

109TH CONGRESS  
1ST SESSION

# H. R. 918

To contain the costs of the Medicare prescription drug program under part D of title XVIII of the Social Security Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2005

Mr. FLAKE (for himself, Mr. PAUL, Mr. BURTON of Indiana, Mr. WAMP, and Mr. MILLER of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To contain the costs of the Medicare prescription drug program under part D of title XVIII of the Social Security Act, 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.**

4       This Act may be cited as the “Medicare Prescription  
5       Drug Cost Containment Act of 2005”.

1 **SEC. 2. INCLUSION IN ANNUAL REPORT OF MEDICARE**  
2 **TRUSTEES OF INFORMATION ON STATUS OF**  
3 **MEDICARE PRESCRIPTION DRUG ACCOUNT.**

4 (a) DETERMINATIONS OF EXCESS GENERAL REV-  
5 ENUE MEDICARE PRESCRIPTION DRUG FUNDING.—

6 (1) IN GENERAL.—On the same date on which  
7 the President submits a budget to Congress, the  
8 Secretary of Health and Human Services (in this  
9 Act referred to as the “Secretary”), shall submit to  
10 Congress a determination as to whether there is pro-  
11 jected to be excess general revenue medicare pre-  
12 scription drug funding (as defined in subsection (b))  
13 for the fiscal year (beginning with fiscal year 2007)  
14 for which the budget is submitted.

15 (2) MEDICARE PART D FUNDING WARNING.—  
16 For purposes of section 1105(i) of title 31, United  
17 States Code, and this Act, an affirmative determina-  
18 tion under paragraph (1) by the Secretary shall be  
19 treated as a medicare part D funding warning in the  
20 fiscal year beginning on October 1 of the year in  
21 which the determination is submitted to Congress.

22 (b) DEFINITIONS.—For purposes of this section:

23 (1) EXCESS GENERAL REVENUE MEDICARE  
24 PRESCRIPTION DRUG FUNDING.—The term “excess  
25 general revenue medicare prescription drug funding”  
26 means, with respect to a fiscal year during the pe-

1       riod beginning on the date of enactment of this Act  
2       and ending on September 30, 2013, that—

3               (A) the amounts deposited in the Medicare  
4       Prescription Drug Account under section  
5       1860D–16(c)(2) (42 U.S.C. 1395w–116(c)(2));  
6       exceed

7               (B) the part D target amount (as defined  
8       in paragraph (2)).

9       (2) PART D TARGET AMOUNT.—The term “part  
10      D target amount” means for a year—

11              (A) for fiscal year 2005, \$800,000,000;

12              (B) for fiscal year 2006, \$25,700,000,000;

13              (C) for fiscal year 2007, \$39,000,000,000;

14              (D) for fiscal year 2008, \$44,600,000,000;

15              (E) for fiscal year 2009, \$48,700,000,000;

16              (F) for fiscal year 2010, \$53,700,000,000;

17              (G) for fiscal year 2011, \$58,600,000,000

18              (H) for fiscal year 2012, \$65,300,000,000;

19              and

20              (I) for fiscal year 2013, \$73,100,000,000.

21      (c) TECHNICAL AMENDMENT.—Section 1860D–  
22 16(c)(3) of the Social Security Act (42 U.S.C. 1395w–  
23 116(c)(3)), is amended by striking “under paragraph (1)  
24 or subsection (a)(2)” and inserting “under paragraph (1),  
25 (2), or (4), gifts and bequests as may be made as provided

1 in section 201(i)(1), or accrued interest on balances in the  
2 Account”.

3 **SEC. 3. PRESIDENTIAL SUBMISSION OF LEGISLATION.**

4 (a) IN GENERAL.—Section 1105 of title 31, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing new subsection:

7 “(i)(1) If there is a medicare part D funding warning  
8 under section 2(a)(2) of the Medicare Prescription Drug  
9 Cost Containment Act of 2005 made in a year, the Presi-  
10 dent shall submit to Congress, within the 15-day period  
11 beginning on the date of the budget submission to Con-  
12 gress under subsection (a) for the succeeding year, pro-  
13 posed legislation to respond to such warning.

14 “(2) Paragraph (1) does not apply if, during the year  
15 in which the warning is made, legislation is enacted which  
16 eliminates excess general revenue medicare funding (as de-  
17 fined in section 2(b) of the Medicare Prescription Drug  
18 Cost Containment Act of 2005) for the period beginning  
19 with the fiscal year for which the determination is made  
20 and ending on September 30, 2014, as certified by the  
21 Board of Trustees of the Federal Supplementary Medicare  
22 Insurance Trust Fund not later than 30 days after the  
23 date of the enactment of such legislation.”.

