto if those things are included in bills.

So we have a lot of techniques to go after wasteful spending. And at any point in time, we will use the technique that we think is likely to be most effective.

Mr. DJOU. Okay. Last follow-up question then and that is earmarks. Will the Administration, should this measure pass, will you use it on Congressional earmarks?

Mr. LIEBMAN. Yes. One of the things that this is meant to do is to go after programs that are heavily earmarked and have there be a way to work with Congress to reduce the level of earmarks.

Mr. DJOU. Because I am new, could you explain quickly the Administration's position generally on budget earmarks?

Mr. LIEBMAN. Sure. I mean, in general, our position is we need to significantly reduce earmarks.

Mr. DJOU. What is significantly reduce? Cut it by 90 percent?

Mr. LIEBMAN. I do not think we have used a specific number. I think if you look at the history, you know, there was a real surge in earmarks starting in 1995 going through about 2006.

In the last two Congresses, there was in the first of those two Congresses a big movement toward transparency that Senator Obama played a big role in bringing about. In the last Congress, in the last two years, we have brought down significantly the number of earmarks, as I mentioned in my opening statement, by 27 percent last year.

So we have made good progress, but we need to make more progress. And, you know, we hope we will make more progress in this year's appropriation bills.

Mr. DJOU. Thank you.

Thank you, Mr. Chairman.

Chairman SPRATT. Mr. Berry.

Mr. BERRY. Thank you, Mr. Chairman.

Mr. Liebman, the President already has the authority to veto a bill; is that not right?

Mr. LIEBMAN. Absolutely.

Mr. BERRY. And I fail to see how this proposal maintains the balance of power. It seems to me that it does give the President an advantage when it comes to deciding how the money is spent. And right now that is clearly delineated in Article 1, Section 9 of the United States Constitution.

Do you agree with that?

Mr. LIEBMAN. I certainly agree that that is the right article to look at. I think that this is crafted to preserve the balance of power. What it does is the President sends up a piece of legislation which certainly the Constitution provides for and Congress chooses to set rules such that that legislation gets treated in an expedited way which Congress has done for other fast-track procedures. So I do not think there is anything that fundamentally upsets the balance of power here.

Mr. BERRY. Well, it forces the Congress to take action which they had an option to either take action or not take action otherwise.

Mr. LIEBMAN. It lets Congress choose to amend its rules to do so, yes.

Mr. BERRY. No. It forces us. If this bill you are talking about passes, it forces us to deal with your proposal.

Mr. LIEBMAN. The purpose is to require an up or down vote, absolutely.

Mr. BERRY. Right. You talked about earmarks. How much of the discretionary budget is earmarked by the Administration?

Mr. LIEBMAN. We do not earmark proposals. There are some specific things in the budget that are, for example, at a specific location, but those all come from either competitive or merit-based procedures. So, you know, we do not have earmarks per se in our budget.

Mr. BERRY. I would take great exception to that. I do not believe it. It seems to me that the Administration is of the opinion that they know better how to spend money than we do.

Mr. LIEBMAN. That is not our point here. Our point is to let Congress and the President work together so that we can have a way to get rid of wasteful spending.

Mr. BERRY. When was the last time the Office of Management and Budget had a conversation with a member of Congress about how to spend money?

Mr. LIEBMAN. Certainly several times a day we are talking with Congressional offices.

Mr. BERRY. How is it going?

Mr. LIEBMAN. Some go well, some go less well.

Mr. BERRY. Well, I would like to register my opposition to this idea that we give any President more authority over the spending process.

Now, I can agree that we have not as a Congress for a long time have not done a real great job. It has been interesting to me to see my colleagues across the aisle since the election of 2008 suddenly have this attack of fiscal conservatism. And I am glad they did. I wish they had gotten the religion a little sooner, a few years before that.

Mr. RYAN. Will the gentleman yield?

Mr. BERRY. No.

But how this solves any of our problems is beyond me. You know, if I had room in my shirt for the city of Chicago, I would not be in favor of giving any President any more power than they already have. And so I want to formally register my opposition to this whole idea.

And I thank you.

Chairman SPRATT. Any members on your side? Mr. Austria is not here.

Ms. McCollum.

Ms. MCCOLLUM. Thank you, Mr. Chair.

This country and this Committee is well aware that we are facing a budget crisis of historic proportion. And in light especially of the European debt crisis, no one thinks the federal debt and deficits are problems America can face are going to go on much longer.

Today the national debt is over \$13 trillion. Congressional earmarks did not dig that hole and reducing earmarks will not get us out of it. This budget crisis calls for decisive solutions.

Now, this proposal sounds attractive, but ultimately offers little help and may actually make our problem worse. And I am going to give an example.

This is similar to what you are requesting, similar to a process that was just recently used in Minnesota where the Governor has line item veto. The state budget is in its worse crisis in 50 years, if not more. The Governor made cuts using his authority to cut transit, healthcare, universities, and other investment areas where in particularly the Governor did not get very many votes.

A much stronger version of this proposal I believe is being discussed today and it has failed to deliver back home in Minnesota any promise of fiscal responsibility in my State.

So I want to be clear, Mr. Chairman. I am serious about tackling the budget crisis. I stand prepared to make the difficult decisions ahead. I have not hesitated to make them in the past. I supported Pay As You Go. I voted against President Bush's tax cuts in 2001 and in 2003. And I am ready to vote against extending them.

I am an original co-sponsor of Chairman Obey's legislation to create a war tax to pay for the cost of the war in Iraq and Afghanistan.

I have never supported the expansion of rescission authority because I believe it is a clear violation of the separation of powers in the Constitution and it is not a real solution to fiscal challenges.

I want to make clear. I did not support this idea under President Bush and I do not support it now.

And part of what I am hearing from your testimony is that there are problems in the other body getting up and down votes. I do not see changing the Constitution or the House's responsibility to solve a problem that is in the Senate rule making is a very wise decision.

