

111TH CONGRESS
2D SESSION

S. 3423

To provide the President with expedited consideration of proposals for
cancellation of certain budget items.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2010

Mr. KERRY introduced the following bill; which was read twice and referred
to the Committee on the Budget

A BILL

To provide the President with expedited consideration of
proposals for cancellation of certain budget items.

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 “Veto Wasteful Spend-
5 ing and Protect Taxpayers Act of 2010”.

6 **SEC. 2. EXPEDITED CONSIDERATION OF CANCELLATION OF**
7 **CERTAIN PROPOSED BUDGET ITEMS.**

8 (a) IN GENERAL.—Part B of title X of the Congres-
9 sional Budget and Impoundment Control Act of 1974 (2
10 U.S.C. 681 et seq.) is amended by redesignating sections

1 1013 through 1017 as sections 1014 through 1018, re-
 2 spectively, and inserting after section 1012 the following
 3 new section:

4 “EXPEDITED CONSIDERATION OF CANCELLATION OF
 5 CERTAIN BUDGET ITEMS

6 “SEC. 1013. (a) PROPOSED BUDGET ITEM CAN-
 7 CELLATIONS.—

8 “(1) IN GENERAL.—In addition to the method
 9 of rescinding budget authority specified in section
 10 1012, the President may suspend and propose for
 11 cancellation, at the time and in the manner provided
 12 in subsection (b)—

13 “(A) any dollar amount of discretionary
 14 budget authority;

15 “(B) any item of new direct spending; or

16 “(C) any limited tax benefit.

17 “(2) AVAILABILITY.—Items described in sub-
 18 paragraphs (A) through (C) of paragraph (1) made
 19 available under this section may not be proposed for
 20 suspension and cancellation again under this section
 21 or section 1012.

22 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

23 “(1) IN GENERAL.—Not later than 10 calendar
 24 days after the date of enactment of the law to which
 25 the suspension applies, the President may transmit
 26 to Congress not to exceed 2 special messages sus-

1 pending items provided in that Act described in sub-
2 paragraphs (A) through (C) of subsection (a)(1) and
3 proposing to cancel those items and include with
4 that special message a draft bill that, if enacted,
5 would only cancel the item's included. That bill shall
6 clearly identify each item that is proposed to be can-
7 celled.

8 “(2) APPLICATION.—In the case of a proposed
9 cancellation, the special message shall also include—

10 “(A) for every item a determination that
11 such cancellation will—

12 “(i) reduce the Federal budget deficit;

13 “(ii) not impair any essential Govern-
14 ment functions; and

15 “(iii) not harm the national interest;
16 and

17 “(B) any account, department, or estab-
18 lishment of the Government for which budget
19 authority was to have been available for obliga-
20 tion and the specific project or governmental
21 functions involved;

22 “(C) the specific States and congressional
23 districts, if any, affected by the cancellation;
24 and

1 “(D) the total number of cancellations im-
 2 posed during the current session of Congress on
 3 States and congressional districts identified in
 4 subparagraph (C).

5 “(3) BUDGET AUTHORITY.—Each special mes-
 6 sage shall specify, with respect to the budget author-
 7 ity proposed to be cancelled, the matters referred to
 8 in paragraphs (1) through (5) of section 1012(a).

9 “(c) PROCEDURES FOR EXPEDITED CONSIDER-
 10 ATION.—

11 “(1) IN GENERAL.—

12 “(A) INTRODUCTION.—Before the close of
 13 the second legislative day of the House of Rep-
 14 resentatives after the date of receipt of a special
 15 message transmitted to Congress under sub-
 16 section (b), the majority leader or minority
 17 leader of the House of Representatives shall in-
 18 troduce (by request) the draft bill accom-
 19 panying that special message. If the bill is not
 20 introduced as provided in the preceding sen-
 21 tence, then, on the third legislative day of the
 22 House of Representatives after the date of re-
 23 ceipt of that special message, any Member of
 24 that House may introduce the bill.

