

**IN THE HONORABLE SENATE OF THE STATE OF ILLINOIS  
FOR THE NINETY-SIXTH GENERAL ASSEMBLY  
SITTING AS AN IMPEACHMENT TRIBUNAL**

**In re** )  
**Impeachment of** )  
**Governor ROD R. BLAGOJEVICH** )

**HOUSE PROSECUTOR'S  
MOTION FOR ADDITIONAL DOCUMENTS  
BASED ON NEWLY DISCOVERED INFORMATION**

House Prosecutor David W. Ellis, pursuant to Senate Impeachment Rule 15(b)(2), moves for the admission of additional documents based on newly discovered information and, in support thereof, states as follows:

1. Although the deadline for filing Rule 15 motions to admit additional documents or material was yesterday, Wednesday, January 21, 2009, the House Prosecutor seeks leave to admit additional documents related to an event that happened just yesterday and was unknown to the House Prosecutor until after the filing deadline.

2. Specifically, on Wednesday, January 21, 2009, the House Appropriations Committee for the U.S. House of Representatives considered a \$358 billion spending portion (\$825 billion total) of President Obama's proposed stimulus package, the "American Recovery and Reinvestment Act of 2009." The House Appropriations Committee approved an amendment to that legislation known as the "Kirk-Foster amendment," sponsored by Illinois Congressmen Mark Kirk (a Republican) and Bill Foster (a Democrat). This bipartisan Kirk-Foster amendment provides as follows:

**Sec. 1112. Additional Assurance of Appropriate Use of Funds**

None of the funds provided by this Act may be made available to the State of Illinois, or any agency of the State, unless (1) the use of such funds by the State is approved in legislation enacted by the State after the date of the enactment of this Act, or (2) *Rod R. Blagojevich no longer holds the office of Governor of the State of Illinois*

(See attached document (emphasis added).)

3. The House Prosecutor seeks to admit in evidence at the Impeachment Trial (i) a copy of the Kirk-Foster amendment attached to the “American Recovery and Reinvestment Act of 2009” during the full meeting of the U.S. House Appropriations Committee on Wednesday, January 21, 2009; (ii) a press release from U.S. Representative Mark Kirk regarding this amendment; (iii) a newspaper article on this subject; and (iv) any official legislative material, not currently available due to the recent adoption of the Kirk-Foster amendment, that would memorialize its adoption.

4. Copies of these documents, other than the unavailable information discussed above, are attached to this Motion.

5. These documents will be introduced during the live testimony of Representative Constance Howard as a group exhibit.

6. These documents are relevant and material because they demonstrate additional injury to the people of the State Illinois as a result of the Governor’s abuse of power. The Kirk-Foster bipartisan amendment could affect approximately \$50 billion to the State of Illinois. The limitation on this federal money is directly related to Governor Rod Blagojevich’s continued holding of the office of Governor. The amendment, creating the “additional assurance and appropriate use of funds” provision, directs Illinois’ share of the stimulus directly to the General Assembly until Governor Blagojevich is removed.

7. These documents are not redundant because they are not currently in the record.

8. Moreover, although some evidence related to this issue is contained in the House impeachment record, under Senate Impeachment Rule 15(g), the evidence is not deemed redundant simply because it relates to material already in the record.

WHEREFORE, the House Prosecutor respectfully moves for the admission of (i) a copy of the Kirk-Foster amendment attached to the “American Recovery and Reinvestment Act of 2009” during the full meeting of the U.S. House Appropriations Committee on Wednesday, January 21, 2009; (ii) a press release from U.S. Representative Mark Kirk regarding this amendment; (iii) a newspaper article on this subject; and (iv) any official legislative material, not currently available due to the recent adoption of the Kirk-Foster amendment, that would memorialize its adoption.

Respectfully submitted,

**DAVID W. ELLIS,  
HOUSE PROSECUTOR**



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David W. Ellis  
House Prosecutor  
Illinois House of Representatives  
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**AMENDMENT TO AMERICAN RECOVERY AND  
REINVESTMENT BILL  
OFFERED BY MR. KIRK OF ILLINOIS**

Page 11, after line 10, insert the following:

1 **SEC. 1112. ADDITIONAL ASSURANCE OF APPROPRIATE USE**  
2 **OF FUNDS.**  
3 None of the funds provided by this Act may be made  
4 available to the State of Illinois, or any agency of the  
5 State, unless (1) the use of such funds by the State is  
6 approved in legislation enacted by the State after the date  
7 of the enactment of this Act, or (2) Rod R. Blagojevich  
8 no longer holds the office of Governor of the State of Illi-  
9 nois. The preceding sentence shall not apply to any funds  
10 provided directly to a unit of local government by a Fed-  
11 eral department or agency.



