

§ 27. Rescissions

Rescission Exception to Rule XXI Clause 2

§ 27.1 The rescission exception to the Rule XXI clause 2⁽¹⁾ prohibition against changing existing law in any general appropriation bill, allowing the Committee on Appropriations to report bills containing rescissions of appropriations in appropriation acts, does not extend to the rescission of contract authority provided by laws other than appropriation acts.

On Sept. 22, 1993,⁽²⁾ the following occurred:

Mr. [Bob] CARR of Michigan. Mr. Chairman, I ask unanimous consent that the bill through page 20, line 3, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN.⁽³⁾ Is there objection to the request of the gentleman from Michigan? There was no objection.

The text of the bill from page 17, line 22 through page 20, line 3 is as follows:

(RESCISSION)

(HIGHWAY TRUST FUND)

Of the amounts made available for Federal-aid highways pursuant to provisions of the Surface Transportation Assistance Act of 1982, \$1,596,386 are rescinded.

(RESCISSION)

(HIGHWAY TRUST FUND)

Of the amounts made available for Federal-aid highways pursuant to provisions of the Surface Transportation and Uniform Relocation Assistance Act of 1987, \$54,014,000 are rescinded.

(RESCISSION)

(HIGHWAY TRUST FUND)

Of the funds made available for the functional replacement of publicly-owned facilities located within the proposed right-of-way of Interstate Route 170 in Public Law 96-131, \$200,000 are rescinded.

(RESCISSION)

(HIGHWAY TRUST FUND)

Of the funds made available under this heading in Public Law 100-71, \$364,180 are rescinded.

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1. *House Rules and Manual* § 1038 (2011).
 2. 139 CONG. REC. 22136-38, 103d Cong. 1st Sess.
 3. Frederick Boucher (VA).

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(RESCISSION)

(HIGHWAY TRUST FUND)

Of the authority made available for the intersection safety demonstration project in Public Law 100-457, \$3,059,960 are rescinded.

(RESCISSION)

(HIGHWAY TRUST FUND)

Of the authority made available for bridges on Federal dams pursuant to 23 U.S.C. 320, \$9,478,139 are rescinded. . . .

The CHAIRMAN. Are there any points of order against the provisions contained in that section of the bill?

POINTS OF ORDER

Mr. [Norman] MINETA [of California]. Mr. Chairman, based on the section of the bill contained in the unanimous-consent request by the distinguished chairman of the subcommittee, I have three points of order.

The CHAIRMAN. The gentleman will state his points of order.

Mr. MINETA. Mr. Chairman, I make a point of order on page 17, line 22, rescission, highway trust fund; a point of order on page 18, line 1, rescission, highway trust fund; and page 18, line 22, rescission, highway trust fund.

Mr. Chairman, I raise a point of order against these provisions. These provisions violate clause 2 of rule XXI because they would rescind their respective amounts in trust fund contract authority, not general fund appropriations, for the costs of designing and constructing certain facilities that are enumerated in the bill.

□ 1710

As I have said, a similar point in all of these, these are highway trust fund contract authority. While they are a form of direct spending, we are authorizing and rescinding highway trust fund contract authority, and that is not within the jurisdiction of the Committee on Appropriations. Thus I am asking for inclusion of the rescission provision as it relates to these three points of order and feel that this is legislation in an appropriations bill and would be subject to the point of order.

The CHAIRMAN. The Chair is going to ask if other Members desire to be heard on the point of order.

Does the gentleman from Michigan [Mr. CARR] seek recognition?

Mr. CARR of Michigan. Yes, Mr. Chairman. I wish to be heard on the point of order. . . .

The first point of order, occurring on page 17, the paragraph the gentleman wishes to strike, would rescind slightly more than \$1.5 million of funds made available in the Surface Transportation Act of 1982. Now I would like the Members of the House to listen to this. This is a rescission of funds available in a 1982 Surface Transportation Act. The two projects involved here have been completed, and the money is just sitting there. This is the important matter that the gentleman from North Carolina [Mr. PRICE] spoke to so eloquently a few moments ago.

In the first point of order we seek to recover funds in this bill that are just sitting in the pipeline.

