

Some Background

What are rescissions?

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A. The rescission process allows a president to avoid spending money on discretionary programs that has been appropriated by the Congress, but not yet obligated for the purchases of goods and services.

The Constitution is clear that a president cannot spend money without a Congressional appropriation. It is less clear whether a president must spend money that has been appropriated by the Congress. Various presidents had from time to time refused to spend appropriations, but it was very unusual and almost always involved small amounts. It was said that the president impounded the money.

President Nixon broke precedent when, fresh off an overwhelming electoral victory in 1972, he refused to spend money that had been appropriated for several social programs. He was immediately sued and lost all cases except one before the US Court of Appeals. The case never reached the Supreme Court because the Congress quickly moved to restrict a president's ability to impound funds in the Congressional Budget and Impoundment Control Act of 1974. That act also created the congressional budget process.

The Congress did not want to totally outlaw a president's ability to impound funds, so they created two processes: rescission and deferral. The latter was later ruled unconstitutional by the Supreme Court.

In the rescission process, the president sends the Congress a request to cancel specified appropriations that have not yet been obligated to fund the purchase of goods and services. The Congress has 45 days to consider—or ignore—the president's request. If the Congress votes to approve the request or any portion thereof, the spending is cancelled. If not, the president must spend the money.

Various presidents and numerous lawmakers have backed a reform called enhanced rescission. Under this approach, the Congress would not be able to ignore a president's rescission request. They would have to vote on it within 45 days. At first sight this sounds like a minor change, but it could greatly enhance the power of rescission requests. Lawmakers voting against the president's request would be saying that an activity the president deemed wasteful was, in fact, effective. That could be a hard vote. The Congress could no longer just ignore the president.

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