

113TH CONGRESS
1ST SESSION

S. 15

To amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2013

Mr. PAUL (for himself, Mr. LEE, Mr. RUBIO, Ms. AYOTTE, Mr. MORAN, Mr. MANCHIN, Mr. GRASSLEY, Mrs. FISCHER, Mr. ROBERTS, Mr. ISAKSON, Mr. ENZI, Mr. VITTER, Mr. PORTMAN, Mr. JOHNSON of Wisconsin, Mr. CORNYN, Mr. CRAPO, Mr. FLAKE, Mr. CHAMBLISS, Mr. BARRASSO, Mr. SESSIONS, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

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 “Regulations From the
5 Executive in Need of Scrutiny Act of 2013” or the
6 “REINS Act”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

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

3 (1) Section 1 of article I of the United States
4 Constitution grants all legislative powers to Con-
5 gress.

6 (2) Over time, Congress has excessively dele-
7 gated its constitutional charge while failing to con-
8 duct appropriate oversight and retain accountability
9 for the content of the laws it passes.

10 (3) By requiring a vote in Congress, the
11 REINS Act will result in more carefully drafted and
12 detailed legislation, an improved regulatory process,
13 and a legislative branch that is truly accountable to
14 the people of the United States for the laws imposed
15 upon them.

16 (b) PURPOSE.—The purpose of this Act is to increase
17 accountability for and transparency in the Federal regu-
18 latory process.

19 **SEC. 3. CONGRESSIONAL REVIEW OF AGENCY RULE-**
20 **MAKING.**

21 Chapter 8 of title 5, United States Code, is amended
22 to read as follows:

23 **“CHAPTER 8—CONGRESSIONAL REVIEW**
24 **OF AGENCY RULEMAKING**

“Sec.

“801. Congressional review.

“802. Congressional approval procedure for major rules.

“803. Congressional disapproval procedure for nonmajor rules.

“804. Definitions.

“805. Judicial review.

“806. Exemption for monetary policy.

“807. Effective date of certain rules.

1 **“§ 801. Congressional review**

2 “(a)(1)(A) Before a rule may take effect, the Federal
3 agency promulgating such rule shall submit to each House
4 of Congress and to the Comptroller General a report con-
5 taining—

6 “(i) a copy of the rule;

7 “(ii) a concise general statement relating to the
8 rule;

9 “(iii) a classification of the rule as a major or
10 nonmajor rule, including an explanation of the clas-
11 sification specifically addressing each criteria for a
12 major rule contained within sections 804(2)(A),
13 804(2)(B), and 804(2)(C);

14 “(iv) a list of any other related regulatory ac-
15 tions intended to implement the same statutory pro-
16 vision or regulatory objective as well as the indi-
17 vidual and aggregate economic effects of those ac-
18 tions; and

19 “(v) the proposed effective date of the rule.

20 “(B) On the date of the submission of the report
21 under subparagraph (A), the Federal agency promulgating
22 the rule shall submit to the Comptroller General and make
23 available to each House of Congress—

1 “(i) a complete copy of the cost-benefit analysis
2 of the rule, if any;

3 “(ii) the actions of the agency pursuant to sec-
4 tions 603, 604, 605, 607, and 609 of title 5, United
5 States Code;

6 “(iii) the actions of the agency pursuant to sec-
7 tions 1532, 1533, 1534, and 1535 of title 2, United
8 States Code; and

9 “(iv) any other relevant information or require-
10 ments under any other Act and any relevant Execu-
11 tive orders.

12 “(C) Upon receipt of a report submitted under sub-
13 paragraph (A), each House shall provide copies of the re-
14 port to the chairman and ranking member of each stand-
15 ing committee with jurisdiction under the rules of the
16 House of Representatives or the Senate to report a bill
17 to amend the provision of law under which the rule is
18 issued.

19 “(2)(A) The Comptroller General shall provide a re-
20 port on each major rule to the committees of jurisdiction
21 by the end of 15 calendar days after the submission or
22 publication date as provided in section 802(b)(2). The re-
23 port of the Comptroller General shall include an assess-
24 ment of compliance by the agency with procedural steps
25 required by paragraph (1)(B).

1 “(B) Federal agencies shall cooperate with the Comp-
2 troller General by providing information relevant to the
3 Comptroller General’s report under subparagraph (A).

