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An Examination of the Rescission Package

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The Federal government's fiscal situation is grim, and has only been made worse in the last few months. According to the Congressional Budget Office's updated budget baseline, Congress will be staring at trillion-dollar deficits within two or three years. Over the nearer term at least, this situation is in part due to the Bipartisan Budget Act of 2018 (BBA), which abrogated spending caps that had been put in place only a few years ago. NTUF recently estimated the full cost of the BBA to be $1.66 trillion over ten years.

Many taxpayers were frustrated with the high cost of the BBA, and NTUF wrote at the time that it was akin to Republicans "shooting themselves in the foot." Thankfully, that frustration has helped to spur action by the White House and Congress to address some wasteful spending by pursuing a $15 billion "rescission" package.

What Are Rescissions, and How Do They Work?

A rescission is a legal process by which Congress can "rescind" funding after it has been appropriated. One way this can be done is through the President's authority under the Impoundment Control Act of 1974 to recommend a rescission package to Congress. Congress then has 45 days of "continuous session" to pass legislation containing the President's proposals through a majority vote.

Rescissions can only target unobligated funding that has not yet been spent or been promised to be spent through a binding agreement. The funding included in the President's rescission package are set aside and unavailable for obligation throughout the duration of the 45-day threshold. Prior to the passage of the BBA (the most recent estimate available), approximately $377.5 billion in discretionary funds remained unobligated and eligible for rescission. Approximately $109 billion will remain subject to rescission indefinitely because Congress originally authorized the funding without an expiration date.

Rescissions were once fairly common. A Government Accountability Office report in 2012 noted that Congress accepted 145 rescissions suggestions by the President between 1990 and 2000, around 43 percent of those proposed. However, no President since Clinton has submitted a rescission request.

The total dollar amount of these proposals is what makes this package truly unique—those earlier packages combined made up just over $20 billion. This package alone accounts for $15.4 billion.

It is also rare for rescissions to be the product of the President and Congressional leadership working together. Historically, impoundment and rescission of Congressionally-appropriated funds by the President have been a source of conflict among all three branches of government.

After President Nixon moved aggressively to impound funding for programs he opposed in the early 1970s, Congress rebuked him with passage of the Impoundment Control Act of 1974. That bill significantly restricted the President's ability to impound funds, subjecting it to a strengthened Congressional review process. President Clinton later received Congressional support for an enhanced rescissions process in the Line-Item Veto Act of 1996, but the Supreme Court ruled this law unconstitutional soon afterwards. This time around, the President and Congressional leadership are working together to utilize the existing rescissions process to target wasteful spending.

What Does This Rescission Package Look Like?

None of the proposed rescissions will affect spending authorized under the omnibus bill, though administration officials have suggested that future legislation could do so. Nor will they address defense spending, the single largest category of discretionary spending. Instead, this rescission package is an attempt to clear out budget offsets that Congress traditionally uses when it wishes to pass an expensive piece of legislation. Using unobligated funds as an offset for higher spending elsewhere makes the bill's cost estimate less pricey on paper. Most recently, similar offsets were attached to the BBA. Getting these offsets off the books now ensures they'll be targeted for deficit reduction rather than to prop up future spending hikes.

Some of the proposed rescission targets include:

- **$7.01 billion** from the Children's Health Insurance Program (CHIP)**.** None of this funding would affect the outlays available for CHIP. $5.15 billion of this amount would come from unspent allocated funds for 2017 which are now expired; the remaining $1.87 billion is part of a contingency fund available only if states exceed their expected number of enrollments in the program, which no states are expected to do. While some have alleged that this rescission would negatively impact children's health, the Congressional Budget Office confirmed in a May 8th letter to House Majority Leader Kevin McCarthy (R-CA) that it "**would not affect outlays, or the number of individuals with insurance coverage**."
- **$4.3 billion** from the Advanced Technology Vehicle Manufacturing (ATVM) loan program. ATVM has a history of making risky loans that have often gone bad, forcing taxpayers to foot the bill.
- **$800 million** from the Center for Medicare and Medicaid Innovation (CMMI). This funding was intended to go towards developing new, innovative payment delivery methods for CMMI, but is not expected to be used in 2018 or 2019. NTUF has previously documented how the Congressional Budget Office's flawed approach to scoring CMMI assumes that it will lead to tens of billions in savings to taxpayers as "a profession of faith, not the product of analysis."
- **$684 million** in unobligated funding for the Title 17 Innovative Technology Loan Guarantee Program, which encouraged faster commercial adoption of certain energy technologies. This market-distorting subsidy had its regular authorization lapse in 2011 also has $523 million in funding leftover from the 2009 stimulus law.
- **$500 million** in funding for conservation programs in excess of amounts needed for FY 2018 programs.
- **$252 million** in funding to address Ebola, despite the fact that the World Health Organization declared the disease to be effectively contained in January of 2016.
- **$220 million** from the Nonrecurring Expenses Fund of the Department of Health and Human Services, which uses excess program funds to pay for capital investments. Other sources could fund these projects.
- **$157 million** from the Natural Resources Conservation Service. $107 million of this is emergency watershed assistance for Hurricane Sandy, which occurred six years ago. The remaining $50 million are funds in excess of need for the Watershed and Flood Prevention Operations Program.

