



**Testimony of Thomas A. Schatz, President
Citizens Against Government Waste**

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Subcommittee on Federal Financial Management, Government Information, Federal
Services, and International Security
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Mr. Chairman, members of the subcommittee, thank you for the opportunity to testify today. My name is Thomas A. Schatz. I am president of Citizens Against Government Waste (CAGW), a nonprofit organization made up of more than one million members and supporters, dedicated to eliminating waste, fraud and abuse in government. Citizens Against Government Waste has not, at any time, received any federal grant and we do not wish to receive any in the future.

CAGW was created 25 years ago after Peter Grace presented to President Ronald Reagan 2,478 findings and recommendations of the Grace Commission (formally known as the President's Private Sector Survey on Cost Control).

CAGW has been working tirelessly to carry out the Grace Commission's mission to eliminate government waste. Since 1984, the implementation of Grace Commission and other waste-cutting recommendations supported by CAGW has helped save taxpayers \$1.04 trillion. These recommendations provided a blueprint for a more efficient, effective and smaller government. The line-item veto was one of those proposals.

Raiding the federal treasury to "bring home the bacon" is a long-practiced, but not ancient, Washington tradition. Year after year, lawmakers debase the political process by directing chunks of the federal budget back to their home districts and states to promote their own re-elections and reward special interests.

The U.S. Constitution grants to Congress the power to spend. Article I, Section 9, Clause 7 reads, "No money shall be drawn from the Treasury but by consequence of Appropriations made by Law."

It would be hard to imagine a more convoluted, inaccurate, and self-serving interpretation of the Constitution and U.S. history. The Founding Fathers deemed that Congress could only spend money in pursuant to those powers specifically enumerated in the Constitution. The 10th Amendment leaves all other responsibilities to the states.

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For much of the nation's history, constitutional objections from members of Congress, the president, and state legislatures were effective in limiting parochial spending.

The First Congress rejected a bill to loan money to a glass manufacturer after several members challenged the constitutionality of the proposal. In a debate during the Second Congress over a bill to pay a bounty to New England cod fisherman, Rep. Hugh Williamson of South Carolina argued that it was unconstitutional "to gratify one part of the Union by oppressing the other . . . destroy this barrier; - and it is not a few fishermen that will enter, but all manner of persons; people of every trade and occupation may enter in at the breach, until they have eaten up the bread of our children."¹

Thomas Jefferson made a similar prediction in a letter to James Madison dated March 6, 1796, challenging Madison's proposition for improvements to roads used in a system of national mail delivery. Jefferson wrote:

Have you considered all the consequences of your proposition respecting post roads? I view it as a source of boundless patronage to the executive, jobbing to members of Congress & their friends, and a bottomless abyss of public money. You will begin by only appropriating the surplus of the post office revenues; but the other revenues will soon be called into their aid, and it will be a scene of eternal scramble among the members, who can get the most money wasted in their State; and they will always get most who are meanest.²

In 1817, President Madison vetoed a public works bill that would have paid for the construction of roads and canals. To Madison, the "father of the Constitution," the clause "to provide for common defense and general welfare" did not grant Congress additional powers not enumerated in Article I, Section 8.³

Alexander Hamilton interpreted the general welfare clause more broadly as a separate grant of power. Yet even he believed that it was limited to matters of national importance and did not cover spending of a local or regional benefit.⁴

In 1822, President James Monroe argued that federal money should be limited "to great national works only, since if it were unlimited it would be liable to abuse and might be productive of evil."⁵

1 John C. Eastman, "Eating Up the Bread of Our Children," The Claremont Institute, February 7, 2006, <<http://www.claremont.org/projects/jurisprudence/060206eastman.html>>.

2 "Thomas Jefferson to James Madison, March 6, 1796," The Thomas Jefferson Papers, The Library of Congress American Memory, <[http://memory.loc.gov/cgi-bin/query/r?ammem/mtj:@field\(DOCID+@lit\(tj080100\)\)>](http://memory.loc.gov/cgi-bin/query/r?ammem/mtj:@field(DOCID+@lit(tj080100))>).