4 “(3) A major rule relating to a report submitted
5 under paragraph (1) shall take effect upon enactment of
6 a joint resolution of approval described in section 802 or
7 as provided for in the rule following enactment of a joint
8 resolution of approval described in section 802, whichever
9 is later.

10 “(4) A nonmajor rule shall take effect as provided
11 by section 803 after submission to Congress under para-
12 graph (1).

13 “(5) If a joint resolution of approval relating to a
14 major rule is not enacted within the period provided in
15 subsection (b)(2), then a joint resolution of approval relat-
16 ing to the same rule may not be considered under this
17 chapter in the same Congress by either the House of Rep-
18 resentatives or the Senate.

19 “(b)(1) A major rule shall not take effect unless the
20 Congress enacts a joint resolution of approval described
21 under section 802.

22 “(2) If a joint resolution described in subsection (a)
23 is not enacted into law by the end of 70 session days or
24 legislative days, as applicable, beginning on the date on
25 which the report referred to in section 801(a)(1)(A) is re-

1 ceived by Congress (excluding days either House of Con-
2 gress is adjourned for more than 3 days during a session
3 of Congress), then the rule described in that resolution
4 shall be deemed not to be approved and such rule shall
5 not take effect.

6 “(c)(1) Notwithstanding any other provision of this
7 section (except subject to paragraph (3)), a major rule
8 may take effect for one 90-calendar-day period if the
9 President makes a determination under paragraph (2) and
10 submits written notice of such determination to the Con-
11 gress.

12 “(2) Paragraph (1) applies to a determination made
13 by the President by Executive order that the major rule
14 should take effect because such rule is—

15 “(A) necessary because of an imminent threat
16 to health or safety or other emergency;

17 “(B) necessary for the enforcement of criminal
18 laws;

19 “(C) necessary for national security; or

20 “(D) issued pursuant to any statute imple-
21 menting an international trade agreement.

22 “(3) An exercise by the President of the authority
23 under this subsection shall have no effect on the proce-
24 dures under section 802.

1 “(d)(1) In addition to the opportunity for review oth-
2 erwise provided under this chapter, sections 802 and 803
3 shall apply, in the succeeding session of Congress, to any
4 rule for which a report was submitted in accordance with
5 subsection (a)(1)(A) during the period beginning on the
6 date occurring—

7 “(A) in the case of the Senate, 60 session days
8 before the date the Congress is scheduled to adjourn
9 a session of Congress through the date on which the
10 same or succeeding Congress first convenes its next
11 session; or

12 “(B) in the case of the House of Representa-
13 tives, 60 legislative days before the date the Con-
14 gress is scheduled to adjourn a session of Congress
15 through the date on which the same or succeeding
16 Congress first convenes its next session.

17 “(2)(A) In applying sections 802 and 803 for pur-
18 poses of such additional review, a rule described under
19 paragraph (1) shall be treated as though—

20 “(i) such rule were published in the Federal
21 Register on—

22 “(I) in the case of the Senate, the 15th
23 session day after the succeeding session of Con-
24 gress first convenes; or

1 mitted by _____ relating to _____.’ (The blank
2 spaces being appropriately filled in); and

3 “(D) is introduced pursuant to paragraph (2).

4 “(2) After a House of Congress receives a report
5 classifying a rule as major pursuant to section
6 801(a)(1)(A)(iii), the majority leader of that House (or
7 the designee of the majority leader) shall introduce (by
8 request, if appropriate) a joint resolution described in
9 paragraph (1)—

10 “(A) in the case of the House of Representa-
11 tives, within 3 legislative days; and

12 “(B) in the case of the Senate, within 3 session
13 days.

14 “(3) A joint resolution described in paragraph (1)
15 shall not be subject to amendment at any stage of pro-
16 ceeding.

17 “(b) A joint resolution described in subsection (a)
18 shall be referred in each House of Congress to the commit-
19 tees having jurisdiction over the provision of law under
20 which the rule is issued.

21 “(c) In the Senate, if the committee or committees
22 to which a joint resolution described in subsection (a) has
23 been referred have not reported it at the end of 15 session
24 days after its introduction, such committee or committees
25 shall be automatically discharged from further consider-

1 ation of the resolution and it shall be placed on the cal-
2endar. A vote on final passage of the resolution shall be
3 taken on or before the close of the 15th session day after
4 the resolution is reported by the committee or committees
5 to which it was referred, or after such committee or com-
6 mittees have been discharged from further consideration
7 of the resolution.

