

117TH CONGRESS
1ST SESSION

H. R. 968

To provide for a method by which the economic costs of significant regulatory actions may be offset by the repeal of other regulatory actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2021

Mr. BUDD (for himself, Mr. GAETZ, Mr. DESJARLAIS, Mr. PERRY, and Mr. HICE of Georgia) introduced the following bill; which was referred to the Committee on Oversight and Reform

A BILL

To provide for a method by which the economic costs of significant regulatory actions may be offset by the repeal of other regulatory actions, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Lessening Regulatory Costs and Establishing a Federal
6 Regulatory Budget Act of 2021”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 2. Sense of Congress; purpose.
- Sec. 3. Establishing regulatory reform capacity.
- Sec. 4. Accountability.
- Sec. 5. Regulatory planning and budget.
- Sec. 6. Waiver.
- Sec. 7. Definitions.

1 **SEC. 2. SENSE OF CONGRESS; PURPOSE.**

2 (a) SENSE OF CONGRESS.—It is the sense of Con-
3 gress that the Federal Government should be prudent and
4 financially responsible in the expenditure of funds, from
5 both public and private sources. In addition to the man-
6 agement of the direct expenditure of taxpayer dollars
7 through the budgeting process, it is essential to manage
8 the costs associated with the governmental imposition of
9 private expenditures required to comply with Federal reg-
10 ulations.

11 (b) PURPOSE.—The purpose of this Act is—

12 (1) to remove unnecessary or outdated regula-
13 tions when a new significant regulation is issued;
14 and

15 (2) to prudently manage and control the cost of
16 planned regulations through an annual budgeting
17 process.

18 **SEC. 3. ESTABLISHING REGULATORY REFORM CAPACITY.**

19 (a) REGULATORY REFORM OFFICERS.—

20 (1) IN GENERAL.—Except as provided for
21 under section 6, not later than 60 days after the
22 date of the enactment of this Act, the head of each

1 agency shall designate an employee or officer of the
2 agency as the Regulatory Reform Officer (in this
3 Act referred to as the “agency RRO”).

4 (2) DUTIES.—In accordance with applicable law
5 and in consultation with relevant senior agency offi-
6 cials, each agency RRO shall oversee—

7 (A) the implementation of regulatory re-
8 form initiatives and policies for the agency to
9 ensure that the agency effectively carries out
10 regulatory reforms; and

11 (B) the termination of programs and ac-
12 tivities that derive from or implement statutes,
13 Executive orders, guidance documents, policy
14 memoranda, rule interpretations, and similar
15 documents, or relevant portions thereof, that
16 have been repealed or rescinded.

17 (b) REGULATORY REFORM TASK FORCES.—

18 (1) ESTABLISHMENT OF AGENCY TASK FORCE;
19 MEMBERSHIP.—Except as provided under section 6,
20 not later than 60 days after the date of the enact-
21 ment of this Act, the head of each agency shall ap-
22 point and may remove members to the regulatory re-
23 form task force (in this section referred to as the
24 “Task Force”) of the agency, which shall be com-
25 posed of the following members:

1 (A) The agency RRO.

2 (B) A senior agency official from each rel-
3 evant component or office of the agency with
4 significant authority for issuing or repealing
5 regulatory actions.

6 (C) Additional senior agency officials in-
7 volved in the development of rulemaking or
8 other regulatory action at the agency, as deter-
9 mined by the head of the agency.

10 (2) CHAIR.—Unless otherwise designated by the
11 head of the agency, the agency RRO shall chair the
12 Task Force of the agency.

13 (3) JOINT TASK FORCES.—For the consider-
14 ation of a joint rulemaking, the Director may form
15 a joint regulatory reform task force composed of at
16 least one member from the Task Force of each rel-
17 evant agency. Any joint regulatory reform task force
18 formed under this paragraph shall consult with each
19 relevant Task Force.

20 (4) DUTIES.—Each Task Force shall conduct
21 ongoing evaluations of regulations and other regu-
22 latory actions and make recommendations that are
23 consistent with and that could be implemented in ac-
24 cordance with applicable law to the head of the
25 agency regarding repeal, replacement, or modifica-

1 tion of regulations and regulatory actions. To the ex-
2 tent practicable, each Task Force shall—

3 (A) not later than 5 years after the date
4 of the enactment of this Act, complete a review
5 of each regulation issued by the agency;

6 (B) for each regulation or regulatory ac-
7 tion reviewed and identified for repeal, replace-
8 ment, or modification, estimate the cost savings
9 of such repeal, replacement, or modification, as
10 applicable; and

11 (C) identify regulations that are appro-
12 priate for repeal, replacement, or modification,
13 and prioritize the evaluation of regulations
14 that—

