

112TH CONGRESS
1ST SESSION

S. 102

To provide an optional fast-track procedure the President may use when submitting rescission requests, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

Mr. MCCAIN (for himself, Mr. CARPER, Mr. PORTMAN, Mr. UDALL of Colorado, Mr. COATS, Mr. BENNET, Mr. ENZI, Mrs. MCCASKILL, Mr. CRAPO, Ms. KLOBUCHAR, Mr. BROWN of Massachusetts, Mr. JOHANNES, Mr. ENSIGN, Mr. MORAN, Mr. WHITEHOUSE, Mr. COBURN, Mr. CARDIN, Mr. BEGICH, Mr. RISCH, Mr. LIEBERMAN, Mr. WARNER, Mr. THUNE, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on the Budget

A BILL

To provide an optional fast-track procedure the President may use when submitting rescission requests, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND PURPOSES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Reduce Unnecessary Spending Act of 2011”.

6 (b) PURPOSE.—The purpose of this Act is to create
7 an optional fast-track procedure the President may use

1 when submitting rescission requests, which would lead to
2 an up-or-down vote by Congress on the President’s pack-
3 age of rescissions, without amendment.

4 **SEC. 2. RESCISSIONS OF FUNDING.**

5 The Impoundment Control Act of 1974 is amended
6 by striking part C and inserting the following:

7 **“PART C—EXPEDITED CONSIDERATION OF**
8 **PROPOSED RESCISSIONS**

9 **“SEC. 1021. APPLICABILITY AND DISCLAIMER.**

10 “The rules, procedures, requirements, and definitions
11 in this part apply only to executive and legislative actions
12 explicitly taken under this part. They do not apply to ac-
13 tions taken under part B or to other executive and legisla-
14 tive actions not taken under this part.

15 **“SEC. 1022. DEFINITIONS.**

16 “In this part:

17 “(1) The terms ‘appropriations Act’, ‘budget
18 authority’, and ‘new budget authority’ have the same
19 meanings as in section 3 of the Congressional Budg-
20 et Act of 1974.

21 “(2) The terms ‘account’, ‘current year’, ‘CBO’,
22 and ‘OMB’ have the same meanings as in section
23 250 of the Balanced Budget and Emergency Deficit
24 Control Act of 1985 as in effect on September 30,
25 2002.

1 “(3) The term ‘days of session’ shall be cal-
2 culated by excluding weekends and national holidays.
3 Any day during which a chamber of Congress is not
4 in session shall not be counted as a day of session
5 of that chamber. Any day during which neither
6 chamber is in session shall not be counted as a day
7 of session of Congress.

8 “(4) The term ‘entitlement law’ means the stat-
9 utory mandate or requirement of the United States
10 to incur a financial obligation unless that obligation
11 is explicitly conditioned on the appropriation in sub-
12 sequent legislation of sufficient funds for that pur-
13 pose, and the Supplemental Nutrition Assistance
14 Program.

15 “(5) The term ‘funding’ refers to new budget
16 authority and obligation limits except to the extent
17 that the funding is provided for entitlement law.

18 “(6) The term ‘rescind’ means to eliminate or
19 reduce the amount of enacted funding.

20 “(7) The terms ‘withhold’ and ‘withholding’
21 apply to any executive action or inaction that pre-
22 cludes the obligation of funding at a time when it
23 would otherwise have been available to an agency for
24 obligation. The terms do not include administrative

1 or preparatory actions undertaken prior to obligation
2 in the normal course of implementing budget laws.

3 **“SEC. 1023. TIMING AND PACKAGING OF RESCISSION RE-**
4 **QUESTS.**

5 “(a) TIMING.—If the President proposes that Con-
6 gress rescind funding under the procedures in this part,
7 OMB shall transmit a message to Congress containing the
8 information specified in section 1024, and the message
9 transmitting the proposal shall be sent to Congress not
10 later than 45 calendar days after the date of enactment
11 of the funding.

12 “(b) PACKAGING AND TRANSMITTAL OF REQUESTED
13 RESCISSIONS.—Except as provided in subsection (c), for
14 each piece of legislation that provides funding, the Presi-
15 dent shall request at most 1 package of rescissions and
16 the rescissions in that package shall apply only to funding
17 contained in that legislation. OMB shall deliver each mes-
18 sage requesting a package of rescissions to the Secretary
19 of the Senate if the Senate is not in session and to the
20 Clerk of the House of Representatives if the House is not
21 in session. OMB shall make a copy of the transmittal mes-
22 sage publicly available, and shall publish in the Federal
23 Register a notice of the message and information on how
24 it can be obtained.