Again, this is the point that the gentleman from North Carolina so eloquently addressed. Prior authorization bills created funding priority for special projects. Now, in the main, a lot of those projects are being completed or pursued. But in our investigation, in our hearings, with the help of the General Accounting Office, we have discovered some dead demo money. This is money that is in the pipeline that is not going anywhere, it cannot go anywhere. The first point of order that the gentleman from California made, on page 17, this is \$1.5 million made available in the Surface Transportation Act of 1982, all the way back to 1982. It involves two projects. The two projects that are mentioned, one in California, one in Pennsylvania, have been completed. They are done, they are finished. These funds cannot flow to those projects. They are completed.

But the money, \$1.5 million, is locked up because it cannot be spent for any other purpose, by definition of the authorization act.

So, in our bill we sought to recover some of that money, get it to work, get it to where it is needed, get it to where people have the need for jobs.

And so I would ask for the Chair to rule on the point or order. We believe that we ought to be able to recover this money, put it to work, and not rest on the technicalities of the rules of the House, however nice they might be. They simply are not working for the customers and owners of this Government.

On the second point of order, Mr. Chairman, I would like to say that the paragraph would rescind \$54 million of funding provided in the Surface Transportation and Uniform Relocation Assistance Act of 1987. We are not talking about ISTEA, we are talking about ISTEA's predecessors. We took this action because these projects either had no obligations or obligations of less than 25 percent since the enactment of more than 5 years ago. The authority for the basic highway program available is usually 4 years; these have gone 5 years. The projects cannot get any more than 25 percent of their funding obligated within 5 years. We think that money should be reprioritized, put it on projects that can go today instead of being stuck, in dead demo money. We would ask the Chair to rule on that.

On the third point of order, we basically concede a point of order as a technical violation of the House rules, but before getting off my feet, I want to let the Members know that the first \$10 million of authority for the bridges on Federal dams program was provided for in the 1946 Highway Act. Subsequent acts have increased the total to \$65 million. The Federal Highway Administration indicates that all valid requirements for this program have been satisfied. Indeed, earlier this year when the FHWA financial officials were asked for candidate programs that were no longer needed and could be cleaned up where residual authority could be returned, they cited this program. We would really ask that the chairman of the Public Works and Transportation Committee not insist on his point of order, particularly on this one. This is a dead money that is struck in the pipelines; it is not working for the people. . . .

Mr. MINETA. If I may be heard further, Mr. Chairman, I understand what our very fine friend from Michigan is saying, and I recognize, yes, there are provisions from 1982 and 1987 legislation, and they are legitimate points, and I know he has strong feelings about it.

However, it seems to me what we are talking about here really does not go to the question that is being raised by the Chair, because I acknowledge that there is a certain legitimacy about what he is mentioning. The only issue, the only issue before the Chair right now is whether or not this provision is in violation of the House rules. The fact is that for the reasons I have stated, the provisions that I have outlined here are in violation

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of rule XXI, that these are authorizing or rescinding highway trust fund contract authority, and that this is not within the jurisdiction of the Committee on Appropriations, and so therefore I insist on my point of order.

□ 1720

The CHAIRMAN. The Chair is ready to rule.

Under clause 2(b) of rule XXI, the Appropriations Committee may only recommend rescissions of appropriations that were contained in prior appropriations acts, but not rescissions of contract authority that is contained in other laws.

Therefore, each of the points of order raised are sustained.

Offsetting Proposals to Restore Rescinded Funds

§ 27.2 Instance where the House insisted on disagreement to a Senate amendment rescinding revenue sharing funds, having previously adopted a motion decreasing appropriations in another Senate amendment (foreign assistance funds), the net effect of which was to allow the Senate to recede from disagreement on the rescission without violating section 311 of the Congressional Budget Act.⁽¹⁾

On July 2, 1980,⁽²⁾ the following occurred:

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore.⁽³⁾ The Clerk will again designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 118; Page 32, after line 25, insert:

DEPARTMENT OF THE TREASURY

PAYMENT TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, \$143,035,000 are rescinded: *Provided*, That the total amount rescinded shall be taken from funds allocated to State governments pursuant to 31 U.S.C. 1226.