*amended by obj andt by UC  
as amended, adopted  
voice  
vote*



9A

COMMITTEE ON APPROPRIATIONS  
U.S. HOUSE OF REPRESENTATIVES

Amendment offered  
by Mr. Obey  
to Kirk Amendment

Line 10, after "government" add  
"(1)"

Line 11, before the period, add  
" or (2) by an established formula  
from the State "

15

Amendment offered by Mr. Simpson

In the bill:

On page 7, line 18, after "used" insert "under title X of this Act", and

On page 7, line 22, strike "this Act" and insert "such title".

*adopted  
voice vote*

**FOR IMMEDIATE RELEASE**

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Shannon O'Brien (Rep. Foster)

202-225-2976

## **Kirk: Blagojevich Barred from Stimulus Funds**

*Kirk-Foster Amendment included in House economic stimulus package*

*Illinois General Assembly to appropriate billions until Blagojevich removed from office*

**WASHINGTON** – U.S. Representatives Mark Kirk (R-Ill.) and Bill Foster (D-Ill.) successfully attached their bipartisan amendment to President Obama's economic stimulus package yesterday blocking all federal funds to Illinois Governor Rod Blagojevich. The Kirk-Foster Amendment directs Illinois' share of the stimulus to the Illinois General Assembly until Governor Blagojevich is removed from office. The Kirk-Foster Amendment was attached to the "American Recovery and Reinvestment Act of 2009" during a full meeting of the House Appropriations Committee late Wednesday.

"Rod Blagojevich has consistently refused to do what is in the best interest of the people of Illinois and resign," Congressman Kirk said. "As the Congress prepares to approve billions of dollars for Illinois, we must ensure

the governor is not allowed to use these funds to give himself or others a parting gift. The Illinois General Assembly will be the steward of the stimulus funds until Governor Blagojevich is removed from office."

"The allegations that have been made against Gov. Rod Blagojevich call into question his fitness to distribute federal funds in an effective, fair and ethical manner," Congressman Foster said. "I am proud to work with Rep. Mark Kirk to ensure that the Governor does not have the opportunity to misuse stimulus funding at the expense of our constituents in Illinois."

According to the Congressional Research Service, there are broad powers for the Congress to attach conditions to federal spending to states. In the 104th Congress (1995-96), Congress enacted the Brown amendment allocating TANF funding to the respective legislatures – not the governors. Additionally, state supreme courts upheld state legislative control for federal block grant funds. In *Shapp v. Sloan* (1977) the Pennsylvania Supreme Court ruled that the legislature has ultimate authority to appropriate federal block grants.

The amendment text is below.

**AMENDMENT TO AMERICAN RECOVERY AND  
REINVESTMENT BILL**

**OFFERED BY MR. KIRK OF ILLINOIS**

Page 11, after line 10, insert the following:

**SEC. 1112. ADDITIONAL ASSURANCE OF APPROPRIATE USE  
OF FUNDS.**

None of the funds provided by this Act may be made available to the State of Illinois, or any agency of the State, unless (1) the use of such funds by the State is approved in legislation enacted by the State after the date of the enactment of this Act, or (2) Rod R. Blagojevich no longer holds the office of Governor of the State of Illinois. The preceding sentence shall not apply to any funds provided directly to a unit of local government (1) by a Federal department or agency or (2) by an established formula from the state.





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## House panel takes shot at Blagojevich in stimulus

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Wed Jan 21, 2009 8:10pm EST

WASHINGTON (Reuters) - The U.S. House of Representatives' Appropriations Committee voted on Wednesday to bar Illinois Gov. Rod Blagojevich, charged in a corruption scandal, from touching any money the state would receive from an economic stimulus package.

The state, which is trying to impeach the governor after he was accused of trying to sell President Barack Obama's former U.S. Senate seat, is expected to receive about \$50 billion from the pending \$825 billion federal package, said Rep. Mark Kirk, an Illinois Republican.

The panel approved by voice vote an amendment to the spending portion of the stimulus legislation to put the Illinois legislature in charge of the money unless Blagojevich has been removed from office.

"It strips him of any authority to allocate federal stimulus funds," Kirk told Reuters. "I've already talked to the state legislative leaders. ... They're ready for this."