15 (i) eliminate or have eliminated jobs
16 or inhibit or have inhibited job creation;

17 (ii) are outdated, unnecessary, or inef-
18 fective;

19 (iii) impose costs that exceed benefits;

20 (iv) create a serious inconsistency or
21 otherwise interfere with regulatory reform
22 initiatives and policies;

23 (v) were issued or are maintained in a
24 manner that is inconsistent with the re-
25 quirements of section 515 of the Treasury

1 and General Government Appropriations
2 Act, 2001 (Public Law 106–554; 44
3 U.S.C. 3516 note), or the guidance issued
4 pursuant to that section, including any
5 rule that relies in whole or in part on data,
6 information, or methods that are not pub-
7 licly available or that are insufficiently
8 transparent to meet the standard for re-
9 producibility; or

10 (vi) were made pursuant to or to im-
11 plement statutes, Executive orders, or
12 other Presidential directives that have been
13 subsequently rescinded or substantially
14 modified.

15 (c) CONSULTATION WITH STAKEHOLDERS.—In per-
16 forming the tasks under this section, each agency RRO
17 and Task Force shall seek input and other assistance from
18 the public and from entities significantly affected by regu-
19 lations, including State, local, and Tribal governments,
20 small businesses, consumers, non-governmental organiza-
21 tions, and trade associations. Each agency RRO and Task
22 Force may—

23 (1) incorporate specific suggestions from stake-
24 holders in identifying the list of deregulatory actions
25 to recommend to the head of the agency; and

1 (2) accept or solicit input from the public in
2 any manner, if—

3 (A) the process is transparent to the public
4 and Congress;

5 (B) a list of each meeting, a list of each
6 stakeholder that submitted a comment, and a
7 copy of each written comment are made publicly
8 available online; and

9 (C) the Task Force issues a public notice
10 of any public meeting to solicit input not less
11 than 7 days before the public meeting and
12 makes detailed minutes of the meeting available
13 online not less than 7 days after the date of the
14 meeting.

15 (d) TRANSPARENT REGULATORY REFORM.—

16 (1) WEBSITE.—To the extent practicable, the
17 head of each agency shall publish information about
18 the Task Force of the agency and other regulatory
19 reform initiatives on the website of the agency—

20 (A) which shall include—

21 (i) a list of the members of the Task
22 Force of the agency;

23 (ii) a copy of each report issued under
24 this subsection; and

1 (iii) a link to or copy of each notice of
2 a meeting or solicitation of public com-
3 ments issued by the Task Force of the
4 agency; and

5 (B) which may include—

6 (i) an online forum to receive com-
7 ments from the public; and

8 (ii) any other information about the
9 Task Force or other regulatory reform ini-
10 tiatives at the agency.

11 (2) REPORT.—Not less than twice a year, each
12 agency RRO shall submit to the head of the agency
13 a report on the activities performed under this sec-
14 tion and any recommendations resulting from such
15 activities (which shall be posted by the head of the
16 agency on a publicly accessible website), and shall
17 include the following:

18 (A) A description of any improvement
19 made toward implementation of regulatory re-
20 form initiatives and policies.

21 (B) For each regulation or other regu-
22 latory action reviewed by the Task Force, a de-
23 tailed description of the review.

24 (C) An inventory of each regulation or reg-
25 ulatory action the Task Force recommends the

1 agency consider for repeal, replacement, or
2 modification.

3 (D) A list of all activities conducted under
4 subsection (c), a summary of all comments re-
5 ceived, and a hyperlink to copies of each public
6 comment received.

7 **SEC. 4. ACCOUNTABILITY.**

8 (a) INCORPORATION IN PERFORMANCE PLANS.—

9 (1) IN GENERAL.—Each agency listed in section
10 901(b)(1) of title 31, United States Code, shall in-
11 corporate in the annual performance plan of the
12 agency (required under section 1115(b) of title 31,
13 United States Code) performance indicators that
14 measure progress implementing this Act.

15 (2) OMB GUIDANCE.—The Director shall issue,
16 and update as necessary, guidance regarding the im-
17 plementation of this subsection.

18 (b) PERFORMANCE ASSESSMENT.—The head of each
19 agency shall consider the progress implementing this Act
20 in assessing the performance of the Task Force of the
21 agency and those individuals responsible for developing
22 and issuing agency rules.

23 **SEC. 5. REGULATORY PLANNING AND BUDGET.**

24 (a) UNIFIED AGENDA AND ANNUAL REGULATORY
25 PLAN.—

1 (1) UNIFIED REGULATORY AGENDA.—During
2 the months of April and October of each year, the
3 Director shall publish a unified regulatory agenda,
4 which shall include—

5 (A) regulatory and deregulatory actions
6 under development or review at agencies;

7 (B) a Federal regulatory plan of all signifi-
8 cant regulatory actions and associated deregula-
9 tory actions that agencies reasonably expect to
10 issue in proposed or final form in the current
11 and following fiscal year; and

12 (C) all information required to be included
13 in the regulatory flexibility agenda under sec-
14 tion 602 of title 5, United States Code.