MOTION OFFERED BY MR. WHITTEN

Mr. [Jamie] WHITTEN [of Mississippi]. Mr. Speaker, I offer a motion.

1. 2 USC § 642.
2. 126 CONG. REC. 18363, 18364, 96th Cong. 2d Sess.
3. Paul Simon (IL).

The Clerk read as follows:

Mr WHITTEN moves that the House insist on its disagreement to the amendment of the Senate Numbered 118.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

This is a matter at this time, of insisting that the House maintain its position against the rescission by the other body. The rescission would cut out funds for revenue sharing retroactively, which have not only been planned on but have been committed by Congress. This proposition insists on the House position which would defer the rescissions by the Senate and restore the revenue money for the remainder of this fiscal year.

Mr. [Silvio] CONTE [of Massachusetts]. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, in view of the actions of this body in the last hour which has made room available in the budget ceiling, I favor the motion of the gentleman from Mississippi. . . .

Now, however, with the adoption of the amendment by the gentleman from Massachusetts (Mr. O'NEILL), it appears we will have room available in the budget ceiling and I am pleased to support the chairman's motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. [Lester] WOLFF [of New York]. Mr. Speaker, I demand a recorded vote.

The SPEAKER pro tempore. Does the gentleman from New York request the yeas and nays?

Mr. WOLFF. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were refused.

So the motion was agreed to.⁽⁴⁾

Converting Rescissions to Deferrals

§ 27.3 The President has by message withdrawn rescissions of budget authority originally proposed by his predecessor in office and has converted them to deferrals of budget authority pending his review and possible resubmission as rescissions.

On Feb. 17, 1981,⁽¹⁾ the following occurred:

4. *Parliamentarian's Note:* Although mere disagreement with the Senate's proposed rescission would not have violated any provision of the Congressional Budget Act (the rescission being effective only upon the Senate's receding from such disagreement), the House nevertheless chose to obviate any possible points of order in the Senate by offsetting the funds proposed to be spent following rejection of the Senate amendment containing the rescission of such funds.
1. 127 CONG. REC. 2219, 97th Cong. 1st Sess. See also 127 CONG. REC. 2170, 97th Cong. 1st Sess., Feb. 16, 1981.

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FIFTH SPECIAL MESSAGE FOR FISCAL YEAR 1981 UNDER IMPOUNDMENT
AND CONTROL ACT OF 1974—MESSAGE FROM THE PRESIDENT OF THE
UNITED STATES (H. DOC. NO. 97-19)

The SPEAKER pro tempore⁽²⁾ laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of Monday, February 16, 1981.)

To the Congress of the United States:

I hereby withdraw the 33 rescission proposals transmitted to the Congress by the Carter Administration on January 15, 1981 totalling \$1,142.4 million and temporarily convert them to deferrals. A list of the withdrawn rescission proposals is attached.

The conversion to temporary deferrals will provide my Administration with the opportunity to review and revise these proposals within the context of my overall plan to curtail the growth of government and reduce Federal spending.

In addition, I am reporting four other new deferrals totalling \$8.0 million and a revision to a previously transmitted deferral increasing the amount deferred by \$51.1 million. These four new items involve programs in the Departments of the Interior and Transportation and the International Communication Agency. The revision to the existing deferral involves the Department of the Treasury.

The details of the deferrals are contained in the attached reports.

RONALD REAGAN.
THE WHITE HOUSE, *February 13, 1981.*

§ 28. Deferrals

Congressional Disapproval of Presidential Deferrals

§ 28.1 By unanimous consent, the House has agreed to consider multiple impoundment resolutions, disapproving presidential deferrals of budget authority, reported from the Committee on Appropriations and otherwise privileged under the Impoundment Control Act.⁽¹⁾

On July 29, 1982,⁽²⁾ the following occurred:

2. Thomas Foley (WA).

1. *House Rules and Manual* § 1130(6A) (2011).

Parliamentarian's Note: Although privileged for consideration in the Committee of the Whole, these resolutions were nevertheless considered in the House in order to allow the operation of the previous question to terminate debate (a motion not available in the Committee of the Whole).

2. 128 CONG. REC. 18642-44, 97th Cong. 2d Sess.