1 “(B) REFERRAL.—The bill shall be re-
2 ferred to the appropriate committee of the
3 House of Representatives. The committee shall
4 report the bill without substantive revision, and
5 with or without recommendation. The bill shall
6 be reported not later than the seventh legisla-
7 tive day of that House after the date of receipt
8 of that special message. If the committee fails
9 to report the bill within that period, that com-
10 mittee shall be automatically discharged from
11 consideration of the bill, and the bill shall be
12 placed on the appropriate calendar.

13 “(C) VOTE ON FINAL PASSAGE.—A vote on
14 final passage of the bill referred to in subpara-
15 graph (B) shall be taken in the House of Rep-
16 resentatives on or before the close of the 10th
17 legislative day of that House after the date of
18 the introduction of the bill in that House. If the
19 bill is passed, the Clerk of the House of Rep-
20 resentatives shall cause the bill to be engrossed,
21 certified, and transmitted to the Senate within
22 one calendar day of the day on which the bill
23 is passed.

24 “(2) PROCEDURES IN THE HOUSE.—

1 “(A) MOTION TO PROCEED.—A motion in
2 the House of Representatives to proceed to the
3 consideration of a bill under this section shall
4 be highly privileged and not debatable. An
5 amendment to the motion shall not be in order,
6 nor shall it be in order to move to reconsider
7 the vote by which the motion is agreed to or
8 disagreed to.

9 “(B) DEBATE.—Debate in the House of
10 Representatives on a bill under this section
11 shall not exceed 4 hours, which shall be divided
12 equally between those favoring and those oppos-
13 ing the bill. A motion further to limit debate
14 shall not be debatable. It shall not be in order
15 to move to recommit a bill under this section or
16 to move to reconsider the vote by which the bill
17 is agreed to or disagreed to.

18 “(C) APPEALS.—Appeals from decisions of
19 the Chair relating to the application of the
20 Rules of the House of Representatives to the
21 procedure relating to a bill under this section
22 shall be decided without debate.

23 “(3) PROCEDURES IN THE SENATE.—

24 “(A) REFERRAL.—A bill transmitted to
25 the Senate pursuant to paragraph (1)(C) shall

1 be referred to the appropriate committee. The
 2 committee shall report the bill without sub-
 3 stantive revision and with or without rec-
 4 ommendation. The bill shall be reported not
 5 later than the seventh legislative day of the
 6 Senate after it receives the bill. A committee
 7 failing to report the bill within such period shall
 8 be automatically discharged from consideration
 9 of the bill, and the bill shall be placed upon the
 10 appropriate calendar.

11 “(B) FINAL PASSAGE.—A vote on final
 12 passage of a bill transmitted to the Senate shall
 13 be taken on or before the close of the 10th leg-
 14 islative day of the Senate after the date on
 15 which the bill is transmitted.

16 “(C) MOTIONS AND DEBATE.—

17 “(i) MOTIONS.—A motion in the Sen-
 18 ate to proceed to the consideration of a bill
 19 under this section shall be privileged and
 20 not debatable. An amendment to the mo-
 21 tion shall not be in order, nor shall it be
 22 in order to move to reconsider the vote by
 23 which the motion is agreed to or disagreed
 24 to.

1 “(ii) DEBATE ON BILL.—Debate in
2 the Senate on a bill under this section, and
3 all debatable motions and appeals in con-
4 nection therewith, shall not exceed 10
5 hours. The time shall be equally divided
6 between, and controlled by, the majority
7 leader and the minority leader or their des-
8 ignees.

9 “(iii) DEBATE ON MOTIONS.—Debate
10 in the Senate on any debatable motion or
11 appeal in connection with a bill under this
12 section shall be limited to not more than 1
13 hour, to be equally divided between, and
14 controlled by, the mover and the manager
15 of the bill, except that in the event the
16 manager of the bill is in favor of any such
17 motion or appeal, the time in opposition
18 thereto, shall be controlled by the minority
19 leader or his designee. Such leaders, or ei-
20 ther of them, may, from time under their
21 control on the passage of a bill, allot addi-
22 tional time to any Senator during the con-
23 sideration of any debatable motion or ap-
24 peal.

