

Rescissions Proposal Would Help to Reduce Unnecessary Spending

Matthew D. Dickerson

KEY TAKEAWAYS

Federal spending has grown rapidly for decades and it is the American people who will pay the costs of irresponsible spending.

President Trump recently proposed rescinding \$27.4 billion of wasteful spending through the Impoundment Control Act.

While rescissions are a useful tool for cutting waste, Congress must confront its systemic spending problem and right size the federal budget.

The size of the federal government and the national debt have risen to historically high levels. Thankfully, there are tools available to the President and Congress to begin to address wasteful spending. One such tool is the Impoundment Control Act (ICA), which requires the President to identify unneeded unspent funds for Congress to rescind under expedited procedures. President Donald Trump has recently proposed 73 rescissions totaling \$27.4 billion under the ICA.

What Is a Rescission?

Through appropriations acts, Congress provides federal agencies the ability to spend Treasury funds, called budget authority.¹ This budget authority allows an agency to obligate funds throughout the fiscal year on an apportionment schedule dictated by the Office of

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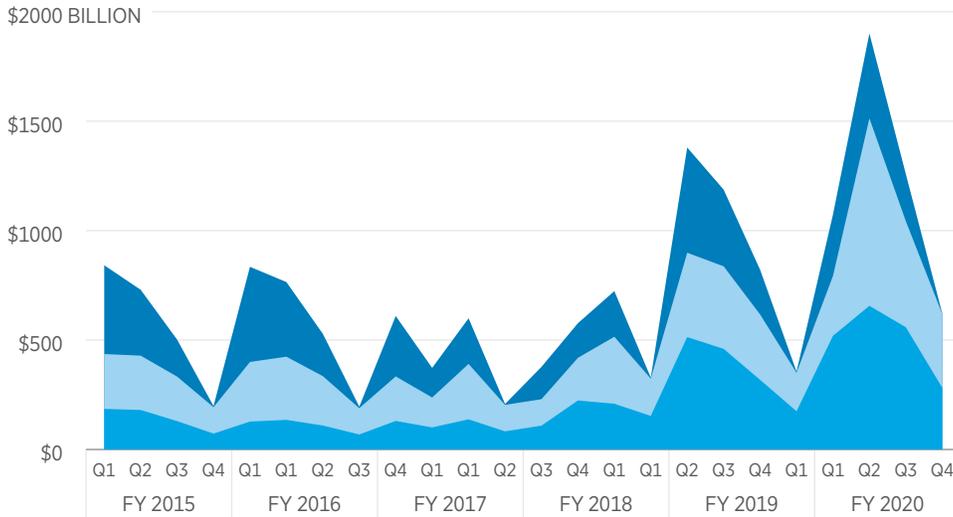
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CHART 1

Unobligated Balances of Discretionary Budget Authority in Appropriations Accounts, by Availability of Funds

- **Expiring** appropriations represent funds that expire in the current fiscal year
- **Multi-Year** appropriations represent funds that will expire in a future fiscal year
- **No Year** appropriations do not expire



SOURCE: Office of Management and Budget, "MAX Information and Reports (Executive, Legislative, and Judicial Users): SF 133 Report on Budget Execution and Budgetary Resources," <https://portal.max.gov/portal/document/SF133/Budget/FACTS%20II%20-%20SF%20133%20Report%20on%20Budget%20Execution%20and%20Budgetary%20Resources.html> (accessed January 13, 2021).

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Management and Budget (OMB). The obligation is a commitment to spend funds, creating a liability on behalf of the government to make a payment. When the payment pursuant to the obligation is made, an outlay occurs.

The amount of unobligated balances of budget authority in appropriations accounts can vary significantly throughout the course of a fiscal year. Over the past five years, the total amount of unobligated discretionary budget authority has ranged from \$196 billion in the fourth quarter of fiscal year (FY) 2016 to more than \$1.9 trillion in the second quarter of FY 2020 (after the enactment of the CARES Act). This is due to the timing of the enactment of the regular appropriations bills, omnibuses, continuing resolutions, and supplemental appropriations, as well as the apportionment schedules that can require agencies to space out obligations throughout the year.

Budget authority that has not yet been obligated by an agency can be canceled by a new law passed by Congress, preventing the funds from being obligated and spent. This cancellation of budget authority is called a rescission.

