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Legal Sidebar

Pocket Rescissions and the Impoundment Control Act: Background and History

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On July 24, 2025, President Donald J. Trump signed into law the Rescissions Act of 2025. The statute marks the first time since 1992 that a President has successfully invoked the Impoundment Control Act of 1974 (ICA) to secure passage of a rescission bill. The ICA process began in May 2025, when President Trump transmitted to Congress a rescission special message proposing that Congress cancel $9.4 billion in unobligated balances. By sending his special message, President Trump put forward a legislative proposal that the ICA allowed Congress to consider under special legislative procedures, available for 45 calendar days of continuous session of Congress after the special message's receipt by the houses. The ICA limits debate in the Senate on a rescission bill introduced with respect to a special message. This limitation means that a President can secure rescissions with the support of only a majority of both houses, rather than the 60-vote threshold that normally applies to bring debate in the Senate to a close.

President Trump's transmission of a rescission special message had another, related effect: in the same 45-day period Congress has to consider a rescission bill under ICA procedures, Section 1012(b) of the Act has traditionally been interpreted to allow the President to *impound* (i.e., withhold from obligation) funds that he has proposed for rescission. President Trump invoked this authority after sending his May 2025 rescission special message. In particular, the Office of Management and Budget (OMB) apportioned appropriations to render unavailable (i.e., "reserve") the $9.4 billion that the President had proposed for rescission. The Rescissions Act of 2025 canceled $9 billion of that amount.

While Congress largely assented to President Trump's May 2025 rescission proposal, senior Trump Administration officials have argued that when Congress does not enact a rescission bill, a President may use the ICA to reduce federal spending by using a *pocket rescission*. In this scenario, a President would transmit a special message proposing to rescind fixed-period budget authority (i.e., funds whose period of availability ends on a date certain). He would do so when fewer than 45 calendar days of continuous session remain in the funds' period of availability. He would also direct that the targeted funds be withheld from obligation under Section 1012(b). Withholding would continue until the funds expire. At that point, the agency largely could not obligate the funds, and thus could not expend them. Even if Congress did not enact a rescission bill to cancel the funds, their expiration would result in fewer outlays from the federal treasury than likely would have been the case if the agency concerned had continued to obligate them during the withholding period before their expiration.

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On August 28, 2025, President Trump transmitted to Congress a special message proposing 15 rescissions totaling nearly $5 billion in foreign assistance appropriations, including funds whose withholding is the subject of pending litigation. All of the funds slated for rescission are set to expire on October 1, 2025, which is fewer than 45 calendar days from the date of the message and, reportedly, its receipt by the houses. If the Department of State is directed to withhold the funds for the full Section 1012(b) withholding period—as is currently the case—the funds likely will expire. Thus, the special message raises the prospect of a pocket rescission. A White House statement concerning the special message expressly states that the President is using "his authority under the Impoundment Control Act to deploy a pocket rescission."

Pocket rescissions raise a number of questions, including the nature and consequences of a pocket rescission; the timing necessary, in the view of proponents, to effect a pocket rescission; and whether pocket rescissions have been effected before. This Legal Sidebar, the first in a series of two Sidebars, examines these and other frequently asked questions concerning the nature and effect of pocket rescissions. A second Legal Sidebar canvasses competing legal claims on whether the statute authorizes pocket recissions. The companion Legal Sidebar also notes questions, both new and old, raised by the August 2025 special message and identifies considerations for Congress.

What is a Pocket Rescission?

"Pocket rescission" does not appear in statute. The term is an informal label attached to a use of the ICA that, according to some, could result in a President reducing government outlays unilaterally, without needing to secure congressional approval of a rescission proposal. The interaction of two features of law—the withholding authority of Section 1012(b) and an appropriation's remaining period of availability—is what some argue could lead to such unilateral spending reductions.

Section 1012(a) of the ICA states that whenever the President "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," the President shall transmit to Congress a rescission special message describing the rescission proposal. The chambers' receipt of a special message makes special legislative procedures available under Section 1017 of the ICA. These procedures concern a *rescission bill*, which is a bill or joint resolution which only rescinds, in whole or in part, budget authority proposed for rescission in a special message, and "upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress."

Section 1012(b) of the ICA references this same 45-day period. It states that any "amount of budget authority proposed to be rescinded" "as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded." This statutory language has generally been construed to provide the President with impoundment authority (though its exact scope is subject to debate). That is because Section 1012(b) appears to refer to an action that is to take place once the 45-day period ends—funds "shall be made available." Until that time, though, the Government Accountability Office (GAO) and OMB have read Section 1012(b) to not require that funds slated for rescission be made available for use by the agency concerned. (However, as discussed in the second Legal Sidebar in this series, GAO and OMB disagree on whether Section 1012(b) may be used to effect pocket rescissions.) Impounding the funds relieves the agency of the duty to prudently obligate the funds during the 45-day period when Congress may decide to use the ICA's special legislative procedures to rescind the funds.