15 (2) AGENCY SUBMISSIONS.—In accordance with
16 guidance issued by the Director and not less than 60
17 days before each date of publication for the unified
18 regulatory agenda under paragraph (1), the head of
19 each agency shall submit to the Director an agenda
20 of all regulatory actions and deregulatory actions
21 under development at the agency, including the fol-
22 lowing:

23 (A) For each regulatory action and deregu-
24 latory action:

25 (i) A regulation identifier number.

- 1 (ii) A brief summary of the action.
- 2 (iii) The legal authority for the action.
- 3 (iv) Any legal deadline for the action.
- 4 (v) The name and contact information
- 5 for a knowledgeable agency official.
- 6 (vi) Any other information as required
- 7 by the Director.

8 (B) An annual regulatory plan, which shall
9 include a list of each significant regulatory ac-
10 tion the agency reasonably expects to issue in
11 proposed or final form in the current and fol-
12 lowing fiscal year, including for each significant
13 regulatory action:

14 (i) A summary, including the fol-
15 lowing:

16 (I) A statement of the regulatory
17 objectives.

18 (II) The legal authority for the
19 action.

20 (III) A statement of the need for
21 the action.

22 (IV) The agency's schedule for
23 the action.

24 (ii) The estimated cost.

25 (iii) The estimated benefits.

1 (iv) Any deregulatory action identified
2 to offset the estimated cost of such signifi-
3 cant regulatory action and an explanation
4 of how the agency will continue to achieve
5 regulatory objectives if the deregulatory ac-
6 tion is taken.

7 (v) A best approximation of the total
8 cost or savings and any cost or savings as-
9 sociated with a deregulatory action.

10 (vi) An estimate of the economic ef-
11 fects, including any estimate of the net ef-
12 fect that such action will have on the num-
13 ber of jobs in the United States, that was
14 considered in drafting the action, or, if
15 such estimate is not available, a statement
16 affirming that no information on the eco-
17 nomic effects, including the effect on the
18 number of jobs, of the action has been con-
19 sidered.

20 (C) Information required under section
21 602 of title 5, United States Code.

22 (D) Information required under any other
23 law to be reported by agencies about significant
24 regulatory actions, as determined by the Direc-
25 tor.

1 (b) FEDERAL REGULATORY BUDGET.—

2 (1) ESTABLISHMENT.—In the April unified reg-
3 ulatory agenda described under subsection (a), the
4 Director shall establish the annual Federal Regu-
5 latory Budget, which specifies the net amount of in-
6 cremental regulatory costs allowed by the Federal
7 Government and at each agency for the next fiscal
8 year. The Director may set the incremental regu-
9 latory cost allowance to allow an increase, prohibit
10 an increase, or require a decrease of incremental
11 regulatory costs.

12 (2) DEFAULT NET INCREMENTAL REGULATORY
13 COST.—If the Director does not set a net amount of
14 incremental regulatory costs allowed for an agency,
15 the net incremental regulatory cost allowed shall be
16 zero.

17 (3) BALANCE ROLLOVER OF INCREMENTAL
18 REGULATORY COST ALLOWANCE.—If an agency does
19 not exhaust all of the incremental regulatory cost al-
20 lowance for a fiscal year, the balance may be added
21 to the incremental regulatory cost allowance for the
22 subsequent fiscal year, without increasing the incre-
23 mental regulatory costs allowed for the Federal Gov-
24 ernment for the subsequent fiscal year. The Director
25 must identify the total carryover incremental regu-

1 latory cost allowance available to an agency in the
2 Federal Regulatory Budget.

3 (c) SIGNIFICANT REGULATORY ACTION REQUIRE-
4 MENTS.—Except as otherwise required by law, a signifi-
5 cant regulatory action shall have no effect unless—

6 (1) the—

7 (A) head of the agency identifies not less
8 than 2 deregulatory actions to offset the costs
9 of such significant regulatory action, and to the
10 extent feasible, issues such deregulatory actions
11 before or on the same schedule as the signifi-
12 cant regulatory action;

13 (B) incremental costs of such significant
14 regulatory action as offset by any deregulatory
15 action issued before or on the same schedule as
16 the significant regulatory action do not cause
17 the agency to exceed or contribute to the agen-
18 cy exceeding the incremental regulatory cost al-
19 lowance of the agency for that fiscal year; and

20 (C) significant regulatory action was in-
21 cluded on the most recent version or update of
22 the published unified regulatory agenda; or

23 (2) the issuance of the significant regulatory ac-
24 tion was approved in advance in writing by the Di-
25 rector and the written approval is publicly available

1 online prior to the issuance of such significant regu-
2 latory action.