1 “(c) SPECIAL PACKAGING RULES.—After enactment
2 of—

3 “(1) a joint resolution making continuing ap-
4 propriations;

5 “(2) a supplemental appropriations bill; or

6 “(3) an omnibus appropriations bill;

7 covering some or all of the activities customarily funded
8 in more than 1 regular appropriations bill, the President
9 may propose as many as 2 packages rescinding funding
10 contained in that legislation, each within the 45-day period
11 specified in subsection (a). OMB shall not include the
12 same rescission in both packages, and, if the President
13 requests the rescission of more than one discrete amount
14 of funding under the jurisdiction of a single subcommittee,
15 OMB shall include each of those discrete amounts in the
16 same package.

17 **“SEC. 1024. REQUESTS TO RESCIND FUNDING.**

18 “For each request to rescind funding under this part,
19 the transmittal message shall—

20 “(1) specify—

21 “(A) the dollar amount to be rescinded;

22 “(B) the agency, bureau, and account from
23 which the rescission shall occur;

1 “(C) the program, project, or activity with-
2 in the account (if applicable) from which the re-
3 scission shall occur;

4 “(D) the amount of funding, if any, that
5 would remain for the account, program, project,
6 or activity if the rescission request is enacted;
7 and

8 “(E) the reasons the President requests
9 the rescission;

10 “(2) designate each separate rescission request
11 by number; and

12 “(3) include proposed legislative language to ac-
13 complish the requested rescissions which may not in-
14 clude—

15 “(A) any changes in existing law, other
16 than the rescission of funding; or

17 “(B) any supplemental appropriations,
18 transfers, or reprogrammings.

19 **“SEC. 1025. GRANTS OF AND LIMITATIONS ON PRESI-**
20 **DENTIAL AUTHORITY.**

21 “(a) **PRESIDENTIAL AUTHORITY TO WITHHOLD**
22 **FUNDING.**—Notwithstanding any other provision of law
23 and if the President proposes a rescission of funding under
24 this part, OMB may, subject to the time limits provided

1 in subsection (c), temporarily withhold that funding from
2 obligation.

3 “(b) EXPEDITED PROCEDURES AVAILABLE ONLY
4 ONCE PER BILL.—The President may not invoke the pro-
5 cedures of this part, or the authority to withhold funding
6 granted by subsection (a), on more than 1 occasion for
7 any Act providing funding.

8 “(c) TIME LIMITS.—OMB shall make available for
9 obligation any funding withheld under subsection (a) on
10 the earliest of—

11 “(1) the day on which the President determines
12 that the continued withholding or reduction no
13 longer advances the purpose of legislative consider-
14 ation of the rescission request;

15 “(2) starting from the day on which OMB
16 transmitted a message to Congress requesting the
17 rescission of funding, 25 calendar days in which the
18 House of Representatives has been in session or 25
19 calendar days in which the Senate has been in ses-
20 sion, whichever occurs second; or

21 “(3) the last day after which the obligation of
22 the funding in question can no longer be fully ac-
23 complished in a prudent manner before its expira-
24 tion.

25 “(d) DEFICIT REDUCTION.—

1 “(1) IN GENERAL.—Funds that are rescinded
2 under this part shall be dedicated only to reducing
3 the deficit or increasing the surplus.

4 “(2) ADJUSTMENT OF LEVELS IN THE CONCUR-
5 RENT RESOLUTION ON THE BUDGET.—Not later
6 than 5 days after the date of enactment of an ap-
7 proval bill as provided under this part, the chairs of
8 the Committees on the Budget of the Senate and the
9 House of Representatives shall revise allocations and
10 aggregates and other appropriate levels under the
11 appropriate concurrent resolution on the budget to
12 reflect the repeal or cancellation, and the applicable
13 committees shall report revised suballocations pursu-
14 ant to section 302(b), as appropriate.

15 **“SEC. 1026. CONGRESSIONAL CONSIDERATION OF RESCIS-**
16 **SION REQUESTS.**

17 “(a) PREPARATION OF LEGISLATION TO CONSIDER
18 A PACKAGE OF EXPEDITED RESCISSION REQUESTS.—

19 “(1) IN GENERAL.—If the House of Represent-
20 atives receives a package of expedited rescission re-
21 quests, the Clerk shall prepare a House bill that
22 only rescinds the amounts requested which shall
23 read as follows:

24 ““There are enacted the rescissions numbered
25 [insert number or numbers] as set forth in the Pres-

1 idential message of [insert date] transmitted under
2 part C of the Impoundment Control Act of 1974 as
3 amended.’