Rescissions are a commonly used tool of federal budgeting. They are often included as a part of the annual appropriations bills (where the rescinded budget authority can offset higher levels of new spending). In FY 2019, Congress initiated 94 rescissions of budget authority totaling more than \$10 billion.²

Rescissions can also be considered as stand-alone legislation. This has the benefit of forcing Congress to consider the merits of programs and funding levels on their own merits. One way for consideration of rescissions is under the process prescribed by the ICA.

History of the Impoundment Control Act and Rescissions

The ICA was implemented as Title X of the Budget Act of 1974, which established the foundation of the modern budget process.

Presidents dating back to Thomas Jefferson had exercised the power of impoundment by delaying or refusing to spend funds appropriated by Congress. While this undermined Congress's power of the purse, the practice was often non-confrontational.³

However, President Richard Nixon took the use of impoundment to a new level after his re-election in 1972, using the power of impoundment to antagonistically take on Congress and the federal bureaucracy. President Nixon impounded \$15 billion from more than 100 programs in 1973 and promised more to come.⁴

In response to Nixon's actions, the ICA limited the President's ability to impound funds. Instead, the law allows the President to withhold funds on a temporary basis and to propose rescissions to Congress.

For several decades after the enactment of the ICA, rescissions bills were common. Between 1974 and 2000, Congress rescinded \$25 billion using the procedures established by the law.⁵ The use of the ICA then fell out of favor for nearly 20 years until it was revived in 2018.

In 2018, President Trump sent a special message under the ICA that proposed 34 rescissions totaling about \$15 billion in budget authority, which would have reduced outlays by about \$1.1 billion.⁶ H.R. 3, the Spending Cuts to Expired and Unnecessary Programs Act, was introduced by House Republican Leader Kevin McCarthy (CA) and passed the House by a 210-to-206 vote. However, the bill failed in the Senate by a 48-to-50 vote.⁷

Impoundment Control Act Process

The ICA provides a process for the President to propose rescissions and for Congress to consider them on an expedited procedure.⁸

The law provides that whenever the President determines that budget authority is not required or should be rescinded for fiscal or other policy reasons, he is required to transmit a special message to Congress. The special message must specify the amount of budget authority proposed to be rescinded, why the funds should be rescinded, and other relevant information. The President does have the ability to amend a special message, including by withdrawing previous proposals for rescissions.⁹

The transmission of the special message starts a chain of events that must be completed within 45 days of a continuous session of Congress.

The President is allowed to withhold the funds covered by the special message for up to 45 days, or until Congress has completed action on a rescission bill. This means that the agency may not obligate or spend the funds during this period.

In the House of Representatives and the Senate, any Representative or Senator may introduce a rescission bill based on the special message, although the leader of the President's party traditionally introduces legislation. To qualify for the procedures established by the ICA, a rescission bill may not include anything outside the scope of the President's special message, but it does not need to include all of the proposed rescissions in the special message. Multiple rescission bills covering different parts of a President's special message can be introduced and qualify for the expedited procedures.

The ICA includes protections that can help to advance the bill and prevent it from getting bottled up in committee. If the committee to which a rescission bill has been referred has not reported the bill after 25 days of continuous session, it is in order for any Representative or Senator to move to discharge the bill from the committee.

Once out of committee, the ICA makes a rescission bill privileged in both the House and Senate and prescribes specific procedures for consideration in both chambers. Both chambers may follow modified procedure if they so choose, either by a special rule in the House or unanimous consent in the Senate.

Most significantly, in the Senate, the ICA provides that a rescission bill is privileged and therefore not subject to a filibuster. Debate is limited to 10 hours. The motion to proceed to consideration of a rescission bill as well as passage are both a simple majority vote.

A rescission bill must be passed by both the House and Senate and signed by the President to become law.