3 (d) GUIDANCE BY OMB.—

4 (1) IN GENERAL.—Not later than 90 days after
5 the date of the enactment of this Act, the Director
6 shall establish and issue guidance on how agencies
7 should comply with the requirements of this section.
8 Such guidance shall include the following:

9 (A) A process for standardizing the meas-
10 urement and estimation of regulatory costs, in-
11 cluding cost savings associated with deregula-
12 tory actions.

13 (B) Standards for determining what quali-
14 fies as a deregulatory action.

15 (C) Standards for determining the costs of
16 existing regulatory actions that are considered
17 for repeal, replacement, or modification.

18 (D) A process for accounting for costs in
19 different fiscal years.

20 (E) Methods to oversee the issuance of sig-
21 nificant regulatory actions offset by cost sav-
22 ings achieved at different times or by different
23 agencies.

1 (F) Emergencies and other circumstances
2 that may justify individual waivers of the re-
3 quirements of this section.

4 (G) Standards by which the Director will
5 determine whether a regulatory action or a col-
6 lection of regulatory actions qualifies as a sig-
7 nificant regulatory action.

8 (2) UPDATES TO GUIDANCE.—The Director
9 shall update the guidance issued pursuant to this
10 section as necessary.

11 **SEC. 6. WAIVER.**

12 (a) WAIVER AUTHORITY.—Upon the written request
13 of the head of an agency, the Director may issue a written
14 waiver of the requirements of section 3 if the Director de-
15 termines that the agency generally issues very few or no
16 rules.

17 (b) REVOCATION OF WAIVER.—The Director may re-
18 voke at any time a waiver issued under this section.

19 (c) PUBLIC AVAILABILITY OF WAIVERS.—The Direc-
20 tor shall maintain a publicly available list of each agency
21 that is operating under a waiver issued under this section.

22 (d) REQUIREMENT FOR WAIVER.—A waiver shall not
23 be effective unless the written waiver and the written re-
24 quest of the agency are publicly available on the website
25 of the Office of Management and Budget.

1 **SEC. 7. DEFINITIONS.**

2 In this Act:

3 (1) AGENCY.—The term “agency” has the
4 meaning given that term in section 551 of title 5,
5 United States Code.

6 (2) COSTS.—The term “costs” means oppor-
7 tunity cost to society.

8 (3) COST SAVINGS.—The term “cost savings”
9 means the cost imposed by a regulatory action that
10 is eliminated by the repeal, replacement, or modifica-
11 tion of such regulatory action.

12 (4) DEREGULATORY ACTION.—The term “de-
13 regulatory action” means the repeal, replacement, or
14 modification of an existing regulatory action.

15 (5) DIRECTOR.—The term “Director” means
16 the Director of the Office of Management and Budg-
17 et.

18 (6) INCREMENTAL REGULATORY COST.—The
19 term “incremental regulatory cost” means the dif-
20 ference between the estimated cost of issuing a sig-
21 nificant regulatory action and the estimated cost
22 saved by issuing any deregulatory action.

23 (7) REGULATION; RULE.—The term “regula-
24 tion” or “rule” has the meaning given the term
25 “rule” in section 551 of title 5, United States Code.

1 (8) REGULATORY ACTION.—The term “regu-
2 latory action” means—

3 (A) any regulation; and

4 (B) any other regulatory guidance, state-
5 ment of policy, information collection request,
6 form, or reporting, recordkeeping, or disclosure
7 requirements that imposes a burden on the pub-
8 lic or governs agency operations.

9 (9) SIGNIFICANT REGULATORY ACTION.—The
10 term “significant regulatory action” means any reg-
11 ulatory action, other than monetary policy proposed
12 or implemented by the Board of Governors of the
13 Federal Reserve System or the Federal Open Market
14 Committee, that is likely to—

15 (A) have an annual effect on the economy
16 of \$100,000,000 or more or adversely affect in
17 a material way the economy, a sector of the
18 economy, productivity, competition, jobs, the
19 environment, public health or safety, or State,
20 local, or Tribal governments or communities;

21 (B) create a serious inconsistency or other-
22 wise interfere with an action taken or planned
23 by another agency;

24 (C) materially alter the budgetary impact
25 of entitlements, grants, user fees, or loan pro-

1 grams or the rights and obligations of recipi-
2 ents thereof; or

3 (D) raise a novel legal or policy issue.

4 (10) STATE.—The term “State” means each of
5 the several States, the District of Columbia, and
6 each territory or possession of the United States.

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