8 “(d)(1) In the Senate, when the committee or com-
9 mittees to which a joint resolution is referred have re-
10 ported, or when a committee or committees are discharged
11 (under subsection (c)) from further consideration of a
12 joint resolution described in subsection (a), it is at any
13 time thereafter in order (even though a previous motion
14 to the same effect has been disagreed to) for a motion
15 to proceed to the consideration of the joint resolution, and
16 all points of order against the joint resolution (and against
17 consideration of the joint resolution) are waived. The mo-
18 tion is not subject to amendment, or to a motion to post-
19 pone, or to a motion to proceed to the consideration of
20 other business. A motion to reconsider the vote by which
21 the motion is agreed to or disagreed to shall not be in
22 order. If a motion to proceed to the consideration of the
23 joint resolution is agreed to, the joint resolution shall re-
24 main the unfinished business of the Senate until disposed
25 of.

1 “(2) In the Senate, debate on the joint resolution,
2 and on all debatable motions and appeals in connection
3 therewith, shall be limited to not more than 2 hours, which
4 shall be divided equally between those favoring and those
5 opposing the joint resolution. A motion to further limit
6 debate is in order and not debatable. An amendment to,
7 or a motion to postpone, or a motion to proceed to the
8 consideration of other business, or a motion to recommit
9 the joint resolution is not in order.

10 “(3) In the Senate, immediately following the conclu-
11 sion of the debate on a joint resolution described in sub-
12 section (a), and a single quorum call at the conclusion of
13 the debate if requested in accordance with the rules of the
14 Senate, the vote on final passage of the joint resolution
15 shall occur.

16 “(4) Appeals from the decisions of the Chair relating
17 to the application of the rules of the Senate to the proce-
18 dure relating to a joint resolution described in subsection
19 (a) shall be decided without debate.

20 “(e) In the House of Representatives, if the com-
21 mittee or committees to which a joint resolution described
22 in subsection (a) has been referred has not reported it to
23 the House at the end of 15 legislative days after its intro-
24 duction, such committee or committees shall be discharged
25 from further consideration of the joint resolution, and it

1 shall be placed on the appropriate calendar. On the second
2 and fourth Thursdays of each month it shall be in order
3 at any time for the Speaker to recognize a Member who
4 favors passage of a joint resolution that has appeared on
5 the calendar for not fewer than 5 legislative days to call
6 up the joint resolution for immediate consideration in the
7 House without intervention of any point of order. When
8 so called up, a joint resolution shall be considered as read
9 and shall be debatable for 1 hour equally divided and con-
10 trolled by the proponent and an opponent, and the pre-
11 vious question shall be considered as ordered to its pas-
12 sage without intervening motion. It shall not be in order
13 to reconsider the vote on passage. If a vote on final pas-
14 sage of the joint resolution has not been taken by the third
15 Thursday on which the Speaker may recognize a Member
16 under this subsection, such vote shall be taken on that
17 day.

18 “(f)(1) For purposes of this subsection, the term
19 ‘identical joint resolution’ means a joint resolution of the
20 first House that proposes to approve the same major rule
21 as a joint resolution of the second House.

22 “(2) If the second House receives from the first
23 House a joint resolution, the Chair shall determine wheth-
24 er the joint resolution is an identical joint resolution.

1 “(3) If the second House receives an identical joint
2 resolution—

3 “(A) the identical joint resolution shall not be
4 referred to a committee; and

5 “(B) the procedure in the second House shall
6 be the same as if no joint resolution had been re-
7 ceived from the first house, except that the vote on
8 final passage shall be on the identical joint resolu-
9 tion.

10 “(4) This subsection shall not apply to the House of
11 Representatives if the joint resolution received from the
12 Senate is a revenue measure.

13 “(g) If either House has not taken a vote on final
14 passage of the joint resolution by the last day of the period
15 described in section 801(b)(2), then such vote shall be
16 taken on that day.