The second feature of law on which proponents of pocket rescissions rely is an appropriation's *period of availability*. This aspect of an appropriation is Congress's statement of the time period for which the appropriation is made. An appropriation is either a *fixed-period appropriation*, available for obligation by the agency concerned until a date certain (e.g., until September 30, 2025), or an *indefinite-period appropriation*, available for obligation until expended. A fixed-period appropriation *expires* on the first day after the period of availability ends, which in most cases would be October 1 of a calendar year, the first day of the federal fiscal year.

In a pocket rescission scenario, a President would transmit a special message proposing the rescission of all or part of a fixed-period appropriation's unobligated balance. The appropriation would be set to expire soon after transmission of the special message, most typically at the end of the fiscal year. The President's transmission of the special message would be timed so that not more than 45 calendar days of continuous session of Congress remain in the appropriation's period of availability at the time that the houses receive the special message. For example, on September 1, Congress might receive a special message proposing the rescission of unobligated balances that will expire on October 1. A hypothetical pocket rescission scenario would see the President order that the funds be withheld from obligation for the entire 45-day period described in Section 1012(b). As a result, the funds would expire on October 1, prior to end of the 45-day period.

When Would the President Need to Transmit a Special Message to Effect a Pocket Rescission?

Proponents of a pocket rescission power argue that if the 45-day period described in Section 1012(b) of the ICA is *longer* than a fixed-period appropriation's remaining period of availability, the ICA allows the President to withhold such funds from obligation through expiration. Put differently, proponents argue that so long as the houses receive a special message proposing a rescission when 45 calendar days of continuous session of Congress (or fewer) remain to obligate the funds, the funds may be withheld under Section 1012(b) until (or through) expiration.

For the typical, soon-to-expire fixed-period appropriation, the key date under modern chamber practice is likely to be on or after August 16 of a given year. Most fixed-period appropriations that are set to expire in a fiscal year do so on September 30 of the fiscal year. Fewer than 45 calendar days separate August 16 from September 30.

A strict reading of the ICA's language indicates that the Section 1012(b) withholding period is *not* 45 calendar days, but 45 calendar days *of continuous session of Congress*. The ICA explains that, for purposes of Section 1012(b), "the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 45-day period." Thus, a Section 1012(b) withholding period could be longer than 45 calendar days if, after the receipt of a special message by Congress, either chamber adjourns for more than three days to a day certain during the withholding period.

Adjournments of this type were relatively common early in the ICA's history. For example, after President Gerald R. Ford transmitted a special message on July 25, 1975, the houses entered adjournment for nearly all of August 1975. Because these days in adjournment did not count in the calculation of the ICA's 45-day period, the July 1975 special message resulted in a Section 1012(b) withholding period that extended for weeks beyond September 30 of that year. More recently, though, the chambers have opted to hold *pro forma* sessions, avoiding the need to enter such adjournments during state work periods. Thus, under modern chamber practice, every calendar day that follows the houses' receipt of a special message is likely to count in the 45-day period.

What Would Happen to Budget Authority that is Pocket Rescinded?

Funds that are pocket rescinded would, as noted above, be withheld from obligation under Section 1012(b) until they expire. Understanding the significance of funds' expiration, and thus the consequences of a pocket rescission, requires an understanding of budget terminology and of generally applicable provisions of law that are codified in Title 31 of the *U.S. Code*.

Budget authority is statutory authority to incur obligations that bind the federal government. An *obligation* is a legally binding commitment to pay federal funds to a third party. *Appropriations* are a form of budget authority, which allow an officer or employee of the United States to incur obligations. Appropriations are the only form of budget authority that additionally allow federal officials to direct payments from the Treasury to satisfy obligations. Obligations can arise in many circumstances, such as with the execution of a grant agreement. As they incur obligations, agencies are to record the associated financial liability (e.g., the amount of a grant award) against available appropriations to ensure that sufficient funds are set aside to pay the obligation. As the agency records obligations, an appropriation's *obligated balance* increases, reflecting the portion of the appropriation that is committed for payment to a third party (i.e., "unliquidated obligations"). The *unobligated balance* decreases correspondingly, reflecting the portion that remains available for obligation.

Prior to their expiration, fixed-period appropriations are available to incur obligations that otherwise meet the appropriation's terms. After expiration, fixed-period appropriations remain available for five fiscal years "for recording, adjusting, and liquidating obligations properly chargeable to that account." Thus, for five fiscal years, the agency may continue to use the expired appropriation to make expenditures that satisfy (i.e., liquidate) obligations that were properly incurred against the appropriation. The agency may make limited use of the unobligated balance of the expired appropriation as well. For example, if the agency actually incurred an obligation but failed to record it against the appropriation prior to expiration, the agency may correct the under-recording using expired funds. What the agency may not do, though, is use the unobligated balance of an expired appropriation to incur new obligations. On September 30 of the fifth fiscal year after expiration, the account closes by operation of law (i.e., automatically), and its balances, obligated and unobligated, are canceled and not available for any purpose.