President Trump's January 2021 Rescission Proposal

After Congress passed the FY 2021 omnibus and COVID-19 relief bill—the Consolidated Appropriations Act, H.R. 133—on December 21, 2020, President Trump released a video criticizing the bill as having “almost nothing to do with COVID” and including an array of “wasteful and unnecessary items,” setting off speculation that he might not sign the bill into law.¹⁰

President Trump ultimately did sign the omnibus into law later that week. However, he released a statement expressing his displeasure with many of the spending items in the bill, and announced that he would be asking Congress to rescind waste: “As President I am demanding many rescissions under the Impoundment Control Act of 1974.... I will sign the Omnibus and COVID package with a strong message that makes clear to Congress that wasteful items need to be removed. I will send back to Congress a redlined version, item by item, accompanied by the formal rescission request to Congress insisting that those funds be removed from the bill.”¹¹

President Trump transmitted a special message to Congress proposing 73 rescissions on January 14, 2021.¹² The proposal includes rescissions of spending from 24 federal departments and agencies.

If enacted, the proposed rescissions would cancel \$27.4 billion of budget authority. According to the OMB, these rescissions would reduce outlays by \$24.9 billion, meaning that about \$2.5 billion of the proposal was never actually going to be spent.

The package is reported to be the “largest rescissions package ever proposed.”¹³ The proposed spending cuts cover a wide range of programs. About \$17 billion is made up of foreign aid programs,¹⁴ a category of spending that Heritage Foundation analysts have identified as being long overdue for an overhaul.¹⁵ Another \$6.5 billion of proposed rescissions would eliminate some of the green energy subsidies at the Department of Energy, subsidies which are not needed and are for activities that are often conducted more efficiently by the private sector.¹⁶ Also included are cuts to programs that have often been highlighted as examples of waste of taxpayer dollars, such as funding for the National Endowments of the Arts and Humanities.¹⁷

The Path Forward for Rescissions and Fiscal Responsibility

President Trump's recent rescission proposal is a responsible first step to reducing unnecessary spending. The transmission of the special message will allow any Member of Congress to introduce legislation that consists of part of the rescission proposal and let it qualify for the expedited

consideration afforded by the ICA. In order to force Congress to consider the merits of spending taxpayer funds on the programs proposed to be canceled by the President, it could make sense for Members of Congress to introduce separate bills for each of the rescissions, or perhaps group them together by agency or activity.

In general, it is a good idea for Congress and the President to periodically rescind old and unneeded unobligated budget authority on a stand-alone basis, and not as a part of other legislation. This would prevent it from being used as a gimmick to offset new higher spending. Under the scoring conventions, a rescission of budget authority included in an appropriations bill can offset higher levels of discretionary spending in the bill beyond what would otherwise be allowed under the committee allocation or a spending cap, even if the rescission cuts budget authority that was never going to be spent and has no effect on outlays.

The ICA requires the President to propose a rescission whenever he or she “determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs for which it is provided or that such budget authority should be rescinded for fiscal policy or other reasons.”¹⁸ The President should instruct the OMB Director to regularly review the unobligated balances in appropriations accounts, and to recommend budget authority that should be rescinded. The Heritage Foundation’s *Blueprint for Balance* has identified numerous programs that are ripe to be rescinded.¹⁹

Even if Congress adopts President Trump’s proposed rescissions, the work of Congress and the President is not done. Significant changes in federal policy are required to put the federal budget on a fiscal path that is both sustainable and reflects the proper activities of a constitutionally limited government. Even though \$27.4 billion is an extremely large amount of money, it represents only a miniscule fraction of the federal budget or even of the multi-trillion-dollar omnibus and COVID-19 relief spending bill. Last year, the national debt increased by more than \$4.5 trillion to \$27.7 trillion, increasing each American’s share of the debt by \$13,600 to \$83,669.²⁰ Even prior to the outbreak of COVID-19, the federal budget was too big and too unsustainable. In a normal year, discretionary spending is only about one-third of total spending, with the remaining two-thirds being mandatory spending programs that continue on autopilot without regular review by Congress. Reforms, such as those proposed by Heritage Foundation analysts, would represent a blueprint for a responsible post-COVID-19 budget.²¹

Conclusion

Rescinding unspent and unneeded funds is something that Congress should do on a regular basis. The Impoundment Control Act is a useful, but limited, tool for the President to highlight waste and to identify spending for Congress to cut. Although President Trump has proposed some sensible rescissions, much more needs to be done to right size the federal budget and put spending on a more sustainable path.

Matthew D. Dickerson is Director of the Grover M. Hermann Center for the Federal Budget, of the Institute for Economic Freedom, at The Heritage Foundation.

Endnotes

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