

Testimony of OMB Acting Deputy Director Austin Smythe
The President's Legislative Line Item Veto Proposal
Before the Senate Budget Committee

May 2, 2006

Chairman Gregg, Senator Conrad, and members of the Budget Committee, thank you for inviting me to testify on the President's proposed line item veto legislation.

The Congress has made excellent progress this past year on spending restraint. In line with the President's Budget request, the Congress sent the President appropriations bills that held the growth of total discretionary spending below the rate of inflation and cut non-security spending. In addition, Congress adopted 89 of the President's proposed 154 cuts and terminations, saving \$6.5 billion in the process. And Congress achieved nearly \$40 billion in mandatory savings over five years, the first time in eight years reconciliation has been used to slow the growth in spending.

This important progress is often overlooked, however, because of the attention paid to specific earmarks or line items that have not been well justified. While some earmarks have significant merit and represent an improvement to the President's budget request, many are wasteful or go to low-priority programs. As the President has noted, he wants the Congress to pass earmark reforms.

But the Administration believes we can make even greater progress together in restraining spending and focusing taxpayer dollars on essential priorities. As you know, spending legislation usually comes to the President in the form of very large spending bills that frequently amount to tens or hundreds of billions of dollars. The President is left with the choice of either signing bills that contain spending items he does not support or vetoing an entire bill that has many important provisions that he agrees with on balance.

In his State of the Union address, the President asked the Congress to give him the line-item veto. The need for an effective line item veto has long been recognized by presidents and members of Congress from both political parties. In 1996, with strong bipartisan support, the Congress gave President Clinton a very powerful line item veto, but the Supreme Court struck down the law as unconstitutional in 1998.

On March 6th, the President transmitted to the Congress the "Legislative Line Item Veto Act." The legislation is designed to do two things: one, to give the President a tool to reduce unnecessary or wasteful spending; and, two, to improve accountability and cast a brighter light on spending items that probably would not have survived had they not been included in a much larger bill. This line item authority would allow the President to reach into these bills and subject unjustified spending to additional public scrutiny, without endangering other priorities. While the line item veto will serve as a tool to remove unjustified earmarks included in enacted legislation, we also hope it will aid in Congress' efforts on earmark reform by fostering additional accountability and transparency.

We are confident that the version of the line item veto proposed by the President will survive any constitutional challenges. The critical difference between this proposal and the 1996 Line Item Veto Act is that the President's proposed rescissions would only take effect if Congress passed a new law implementing his proposals.

Specifically, the Legislative Line Item Veto Act would provide the President the authority to single out unjustified discretionary spending, new mandatory spending, or new special interest tax breaks given to a small number of individuals. Under the proposal, the President would send a message with a proposed rescission bill to the Congress. The President's proposal would require the House and Senate to hold an up-or-down vote on his proposed rescissions within 10 days of introduction. The rescission bill would not be amendable, could not be filibustered in the Senate, and would be sent to the President for his approval with the support of a simple majority in each chamber.

The critical features of this legislation are the fast-track procedures that ensure the President gets a vote on his proposed rescissions and ensure that they are not nullified by delay or derailed by amendments. The Act also gives the President the authority to defer or suspend for up to 180 days the spending he proposes for rescission to allow the Congress time to consider his proposal. The Act gives the President the authority to release these funds prior to the expiration of the 180 days, enabling him to respond if, for example, one of the chambers rejects the President's proposed rescissions.

The President's proposal is consistent with current authorities granted to him by the Congress in other contexts, like trade promotion authority, and it addresses the Supreme Court's concern that the enacted 1996 line item veto did not provide a sufficient measure of respect for Congress's primary constitutional role in revenue and spending matters.

We are very pleased with the strong support the President's bill has received in the House and Senate. On March 7, Majority Leader Bill Frist introduced the Administration's bill, which as of yesterday enjoyed the support of 29 cosponsors.

We have heard concerns about how the authority provided under this bill would be implemented. We want to work with Congress to address these concerns, but it is important that the ultimate product provides an effective means for the President to get an up-or-down vote on his proposed package of rescissions.

We hope the Congress will move quickly to pass this legislation and give the President and Congress a tool to reduce unnecessary spending.

I would be happy to respond to any questions the Committee may have.