3 "Veto of federal public works bill," Constitution Society, <http://www.constitution.org/jm/18170303_veto.htm>.

4 Eastman, "Eating Up the Bread of Our Children."

5 Ken Silverstein, "The Great American Pork Barrel," *Harper's Magazine*, July 1, 2005.

In 1825, the South Carolina legislature passed a resolution which condemned “the taxing of the citizens in one state ‘to make roads and canals for the citizens of another state.’” Virginia and Georgia adopted similar resolutions in 1827.⁶

In the late 1800s, Grover Cleveland became known as the “king of the veto” for rejecting hundreds of congressional spending bills during his two terms as President. He often wrote: “I can find no warrant for such an appropriation in the Constitution.”⁷

The term “pork-barreling” was coined in the late 19th century to compare the rush toward a pile of tax dollars to the way slaves would crowd around barrels of salted pork at meal times.

Even as federal power vastly expanded during the twentieth century, Congress did not earmark extensively until the 1980s. Instead, Congress would fund general grant programs and let federal and state agencies select individual recipients through a competitive process or formula. The House and Senate Appropriations Committees named specific projects only when they had been vetted and approved by authorizing committees. Members of Congress with local concerns would lobby the president and federal agencies for consideration. The process was aimed at preventing abuse and allocating resources on the basis of merit and need.

Today, Appropriations Committee members arbitrarily pick winners and losers by earmarking funds for specific recipients. Rank and file members, backed by an army of lobbyists, bypass authorizing committees and lobby appropriators directly for pet projects.

Washington insiders have espoused this “power of the purse” to validate Congress’s mushrooming appetite for pork. Since 1991, CAGW’s annual *Pig Book* has identified 100,849 examples of egregious pork-barrel spending, which has cost taxpayers \$290 billion. Examples from the 2009 *Congressional Pig Book* include:

- \$465 million for the Joint Strike Fighter alternate engine
- \$9.5 million for Corridor H
- \$9.4 million for 14 projects for bike paths and trails
- \$4.5 million in wood utilization research in 10 states by 19 senators and 10 representatives
- \$2 million for the Pat Roberts Intelligence Scholars Program

6 Forrest McDonald, *States' Rights and the Union: Imperium in Imperio, 1776-1876*, November 2002, University Press of Kansas, p. 93.

7 Walter E. Williams, “How Did We Get Here?”

<<http://www.gmu.edu/departments/economics/wew/articles/fee/here.html>>.

- \$1.9 million for the Pleasure Beach water taxi service project
- \$1.8 million in swine odor and manure management research in Ames, Iowa
- \$951,500 for downtown Detroit energy efficient street lamps
- \$900,000 for the Adler Planetarium and Astronomy Museum in Chicago
- \$413,000 for tri-state joint peanut research
- \$200,000 for a tattoo removal program
- \$143,000 for the Las Vegas Museum of Natural History
- \$47,575 for the Harlem United wind power project

For a brief period, the American people had hope that budget reform would reduce the assault on their wallets. In 1995, Congress passed the line-item veto by a voice vote in the House and a 69-31 vote in the Senate. This law was enacted after several previous failed efforts to pass such legislation.

Unfortunately, this new veto privilege was used sparingly by President Bill Clinton to cancel a mere \$355 million in fiscal year 1998 pork-barrel spending, less than .002 percent of that year's budget. Although the amount of waste that was removed was miniscule, members of Congress who had previously lauded the passage of the line-item veto began to question its legitimacy. This was clear evidence that even though the overall amount of money saved was relatively small, eliminating more waste would have had a substantial effect on the spending culture.

However, the Supreme Court took the line-item veto power away from the president in mid-1998, ruling the law unconstitutional.