24 (b) SENSE OF CONGRESS.—It is the sense of Con-  
25 gress that legislation submitted pursuant to section

1 1105(i) of title 31, United States Code, in a year should  
2 be designed to eliminate excess general revenue medicare  
3 funding (as defined in section 2(b)) for the period that  
4 begins with the fiscal year for which the determination is  
5 made and ends on September 30, 2013.

6 **SEC. 4. PROCEDURES IN THE HOUSE OF REPRESENTA-**  
7 **TIVES.**

8 (a) INTRODUCTION AND REFERRAL OF PRESIDENT'S  
9 LEGISLATIVE PROPOSAL.—

10 (1) INTRODUCTION.—In the case of a legislative  
11 proposal submitted by the President pursuant to sec-  
12 tion 1105(i) of title 31, United States Code, as  
13 added by section 3(a), within the 15-day period  
14 specified in paragraph (1) of such section, the ma-  
15 jority leader of the House of Representatives (or his  
16 designee) and the minority leader of the House of  
17 Representatives (or his designee) shall introduce  
18 such proposal (by request), the title of which is as  
19 follows: “A bill to respond to a medicare part D  
20 funding warning.” Such bill shall be introduced  
21 within 3 legislative days after Congress receives such  
22 proposal.

23 (2) REFERRAL.—Any legislation introduced  
24 pursuant to paragraph (1) shall be referred to the

1 appropriate committees of the House of Representa-  
2 tives.

3 (b) DIRECTION TO THE APPROPRIATE HOUSE COM-  
4 MITTEES.—

5 (1) IN GENERAL.—In the House, in any year  
6 during which the President is required to submit  
7 proposed legislation to Congress under section  
8 1105(i) of title 31, United States Code, the appro-  
9 priate committees shall report medicare funding leg-  
10 islation by not later than June 30 of such year.

11 (2) MEDICARE FUNDING LEGISLATION.—For  
12 purposes of this section, the term “medicare funding  
13 legislation” means—

14 (A) legislation introduced pursuant to sub-  
15 section (a)(1), but only if the legislative pro-  
16 posal upon which the legislation is based was  
17 submitted within the 15-day period referred to  
18 in such subsection; or

19 (B) any bill the title of which is as follows:  
20 “A bill to respond to a medicare part D funding  
21 warning.”.

22 (3) CERTIFICATION.—With respect to any  
23 medicare funding legislation or any amendment to  
24 such legislation to respond to a medicare part D

1 funding warning, the chairman of the Committee on  
 2 the Budget of the House shall certify—

3 (A) whether or not such legislation elimi-  
 4 nates excess general revenue medicare funding  
 5 (as defined in section 2(c)) for each fiscal year  
 6 during the period beginning with the fiscal year  
 7 for which the determination is made and ending  
 8 on September 30, 2013; and

9 (B) with respect to such an amendment,  
 10 whether the legislation, as amended, would  
 11 eliminate excess general revenue medicare fund-  
 12 ing (as defined in section 2(c)) for each fiscal  
 13 year in such period.

14 (c) FALLBACK PROCEDURE FOR FLOOR CONSIDER-  
 15 ATION IF THE HOUSE FAILS TO VOTE ON FINAL PASSAGE  
 16 BY JULY 30.—

17 (1) After July 30 of any year during which the  
 18 President is required to submit proposed legislation  
 19 to Congress under section 1105(i) of title 31, United  
 20 States Code, unless the House of Representatives  
 21 has voted on final passage of any medicare funding  
 22 legislation for which there is an affirmative certifi-  
 23 cation under subsection (b)(3)(A), then, after the ex-  
 24 piration of not less than 30 calendar days (and con-  
 25 currently 5 legislative days), it is in order to move

1 to discharge any committee to which medicare fund-  
2 ing legislation which has such a certification and  
3 which has been referred to such committee for 30  
4 calendar days from further consideration of the leg-  
5 islation.

6 (2) A motion to discharge may be made only by  
7 an individual favoring the legislation, may be made  
8 only if supported by  $\frac{1}{5}$  of the total membership of  
9 the House of Representatives (a quorum being  
10 present), and is highly privileged in the House of  
11 Representatives. Debate thereon shall be limited to  
12 not more than 1 hour, the time to be divided in the  
13 House of Representatives equally between those fa-  
14 voring and those opposing the motion. An amend-  
15 ment to the motion is not in order, and it is not in  
16 order to move to reconsider the vote by which the  
17 motion is agreed to or disagreed to.

18 (3) Only 1 motion to discharge a particular  
19 committee may be adopted under this subsection in  
20 any session of Congress.