As has been pointed out, the President already has holds and sufficient power to restrain spending. He submits budget requests. He has veto power and he already has the ability to submit rescission proposals to Congress.

Now, this new authority and this legislation in my opinion starts to become a blank check. So here are my points that I would like to have for discussion.

Under this legislation, could the President include farm subsidies, highway funding? Tax extenders we hear are not going to be possible in this package of rescissions. And I am also interested in hearing about other proposals being discussed.

For example, is there any discussion in OMB about ending the practice of requesting funds in the President's budget that are not authorized by Congress?

Mr. LIEBMAN. Well, Congressman, I first want to agree with you that this is only one and frankly a small part of what we need to do to get the deficit under control. But I think it is an important tool and along with statutory PAYGO that we were pleased to work with Congress to enact along with the President's proposed discretionary freeze. I think it is a tool that will be valuable in helping us reduce deficits.

As you correctly said, there are large classes of spending that this would not apply to. And that is why we need other tools. That is why statutory PAYGO was important on the mandatory side. It is why the fiscal commission is important. It is why the President put more than a trillion dollars of specific deficit reduction proposals in his budget.

But I think this is an important tool because so frequently one gets a very big bill of which 95 percent, even more of it, can be important—

Ms. MCCOLLUM. Sir, my time is limited. Would you answer my second part of the question because I have heard your comments before.

The President when he supports his budget proposal moving forward quite often asks for money for programs that are not authorized by Congress.

Is the President prepared to not do that? President Bush did the same thing as well. I am not singling out President Obama. Presidents have done this, asked for money for programs that have not been authorized. What is your position on that?

Mr. LIEBMAN. Well, in our budget, we often request authorization for new things. So, I mean, if we think there is a piece of legislation that needs to be introduced, even if Congress had not moved first, we will often put such a proposal in the budget.

Ms. MCCOLLUM. Thank you, Mr. Chairman.

You know, I appreciate the discussion here. I think it is important to have. And I appreciate the fact that you said that when the President puts forward their spending ideas that it is competitive based and merit based. So are my legislative directives of spending, i.e., earmarks.

Thank you, Mr. Chairman.

Chairman SPRATT. Thank you.

Mr. SCOTT.

Mr. SCOTT. Thank you, Mr. Chairman.

Dr. Liebman, I notice the title there was Reduce Unnecessary Act of 2010. How does the bill define unnecessary?

Mr. LIEBMAN. I think there are a range of policies that would be in that category. There are programs that duplicate other programs, so we are running similar programs in two different agencies and maintaining the overhead of both.

Mr. SCOTT. Is that defined in the bill? Does the bill define unnecessary?

Mr. LIEBMAN. No, it does not.

Mr. SCOTT. If the President lists spending that Congress determines is necessary and some unnecessary, what option does Congress have?

Mr. LIEBMAN. They can either vote for the proposal or they can vote against it.

Mr. SCOTT. So they would have to vote against necessary spending? They would have to take it or leave it? They would have to actually vote against necessary spending? You would have up or down—

Mr. LIEBMAN. It is a single package. It is a single package.

Mr. SCOTT. Now, are all—

Mr. LIEBMAN. And to—

Mr. SCOTT. Are all Congressional earmarks presumed to be unnecessary, but earmarks proposed by the Administration presumed to be necessary and merit based?

Mr. LIEBMAN. No. There are Congressional earmarks that are good programs and good uses of funds and there are ones that are bad uses of funds.

Mr. SCOTT. Now, in your statement, you said that the Administration made a priority of identifying and cutting unnecessary spending, proposing approximately \$20 billion in terminations, reductions, and savings for fiscal year 2010 and 2011. That is \$20 billion.

Can you remind me what the deficit was in those two fiscal years.

Mr. LIEBMAN. That has been about ten percent of GDP in the last couple years.

Mr. SCOTT. Compared to \$20 billion, what is the number?

Mr. LIEBMAN. One point five trillion.

Mr. SCOTT. Are you talking about this proposal has the potential of addressing what, one or two percent of the deficit?

Mr. LIEBMAN. It is true. But it is not just about reducing the deficit. We have other aspects of our plan.

Mr. SCOTT. Okay. Well, in the early 1990s, we were able to make the tough choices to actually balance the budget. I mean, 100 percent of the deficit, just knock it out.

This only deals with one side of the equation, that is spending. It does not deal with taxes at all as I understand it. When we balanced the budget, we cut spending and increased taxes, did both.

If we are willing to make those tough choices, we obviously do not need this. And if we are not willing to make the tough choices, will this make any difference?

Mr. LIEBMAN. Well, I agree, first of all, that this is only one component of what we need to reduce the deficit. But even if we had surpluses, I think this would be an important proposal because it is important that we go after unnecessary and wasteful spending regardless of the level of the budget.

And so having a way so that when low-value spending is tacked on to a large bill, to be able to separate it out and give Congress the option of voting to get rid of it I think is a very valuable tool.

Mr. SCOTT. Well, I think we and some others have suggested that the President is not restrained by present law to veto a bill and suggest if you take these out, I will sign the bill. All we would have to do is just reprint the bill and pass it and send it back. We can essentially do what is in the bill now.

Has the President tried that?

Mr. LIEBMAN. I think the veto is a very blunt tool. You often have a piece of legislation that is essential, needs to get passed soon. And you run up against the question of whether one vetoes a whole bill over a limited part of the bill that is problematic.

And I think members of Congress face the same issue whether you vote for or not vote for a bill that you like the bulk of, but there are some things you do not like.

Mr. SCOTT. Well, and put us in that box when you send a rescission package that we have to vote up or down and cannot consider the good parts and bad parts.

I mean, this whole bill creates that box; does it not?

Mr. LIEBMAN. Well, I think one of the constraints that will operate on the President in proposing such a rescission package is that if he proposes one that has things are not wasteful spending in it, it is going to go down. And so that will provide a strong—

Mr. SCOTT. Well, it may go down or may not. It may have a lot of wasteful spending and may have a lot of a little bit of good spending on a balance. You have to vote it up or down.