The need still exists for a constitutional version of the presidential line-item veto because Congress has confronted the president repeatedly with hastily-crafted, 11th-hour omnibus bills that cover all or substantial portions of federal spending for the year. This practice inhibits the exercise of the veto, which under such circumstances would have the effect of closing down the federal government.

A constitutional line-item veto, or expedited rescission authority, would enhance the president's role in the budget process. It would not tilt the power over the nation's purse strings in favor of the president. Instead, it would restore the balance that has been eroded by Congress's budget rules that favor spending and pork, and would hold both the legislative and executive branches more accountable for the expenditure of tax dollars. While some have questioned whether expedited rescissions at the federal level would threaten the separation of powers, experience with such authority at the state level indicates that would not be the outcome.

Expedited rescissions are necessary because under current law, the president's rescission proposals can easily be ignored. This luxury afforded Congress by the Budget and Impoundment Control Act of 1974 shifted the balance of power over spending, and that balance needs to be restored. Many have argued that the explosion of federal spending that has occurred over the past three decades is a result of the tilting of the balance of power toward Congress under the 1974 Act. It is an affront to common sense that while the president now can propose to rescind any portion of an appropriations bill, Congress is not required to vote on his rescission package. If Congress chooses to ignore the president's request, it expires after 45 days. The spending proposals stand as law.

Senator Tom Carper (D-Del.) has introduced S. 907, the Budget Enforcement Legislative Tool Act of 2009. This legislation would establish limited executive rescission authority that will help rein in federal spending, minimize the number of pork-barrel earmarks, and begin to reduce the nation's ever-growing debt.

S. 907 fully satisfies the constitutional criteria that were cited as the reasons for striking down the 1996 Line Item Veto Act. The bill would allow the president three days after signing an appropriations act to submit a list of proposed rescissions. To ensure that the executive branch is not given legislative powers, the president's rescission authority will be limited; he may not propose to reduce an authorized program's budget by more than 25 percent of the amount appropriated. However, unauthorized programs can be zeroed out. The president's list of proposed rescissions will be voted on in both houses within 10 days of the introduction of the bill encompassing the proposed rescissions. Amendments will be prohibited in both chambers to ensure a swift and clean process.

Under S. 907, the president will also be able to propose the elimination of earmarks, but cannot propose cuts to authorized earmarks that exceed 25 percent of the amount appropriated. While this is a good first step toward the elimination of pork, CAGW believes that a 25 percent threshold is far too low given the explosion of earmarking in recent years.

In fact, Senators John McCain (R-Ariz.) and Russ Feingold (D-Wisc.) have proposed S. 524, the Congressional Accountability and Line-Item Veto Act of 2009, which calls for expedited rescission authority that allows the president to repeal any congressional earmarks or to cancel any limited tariff benefits or targeted tax benefits. CAGW believes this is another practical way to achieve the total elimination of pork-barrel earmarks.

The Constitution does not give Congress a blank check to spend tax dollars on anything it wants in whatever way it wants. Spending \$500,000 on the Sparta Teapot Museum, for example, is not an appropriate exercise of Congress's power of the purse. Nor would the Founding Fathers have approved of legislators using federal tax dollars to reward special interests that donate to their re-election campaigns.

Pork projects are usually slipped into large spending bills without debate, competition, or input from the relevant executive agencies. The provisions are often not subject to a separate vote in the House or the Senate and frequently appear in legislation only hours before Congress votes on appropriations bills. Furthermore, pork projects are not subject to performance standards. Until recently, there was no disclosure requirement for a project's recipient or its sponsor in Congress.

Even with such requirements, \$6.4 billion, or 57 percent of the cost of earmarks in the fiscal year 2006 Defense Appropriations Act were anonymous. That included \$465 million for an alternate engine the Joint Strike Fighter. There is no economic or military justification for spending billions of taxpayer dollars on an alternate engine that will not save money or improve U.S. defense capabilities. The Pentagon has proposed canceling the alternate engine project each year since 2006, only to have Congress add more than \$1 billion in funding back to subsequent defense appropriations bills.