1 “(iv) MOTION TO LIMIT DEBATE.—A
 2 motion in the Senate to further limit de-
 3 bate on a bill under this section is not de-
 4 batable. A motion to recommit a bill under
 5 this section is not in order.

6 “(d) AMENDMENTS AND DIVISIONS.—No amendment
 7 to a bill considered under this section shall be in order
 8 in either the House of Representatives or the Senate. It
 9 shall not be in order to demand a division of the question
 10 in the House of Representatives (or in a Committee of
 11 the Whole) or in the Senate. No motion to suspend the
 12 application of this subsection shall be in order in either
 13 House, nor shall it be in order in either House to suspend
 14 the application of this subsection by unanimous consent.

15 “(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
 16 GATION.—Any budget item proposed to be cancelled in a
 17 special message transmitted to Congress under subsection
 18 (b) shall be made available for obligation or take effect
 19 on—

20 “(1) the later of—

21 “(A) the day after the date upon which the
 22 House of Representatives defeats the bill trans-
 23 mitted with that special message rescinding the
 24 amount proposed to be rescinded; or

1 “(B) the day after the date upon which the
2 Senate rejects a bill that makes rescissions to
3 carry out the applicable special message of the
4 President; or

5 “(2) the effective date of the provision if such
6 effective date occurs after the applicable date in
7 paragraph (1).

8 “(f) IDENTIFICATION OF LIMITED TAX BENEFITS.—

9 “(1) STATEMENT BY JOINT TAX COMMITTEE.—

10 “(A) REVIEW.—The Joint Committee on
11 Taxation shall review any revenue or reconcili-
12 ation bill or joint resolution which includes any
13 amendment to the Internal Revenue Code of
14 1986 that is being prepared for filing by a com-
15 mittee of conference of the 2 Houses, and shall
16 identify whether such bill or joint resolution
17 contains any limited tax benefits.

18 “(B) STATEMENT.—The Joint Committee
19 on Taxation shall provide to the committee of
20 conference a statement identifying any such
21 limited tax benefits or declaring that the bill or
22 joint resolution does not contain any limited tax
23 benefits. Any such statement shall be made
24 available to any Member of Congress by the

1 Joint Committee on Taxation immediately upon
2 request.

3 “(2) STATEMENT INCLUDED IN LEGISLA-
4 TION.—

5 “(A) REQUIREMENT.—Notwithstanding
6 any other rule of the House of Representatives
7 or any rule or precedent of the Senate, any rev-
8 enue or reconciliation bill or joint resolution
9 which includes any amendment to the Internal
10 Revenue Code of 1986 reported by a committee
11 of conference of the 2 Houses may include, as
12 a separate section of such bill or joint resolu-
13 tion, the information contained in the statement
14 of the Joint Committee on Taxation, but only
15 in the manner set forth in subparagraph (B).

16 “(B) CONTENT.—The separate section
17 permitted under subparagraph (A) shall read as
18 follows: ‘Section 1021(a)(3) of the Congres-
19 sional Budget and Impoundment Control Act of
20 1974 shall _____ apply to _____.’,
21 with the blank spaces being filled in with—

22 “(i) in any case in which the Joint
23 Committee on Taxation identifies limited
24 tax benefits in the statement required
25 under paragraph (1), the word ‘only’ in the

1 first blank space and a list of all of the
2 specific provisions of the bill or joint reso-
3 lution identified by the Joint Committee on
4 Taxation in such statement in the second
5 blank space; or

6 “(ii) in any case in which the Joint
7 Committee on Taxation declares that there
8 are no limited tax benefits in the statement
9 required under paragraph (1), the word
10 ‘not’ in the first blank space and the
11 phrase ‘any provision of this Act’ in the
12 second blank space.