Lyndon Johnson's name has been mentioned. Could you explain what Lyndon Johnson would do with a bill like this?

Mr. LIEBMAN. I think I would probably defer to people on the panel here as the experts on the new—

Mr. SCOTT. Well, how does it change the balance of power of Congress and the power of the President to coerce Congress into taking unrelated action?

Mr. LIEBMAN. I think what this does is it allows the President and Congress to work together to go after unnecessary spending. This is really not about coercing anybody.

Mr. SCOTT. The President would not coerce members of Congress into taking unrelated action by using this rescission package?

Mr. LIEBMAN. No. I think you have seen in our terminations and reductions volumes that we have proposed, we go after broad classes of spending that we think are—

Mr. SCOTT. So if the President needed a vote on an unrelated bill, he could say that I will leave your earmark alone or I will put it in the package? He would not do that?

Mr. LIEBMAN. The purpose here is not to do anything like that. The purpose is to—

Mr. SCOTT. Is that in the bill prohibiting the President from using that kind of coercion?

Mr. LIEBMAN. All this bill does is allows the President to propose a set of unnecessary spending and let Congress then decide what to do with it. Not to mention it is no different than being able to have the President send up a piece of legislation at other points in time that single out a particular member's projects. And we do not see that very frequently because I think there are good social norms that require the President and Congress to work together that prevent that kind of thing from happening.

Mr. SCOTT. Thank you, Mr. Chairman.

Chairman SPRATT. Thank you, Mr. Scott.

Mr. Schrader.

Mr. SCHRADER. Thank you, Mr. Chairman.

I am a big supporter of this bill. I think this is another tool in the toolbox that is definitely very, very, very needed. And I think the balance that is struck in this bill retains clear legislative authority over spending. The President may propose and the Congress can dispose of any recommendation that comes as a result of this bill.

I guess a couple of specific questions though. One would be during the time that a particular program is targeted for potential rescission, what happens to that money? What is the Agency going to do be doing in that interim?

Mr. LIEBMAN. The President has the option of telling an Agency to withhold spending that money until Congress has a chance to act during the 25 days because you would not want to have a procedure where an Agency has started setting up a program and then a few weeks later, Congress chose to end that program. So it allows that spending to be withheld for those 25 days.

Mr. SCHRADER. Then the only other question I had, a follow-up of Mr. Ryan's line of questioning and interest, am I to understand based on your responses that the Administration be friendly to an amendment that the dollars that actually did make it through the rescission process supported by Congress, that there be a possibility for an amendment to use that money solely to reduce the deficit as opposed to being spent elsewhere?

Mr. LIEBMAN. We would be happy to talk about that because, again, our purpose here is to reduce the deficit and to reduce spending.

Mr. SCHRADER. I yield back, Mr. Chair.

Chairman SPRATT. The gentleman yields back.

Mr. Becerra.

Mr. BECERRA. Thank you, Mr. Chairman.

Mr. Liebman, let me thank you for coming here and trying to help us understand the proposal from the President.

I am somewhat puzzled that you would be here now talking to us about the proposal without being able to define what would be unnecessary spending. And I am wondering if that is a sign that you all have not thought the proposal out, thought it through thoroughly, or it is that you would rather have it be vague to be able to decide what is considered unnecessary.

Mr. LIEBMAN. I do not think it is that we cannot define it. It is that—

Mr. BECERRA. Okay. So can you define it?

Mr. LIEBMAN [continuing]. It applies to a broad set of types of programs.

Mr. BECERRA. Okay. So let us—

Mr. LIEBMAN. It could apply to programs that are not allocated based on merit. It could be defined—

Mr. BECERRA. Okay. So let us try to go through that.

Mr. LIEBMAN [continuing]. As duplicative programs.

Mr. BECERRA. Okay. So let us go through that. The so-called bridge to nowhere by a Republican member sending I think it was \$28 million to Alaska to construct a bridge to a remote area, would that be considered unnecessary spending?

Mr. LIEBMAN. I do not want to comment on specific programs, but that sounds like the kinds of programs that one might well want to call unnecessary.

Mr. BECERRA. Okay. Would money by a member to a particular region of the country to help bolster Head Start programs that are having difficulty with their facilities because of the age of the facilities, would that be considered unnecessary, an unnecessary earmark?

Mr. LIEBMAN. Let me be clear. This is not meant to go after every earmark. It is meant to go against low-value spending and one would have to evaluate each proposal on its merits.

Mr. BECERRA. Right. And, see, the concern I have is you are using all sorts of code words, low value, unnecessary, but how are we to know what you consider low value or unnecessary?

Mr. LIEBMAN. Well, the proposal—

Mr. BECERRA. If we decide to have a bridge go to nowhere, how will we know if you think that is okay or not? And if we have a Head Start program that is trying to stay open and meet all the local code requirements to keep a facility in place, how do we know if that is going to withstand your scrutiny of unnecessary?

Mr. LIEBMAN. The proposal requires us in sending up the rescission proposal to explain clearly why it is that we are proposing—

Mr. BECERRA. But that is after the fact. That is after we have worked the different spending bills to figure out where to go.

Now you are telling us after we have already been working with our constituencies back home, with all the families, and all the employees of these Head Start programs, you name the type of program, whether it is a transportation project to take care of potholes that are affecting the freeways and our local communities or

whether it is trying to bolster up dilapidated bridges that are on the verge of falling over.

How do we know in advance if you do not give us a clear definition? So I hope you will work on that so we can get a better sense.

The other concern I have is that, and it was raised by Mr. Scott and Mr. Doggett and others, if you really want us to be fiscally responsible, and I think you do, I think we all want to be able to go back to the public and say we are being fiscally responsible and open and transparent which are words the President used in his letter to Congress to explain his proposal, why would you leave out half of all the expenditures that this government makes by excluding tax expenditures?

Some people would call those tax loopholes. Some people would call those tax shelters. Some people would call them tax credits. But you leave out over a trillion dollars, about a trillion two hundred billion dollars in expenditures at the federal level that we cannot touch.