17 “(h) This section and section 803 are enacted by
18 Congress—

19 “(1) as an exercise of the rulemaking power of
20 the Senate and House of Representatives, respec-
21 tively, and as such is deemed to be part of the rules
22 of each House, respectively, but applicable only with
23 respect to the procedure to be followed in that
24 House in the case of a joint resolution described in

1 subsection (a) and superseding other rules only
2 where explicitly so; and

3 “(2) with full recognition of the constitutional
4 right of either House to change the rules (so far as
5 they relate to the procedure of that House) at any
6 time, in the same manner and to the same extent as
7 in the case of any other rule of that House.

8 **“§ 803. Congressional disapproval procedure for**
9 **nonmajor rules**

10 “(a) For purposes of this section, the term ‘joint res-
11 olution’ means only a joint resolution introduced in the
12 period beginning on the date on which the report referred
13 to in section 801(a)(1)(A) is received by Congress and
14 ending 60 days thereafter (excluding days either House
15 of Congress is adjourned for more than 3 days during a
16 session of Congress), the matter after the resolving clause
17 of which is as follows: ‘That Congress disapproves the
18 nonmajor rule submitted by the _____ relating to
19 _____, and such rule shall have no force or effect.’ (The
20 blank spaces being appropriately filled in).

21 “(b)(1) A joint resolution described in subsection (a)
22 shall be referred to the committees in each House of Con-
23 gress with jurisdiction.

1 “(2) For purposes of this section, the term ‘submis-
2 sion or publication date’ means the later of the date on
3 which—

4 “(A) the Congress receives the report submitted
5 under section 801(a)(1); or

6 “(B) the nonmajor rule is published in the Fed-
7 eral Register, if so published.

8 “(c) In the Senate, if the committee to which is re-
9 ferred a joint resolution described in subsection (a) has
10 not reported such joint resolution (or an identical joint
11 resolution) at the end of 15 session days after the date
12 of introduction of the joint resolution, such committee may
13 be discharged from further consideration of such joint res-
14 olution upon a petition supported in writing by 30 Mem-
15 bers of the Senate, and such joint resolution shall be
16 placed on the calendar.

17 “(d)(1) In the Senate, when the committee to which
18 a joint resolution is referred has reported, or when a com-
19 mittee is discharged (under subsection (c)) from further
20 consideration of a joint resolution described in subsection
21 (a), it is at any time thereafter in order (even though a
22 previous motion to the same effect has been disagreed to)
23 for a motion to proceed to the consideration of the joint
24 resolution, and all points of order against the joint resolu-
25 tion (and against consideration of the joint resolution) are

1 waived. The motion is not subject to amendment, or to
2 a motion to postpone, or to a motion to proceed to the
3 consideration of other business. A motion to reconsider the
4 vote by which the motion is agreed to or disagreed to shall
5 not be in order. If a motion to proceed to the consideration
6 of the joint resolution is agreed to, the joint resolution
7 shall remain the unfinished business of the Senate until
8 disposed of.

9 “(2) In the Senate, debate on the joint resolution,
10 and on all debatable motions and appeals in connection
11 therewith, shall be limited to not more than 10 hours,
12 which shall be divided equally between those favoring and
13 those opposing the joint resolution. A motion to further
14 limit debate is in order and not debatable. An amendment
15 to, or a motion to postpone, or a motion to proceed to
16 the consideration of other business, or a motion to recom-
17 mit the joint resolution is not in order.

18 “(3) In the Senate, immediately following the conclu-
19 sion of the debate on a joint resolution described in sub-
20 section (a), and a single quorum call at the conclusion of
21 the debate if requested in accordance with the rules of the
22 Senate, the vote on final passage of the joint resolution
23 shall occur.

24 “(4) Appeals from the decisions of the Chair relating
25 to the application of the rules of the Senate to the proce-

1 dure relating to a joint resolution described in subsection
2 (a) shall be decided without debate.

3 “(e) In the Senate the procedure specified in sub-
4 section (c) or (d) shall not apply to the consideration of
5 a joint resolution respecting a nonmajor rule—

6 “(1) after the expiration of the 60 session days
7 beginning with the applicable submission or publica-
8 tion date, or

9 “(2) if the report under section 801(a)(1)(A)
10 was submitted during the period referred to in sec-
11 tion 801(d)(1), after the expiration of the 60 session
12 days beginning on the 15th session day after the
13 succeeding session of Congress first convenes.

14 “(f) If, before the passage by one House of a joint
15 resolution of that House described in subsection (a), that
16 House receives from the other House a joint resolution
17 described in subsection (a), then the following procedures
18 shall apply:

19 “(1) The joint resolution of the other House
20 shall not be referred to a committee.