21 (4) Notwithstanding paragraph (1), it shall not  
22 be in order to move to discharge a committee from  
23 further consideration of medicare funding legislation  
24 pursuant to this subsection during a session of Con-  
25 gress if, during the previous session of the Congress,



1 the House of Representatives passed medicare fund-  
2 ing legislation for which there is an affirmative cer-  
3 tification under subsection (b)(3)(A).

4 (d) FLOOR CONSIDERATION IN THE HOUSE OF DIS-  
5 CHARGED LEGISLATION.—

6 (1) In the House, not later than 3 legislative  
7 days after any committee has been discharged from  
8 further consideration of legislation under subsection  
9 (c), the Speaker shall resolve the House into the  
10 Committee of the Whole for consideration of the leg-  
11 islation.

12 (2) The first reading of the legislation shall be  
13 dispensed with. All points of order against consider-  
14 ation of the legislation are waived. General debate  
15 shall be confined to the legislation and shall not ex-  
16 ceed 5 hours, which shall be divided equally between  
17 those favoring and those opposing the legislation.  
18 After general debate the legislation shall be consid-  
19 ered for amendment under the 5-minute rule. Dur-  
20 ing consideration of the legislation, no amendments  
21 shall be in order in the House of Representatives or  
22 in the Committee of the Whole except those for  
23 which there has been an affirmative certification  
24 under subsection (b)(3)(B). All points of order  
25 against consideration of any such amendment in the

1 Committee of the Whole are waived. The legislation,  
2 together with any amendments which shall be in  
3 order, shall be considered as read. During the con-  
4 sideration of the bill for amendment, the Chairman  
5 of the Committee of the Whole may accord priority  
6 in recognition on the basis of whether the Member  
7 offering an amendment has caused it to be printed  
8 in the portion of the Congressional Record des-  
9 ignated for that purpose in clause 8 of Rule XVIII  
10 of the Rules of the House of Representatives. De-  
11 bate on any amendment shall not exceed 1 hour,  
12 which shall be divided equally between those favoring  
13 and those opposing the amendment, and no pro  
14 forma amendments shall be offered during the de-  
15 bate. The total time for debate on all amendments  
16 shall not exceed 10 hours. At the conclusion of con-  
17 sideration of the legislation for amendment, the  
18 Committee shall rise and report the legislation to the  
19 House of Representatives with such amendments as  
20 may have been adopted. The previous question shall  
21 be considered as ordered on the legislation and  
22 amendments thereto to final passage without inter-  
23 vening motion except one motion to recommit with  
24 or without instructions. If the Committee of the  
25 Whole rises and reports that it has come to no reso-

1 lution on the bill, then on the next legislative day the  
2 House of Representatives shall, immediately after  
3 the third daily order of business under clause 1 of  
4 Rule XIV of the Rules of the House of Representa-  
5 tives, resolve into the Committee of the Whole for  
6 further consideration of the bill.

7 (3) All appeals from the decisions of the Chair  
8 relating to the application of the Rules of the House  
9 of Representatives to the procedure relating to any  
10 such legislation shall be decided without debate.

11 (4) Except to the extent specifically provided in  
12 the preceding provisions of this subsection, consider-  
13 ation of any such legislation and amendments there-  
14 to (or any conference report thereon) shall be gov-  
15 erned by the Rules of the House of Representatives  
16 applicable to other bills and resolutions, amend-  
17 ments, and conference reports in similar cir-  
18 cumstances.

19 (e) LEGISLATIVE DAY DEFINED.—As used in this  
20 section, the term “legislative day” means a day on which  
21 the House of Representatives is in session.

22 (f) RESTRICTION ON WAIVER.—In the House of Rep-  
23 resentatives, the provisions of this section may be waived  
24 only by a rule or order proposing only to waive such provi-  
25 sions.

1 (g) RULEMAKING POWER.—The provisions of this  
2 section are enacted by the Congress—

3 (1) as an exercise of the rulemaking power of  
4 the House of Representatives and, as such, shall be  
5 considered as part of the rules of that House of  
6 Representatives and shall supersede other rules only  
7 to the extent that they are inconsistent therewith;  
8 and

9 (2) with full recognition of the constitutional  
10 right of that House to change the rules (so far as  
11 they relate to the procedures of that House) at any  
12 time, in the same manner, and to the same extent  
13 as in the case of any other rule of that House.

14 **SEC. 5. PROCEDURES IN THE SENATE.**

15 (a) INTRODUCTION AND REFERRAL OF PRESIDENT’S  
16 LEGISLATIVE PROPOSAL.—

17 (1) INTRODUCTION.—In the case of a legislative  
18 proposal submitted by the President pursuant to sec-  
19 tion 1105(i) of title 31, United States Code, within  
20 the 15-day period specified in paragraph (1) of such  
21 section, the majority leader and minority leader of  
22 the Senate (or their designees) shall introduce such  
23 proposal (by request), the title of which is as follows:  
24 “A bill to respond to a medicare part D funding  
25 warning.” Such bill shall be introduced within 3

1 days of session after Congress receives such pro-  
2 posal.