Let me give you an example. Well, actually, Congressman Doggett gave you a great example. But on top of that, why is that you do not tell us that you are going to deal with, for example, the close to \$300 billion in cost overruns that you know yourself are occurring in your own house in the Department of Defense?

Now, I should put a caveat. These are cost overruns that were found by the auditors to have taken place under the Bush Administration. But \$295 billion in cost overruns to 95 weapons programs. That is a thousand dollars for every man, woman, and child in America in extra taxes or put another way, for the 145 or so million families that file income tax statements, that is close to \$2,000, it is about \$2,000 in extra taxes they are paying because we had weapons systems that ran over their costs, but they told us they would charge this to the taxpayer by close to \$300 billion. And we are, by the way, late by about two years.

Why don't we tackle that before you tell us that you want to get, say, the \$20 billion in savings that you might have out of a \$1.5 trillion budget?

Mr. LIEBMAN. Well, we are doing that too. We proposed in the budget over \$300 billion worth of savings from tax expenditures. We are working hard on—

Mr. BECERRA. I do not see it your proposal.

Mr. LIEBMAN [continuing]. An initiative to cut \$40 billion and better acquisition.

Mr. BECERRA. Is there a legislative proposal to try to deal with tax expenditures?

Mr. LIEBMAN. Well, again, we proposed it in our budget.

Mr. BECERRA. But that is not legislative language the way you gave us on this particular proposal.

Mr. LIEBMAN. If the thing that is stopping us from enacting our tax policies is drafting systems, we would be happy to provide it.

Mr. BECERRA. Look forward to working with you on that.

Thank you, Mr. Chairman.

Chairman SPRATT. Mr. Becerra, thank you.

Mr. Etheridge.

Mr. ETHERIDGE. Thank you, Mr. Chairman.

And let me thank you for being here this morning.

Let me ask mine a little differently. Before I got in public service, I was in small business. So I know the issues of balance and budgets. And one of the first major votes I took when I came to this body was a vote to get to a balanced budget at the federal level and it balanced and we ran a surplus, created millions of jobs and the biggest surplus in decades.

And for the people who are so supportive of things today, the Bush/Cheney Administration said deficits did not matter, as I remember, and ran up some of the largest budget deficits in history that has put us in the crippling situation we find ourselves in now.

And so all of us are concerned about deficits. And we worked in the 1990s to do something about it, turned it around, and now we find ourselves in a tough situation where my children and grandchildren are facing a difficult challenge for the future.

Chairman Bernanke before this Committee just last week pointed out that long-term plans for deficits are important. So I am proud that Congress has restored PAYGO that was done away with by the previous Congress that got this process started down the wrong way. But clearly PAYGO is just one tool in the path toward budget discipline. We all know that.

We have also passed in this Congress defense acquisition reform that gave the Pentagon some common-sense rules for its purchasing that will help cut wasteful spending and make an effort. So Congress has been on the watch and is moving.

So let me ask you that I believe the Administration views these expenditure rescission proposals as another tool alongside PAYGO and nondiscretionary, et cetera. If you do, and you have already heard some of the previous discussion, let me ask it a little differently.

What other tools has the Administration considered to promote budget discipline and, finally, could you speak more specifically about what kind of spending, and you tried to do it and I must confess I am not satisfied, when you think of expenditure rescissions that it be used for, what kind of spending are you talking about?

Mr. LIEBMAN. Let me start with the second question and then I will come back to the other question about the other tools.

We put in our terminations and reductions volume lots of examples of the kind of spending we would hope to accomplish through this procedure if we could not get it done through the normal appropriations procedures. That includes heavily earmarked programs such as EPA state assistance grants for water that duplicate other merit-based ways of allocating resources to those kinds of objectives. It would include duplicative programs.

Like, for example, at the moment, we have programs in both the Commerce and the Agriculture Department that provide assistance to public broadcasting at the same time that we have a perfectly effective corporation for public broadcasting. And we do not need to have this going on in three places. So those are some kinds of examples of the kinds of programs.

Mr. ETHERIDGE. Well, let me ask the question another way because other colleagues have raised it. And I think it is a legitimate question.

The Administration has significant tools currently, any Administration does, because a threat of the veto is about as big as it gets.

That is the biggest pin, I believe, in this town. And if the President threatens a veto, he can get a lot of things done, I believe.

Mr. LIEBMAN. And as you know—

Mr. ETHERIDGE. As I remember, President Bush, it took him a long time to decide if he was going to even use it one time.

Mr. LIEBMAN. Well, the President made clear in the State of the Union that if Congress does not stick to his targets of a nonsecurity discretionary freeze, he is prepared to use his veto pin for that purpose.

And so I think the veto can be an effective tool at times, but there are also times when you have large bills of which the bulk of it is necessary and it is essential spending and may need to get passed fast. And what gets tacked on are some wasteful spending.

And at the moment, we do not have a good procedure for either letting Congress on its own get rid of those procedures or for the President afterward.

Mr. ETHERIDGE. Well, I think we are all concerned about the tack-ons. I mean, I do not think anyone likes that.

But how would you envision the Administration working with Congress before they issue a rescission package?

Mr. LIEBMAN. That is a good point. I mean, if this provision works like it should, its biggest impact will not be in passing rescission packages, but I think it will be in preventing wasteful spending from being added on in the first place. It will be enough of a deterrent that in the lead up to passing bills, one will be able to avoid getting those tack-ons added.

And my prediction would be that if this ends up saving real dollars, it will be more through that avenue than through the direct passage of the rescission bills later.

Mr. ETHERIDGE. Well, I do not think you would disagree with people want to save money and balance the budget. I do have concerns about the balance of power issues as it relates to Congress delegating their authority some place else. I think that is a dangerous road to go down.

Thank you, Mr. Chairman. I yield back.

Chairman SPRATT. Thank you, Mr. Etheridge.

Mr. Connolly.