13 “(3) PRESIDENT’S AUTHORITY.—If any revenue
14 or reconciliation bill or joint resolution is signed into
15 law pursuant to article I, section 7, of the Constitu-
16 tion of the United States—

17 “(A) with a separate section described in
18 paragraph (2)(ii), then the President may use
19 the authority granted in this section only to
20 suspend and propose to cancel any limited tax
21 benefit in that law, if any, identified in such
22 separate section; or

23 “(B) without a separate section described
24 in paragraph (2)(ii), then the President may
25 use the authority granted in this section to sus-

1 pend and propose to cancel any limited tax ben-
 2 efit in that law that meets the definition in sub-
 3 section (g).

4 “(4) CONGRESSIONAL IDENTIFICATIONS OF
 5 LIMITED TAX BENEFITS.—There shall be no judicial
 6 review of the congressional identification under para-
 7 graphs (1) and (2) of a limited tax benefit in a con-
 8 ference report.

9 “(g) DEFINITIONS.—In this section:

10 “(1) APPROPRIATION LAW.—The term ‘appro-
 11 priation law’ means an Act referred to in section
 12 105 of title 1, United States Code, including any
 13 general or special appropriation Act, or any Act
 14 making supplemental, deficiency, or continuing ap-
 15 propriations, that has been signed into law pursuant
 16 to article I, section 7, of the Constitution of the
 17 United States.

18 “(2) CALENDAR DAY.—The term ‘calendar day’
 19 means a standard 24-hour period beginning at mid-
 20 night.

21 “(3) CANCEL.—The term ‘cancel’ or ‘cancella-
 22 tion’ means—

23 “(A) with respect to any dollar amount of
 24 discretionary budget authority, to rescind;

1 “(B) with respect to any item of new direct
2 spending—

3 “(i) that is budget authority provided
4 by law (other than an appropriation law),
5 to prevent such budget authority from hav-
6 ing legal force or effect;

7 “(ii) that is entitlement authority, to
8 prevent the specific legal obligation of the
9 United States from having legal force or
10 effect; or

11 “(iii) through the Food Stamp Pro-
12 gram, to prevent the specific provision of
13 law that results in an increase in budget
14 authority or outlays for that program from
15 having legal force or effect; and

16 “(C) with respect to a limited tax benefit,
17 to prevent the specific provision of law that pro-
18 vides such benefit from having legal force or ef-
19 fect.

20 “(4) DIRECT SPENDING.—The term ‘direct
21 spending’ means—

22 “(A) budget authority provided by law
23 (other than an appropriation law);

24 “(B) entitlement authority; and

25 “(C) the Food Stamp Program.

1 “(5) DISAPPROVAL BILL.—The term ‘dis-
 2 approval bill’ means a bill or joint resolution which
 3 only disapproves 1 or more cancellations of dollar
 4 amounts of discretionary budget authority, items of
 5 new direct spending, or limited tax benefits in a spe-
 6 cial message transmitted by the President under this
 7 part and—

8 “(A) the title of which is as follows: ‘A bill
 9 disapproving the cancellations transmitted by
 10 the President on _____’, the blank space
 11 being filled in with the date of transmission of
 12 the relevant special message and the public law
 13 number to which the message relates;

14 “(B) which does not have a preamble; and

15 “(C) which provides only the following
 16 after the enacting clause: ‘That Congress dis-
 17 approves of cancellations _____’, the blank
 18 space being filled in with a list by reference
 19 number of 1 or more cancellations contained in
 20 the President’s special message, ‘as transmitted
 21 by the President in a special message on
 22 _____’, the blank space being filled in with
 23 the appropriate date, ‘regarding _____’, the
 24 blank space being filled in with the public law
 25 number to which the special message relates.

1 “(6) DOLLAR AMOUNT OF DISCRETIONARY
2 BUDGET AUTHORITY.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), the term ‘dollar amount of
5 discretionary budget authority’ means the en-
6 tire dollar amount of budget authority—

7 “(i) specified in an appropriation law,
8 or the entire dollar amount of budget au-
9 thority required to be allocated by a spe-
10 cific proviso in an appropriation law for
11 which a specific dollar figure was not in-
12 cluded;

13 “(ii) represented separately in any
14 table, chart, or explanatory text included
15 in the statement of managers or the gov-
16 erning committee report accompanying
17 such law;

