



Fact Sheet: Reclaim Congress's Vital Power of the Purse

The Problem

The power of the purse — the authority over federal taxation and spending — is Congress's most potent tool. The founders intended the power of spending to be the bedrock of our system of government. In the Federalist Papers, James Madison and Alexander Hamilton laid out their arguments as to why the branch of government closest to the people should have this power, and why it would help make Congress first among equals.¹ In the U.S. Constitution, two key provisions solidify this power.²

Today, beyond the Constitution, two key laws undergird Congress's power of the purse: the Antideficiency Act and the Impoundment Control Act. While both laws are steps in the right direction, Congress must strengthen these laws to protect its power.

The Antideficiency Act, which concerns apportionment, is designed to prevent agencies from spending money they do not have.³ The Office of Management and Budget uses apportionments to distribute the funds appropriated by Congress to federal agencies to avoid cost overruns. Apportionments are legally binding, and when used as intended they are useful tools to avoid financial mismanagement. But until recently, apportionments were not available to the public, creating an environment ripe for abuse by presidents of both parties.

This lack of transparency made it difficult for Congress or the public to oversee appropriated funds and ensure that those funds were indeed being spent as Congress intended. In the Fiscal Year 2022 omnibus spending bill, Congress incorporated elements of the Congressional Power of the Purse Act. It required for the first time that the Office of Management and Budget disclose apportionments to the public and Congress.⁴ This was an important step toward Congress restoring its power of the purse, but greater transparency and accountability are still needed around apportionments to help ensure that if government actors are abusing their authorities, that abuse will be exposed.

¹ House of Representatives History, Art & Archives, "Power of the Purse," <https://history.house.gov/institution/origins-development/power-of-the-purse/> (accessed November 26, 2024); James Madison, "Objection That The Number of Members Will Not Be Augmented as the Progress of Population Demands Considered," The Federalist Papers, No. 58, February 20, 1788, https://avalon.law.yale.edu/18th_century/fed58.asp; Alexander Hamilton, "The Judiciary Department," The Federalist Papers, No. 78, May 28, 1788, https://avalon.law.yale.edu/18th_century/fed78.asp.

² U.S. Constitution art. I, § 8, cl. 1. <https://constitution.congress.gov/browse/article-1/section-8/>; U.S. Constitution art. I, § 9, cl. 7. <https://constitution.congress.gov/browse/article-1/section-9/>.

³ 31 U.S. Code § 1512 (2024), <https://www.law.cornell.edu/uscode/text/31/1512>.

⁴ Project On Government Oversight, "Press Release: Groups Across Ideological Spectrum Applaud Apportionment Reform," March 18, 2022, <https://www.pogo.org/post/groups-across-ideological-spectrum-applaud-apportionment-reform>; Consolidated Appropriations Act, 2022, H.R. 2471, 117th Cong., Public Law 117-103 (2022), <https://www.congress.gov/bill/117th-congress/house-bill/2471/text>.

The second law critical to Congress's power of the purse is the Congressional Budget and Impoundment Control Act, more commonly referred to as the Impoundment Control Act (ICA).⁵ Enacted in 1974, the law established restrictions about when and how an administration can withhold, cancel, or delay appropriated funds; permanent impoundment or rescission of funds requires Congressional approval.

However, presidents on both sides of the aisle have found ways to delay agencies from spending funds appropriated by Congress.⁶ And there are no penalties for violating the ICA. In 2020, the Government Accountability Office (GAO) found that then-President Donald Trump's administration violated the ICA when it withheld appropriated funds for aid to Ukraine, and both incoming President Trump and his nominee to lead OMB, Russell Vought, have been outspoken in their support of withholding appropriated funds.⁷ Regardless of attitudes toward any specific appropriation, impoundment erodes congressional power and weakens a fundamental check on the executive.

The Solution

There are legislative solutions we encourage Congress to enact to restore its power of the purse:

- Codify the apportionment reforms included in appropriations bills as their own law to ensure that future appropriations cycles do not reverse these improvements.
- Pass the remaining provisions of the Congressional Power of the Purse Act, or similar legislation, to address gaps in the Antideficiency Act and ICA.
- Enhance GAO's capacity to investigate violations of appropriations law and require federal agencies to cooperate with the office during investigations.
- Amend the ICA to add penalties for violations of the law.
- Amend the Antideficiency Act to require more reporting and public transparency to better facilitate oversight.

Finally, and fundamentally, Congress must stand up to any president who attempts to weaken their power of the purse. Our nation's founders intended the legislative branch to be the first and strongest branch of government, and ceding power via a loosening of the purse strings undermines the authority of Congress, the will of the American people, and, more fundamentally, our entire system of checks and balances.

Contact

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⁵ 2 U.S. Code § 621 (2024), <https://www.law.cornell.edu/uscode/text/2/621>.

⁶ Dylan Matthews, "This obscure budget procedure could be Trump's biggest weapon," *Vox*, December 2, 2024, <https://www.vox.com/politics/388393/donald-trump-congress-impoundment-budget-supreme-court>.

⁷ Molly Redden, "How Trump Plans to Seize the Power of the Purse From Congress," *ProPublica*, November 26, 2024, <https://www.propublica.org/article/trump-impoundment-appropriations-congress-budget>.