Mr. CONNOLLY. Mr. Chairman, I was necessarily late because I was at another hearing. I think my colleague, Mr. Minnick, I know is not a member of the Committee, but a guest, and, Mr. Chairman, I am certainly willing to wait one more turn to allow Mr. Minnick questioning if he would like, if that is all right with the Chairman.

Chairman SPRATT. The gentleman proposes to yield to Mr. Minnick. How much, for the balance of your time?

Mr. CONNOLLY. Well, I would defer and hope that I would still have my time.

Chairman SPRATT. The gentleman may proceed.

Mr. MINNICK. I thank the gentleman from Virginia.

And I want to thank the Chairman and Ranking Member Ryan for the privilege of being with you today. This is a very important issue to me.

And I would like to thank OMB for working with Congress and wanting to proceed in a way that the Administration and the Con-

gress can work together to put this authority into effect to give the President and the Congress another tool for dealing with an absolutely run-away deficit which I believe poses the most serious problem to America's children and its future that we face as a society today.

As a dedicated fiscal hawk and original co-sponsor of this bill, I cannot think of a more important tool to provide at this point in time to the Administration to show that it is serious about tackling deficit reduction.

I am also a member of the 53 member Blue Ribbon Caucus which is—it is the Blue Dog Caucus, I apologize, some other members of whom are here and have been here today. And we have endorsed this proposal and look forward to working with this Committee and across the aisle to refine it in a way where we give it maximum effectiveness.

I would like to ask you in response to a question that was raised by the Ranking Minority, Ranking Member in his opening statement, are you open in addition to the other modifications that you said you would be willing to consider to try to extend this concept to entitlement legislation and spending as well as appropriations?

Mr. LIEBMAN. To be clear that this does allow one to go after spending that is done in authorization bills that is sort of discretionary like. But in terms of entitlements, this legislation I do not think is well designed for that because it is meant to have a simple transparent up or down vote that basically zeroes out or lowers spending levels.

When one makes changes to entitlement programs, one typically needs to change statutory language, have an extensive legislative process with amendments and the like. And so we think it would be very difficult to deal with entitlements.

Mr. MINNICK. The same problem that you have with extending it to tax expenditures?

Mr. LIEBMAN. Yes. And I guess it is even harder with entitlements.

Mr. MINNICK. All right. Thank you.

Another suggestion that was made by several members on both sides of the aisle this morning was that whether or not this passes, it would be useful to send a signal to the American people and I think even more importantly financial markets who are nervous about the size and growth of our deficit to propose a rescission bill under existing authority.

It seems to me that it would be a useful way to highlight this issue as well as highlight the seriousness of the Administration's commitment to reduce expenditures that you would work with us to go through the rescission process whether or not this bill passes and becomes law and that it might be a way for you to develop some momentum for passage of a more efficient straight up or down vote to go through the process without the benefit of the streamlined legislation.

Would you be open to considering that?

Mr. LIEBMAN. Certainly willing to discuss it. I think there are a number of things that all of us who share the goal of going after wasteful spending could think about doing in the next weeks and months, you know, finding things where—there are several pro-

posals that are both in our budget termination proposal and is also on some of the Minority party's lists of proposed cuts. And there may be things where we have the opportunity to work together and we can do something in the short term that would send an important signal.

Mr. MINNICK. I am very concerned that we are going to wake up some morning and the markets are going to be doing to us the same thing they did to Greece. And anything we can do to demonstrate commitment to reducing unnecessary spending would be helpful and salutary and something that perhaps would have a prophylactic effect. So I think that would be something worth considering.

Also, I am a little concerned with the objections of some of my colleagues to the thought that this involves a massive shift of power. All this does is, if I understand it correctly, is the power to highlight and to shine the light of publicity on particular spending proposals because there is nothing in this proposal that, other than publicity, would impair the ability or reduce the ability of Congress to vote yes or not on a particular proposal; is that correct?

Mr. LIEBMAN. That is right. It simply lets the President propose something and Congress decide what to do with it.

Mr. MINNICK. Thank you.

My time is expired, Mr. Chairman.

Chairman SPRATT. Thank you, Mr. Minnick.

Mr. Connolly.

Mr. CONNOLLY. Thank you, Mr. Chairman.

I am pleased to join you, Mr. Chairman, in co-sponsoring this legislation. I do it with some enthusiasm frankly because I feel that it is another tool in the kit bag of trying to get at the whole issue of structural deficits. You know, in 74 of the last 100 budgets in this country, we had deficits. Only one President ever left the White House with the country debt free and that was Andrew Jackson. It has been a while. And we have to do something about hemorrhaging red ink.

I would say, however, to you, Dr. Liebman, that you have heard here in this Committee the legitimate institutional concerns. Now, some of this is the normal dialectics of budgets. Some of it is the inherent tension deliberately built into the Constitutional framework of checks and balances.

But I am sure you understand that when phrases such as unnecessary spending or low-value spending are used, it clearly brings up an element of subjectivity. What the Executive Branch or the particular occupant of the Executive Branch in the White House may deem unnecessary may be deemed quite warranted here or to the sponsors of that particular spending. So it is a matter of viewpoint.

And it seems to me that we have to, if this legislation is ever going to have a fighting chance to pass, I think some of the concerns you have heard here in the Budget Committee need to be addressed. There would have to be some guidelines, not rigid guidelines, but some guidelines that minimize that element of subjectivity and can reassure members that it will not just be an arbitrary wholesale grab of additional authority and influence by the

Executive Branch at the expense of the Legislative Branch particularly when it comes to earmarks.

After all, when a spending item gets into a bill in most cases, it has had some review process, some thought has gone into it, and it has stakeholders. It has, you know, advocates.

And so I do think there has to be some kind of definition of what we mean by unnecessary spending or low-value spending and what those guidelines would be.

I would also echo the concern of several of my colleagues that I think we need to include tax expenditures moving forward as an item for either further consideration or perhaps ultimate inclusion in whatever we pass. It is a huge part of the budget, and there are some even on this Committee who seem to think that a tax reduction is not an expenditure of the budget, but, of course, it is. And it needs to be looked at too.