18 “(iii) required to be allocated for a
19 specific program, project, or activity in a
20 law (other than an appropriation law) that
21 mandates the expenditure of budget au-
22 thority from accounts, programs, projects,
23 or activities for which budget authority is
24 provided in an appropriation law;

1 “(iv) represented by the product of
 2 the estimated procurement cost and the
 3 total quantity of items specified in an ap-
 4 propriation law or included in the state-
 5 ment of managers or the governing com-
 6 mittee report accompanying such law; and

7 “(v) represented by the product of the
 8 estimated procurement cost and the total
 9 quantity of items required to be provided
 10 in a law (other than an appropriation law)
 11 that mandates the expenditure of budget
 12 authority from accounts, programs,
 13 projects, or activities for which budget au-
 14 thority is provided in an appropriation law.

15 “(B) EXCLUSION.—The term ‘dollar
 16 amount of discretionary budget authority’ does
 17 not include—

18 “(i) direct spending;

19 “(ii) budget authority in an appro-
 20 priation law which funds direct spending
 21 provided for in other law;

22 “(iii) any existing budget authority re-
 23 scinded or canceled in an appropriation
 24 law; or

1 “(iv) any restriction, condition, or lim-
 2 itation in an appropriation law or the ac-
 3 companying statement of managers or
 4 committee reports on the expenditure of
 5 budget authority for an account, program,
 6 project, or activity, or on activities involv-
 7 ing such expenditure.

8 “(7) ITEM OF NEW DIRECT SPENDING.—The
 9 term ‘item of new direct spending’ means any spe-
 10 cific provision of law that is estimated to result in
 11 an increase in budget authority or outlays for direct
 12 spending relative to the most recent levels calculated
 13 pursuant to section 257 of the Balanced Budget and
 14 Emergency Deficit Control Act of 1985.

15 “(8) LEGISLATIVE DAY.—The term ‘legislative
 16 day’ means, with respect to either House of Con-
 17 gress, any calendar day during which that House is
 18 in session.

19 “(9) LIMITED TAX BENEFIT.—

20 “(A) IN GENERAL.—The term ‘limited tax
 21 benefit’ means—

22 “(i) any negative revenue provision
 23 which provides a Federal tax deduction,
 24 credit, exclusion, or preference to 100 or
 25 fewer beneficiaries under the Internal Rev-

1 enue Code of 1986 in any fiscal year for
2 which the provision is in effect; and

3 “(ii) any Federal tax provision which
4 provides temporary or permanent transi-
5 tional relief for 10 or fewer beneficiaries in
6 any fiscal year from a change to the Inter-
7 nal Revenue Code of 1986.

8 “(B) NEGATIVE REVENUE.—A provision
9 shall not be treated as described in subpara-
10 graph (A)(i) if the effect of that provision is
11 that—

12 “(i) all persons in the same industry
13 or engaged in the same type of activity re-
14 ceive the same treatment;

15 “(ii) all persons owning the same type
16 of property, or issuing the same type of in-
17 vestment, receive the same treatment; or

18 “(iii) any difference in the treatment
19 of persons is based solely on—

20 “(I) in the case of businesses and
21 associations, the size or form of the
22 business or association involved;

23 “(II) in the case of individuals,
24 general demographic conditions, such
25 as income, marital status, number of

1 dependents, or tax return filing sta-
2 tus;

3 “(III) the amount involved; or

4 “(IV) a generally available elec-
5 tion under the Internal Revenue Code
6 of 1986.

7 “(C) SPECIAL BENEFIT.—A provision shall
8 not be treated as described in subparagraph
9 (A)(ii) if—

10 “(i) it provides for the retention of
11 prior law with respect to all binding con-
12 tracts or other legally enforceable obliga-
13 tions in existence on a date contempora-
14 neous with congressional action specifying
15 such date; or

16 “(ii) it is a technical correction to pre-
17 viously enacted legislation that is estimated
18 to have no revenue effect.