Earlier this month, the Illinois House of Representatives impeached the governor for abuse of power, clearing the way for a trial in the state Senate, where a conviction by more than two-thirds of its members would result in his removal from office.

The language would have to be approved by the full House and Senate and signed by Obama before it could become law.

(Reporting by Jeremy Pelofsky, editing by Todd Eastham)

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## House committee advances economic stimulus bill

By Jeremy Pelofsky and Richard Cowan

WASHINGTON (Reuters) - An \$825 billion economic stimulus package sought by Democrats cleared a key hurdle on Wednesday as a House of Representatives panel approved major portions of the spending initiatives in the plan that President Barack Obama wants enacted by mid-February.



The U.S. Capitol Building is seen at sunrise in Washington, November 17, 2008. REUTERS/Jim Young

The House Appropriations Committee, by a partisan vote of 35-22, approved \$358 billion in spending that would be included in the huge measure. Republicans on the panel attempted, without success, to cut about one-third of that spending and shift it to tax cuts.

"I'm sure that none of you are happy with the cost, neither am I, but the cost has to be measured against the size of the problem," said Rep. David Obey, the committee's chairman. "We face the most dangerous economic collapse since the '30s."

Even if the package of spending, tax cuts and other initiatives is enacted, the Wisconsin Democrat warned Congress could be forced to act again if the economy does not turn around.

The spending package the panel approved includes billions of dollars for upgrading roads, bridges and energy grids, as well as for putting more police on the streets and expanding high-speed Internet services.

Committee members jostled over the bill throughout Wednesday, as Republicans unsuccessfully urged more study before spending hundreds of billions of dollars while Democrats added provisions important to organized labor.

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The panel approved an amendment requiring U.S.-made steel be used in construction projects financed by the new spending and another pushing higher wages for workers on such projects. The lawmakers also expanded funding of emergency food aid as more people struggle to make ends meet in the worsening economy.

In an early test of Obama's ability to bridge partisan divides amid deepening economic gloom, he and his fellow Democrats in Congress must overcome strong skepticism among Republicans concerned about massive new programs that could swell the federal government and deficit.

Republicans have criticized the spending in particular, questioning whether projects to fund the National Endowment for the Arts or to restore the National Mall in Washington would boost the economy and whether jobs would be created quickly.

"Are we fostering job creation and economic stimulus or are we simply growing the size of government?" said Rep. Jerry Lewis of California, the top Republican on the appropriations panel. "I don't question the urgency of this package, I question the priorities and its pricetag."

Democrats hope to push the package through Congress by mid-February to give Obama a big legislative victory a month after taking office and staunch the rapid loss of jobs in a year-long recession.

The tax-writing House Ways and Means Committee plans to consider its part of the bill on Thursday. About

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Jan. 22, 2009, 04:17 AM EST

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\$275 billion in temporary tax benefits for workers and businesses are pending. The Senate Appropriations and Finance Committees are expected to consider their own stimulus measures next week.

The House Appropriations Committee's vote followed a request by House Republicans to meet with Obama to discuss their ideas for boosting the economy and their preference to put greater emphasis on tax cuts to create more jobs in the short-term.

"It's clear that trying to get money back into the economy quickly, preserve jobs and create job has to be the goal and fast-acting tax relief we believe is the best way to do that," House Minority Leader John Boehner told reporters.

"When it comes to slow-moving government spending programs, it's clear that it doesn't create the jobs or preserve the jobs that need to happen," he said.

Obama wanted tax cuts to be a significant component of the package in a bid to win Republican support and move beyond the partisan bickering that has stalled most legislation over the last several years.

Democrats on the panel defeated a series of Republican amendments, including one that would have cut \$122 billion in spending for child feeding programs, job training and other programs and shift the emphasis to tax cuts.

But it did approve an amendment aimed at accelerating state spending on highway and transit projects to create jobs more quickly and one that would prevent Illinois Gov. Rod Blagojevich, who has been charged in a corruption scandal, from disbursing any of the emergency funds his state receives.

(Additional reporting by Susan Cornwell, editing by Chris Wilson)

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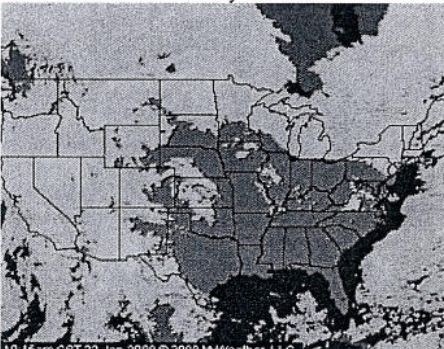
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