So I just wonder if you might want to further comment on the whole idea of some kind of explicit guidelines that could give reassurance to those who are understandably and legitimately concerned about the balance of power.

Mr. LIEBMAN. I think it is a good suggestion to think about whether there is a way to develop such guidelines. Fundamentally every spending program is in some way different from others and there may not be a way to up front say this program is definitely going to be on the high-value and this is going to be on the low-value list. You have to analyze things one by one and look at the costs and benefits of things.

So it is not obvious to me that there is going to be an easy way to make those guidelines, but I think it is something we should work to.

I think there is going to be an important constraint on the President misusing this authority which is that the House can always amend its rules after this piece of legislation has been changed to eliminate the fast-track procedure. And so if a President misuses this, first of all, it has an expiration date and will not get renewed, but, in fact, the House has the ability to amend its rules to end this procedure if it gets misused anyway.

And so I think Presidents will use this responsibly. I am sure this Administration will. But there is always going to be disagreements about particular spending items and whether they are high value or not and that is in the nature of it. I think the important thing is that there be the opportunity to actually analyze each of these spending programs and determine that.

And so often in large bills right now, spending gets tacked on and there really has not been a thorough opportunity for people to analyze it. And this would provide that analysis and if the analysis finds that it is not a great use of taxpayer funds, it would provide a mechanism for the President to propose and Congress to decide to take another look at it.

Mr. CONNOLLY. Thank you. I yield back.

Chairman SPRATT. The gentleman yields back.

Now we are in the second round of questions. Mr. Ryan wanted to ask a question. He is not here. Mr. Scott wants to ask a question.

Mr. SCOTT. Thank you. I just have one brief question.

Obviously one of the targets of this would be Congressional earmarks. And there has been some misleading discussion about saving money by eliminating an earmark because are not most earmarks set-asides from larger amounts of money?

For example, out of \$200 million, you would spend \$1 million in my district, that is my little earmark. If you eliminate my earmark, instead of me spending \$1 million and the Administration spending 199, the Administration would spend all \$200 million resulting in actually no cost savings at all; is that not right?

Mr. LIEBMAN. That is basically right. I think that is why some of the members have suggested that one should at the same time that one rescinds an earmark, change the 302 allocation. But you are right that under existing mechanisms what would happen is that the spending would instead be allocated under merit or competitive-based method, but it would not alter the total.

Mr. SCOTT. And you would assume that the Administration spending the \$200 million would be on merit and that my program would not be as meritorious?

Mr. LIEBMAN. I think there are definitely cases where members identify spending that is very high value and it would not be identified by the Administration's process. I also think there are a lot of cases where that does not happen and we end up not subjecting particular proposals to an evaluation process.

Mr. SCOTT. Mr. Chairman, the point that is often overlooked is that elimination of an earmark would only shift the spending to the Administration rather than Congressionally directed resulting in zero savings. And if this whole thing is to help balance the budget, striking earmarks in most cases would not make any difference at all.

And thank you for allowing me to make that point.

Mr. LIEBMAN. Can I just clarify one thing. It is the case that as the expedited rescission bill went through and eliminated an earmark, the direct effect of that would be to strike the spending on that program by that amount.

So the way that the President's proposal works is that if there was an account with \$200 million in it and the President chose to strike 20 of that, there would only be 180 left to spend and the explanation would explain which programs were being eliminated. So the direct effect of this proposal would be to reduce spending.

Mr. SCOTT. And reduce if you have got an after-school program like you are funding boys and girls clubs, the fact that you aimed at my program would reduce the amount of money for boys and girls clubs nationally?

Mr. LIEBMAN. It would in this case if that is the mechanism. The only thing that can happen in this proposal is spending levels can be reduced. And you cannot repurpose money.

Mr. SCOTT. Thank you, Mr. Chairman.

Chairman SPRATT. Thank you, Mr. Scott.

Mr. Ryan.

Mr. RYAN. Thanks. I will do it pretty fast. I wish some of the colleagues were still here.

Let me try and go back and give the rationale for this idea. As some have said, there is existing rescission authority. We are offering you to use it and we will help you, but apparently, you know,

I can tell them the Administration is reluctant to spend their time on it because they do not think it is going to be worth their while. And I understand that argument. That is why I think we ought to beef this authority up and make it more effective.

Let me pick a Republican earmark just so it does not come across as partisan. When I first started moving this bill a number of years ago, I watched a situation in which a U.S. Senator Republican decided to fund a rain forest museum to the tune of something like \$50 million. And it got tucked into a bill, an appropriations bill that had nothing to do with that particular type of issue. It got put in in a conference report. Never got to see it or vote on it in the House or the Senate and it became law.

Now, what happens obviously around here is all these things get thrown in these bills at the end of the process, no scrutiny, and it has become a system that both parties have abused to load up these appropriation bills with lots of wasteful spending.

Now, there are other authorization bills and other bills that do the same thing, but the power of this is the power of embarrassment and sunshine. This is not a tool that is going to balance the budget. This is not a tool that is going to save us, you know, \$1.6 trillion.

This is a tool that is going to make that member of Congress think twice before trying to shove a \$50 million rain forest museum into an Omnibus appropriations bill because they know if they can shove it in that appropriations bill, on it goes.

If they know that there is a possibility that they might have to go to the floor of the House or the Senate and defend this proposal on its own merits, then they might think twice before submitting those spending proposals.

So what I see this doing is bringing some more accountability to the process, some more transparency to the process, and embarrassing wasteful spending out of these bills in the first place. So it is the existence of this tool that probably has its best effects versus the actual use of the tool.

That is point number one. Point number two is Constitutionality, a very important point. I agreed with the Supreme Court in their ruling in 1996 because that line item veto I believe was unconstitutional. It did represent the Legislative Branch ceding its authority to the Executive Branch. That is why this is written and it looks like you have written it pretty much the same way, the OMB plan, to make sure that that is not the case.