Thus, funds that are pocket rescinded would be funds that expire in an unobligated state due to their being withheld from obligation under Section 1012(b). Such funds could not be used to incur new obligations during either the Section 1012(b) withholding period or the subsequent expired period. However, the expired funds could be used to record or adjust obligations that were properly chargeable to the appropriation. The funds would remain in an expired state for five fiscal years, after which time the account would close by operation of law.

Which Categories of Budget Authority May (and May Not) Be Vulnerable to a Pocket Rescission?

Section 1012(a) of the ICA allows the President to propose rescission of "any budget authority," but not all budget authority that is proposed for rescission is capable of being pocket rescinded, assuming the statute authorizes pocket rescissions. To be the subject of a pocket rescission, at the time that the President transmits a special message, the budget authority at issue must be (1) soon to expire and (2) able to be withheld under Section 1012(b) of the ICA. Certain budget authority does not satisfy one or both of these conditions and thus may not be pocket rescinded.

First, indefinite-period budget authority may not be pocket rescinded because it never expires. While the President may propose the rescission of indefinite-period budget authority, and might be able to withhold such funds under Section 1012(b), withholding could not last through expiration. Unless Congress rescinds the indefinite-period budget authority during the 45-day period, the ICA would require its release from any Section 1012(b) withholding.

Second, budget authority described in Section 1001(4) of the ICA may not be pocket rescinded because such budget authority may not be withheld under Section 1012(b). Section 1001 is the ICA's "disclaimer" provision. Paragraph (4) of that section states that nothing "contained in this Act, or in any amendments made by this Act, shall be construed as superseding any provision of law which requires the obligation of budget authority or the making of outlays thereunder." According to judicial decisions, Section 1001(4) describes, among others, budget authority for formula grant programs. GAO decisions applying the language agree and add to the list of covered budget authority congressionally directed spending (also known as community project funding) and funding for other programs for which the agency concerned has "no discretion over the obligation of funds."

Budget authority described in Section 1001(4) may be proposed for rescission under Section 1012(a) but may not be withheld under Section 1012(b). Such withholding would cause the ICA to supersede another provision of law that requires the obligation or expenditure of budget authority. For example, if a statute requires that a definite amount of budget authority be allocated to states according to each state's share of the country's population, withholding the budget authority under Section 1012(b) would supersede the terms of that formula grant statute. As OMB has explained, Section 1001(4) interacts with Section 1012(b) by denying withholding authority for budget authority that is subject to a statutory directive to outlay or obligate the funds during the 45-day period.

Thus, the category of budget authority that is potentially vulnerable to a pocket rescission is (1) fixed-period budget authority that is (2) not described in Section 1001(4) of the ICA.

Have Prior Special Messages Resulted in Pocket Rescissions?

It is difficult say with certainty how many times a President has transmitted a special message proposing a rescission and thereafter withheld the targeted unobligated balances through their expiration using Section 1012(b) authority. Part of this difficulty stems from the large number of rescissions—more than 1,300—proposed under the ICA during the statute's half-century-long lifetime. According to the GAO, Presidents proposed a total of 1,212 rescissions under the ICA between FY1974 and FY2020. President Trump proposed an additional 73 rescissions in FY2021 and 37 rescissions in FY2025. Information about such proposals may also be incomplete or not readily accessible. However, as described below, on at least two occasions—and possibly a third—a President appears to have taken action resembling a pocket rescission. In one of these instances, Congress agreed with the President's rescission proposal, enacting a rescission bill to cancel the funds after they had expired.

On October 4, 1974, President Gerald R. Ford transmitted to Congress the second set of rescissions proposed under the ICA, including a request to rescind $85 million in contract authority provided for the Agricultural Conservation Program (REAP), a program intend to support certain farming practices. President Ford explained that there were not enough program participants. Congress did not enact legislation to rescind the contract authority, which expired on December 31, 1974.

Whether these events constitute a pocket rescission is unclear. The REAP contract authority withholding predated the ICA's enactment. The Ford Administration took the view that the ICA did not apply to such pre-enactment withholdings (a position with which GAO disagreed). OMB thus contended that President Ford included the REAP rescission in an ICA special message to provide "more complete information on the status of withheld funds," rather than to convey a rescission proposal subject to the statute. President Ford apparently did not justify the REAP withholding by referring to Section 1012(b).

Less than a year later, on July 25, 1975, President Ford sent Congress a proposal under the ICA to rescind two Community Services Administration (CSA) appropriations totaling $10 million. These funds lapsed on September 30, while they were being withheld from obligation under the ICA. As GAO explained, expiration occurred "nearly a month before expiration of the 45 days of continuous session." Congress had been in adjournment for nearly all of August 1975.

Finally, on July 19, 1977, President Jimmy Carter sent Congress a special message asking that $21 million in appropriations for Foreign Military Credit (FMC) sales be rescinded. Thereafter, Congress adjourned for roughly a month, from early August to early September. The FMC sales appropriation expired on September 30. GAO observed that the funds lapsed "before the end of the [ICA's] 45-day period." Congress ultimately embraced President Carter's rescission proposal, enacting in November 1977 a rescission bill that canceled the unobligated balance of the expired FMC sales appropriation.

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