CAGW's preliminary analysis of the Senate version of the fiscal year 2010 Department of Defense Appropriations Act indicates that there are 809 projects worth a total of \$9.3 billion. In addition to funding an alternate engine for the Joint Strike Fighter, the Defense Appropriations Act includes a \$2.5 billion anonymous earmark for 10 additional C-17 aircraft. Sen. John McCain (R-Ariz.) offered an amendment to strike the amounts available for procurement of C-17 aircraft in excess of the amount requested in the President's fiscal year 2010 budget. Despite its merits, Senator McCain's amendment was rejected 34-64. If the President had expedited rescission authority, the House would have to vote on the program, and a second vote in the Senate may have had a different outcome. At the very least, there would have been more opportunity for taxpayers to provide input into whether the program should be continued.

Congress has always found a way to break its own budget rules, making it easier to add unrelated projects to spending bills. In 2007, Congress packed its emergency supplemental legislation with non-emergency pork, such as \$100 million for citrus growers in the House version of the bill.

Rather than sending the President a clean supplemental bill to ensure that the troops had sufficient funding to fulfill their mission, Congress included \$20 million for cricket eradication and \$95 million for dairy farmers, among other questionable expenditures. The House, meanwhile, demanded \$74 million for peanut storage, \$25 million for spinach growers and \$6.4 million for additional congressional salaries and expenses before members agreed to fund body armor. This practice of horse-trading has contributed to the exploding national debt and growing apathy toward funding wasteful and unnecessary programs at the expense of worthy projects.

Earmarking is devoid of oversight, discipline, and accountability. The pork label is not a subjective judgment of a project's merit. Rather, it refers to lapses in the procedures erected by Congress to review and consider the wise expenditure of taxpayer dollars.

Concern that expedited rescissions would give the president unlimited power is unfounded. The fear that the president could use this authority to expand his power exponentially and upset the checks and balances between the branches is addressed by mandating a vote in both houses on the president's proposed rescissions. The president will be unable to reduce an authorized program's budget by more than 25 percent, thereby limiting executive authority to alter the budget priorities set by Congress in its spending decisions.

For decades, the opportunities for purging wasteful government programs and reducing the size of government have been scarce. Expedited rescissions can provide opportunities for Congress and the president to work closely for a smaller, more efficient and less costly government.

The Government Accountability Office, Congress's own investigative agency, estimated in 1992 that a presidential line-item veto could have cut \$70.7 billion in pork-barrel spending from fiscal years 1984 through 1989. That's \$70.7 billion in unnecessary spending taken out of the hands of the private sector.

Expedited rescissions would serve the same purpose as a line-item veto, and would help restore control over the budget process. This, in turn, would promote fiscal soundness, efficient government, and policies favorable to continued economic growth. Expedited rescissions, over time, would reduce the inclusion of unauthorized, non-competitive projects in appropriations bills and require increased cooperation between Congress and the executive branch in determining which programs truly need to be funded with the taxpayers' money.

CAGW realizes that while pork-barrel spending is a serious problem, it affects a relatively small portion of the budget, and more needs to be done to limit the growth of entitlements and other government expenditures in order to bring the budget back into balance. However, that does not mean that expedited rescission authority, which receives a great deal of attention because it is tied to some of the most egregious examples of wasteful spending, should be delayed until other budget problems are addressed or solved.

Mr. Chairman, expedited rescissions would allow the president to weigh parochial expenditures which benefit the few against the common good and the priorities of the many. The American people know the way business is done in Washington, and they are seeking changes.

Successive presidents have asked Congress to provide them with the line-item veto. Congress must show that it is serious about controlling spending by passing legislation giving the president expedited rescission authority. The time is now to pass this constitutional line-item veto.

This concludes my testimony. I will be glad to answer any questions.