And it is very important that we remember this is not the President executing the spending decision. This is the Congress making the decision executing the spending decision. The President can write a bill and send it to Congress any day he wants to right now. We used to give him fast track on trade agreements and many other things. This is no different than that. Giving the President the ability and the power and the tool to take a piece of spending out, send it back, and then we, the Legislative Branch of government, make the final decision as to whether or not it is canceled or not.

So I think it is very clearly Constitutional. It very clearly keeps the prerogatives of the Legislative Branch in tact. And what this

effectively does is it just brings needed sunshine to the process and it helps get at the culture of spending in Congress.

I love boys and girls clubs. My wife and I donate our private dollars to the boys and girls clubs of Rock County in Janesville, Wisconsin. But we cannot fund every good idea that is out there. If we keep trying to do that, we are going to accelerate the bankruptcy of this country. And the country is going bankrupt. That is an irrefutable point.

So we need to change the culture of spending. And I would argue earmarks as small as they are in the aggregate have a huge impact on the culture of spending in this place. If we cannot get the little spending right, we are not going to get the big spending right.

And so this helps us shift the culture of spending so that we are focused on actually trimming the budget, living within our means, and making sure that we are scrutinizing the use of taxpayer dollars. And under the watch of both political parties, that has not been done lately.

That is the point I would make. Thank you.

Chairman SPRATT. Mr. Scott, do you have further questions?

Mr. SCOTT. Just one more briefly. I just wanted to follow-up on the question I had asked before. And that is on the inappropriate use of this by a President using it as a coercive technique for unrelated items.

You have got a major piece of legislation you are trying to get out. You could conceivably threaten legislators that their projects would be placed in the rescission package.

Do I understand you to assure us that this would not happen in the future?

Mr. LIEBMAN. That is not the way this is going to be used. This is going to be used to work with Congress to eliminate spending.

Mr. SCOTT. And we can count on that?

Mr. LIEBMAN. That is the way it is going to be used.

Chairman SPRATT. The gentleman yields back.

Thank you again for your testimony.

Let me just leave for you and the record some of our concerns. As I told you when we were discussing the bill to begin with, we will take exception to some provisions. We think that decidedly some improvements can be added.

Number one, I am concerned and I think legitimately about a legislative log jam. If you have 12 bills, potentially 12 rescission bills following those appropriation bills, if you would have a CR and then have the CR expire and have 10 or 11 appropriation bills separately acted upon, how many rescission bills would come up from that? Is 45 days too long? Will that stymie the legislative process or create a legislative log jam? Those are concerns.

I think that we could also look at enhancement of incision of the expedited rescission bill as we did in the past and include things like targeted tax benefits and tax expenditures. I do not have a ready definition for tax expenditures that would fit in the bill, but I think it should certainly be borne in mind.

And I do think that we should take steps to see that every member who fervently believes that what he has passed for his constituency as an opportunity, an ample opportunity to go to the House

and make the case for his particular proposal if it is included in your package.

I am not talking about enough time to tie the process up. I am talking about 10 to 15 minutes, but at least the opportunity to make the case and call to his aid and assistance some other members who would share his support.

And then I think some definition with funding unnecessary which was raised by some. We probably need some criteria for what the President would—we expect the President to apply in culling out unwarranted, unnecessary, and wasteful spending.

So these things remain to be worked out, but the bill is in active play, as you can see. It is getting support on both sides of the House and we will be working to improve it and make it something that we can take to the floor and pass with a substantial majority.

Thank you today for your participation. We look forward to working with you in the perfection of this bill.

Mr. LIEBMAN. Thank you very much.

Chairman SPRATT. I ask unanimous consent that members who did not have the opportunity to ask questions of the witness be given seven days to submit questions for the record. Without objection, so ordered.

This concludes the hearing. Thank you again for coming.

[Responses by Mr. Liebman to questions submitted for the record follow:]

RESPONSES BY MR. LIEBMAN TO QUESTIONS SUBMITTED FOR THE RECORD

QUESTIONS FROM ROBERT B. ADERHOLT

1. If Congress ever approves expedited rescission, don't you think those funds should go to deficit reduction as opposed to increased spending?

The Administration expects rescissions approved through this mechanism to go toward deficit reduction, and specifically restricts rescission packages from including any new spending.

2. Why is the President pushing expedited rescission when he has deferred most decision making on the fiscal outlook of the country to his fiscal commission? Is the fiscal commission considering expedited rescission as a way to reduce federal spending across the Board?

The President has shown time and again that he is willing to make the fiscally responsible decisions that are critical to the future of our country. The 2011 President's Budget proposes over \$1 trillion in deficit reduction, more than any President has put forward in over a decade. The Budget proposes terminations, reductions and savings that would eliminate more than \$20 billion in unnecessary spending. The expedited rescission proposal complements these efforts by providing a new tool for eliminating duplicative, wasteful, and unnecessary spending. The Fiscal Commission's two charges—proposing policies that reduce the deficit to 3 percent of GDP by 2015 and meaningfully improve the long-term fiscal outlook—are significantly broader in scope than the savings that would likely be achieved with the proposed rescission authority.

3. Since taking office, President Obama has signed legislation resulting in an 84 percent increase in domestic non-defense discretionary spending and the nation is facing a deficit of \$1.5 trillion for FY 2010. Will expedited rescission be an effective tool in cutting federal spending when tax and tariff benefits or new entitlement spending are not included and the nation faces such a large deficit? Would it be better for the Administration or Congress to propose a long term fiscal plan to reduce federal spending?

Expedited rescission is intended to be a tool for the President and Congress to work together to eliminate unnecessary spending. The authority is designed to be used to expedite a straightforward decision—whether to reduce or eliminate funding for specific programs or projects. Under the proposal, the President could not propose any other changes in law. Given that the decision is a straightforward one, the

proposal requires an up or down vote and does not permit any amendments to the President's proposed package.

