

ISSUE BRIEF

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A Crucial First Step Toward Fiscal Discipline: Why the President and Congress Should Pursue a Rescissions Package

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The Constitution states that “no money shall be drawn from the Treasury but in consequence of appropriations made by law.”¹ This enumerated responsibility specifically gives Congress the “power of the purse.” However, the Constitution also states that the President “shall take care that the Laws be faithfully executed.”² In other words, although Congress alone has the ability to provide funding to federal agencies and programs, the President is ultimately responsible for how the appropriations are executed.

On March 23, Congress passed a massive fiscal year (FY) 2018 omnibus appropriations act that increased base discretionary spending by \$138 billion more than FY 2017. While the omnibus was an unmitigated failure with regard to responsible federal spending, the national debt, and the overall fiscal path of the country, all is not lost. The President and Congress reportedly are now working together on a rescissions package.³ Rescissions allow the President or Congress to initiate reductions to or elimination of appropriations to an agency or program. In short, this would be a chance to claw back some of the wasteful and inappropriate domestic spending included in the omnibus.

A rescissions package is by no means the long-term answer to U.S. debt problems. However, it is a

means for President Trump and Congress to begin correcting the present spending path. Together, the President and Congress should pursue a robust rescissions package that saves taxpayer money and begins to cut the federal bureaucracy down to size.

Background on Rescissions

A rescission is a form of impoundment. Impoundments fall under two categories: rescissions and deferrals. A rescission is a permanent cancellation of funding whereas a deferral simply delays the funds from being spent until a later time. A rescission takes the form of enacted legislation that reduces budget authority previously provided by law, prior to the time when that authority would otherwise expire.⁴

Presidents from Thomas Jefferson⁵ to Bill Clinton have used rescissions. Prior to the Nixon Administration, rescissions were generally a non-confrontational process in which Presidents sought accommodation from Congress. President Nixon departed from previous Presidents by impounding larger amounts of funding (nearly \$15 billion in 1973) and explicitly ignoring Congress’s intent that the funds be spent.⁶

The Congressional Budget and Impoundment Control Act of 1974 was passed in response to President Nixon’s infringement upon Congress’s power of the purse. Title X of the act limited the power of the President to withhold funding and put into place a formal procedure for when the President tried to do so.⁷ As noted by former Congressional Budget Office Director Dan Crippen, the law serves as “a Congressional check on unilateral action by the President to impound appropriated funding.”⁸

This paper, in its entirety, can be found at <http://report.heritage.org/ib4835>

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From 1974 to 2000, Presidents proposed approximately 1,200 rescissions, totaling over \$77 billion. Congress approved 461 of those rescission requests at \$25 billion. On average, Presidents Ford through Clinton rescinded 0.6 percent of discretionary budget authority, with President Reagan being the most successful at 1.3 percent.⁹ Since FY 2000, no President has made an official request for rescissions.¹⁰

How the Rescissions Process Works

Under the 1974 Congressional Budget and Impoundment Control Act, the President has the authority to submit to Congress a special message containing amounts of budget authority to be rescinded. The message is officially submitted by the Office of Management and Budget (OMB) and must include:

- The amount of each rescission,
- The account the funds are in,
- The reason for the proposed rescission,
- The estimated budgetary effects, and
- The facts, circumstances, and considerations relating to each rescission.¹¹

Once the special message is received by Congress, it has 45 “continuous session” days to take action. During this period of time, the rescinded funds are not available to be spent. If no action is taken within 45 days, the rescission does not go into effect and the funds must be made available for obligation.¹² The President cannot submit the same rescission proposal more than once for any given fiscal year.¹³

If Congress does decide to act upon the rescission proposal, expedited legislative procedures apply. The 1974 Congressional Budget and Impoundment Control Act provides that debate in the House of Representatives is limited to two hours and to 10 hours in the Senate. Amendments are allowed. In the event of differences between the House and Senate bills, they can move to a conference committee. Conference agreements can be debated for up to an additional two hours.¹⁴

A distinct difference between rescission packages submitted by the President and most other legislation that comes before Congress is that they are not subject to filibuster in the Senate. Thus, they could take effect with a simple majority vote in favor in both chambers.¹⁵

Why the President and Congress Should Pursue a Rescissions Package

On March 23, Congress passed a massive FY 2018 omnibus appropriations act that increased base dis-