19 “(D) CONSTRUCTION.—For purposes of
20 subparagraph (A)—

21 “(i) all businesses and associations
22 which are related within the meaning of
23 sections 707(b) and 1563(a) of the Inter-
24 nal Revenue Code of 1986 shall be treated
25 as a single beneficiary;

1 “(ii) all qualified plans of an employer
2 shall be treated as a single beneficiary;

3 “(iii) all holders of the same bond
4 issue shall be treated as a single bene-
5 ficiary; and

6 “(iv) if a corporation, partnership, as-
7 sociation, trust or estate is the beneficiary
8 of a provision, the shareholders of the cor-
9 poration, the partners of the partnership,
10 the members of the association, or the
11 beneficiaries of the trust or estate shall not
12 also be treated as beneficiaries of such pro-
13 vision.

14 “(E) NEGATIVE REVENUE PROVISION.—
15 For purposes of this paragraph, the term ‘nega-
16 tive revenue provision’ means any provision
17 which results in a reduction in Federal tax rev-
18 enues for any 1 of the 2 following periods—

19 “(i) the first fiscal year for which the
20 provision is effective; or

21 “(ii) the period of the 5 fiscal years
22 beginning with the first fiscal year for
23 which the provision is effective.

24 “(F) OTHER TERMS.—The terms used in
25 this paragraph shall have the same meaning as

1 those terms have generally in the Internal Rev-
 2 enue Code of 1986, unless otherwise expressly
 3 provided.

4 “(10) OMB.—The term ‘OMB’ means the Di-
 5 rector of the Office of Management and Budget.”.

6 (b) EXERCISE OF RULEMAKING POWERS.—Section
 7 904 of such Act (2 U.S.C. 621 note) is amended—

8 (1) by striking “and 1017” in subsection (a)
 9 and inserting “1013, and 1018”; and

10 (2) by striking “section 1017” in subsection (d)
 11 and inserting “sections 1013 and 1018”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Section 1011 of such Act (2 U.S.C. 682(5))
 14 is amended—

15 (A) in paragraph (4), by striking “1013”
 16 and inserting “1014”; and

17 (B) in paragraph (5)—

18 (i) by striking “1016” and inserting
 19 “1017”; and

20 (ii) by striking “1017(b)(1)” and in-
 21 serting “1018(b)(1)”.

22 (2) Section 1015 of such Act (2 U.S.C. 685)
 23 (as redesignated by section 2(a)) is amended—

1 (A) by striking “1012 or 1013” each place
2 it appears and inserting “1012, 1013, or
3 1014”;

4 (B) in subsection (b)(1), by striking
5 “1012” and inserting “1012 or 1013”;

6 (C) in subsection (b)(2), by striking
7 “1013” and inserting “1014”; and

8 (D) in subsection (e)(2)—

9 (i) by striking “and” at the end of
10 subparagraph (A);

11 (ii) by redesignating subparagraph
12 (B) as subparagraph (C);

13 (iii) by striking “1013” in subpara-
14 graph (C) (as so redesignated) and insert-
15 ing “1014”; and

16 (iv) by inserting after subparagraph
17 (A) the following new subparagraph:

18 “(B) he has transmitted a special message
19 under section 1013 with respect to a proposed
20 rescission; and”.

21 (3) Section 1016 of such Act (2 U.S.C. 686)
22 (as redesignated by section 2(a)) is amended by
23 striking “1012 or 1013” each place it appears and
24 inserting “1012, 1013, or 1014”.

1 (d) CLERICAL AMENDMENTS.—The table of sections
2 for subpart B of title X of such Act is amended—

3 (1) by redesignating the items relating to sec-
4 tions 1013 through 1017 as items relating to sec-
5 tions 1014 through 1018; and

6 (2) by inserting after the item relating to sec-
7 tion 1012 the following new item:

“Sec. 1013. Proposed budget item suspensions.”.

8 **SEC. 3. APPLICATION.**

9 Section 1013 of the Congressional Budget and Im-
10 poundment Control Act of 1974 (as added by section 2)
11 shall apply to budget, spending, and revenue items that
12 are enacted during the One Hundred Twelfth Congress
13 and thereafter.

○