4 “(2) EXCLUSION PROCEDURE.—The Clerk shall
5 include in the bill each numbered rescission request
6 listed in the Presidential package in question, except
7 that the Clerk shall omit a numbered rescission re-
8 quest if the Chairman of the Committee on the
9 Budget of the House, after consulting with the
10 Chairman of the Committee on the Budget of the
11 Senate, CBO, GAO, and the House and Senate com-
12 mittees that have jurisdiction over the funding, de-
13 termines that the numbered rescission does not refer
14 to funding or includes matter not permitted under a
15 request to rescind funding.

16 “(b) INTRODUCTION AND REFERRAL OF LEGISLA-
17 TION TO ENACT A PACKAGE OF EXPEDITED RESCIS-
18 SIONS.—The majority leader or the minority leader of the
19 House or Representatives, or a designee, shall (by request)
20 introduce each bill prepared under subsection (a) not later
21 than 4 days of session of the House after its transmittal,
22 or, if no such bill is introduced within that period, any
23 member of the House may introduce the required bill in
24 the required form on the fifth or sixth day of session of
25 the House after its transmittal. If such an expedited re-

1 scission bill is introduced in accordance with the preceding
2 sentence, it shall be referred to the House committee of
3 jurisdiction. A copy of the introduced House bill shall be
4 transmitted to the Secretary of the Senate, who shall pro-
5 vide it to the Senate committee of jurisdiction.

6 “(c) HOUSE REPORT AND CONSIDERATION OF LEG-
7 ISLATION TO ENACT A PACKAGE OF EXPEDITED RESCIS-
8 SIONS.—The House committee of jurisdiction shall report
9 without amendment the bill referred to it under subsection
10 (b) not more than 5 days of session of the House after
11 the referral. The committee may order the bill reported
12 favorably, unfavorably, or without recommendation. If the
13 committee has not reported the bill by the end of the 5-
14 day period, the committee shall be automatically dis-
15 charged from further consideration of the bill and it shall
16 be placed on the appropriate calendar.

17 “(d) HOUSE MOTION TO PROCEED.—

18 “(1) IN GENERAL.—After a bill to enact an ex-
19 pedited rescission package has been reported or the
20 committee of jurisdiction has been discharged under
21 subsection (c), it shall be in order to move to pro-
22 ceed to consider the bill in the House. A Member
23 who wishes to move to proceed to consideration of
24 the bill shall announce that fact, and the motion to
25 proceed shall be in order only during a time des-

1 ignated by the Speaker within the legislative sched-
2 ule for the next calendar day of legislative session or
3 the one immediately following it.

4 “(2) FAILURE TO SET TIME.—If the Speaker
5 does not designate a time under paragraph (1), 3 or
6 more calendar days of legislative session after the
7 bill has been reported or discharged, it shall be in
8 order for any Member to move to proceed to con-
9 sider the bill.

10 “(3) PROCEDURE.—A motion to proceed under
11 this subsection shall not be in order after the House
12 has disposed of a prior motion to proceed with re-
13 spect to that package of expedited rescissions. The
14 previous question shall be considered as ordered on
15 the motion to proceed, without intervening motion. A
16 motion to reconsider the vote by which the motion
17 to proceed has been disposed of shall not be in
18 order.

19 “(4) REMOVAL FROM CALENDAR.—If 5 cal-
20 endar days of legislative session have passed since
21 the bill was reported or discharged under this sub-
22 section and no Member has made a motion to pro-
23 ceed, the bill shall be removed from the calendar.

24 “(e) HOUSE CONSIDERATION.—

1 “(1) CONSIDERED AS READ.—A bill consisting
2 of a package of rescissions under this part shall be
3 considered as read.

4 “(2) POINTS OF ORDER.—All points of order
5 against the bill are waived, except that a point of
6 order may be made that 1 or more numbered rescis-
7 sions included in the bill would enact language con-
8 taining matter not requested by the President or not
9 permitted under this part as part of that package.
10 If the Presiding Officer sustains such a point of
11 order, the numbered rescission or rescissions that
12 would enact such language are deemed to be auto-
13 matically stripped from the bill and consideration
14 proceeds on the bill as modified.

15 “(3) PREVIOUS QUESTION.—The previous ques-
16 tion shall be considered as ordered on the bill to its
17 passage without intervening motion, except that 4
18 hours of debate equally divided and controlled by a
19 proponent and an opponent are allowed, as well as
20 1 motion to further limit debate on the bill.