21 “(2) With respect to a joint resolution described
22 in subsection (a) of the House receiving the joint
23 resolution—

1 “(A) the procedure in that House shall be
2 the same as if no joint resolution had been re-
3 ceived from the other House; but

4 “(B) the vote on final passage shall be on
5 the joint resolution of the other House.

6 **“§ 804. Definitions**

7 “For purposes of this chapter—

8 “(1) the term ‘Federal agency’ means any agen-
9 cy as that term is defined in section 551(1);

10 “(2) the term ‘major rule’ means any rule, in-
11 cluding an interim final rule, that the Administrator
12 of the Office of Information and Regulatory Affairs
13 of the Office of Management and Budget finds has
14 resulted in or is likely to result in—

15 “(A) an annual effect on the economy of
16 \$100,000,000 or more;

17 “(B) a major increase in costs or prices for
18 consumers, individual industries, Federal,
19 State, or local government agencies, or geo-
20 graphic regions; or

21 “(C) significant adverse effects on competi-
22 tion, employment, investment, productivity, in-
23 novation, or on the ability of United States-
24 based enterprises to compete with foreign-based
25 enterprises in domestic and export markets;

1 “(3) the term ‘nonmajor rule’ means any rule
2 that is not a major rule; and

3 “(4) the term ‘rule’ has the meaning given such
4 term in section 551, except that such term does not
5 include—

6 “(A) any rule of particular applicability,
7 including a rule that approves or prescribes for
8 the future rates, wages, prices, services, or al-
9 lowances therefore, corporate or financial struc-
10 tures, reorganizations, mergers, or acquisitions
11 thereof, or accounting practices or disclosures
12 bearing on any of the foregoing;

13 “(B) any rule relating to agency manage-
14 ment or personnel; or

15 “(C) any rule of agency organization, pro-
16 cedure, or practice that does not substantially
17 affect the rights or obligations of non-agency
18 parties.

19 **“§ 805. Judicial review**

20 “(a) No determination, finding, action, or omission
21 under this chapter shall be subject to judicial review.

22 “(b) Notwithstanding subsection (a), a court may de-
23 termine whether a Federal agency has completed the nec-
24 essary requirements under this chapter for a rule to take
25 effect.

1 “(c) The enactment of a joint resolution of approval
2 under section 802 shall not—

3 “(1) be interpreted to serve as a grant or modi-
4 fication of statutory authority by Congress for the
5 promulgation of a rule;

6 “(2) extinguish or affect any claim, whether
7 substantive or procedural, against any alleged defect
8 in a rule; and

9 “(3) form part of the record before the court in
10 any judicial proceeding concerning a rule except for
11 purposes of determining whether or not the rule is
12 in effect.

13 **“§ 806. Exemption for monetary policy**

14 “Nothing in this chapter shall apply to rules that con-
15 cern monetary policy proposed or implemented by the
16 Board of Governors of the Federal Reserve System or the
17 Federal Open Market Committee.

18 **“§ 807. Effective date of certain rules**

19 “Notwithstanding section 801—

20 “(1) any rule that establishes, modifies, opens,
21 closes, or conducts a regulatory program for a com-
22 mercial, recreational, or subsistence activity related
23 to hunting, fishing, or camping; or

24 “(2) any rule other than a major rule which an
25 agency for good cause finds (and incorporates the

1 finding and a brief statement of reasons therefore in
2 the rule issued) that notice and public procedure
3 thereon are impracticable, unnecessary, or contrary
4 to the public interest,
5 shall take effect at such time as the Federal agency pro-
6 mulgating the rule determines.”.

7 **SEC. 4. BUDGETARY EFFECTS OF RULES SUBJECT TO SEC-**
8 **TION 802 OF TITLE 5, UNITED STATES CODE.**

9 Section 257(b)(2) of the Balanced Budget and Emer-
10 gency Deficit Control Act of 1985 (2 U.S.C. 907(b)(2))
11 is amended by adding at the end the following:

12 “(E) Any rules subject to the congressional
13 approval procedure set forth in section 802 of
14 chapter 8 of title 5, United States Code, affect-
15 ing budget authority, outlays, or receipts shall
16 be assumed to be effective unless it is not ap-
17 proved in accordance with such section.”.

○