We do not believe this expedited proposal would be appropriate for altering entitlement programs or tax policies. Changes to entitlement and tax provisions generally involve more than simply a decision about funding levels. Because such provisions are often deeply interrelated with other provisions, striking or changing entitlement and tax provisions generally requires more complex legislation. Nonetheless, the Administration is committed to eliminating unnecessary entitlement and tax expenditures, and we look forward to working with Congress to achieve this.

Regarding a long term fiscal plan, the President's 2011 Budget proposes over \$1 trillion in deficit reduction, more than any President has put forward in over a decade. The President has also established a bipartisan Fiscal Commission. The Commission is charged with proposing policies that reduce the deficit to 3 percent of GDP by 2015 and meaningfully improve the long-term fiscal outlook.

PREPARED STATEMENT AND QUESTIONS FROM JAMES R. LANGEVIN

Fiscal responsibility is vital to our long term economic prosperity. As Fed Chair Bernanke testified in front of this committee last week, "unless we as a nation make a strong commitment to fiscal responsibility, in the longer run, we will have neither financial stability nor healthy economic growth." I couldn't agree more. Given our significant fiscal challenges, we are naturally interested in exploring all options to reduce the federal deficit and achieve a balanced budget.

Today, we are considering a proposal that would make significant alterations to the current budgetary process. The proposal uses a procedure called "expedited rescission," which would allow the President to recommend additional cuts to spending bills that he signs into law, subject to Congressional approval.

In order to determine the relative effectiveness of this proposal, I think it would be helpful to put it into context and examine some of the practicalities.

1. How much do you anticipate this proposal could save? To put that amount into context, what is the total amount of discretionary spending enacted in FY2010, and how much of the total federal budget does discretionary spending comprise versus mandatory spending? Would this proposal address anything on the mandatory side of spending?

Expedited rescission authority would provide a useful tool for the President and Congress to work together to eliminate duplicative, wasteful, and unnecessary funding. Since taking office, the Administration has prioritized identifying and cutting unnecessary spending. For example, the President proposed approximately \$20 billion in terminations, reductions, and savings in both the FY 2010 and 2011 Budgets. These proposed cuts are examples of the type and scope of savings that we believe could be achieved if Congress enacts the Administration's expedited rescission proposal. Knowing this procedure exists may also discourage lawmakers from enacting wasteful spending in the first place, providing additional savings.

The expedited rescission proposal targets both discretionary spending and non-entitlement mandatory spending, where the decisions involve straightforward choices about whether to reduce or eliminate spending on a particular program or project. Changes to entitlement programs generally require more complex legislation and are more appropriately handled through standard legislative procedures.

We recognize that this proposal is not a magic bullet. Enacted discretionary spending in FY 2010 is around \$1.4 trillion and mandatory spending is around \$2.0 trillion. While expedited rescission authority lifts procedural barriers, the President and Congress will still have to make the tough choices to cut back unnecessary funding. Furthermore, restoring fiscal sustainability in the medium and long term will require not only reducing unnecessary or excessive funding provided annually for specific programs and projects, which the expedited rescission proposal aids, but also making larger choices about overall budget priorities and revenue levels—a process now being facilitated by the President's National Commission on Fiscal Responsibility and Reform.

2. As you mentioned in your testimony, the President announced a proposal to freeze non-security discretionary spending levels for three years, and Congressional Leadership has been supportive and committed to this. In fact, the Senate Budget Committee passed a resolution that would go further with an additional \$4 billion reduction in discretionary spending.

Given these developments, would you agree that Congress can effectively reduce spending without expedited rescission if it has the political will? How would this proposal address or change that?

While expedited rescission lifts procedural barriers, there is no substitute for political will. The President and Congress will continue to have to make the tough choices to cut back unnecessary spending. The purpose of expedited rescission is to give the President and Congress an additional tool to eliminate unnecessary spending and to discourage waste in the first place.

3. *Under this proposal, the President has 45 “session” days to send a rescission package to Congress. Congress then has 25 days to act. I am concerned this time frame threatens to slow down an already time-consuming appropriations process. How would that affect omnibus appropriations bills, which tend to come toward the end of the session?*

Since the President would not be able to submit a rescission package until the applicable spending bill has already been enacted, expedited rescission by itself would not slow down the consideration of spending bills. In designing the expedited rescission proposal, it was our intention to streamline debate on presidential rescission packages, to minimize the use of floor time, and to enable quick Congressional consideration of proposed rescissions. We are open to working with Congress on other ways to speed the process.

4. *How would a delay in spending affect federal agencies, as well as state and local funding recipients, who are unable to engage in specific program planning until the appropriations process is complete?*

The Administration’s expedited rescission proposal includes a number of measures that would limit spending delays, especially compared to the President’s existing authority under the Impoundment Control Act (ICA). Under the Administration’s proposal, the President would have a deadline of 45 days after enactment of the funding to propose a package of rescissions. In contrast, the ICA allows the President to propose rescissions any time before the funds expire. In addition, under the Administration’s proposal, Congress would consider the President’s package using an expedited procedure that takes no more than 25 days. This ensures a shorter period of withholding funds after transmittal than under ICA procedures, in which Congressional consideration is more drawn out and open-ended.

5. *In the 1990s, the line-item veto was determined to be unconstitutional. How does this proposal differ from the line-item veto, and do those differences resolve the constitutional concerns?*

The Administration’s proposal has been carefully crafted to preserve the constitutional balance of power between the President and Congress. Under the proposal, the President would submit a legislative package and Congress, which has the authority to set its own rules, would consider the package using fast-track procedures. This stands in contrast to the line-item veto power enacted in 1996 and later struck down by the Supreme Court. The 1996 law allowed the President to use his veto authority to strip out select provisions of legislation while signing the rest into law. The Supreme Court found this to violate the constitutional procedure for approving or vetoing laws. The current proposal is fundamentally different since it does not expand the Presidential veto authority in any way. Rescissions would occur only if, as with any other law, they are passed by Congress and signed by the President.

[Whereupon, at 11:34, the Committee was adjourned.]