21 “(4) MOTION TO RECONSIDER.—A motion to
22 reconsider the vote on passage of the bill shall not
23 be in order.

24 “(f) SENATE CONSIDERATION.—

1 “(1) REFERRAL.—If the House of Representa-
2 tives approves a House bill enacting a package of re-
3 seissions, that bill as passed by the House shall be
4 sent to the Senate and referred to the Senate com-
5 mittee of jurisdiction.

6 “(2) COMMITTEE ACTION.—The committee of
7 jurisdiction shall report without amendment the bill
8 referred to it under this subsection not later than 3
9 days of session of the Senate after the referral. The
10 committee may order the bill reported favorably, un-
11 favorably, or without recommendation.

12 “(3) DISCHARGE.—If the committee has not re-
13 ported the bill by the end of the 3-day period, the
14 committee shall be automatically discharged from
15 further consideration of the bill and it shall be
16 placed on the appropriate calendar.

17 “(4) MOTION TO PROCEED.—On the following
18 day and for 3 subsequent calendar days in which the
19 Senate is in session, it shall be in order for any Sen-
20 ator to move to proceed to consider the bill in the
21 Senate. Upon such a motion being made, it shall be
22 deemed to have been agreed to and the motion to re-
23 consider shall be deemed to have been laid on the
24 table.

1 “(5) DEBATE.—Debate on the bill in the Sen-
2 ate under this subsection, and all debatable motions
3 and appeals in connection therewith, shall not exceed
4 10 hours, equally divided and controlled in the usual
5 form. Debate in the Senate on any debatable motion
6 or appeal in connection with such a bill shall be lim-
7 ited to not more than 1 hour, to be equally divided
8 and controlled in the usual form. A motion to fur-
9 ther limit debate on such a bill is not debatable.

10 “(6) MOTIONS NOT IN ORDER.—A motion to
11 amend such a bill or strike a provision from it is not
12 in order. A motion to recommit such a bill is not in
13 order.

14 “(g) SENATE POINT OF ORDER.—It shall not be in
15 order under this part for the Senate to consider a bill ap-
16 proved by the House enacting a package of rescissions
17 under this part if any numbered rescission in the bill
18 would enact matter not requested by the President or not
19 permitted under this Act as part of that package. If a
20 point of order under this subsection is sustained, the bill
21 may not be considered under this part.”.

22 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.**

23 (a) TABLE OF CONTENTS.—Section 1(b) of the Con-
24 gressional Budget and Impoundment Control Act of 1974

1 is amended by striking the matter for part C of title X
2 and inserting the following:

“PART C—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS

“Sec. 1021. Applicability and disclaimer.

“Sec. 1022. Definitions.

“Sec. 1023. Timing and packaging of rescission requests.

“Sec. 1024. Requests to rescind funding.

“Sec. 1025. Grants of and limitations on presidential authority.

“Sec. 1026. Congressional consideration of rescission requests.”.

3 (b) TEMPORARY WITHHOLDING.—Section 1013(c) of
4 the Impoundment Control Act of 1974 is amended by
5 striking “section 1012” and inserting “section 1012 or
6 section 1025”.

7 (c) RULEMAKING.—

8 (1) 904(a).—Section 904(a) of the Congres-
9 sional Budget Act of 1974 is amended by striking
10 “and 1017” and inserting “1017, and 1026”.

11 (2) 904(d)(1).—Section 904(d)(1) of the Con-
12 gressional Budget Act of 1974 is amended by strik-
13 ing “1017” and inserting “1017 or 1026”.

14 **SEC. 4. AMENDMENTS TO PART A OF THE IMPOUNDMENT**
15 **CONTROL ACT.**

16 (a) IN GENERAL.—Part A of the Impoundment Con-
17 trol Act of 1974 is amended by inserting at the end the
18 following:

19 **“SEC. 1002. SEVERABILITY.**

20 “If the judicial branch of the United States finally
21 determines that 1 or more of the provisions of parts B
22 or C violate the Constitution of the United States, the re-

1 maining provisions of those parts shall continue in ef-
2 fect.”.

3 (b) TABLE OF CONTENTS.—Section 1(b) of the Con-
4 gressional Budget and Impoundment Control Act of 1974
5 is amended by inserting at the end of the matter for part
6 A of title X the following:

“Sec. 1002. Severability.”.

7 **SEC. 5. EXPIRATION.**

8 Part C of the Impoundment Control Act of 1974 (as
9 amended by this Act) shall expire on December 31, 2015.

○