3 (2) REFERRAL.—Any legislation introduced  
4 pursuant to paragraph (1) shall be referred to the  
5 Committee on Finance.

6 (b) MEDICARE FUNDING LEGISLATION.—For pur-  
7 poses of this section, the term “medicare funding legisla-  
8 tion” means—

9 (1) legislation introduced pursuant to sub-  
10 section (a)(1), but only if the legislative proposal  
11 upon which the legislation is based was submitted  
12 within the 15-day period referred to in such sub-  
13 section; or

14 (2) any bill the title of which is as follows: “A  
15 bill to respond to a medicare part D funding warn-  
16 ing.”.

17 (c) QUALIFICATION FOR SPECIAL PROCEDURES.—

18 (1) IN GENERAL.—The special procedures set  
19 forth in subsections (d) and (e) shall apply to medi-  
20 care funding legislation, as described in subsection  
21 (b), only if the legislation—

22 (A) is medicare funding legislation that is  
23 passed by the House of Representatives; or

24 (B) contains matter within the jurisdiction  
25 of the Committee on Finance in the Senate.

1           (2) FAILURE TO QUALIFY FOR SPECIAL PROCE-  
2 DURES.—If the medicare funding legislation does  
3 not satisfy paragraph (1), then the legislation shall  
4 be considered under the ordinary procedures of the  
5 Standing Rules of the Senate.

6           (d) DISCHARGE.—

7           (1) IN GENERAL.—If the Committee on Fi-  
8 nance of the Senate has not reported medicare fund-  
9 ing legislation described in subsection (c)(1) by June  
10 30 of a year in which the President is required to  
11 submit medicare funding legislation to Congress  
12 under section 1105(i) of title 31, United States  
13 Code, then any Senator may move to discharge the  
14 Committee of any single medicare funding legislation  
15 measure. Only 1 such motion shall be in order in  
16 any session of Congress.

17           (2) DEBATE LIMITS.—Debate in the Senate on  
18 any such motion to discharge, and all appeals in  
19 connection therewith, shall be limited to not more  
20 than 2 hours. The time shall be equally divided be-  
21 tween, and controlled by, the maker of the motion  
22 and the majority leader, or their designees, except  
23 that in the event the majority leader is in favor of  
24 such motion, the time in opposition thereto shall be  
25 controlled by the minority leader or the minority

1 leader's designee. A point of order under this sub-  
2 section may be made at any time. It is not in order  
3 to move to proceed to another measure or matter  
4 while such motion (or the motion to reconsider such  
5 motion) is pending.

6 (3) AMENDMENTS.—No amendment to the mo-  
7 tion to discharge shall be in order.

8 (4) EXCEPTION IF CERTIFIED LEGISLATION EN-  
9 ACTED.—Notwithstanding paragraph (1), it shall  
10 not be in order to discharge the Committee from  
11 further consideration of medicare funding legislation  
12 pursuant to this subsection during a session of a  
13 Congress if the chairman of the Committee on the  
14 Budget of the Senate certifies that medicare funding  
15 legislation has been enacted that eliminates excess  
16 general revenue medicare funding (as defined in sec-  
17 tion 2(c)) for each fiscal year in the period begin-  
18 ning with the fiscal year for which the determination  
19 is made and ending on September 30, 2013.

20 (e) CONSIDERATION.—After the date on which the  
21 Committee on Finance of the Senate has reported medi-  
22 care funding legislation described in subsection (c)(1), or  
23 has been discharged (under subsection (d)) from further  
24 consideration of, such legislation, it is in order (even  
25 though a previous motion to the same effect has been dis-

1 agreed to) for any Member of the Senate to move to pro-  
2 ceed to the consideration of such legislation.

3 (f) RULES OF THE SENATE.—This section is enacted  
4 by the Senate—

5 (1) as an exercise of the rulemaking power of  
6 the Senate and as such it is deemed a part of the  
7 rules of the Senate, but applicable only with respect  
8 to the procedure to be followed in the Senate in the  
9 case of a bill described in this paragraph, and it su-  
10 persedes other rules only to the extent that it is in-  
11 consistent with such rules; and

12 (2) with full recognition of the constitutional  
13 right of the Senate to change the rules (so far as re-  
14 lating to the procedure of the Senate) at any time,  
15 in the same manner, and to the same extent as in  
16 the case of any other rule of the Senate.

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