

AMENDMENT NO. _____ Calendar No. _____

Purpose: To add a provision relating to impoundments.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 2765

To improve Federal fiscal controls and the congressional budget process.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. VAN HOLLEN

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . IMPOUNDMENTS.**

3 (a) FINDINGS.—Congress finds the following:

4 (1) The Impoundment Control Act of 1974 (2
5 U.S.C. 681 et seq.) prevents the executive branch
6 from unilaterally rescinding budget authority appro-
7 priated by Congress.

8 (2) One of the stated purposes of the Congres-
9 sional Budget and Impoundment Control Act of
10 1974 (2 U.S.C. 621 et seq.) is “to establish a proce-
11 dure providing congressional control over the im-
12 poundment of funds by the executive branch”.

1 (3) The Impoundment Control Act of 1974 (2
2 U.S.C. 681 et seq.) requires congressional approval
3 for any rescission proposed by the executive branch.

4 (4) The Impoundment Control Act of 1974 (2
5 U.S.C. 681 et seq.) allows the executive branch to
6 withhold funds for a limited time to accommodate
7 congressional consideration of a rescission proposal,
8 but does not delegate rescission authority from Con-
9 gress to the executive branch by permitting the exec-
10 utive branch to withhold funds until budget author-
11 ity lapses.

12 (5) The Government Accountability Office af-
13 firmed in a legal opinion on December 10, 2018
14 that, “the ICA does not permit the withholding of
15 funds through their date of expiration” and “re-
16 quires that budget authority be made available in
17 sufficient time to be prudently obligated”.

18 (b) PURPOSE.—The purpose of this section, and the
19 amendment made by this section, is to provide increased
20 fiscal transparency and expand upon the existing require-
21 ments under the Impoundment Control Act of 1974 (2
22 U.S.C. 681 et seq.) to make budget authority prudently
23 available for obligation.

1 (c) AMENDMENT.—The Impoundment Control Act of
2 1974 (2 U.S.C. 681 et seq.) is amended by adding at the
3 end the following:

4 **“SEC. 1018. REPORTS.**

5 “(a) APPORTIONMENT OF APPROPRIATIONS.—

6 “(1) IN GENERAL.—Not later than 90 days
7 after the date of enactment of this Act, the Office
8 of Management and Budget shall complete imple-
9 mentation of an automated system to post each doc-
10 ument apportioning an appropriation, pursuant to
11 section 1512 of title 31, United States Code, includ-
12 ing any associated footnotes, on a publicly accessible
13 website in a machine readable format, on the date
14 of approval of such form by the Office of Manage-
15 ment and Budget, and shall place on such website
16 each document apportioning an appropriation, pur-
17 suant to section 1512 of title 31, United States
18 Code, including any associated footnotes, already ap-
19 proved by the Office of Management and Budget in
20 fiscal year 2020, and shall report the date of com-
21 pletion of such requirements to the Committee on
22 Fiscal Control and the Budget and the Committee
23 on Appropriations of the Senate and the Committee
24 on the Budget and the Committee on Appropriations
25 of the House of Representatives.

1 “(2) REPORT.—Not later than 60 days after
2 the date of enactment of this Act, and each month
3 thereafter, the Director of the Office of Management
4 and Budget shall provide to the Committee on Fiscal
5 Control and the Budget and the Committee on Ap-
6 propriations of the Senate and the Committee on the
7 Budget and the Committee on Appropriations of the
8 House of Representatives a report containing the
9 bureau, account name, appropriation name, and
10 Treasury account fund symbol of each document re-
11 questing apportionment of an appropriation, pursu-
12 ant to section 1512 of title 31, United States Code,
13 that has not been approved by the Office of Manage-
14 ment and Budget and that an agency initially sub-
15 mitted to Office of Management and Budget 30 days
16 or more prior to the date of the report.

17 “(b) BUDGET AUTHORITY.—

18 “(1) IN GENERAL.—With respect to budget au-
19 thority proposed to be rescinded or that is set to be
20 reserved or proposed to be deferred in a special mes-
21 sage transmitted under section 1012 or 1013, such
22 budget authority—

23 “(A) shall be made available for obligation
24 in sufficient time to be prudently obligated as
25 required under section 1012(b) or 1013; and

1 “(B) may not be deferred or otherwise
2 withheld from obligation during the 60-day pe-
3 riod before the expiration of the period of avail-
4 ability of such budget authority, including, if
5 applicable, the 60-day period before the expira-
6 tion of an initial period of availability for which
7 such budget authority was provided.

8 “(2) REVIEW.—

9 “(A) IN GENERAL.—The Comptroller Gen-
10 eral shall review compliance with this subsection
11 and shall submit to the Committee on Fiscal
12 Control and the Budget and the Committee on
13 Appropriations of the Senate and the Com-
14 mittee on the Budget and the Committee on
15 Appropriations of the House of Representatives
16 a report, and any relevant information related
17 to the report, on the lack of compliance with
18 this subsection as soon as practicable after the
19 Comptroller General discovers such noncompli-
20 ance.

21 “(B) INFORMATION AND DOCUMENTA-
22 TION.—The President shall provide information
23 and documentation to the Comptroller General,
24 as is determined by the Comptroller General to
25 be necessary to determine such compliance.

1 “(3) PENALTIES.—

2 “(A) IN GENERAL.—If any officer or em-
3 ployee of an Executive agency violates this sub-
4 section, the head of the agency shall report
5 such violation immediately as required under
6 section 1351 of title 31, United States Code, as
7 if violation of this subsection was a violation of
8 section 1341(a) or 1342 of that title.

9 “(B) ADMINISTRATIVE DISCIPLINE.—Any
10 officer or employee of the United States Gov-
11 ernment violating this subsection shall be sub-
12 ject to appropriate administrative discipline
13 under section 1349(a) of such title as if viola-
14 tion of this subsection was a violation of section
15 1341(a) or 1342 of that title.”.