1. U.S. Const. art. 1, § 9.
2. U.S. Const. art 2, § 3.
3. Erica Werner, “White House Considers Plan to Slash Spending from Budget Bill,” *The Washington Post*, April 2, 2018, https://www.washingtonpost.com/business/economy/white-house-considers-plan-to-slash-spending-from-budget-bill/2018/04/02/f4ff99c0-36b8-11e8-acd5-35eac230e514_story.html?utm_term=.71caac19ae05 (accessed April 6, 2018).
4. Office of Management and Budget, “Preparation, Submission, and Execution of the Budget,” Circular No. A-11, § 112.
5. National Low Income Housing Coalition, “40 Years Ago: Congressional Budget and Impoundment Control Act of 1974 Passed,” September 19, 2014, <http://nlihc.org/article/40-years-ago-congressional-budget-and-impoundment-control-act-1974-passed>, (accessed April 5, 2018).
6. Virginia A. McMurtry, “Rescission Actions Since 1974: Review and Assessment of the Record,” Congressional Research Service, <https://www.hsdl.org/?view&did=715145> (accessed April 10, 2018).
7. The Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344.
8. Dan L. Crippen, statement on H.R. 853, the Comprehensive Budget Process Reform Act of 1999, before Committee on Rules, U.S. House of Representatives, July, 30, 1999, <http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/12xx/doc1253/051299.pdf> (accessed April 10, 2018).
9. Government Accountability Office, “Updated Rescission Statistics, Fiscal Years 1974-2011,” July 19, 2012, <https://www.gao.gov/assets/600/592874.pdf> (accessed April 10, 2018).
10. Ibid.
11. Office of Management and Budget, “Preparation, Submission, and Execution of the Budget,” Circular No. A-11, § 112.
12. Ibid.
13. McMurtry, “Rescission Actions Since 1974: Review and Assessment of the Record.”
14. Office of Management and Budget, “Preparation, Submission, and Execution of the Budget,” Circular No. A-11, § 112.
15. Gordon Gray, “Rediscovering Rescissions,” American Action Forum, April 4, 2018, <https://www.americanactionforum.org/insight/rediscovering-rescissions/> (accessed April 5, 2018).

cretionary spending levels by \$143 billion over the original Budget Control Act of 2011 spending caps.¹⁶ Although President Trump did sign the bill into law, he stated at the time: “I say to Congress, I will never sign another bill like this again.”¹⁷

The President’s frustration at what transpired in the passage of the bill is justified. A year ago, President Trump proposed non-defense discretionary spending levels for 2018 that were \$100 billion lower than what became law.¹⁸ The President’s first two budget proposals have sought to greatly reduce domestic funding. Many of the programs that President Trump has fought to downsize or eliminate fall well outside of the role of the federal government. The bill passed last month instead gives many of those wasteful programs more funding instead of seizing an opportunity for reform.¹⁹

To be clear, rescissions will not fix the country’s current fiscal mess. Rescissions are not a significant deficit-reduction tool, nor are they meant to be.²⁰ Discretionary spending makes up roughly one-third of the federal budget, while the other two-thirds remains on auto-pilot and is not subject to the annual appropriations process. A budget aimed at achieving long-term sustainability will require Congress to take on reforms to Medicaid, Medicare, and Social Security—the most powerful drivers of the national debt.

However, none of that is to say that a rescissions package is not needed or would not be effective in reducing spending. Rescissions represent a chance for trade-offs to be made in an era of capped spending levels. Rescissions can be used by Congress to accommodate changing budget priorities and ultimately can promote fiscal discipline and help reduce spending.²¹

Any number of domestic programs are ripe for rescissions. The Heritage Foundation’s FY 2018 Blueprint for Balance proposed \$73 billion in non-defense discretionary cuts that could be made in 2018 (not including defense proposals).²² This was before Congress added another \$63 billion in domestic spending through the Bipartisan Budget Act of 2018. It also did not include the nearly \$126 billion in additional emergency appropriations that has been provided in the past year to respond to natural disasters. Less than half of these funds have gone to the Federal Emergency Management Agency for direct response efforts.²³

Conclusion

The federal debt is now higher than it has been at any time in the post-World War II era. The need for Congress to carefully prioritize funding and cut wasteful spending is greater than ever. A rescissions package would be a powerful first step in that direction. The excessive domestic spending increases provided by the Bipartisan Budget Act and omnibus appropriations bill continue to fund failed and inappropriate federal programs. It is past time for the President and Congress to commit to fiscal responsibility and deal with the country’s rising debt level. Passing a rescissions package is a crucial first step toward achieving that goal.

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16. Justin Bogie, ed., “The Good, Bad, and Ugly of the Fiscal Year 2018 Omnibus Appropriations Act,” Heritage Foundation *Issue Brief* No. 4830, March 22, 2018, https://www.heritage.org/sites/default/files/2018-03/IB4830_0.pdf.
 17. Veronica Rocha, Brian Ries, and Amanda Wills, “Trump Signs the Spending Bill,” CNN, March 23, 2018, https://www.cnn.com/politics/live-news/trump-congress-spending-bill/h_2a989f79a390048422ef5f8aba3a90ae (accessed April 5, 2018).
 18. Office of Management and Budget, “Budget of the U.S. Government,” May 23, 2017, <https://www.gpo.gov/fdsys/pkg/BUDGET-2018-BUD/pdf/BUDGET-2018-BUD.pdf> (accessed April 10, 2018).
 19. Bogie, ed., “The Good, Bad, and Ugly of the Fiscal Year 2018 Omnibus Appropriations Act.”
 20. Harry S. Havens, testimony before the Subcommittee on Legislative Process, Committee on Rules, U.S. House of Representatives, <https://www.gao.gov/assets/110/104795.pdf> (accessed April 10, 2018).
 21. Crippen, statement on H.R. 853, the Comprehensive Budget Process Reform Act of 1999.
 22. The Heritage Foundation, *Blueprint for Balance: A Federal Budget for Fiscal Year 2018*, March 28, 2017, <https://www.heritage.org/budget-and-spending/report/blueprint-balance-federal-budget-fiscal-year-2018>.
 23. Congressional Budget Office, “CBO Estimate for Senate Amendment 1930, The Bipartisan Budget Act of 2018, Direct Spending and Revenue Provisions,” Table 1, February 8, 2018, <https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/bipartisanbudgetactof2018.pdf> (accessed April 10, 2018).