- **$151 million** in FY 2018 funding for the Capital Magnet Fund, which aims to increase available affordable housing. This rescission would aim to shift the focus on increasing affordable housing to the private sector, as well as state and local governments.
- **$150 million** in leftover funding for the National Service Trust, which provides educational awards to AmeriCorps' paid-volunteers who have completed their service. These balances are in excess of what is necessary for program functionality in FY 2018.
- **$148 million** for the Animal and Plant Health Inspection Service, funding that was intended to address disease outbreaks that have been contained, like the 2015 bird flu scare. This amount is in excess of needed appropriations for this year.
- **$133 million** from a railroad unemployment insurance extended benefit program that expired in 2012.
- **$106 million** in leftover funding for the Assets Forfeiture Fund of the Department of Justice, which covers costs associated with such forfeitures. These funds are in excess of what is required for program functionality in FY 2018. Additionally, **$53 million** in similar funds for the Department of the Treasury would be rescinded, as they are in excess of necessary funding.
- **$86 million** in leftover funding for earmarked highway projects, which could be provided through other means.
- **$53 million** in leftover funding for the High Speed Rail program, which furnishes grants to states to invest in passenger rail systems. No new funding has been appropriated since FY 2010.
- **$52 million** in leftover funding for the Millennium Challenge Corporation (MCC), which provides grants to developing countries to spur economic growth. This funding is in excess of what is necessary for the MCC to function properly in FY 2018.
- **$48 million** in miscellaneous highway funding authorized in 2001. Rescinding these balances is unlikely to have much impact on outlays, given the age of the original appropriation.
- **$47 million** in leftover funding for formula grant funding for transit agencies. This is the remainder of funds appropriated in FY 2005 and before, and the recent Consolidated Appropriations Act appropriated $9.7 billion in new expenditures for this program.
- **$45 million** in leftover funding for the Appalachian Development Highway System (ADHS), which provides grant funding for construction projects in the ADHS highway corridor. The ADHS program was eliminated in 2012, and states are otherwise eligible to receive funding for highway projects in this area through the Federal-Aid Highway Program.
- **$41 million** in leftover funding for the Public and Indian Housing Program's Capital Fund, which provides formula modernization grants to public housing programs. FY 2018 funding could be used to fund these projects.
- **$40 million** from the rental assistance program of the Rural Housing Service. This is carryover funding from FY 2017, and the program is fully funded for this fiscal year. Another **$2 million** comes from carryover funding for the community facilities program of the Rural Housing Service, which is likewise fully funded for FY 2018.
- **$37 million** in carryover funding for the Water and Wastewater program, which provides funding for clean water in small low-income rural communities. The program is fully funded for FY 2018.
- **$36 million** in 2017 unobligated balances from the Biorefinery Assistance Program, which encourages the development of biofuels and renewables. These funds are unnecessary for program functionality in FY 2018.
- **$30 million** in carryover funding for the Economic Development Administration, which provides economic development grants to disadvantaged communities. This program has been identified as duplicative and authorization for the program expired in 2008.
- **$30 million** in leftover funding for the Complex Crises Fund of the Department of State, which supports rapid response to emerging crises. This fund has been used as long-term development funding, making it duplicative.

- **$14.7 million** from carryover balances of the Value-Added Product Grant, which provides funds for companies that are already subsidized through the Farm Bill to market their products.
- **$22.9 million** in funding for National Emergency Grants under the 2009 American Recovery and Reinvestment Act, intended to assist states in implementing the Health Care Tax Credit for Trade Adjustment Assistance recipients. The Department of Labor does not have plans for this funding and it is unlikely to be used.
- **$22.8 million** in FY 2017 funding for the Community Development Financial Institutions (CDFIs) Fund, which would be used for awards for deposit banks that support CDFIs. Removing this funding would address a market-distorting subsidy.
- **$16 million** in land acquisition funding for the Forest Service. This rescission would aim to restrict new land purchase projects to the goals of increasing public access to hunting, fishing and "other recreational uses."
- **$13 million** from carryover balances for High Cost Energy Grants, which aim to improve energy facilities in areas where energy costs are significantly higher than the national average. The program is fully funded for FY 2018.
- **$10 million** in leftover funding for EPA salaries, travel, etc. for pollution abatement and compliance. These funds are duplicative with water quality research and support grants.

Most of these rescission targets are programs that are fully funded and have appropriations that are not expected be used. Enacting these rescissions would have little to no impact on program operations. The package as a whole has a relatively limited effect on FY 2018 outlays, constituting a decrease of roughly $3 billion.

That does not make the package toothless. Cleaning out the underbrush of old programs and excess appropriations before they can be used as offsets to justify spending hikes in the future is a laudable objective. Additionally, re-establishing a precedent of presidential use of rescission power could make for further taxpayer savings down the road.

Conclusion

Rescissions alone will not erase the mounting problems with the spending side of the federal ledger, especially given the massive liabilities ahead in mandatory programs. Furthermore, a package like this would not have been necessary if Congress and the White House had made fiscal responsibility a higher priority. That said, fiscal conservatives should look favorably on a clear signal that the federal officials are responsive to concerns expressed about the debt and the deficit. Many voiced dismay in the aftermath of the BBA, and were answered with this rescission package - as well as a promise of more rescissions to come.

Making good on promises to taxpayers of greater fiscal responsibility should take priority. Taxpayers deserve a government that uses every tool available to ensure that their money is being used wisely. This rescission package may be small compared with the size of the whole federal budget, but it is a very welcome step in a direction that leaders must choose more frequently going forward.

<u>About the Author</u>

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