

116TH CONGRESS
2D SESSION

S. 4196

To modify, consolidate, or repeal unnecessary agency major rules, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 2, 2020

Mr. SCOTT of Florida (for himself, Mr. HAWLEY, Mr. ENZI, Mr. PERDUE, Mr. TILLIS, Mr. COTTON, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To modify, consolidate, or repeal unnecessary agency major rules, 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 “Unnecessary Agency
5 Regulations Reduction Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

1 (1) the term “Administrator” means the Ad-
2 ministrator of the Office of Information and Regu-
3 latory Affairs;

4 (2) the term “agency” has the meaning given
5 the term in section 551 of title 5, United States
6 Code;

7 (3) the term “burdensome”, with respect to a
8 major rule or set of major rules of an agency, means
9 that the major rule or set of major rules—

10 (A) can be modified, consolidated, or re-
11 pealed to eliminate or reduce excessive compli-
12 ance costs or user fees; or

13 (B) imposes unfunded mandates due to the
14 agency failing to adequately comply with section
15 205 of the Unfunded Mandates Reform Act of
16 1995 (2 U.S.C. 1535);

17 (4) the term “duplicative”, with respect to a
18 major rule or set of major rules of an agency, means
19 that the major rule or set of major rules overlaps,
20 duplicates, or conflicts with other Federal regula-
21 tions;

22 (5) the term “joint resolution” means only a
23 joint resolution that contains legislative language to
24 modify, consolidate, or repeal agency major rules;

1 (6) the term “major rule” has the meaning
2 given the term in section 804 of title 5, United
3 States Code;

4 (7) the term “outdated”, with respect to a
5 major rule or set of major rules of an agency or a
6 portion of a major rule of an agency means that the
7 major rule, set of major rules, or the portion of the
8 major rule has not been modified in the 10-year pe-
9 riod preceding the date on which the Administrator
10 submits the most recent list required under section
11 3(a)(3)(A)(ii);

12 (8) the term “regulation” has the meaning
13 given the term “rule” in section 551 of title 5,
14 United States Code; and

15 (9) the term “set of major rules” means not
16 less than 2 major rules that collectively implement
17 a regulatory authority of an agency.

18 **SEC. 3. REVIEW AND IDENTIFICATION OF UNNECESSARY**

19 **REGULATIONS.**

20 (a) REVIEW.—

21 (1) IN GENERAL.—The Administrator shall, on
22 an annual basis and in consultation with each agen-
23 cy—

1 (A) compile a list that identifies all
2 planned agency major rules or sets of major
3 rules for the period covered by the submission;

4 (B) identify agency major rules or sets of
5 major rules described in subparagraph (A) that
6 are duplicative or burdensome; and

7 (C) consult with the congressional commit-
8 tees with jurisdiction over the major rules or
9 sets of major rules identified under subpara-
10 graph (B) to determine whether those major
11 rules or sets of major rules would no longer be
12 useful and could be modified, consolidated, or
13 repealed.

14 (2) CONSIDERATION OF GAO DUPLICATION RE-
15 PORT.—

16 (A) IN GENERAL.—The Comptroller Gen-
17 eral of the United States shall—

18 (i) on an annual basis, provide to the
19 Administrator a copy of the annual report
20 prepared pursuant to section 21 of the
21 Statutory Pay-As-You-Go Act of 2010 (31
22 U.S.C. 712 note); and

23 (ii) in the report provided under
24 clause (i), identify any major rules or sets
25 of major rules associated with the pro-

1 grams, agencies, offices, and initiatives
2 identified in the report as having duplica-
3 tive goals or activities, as defined by the
4 Comptroller General.

5 (B) REVIEW.—Upon receipt of the report
6 under subparagraph (A), the Administrator
7 shall—

8 (i) review any major rules or sets of
9 major rules associated with the programs,
10 agencies, offices, and initiatives identified
11 in the report as having duplicative goals or
12 activities;

13 (ii) determine, in consultation with
14 the relevant agencies, whether any of the
15 major rules or sets of major rules identi-
16 fied in clause (i) are duplicative or out-
17 dated; and

18 (iii) determine how any duplicative or
19 outdated major rules or sets of major rules
20 identified in clause (ii) should be modified,
21 consolidated, or repealed.

22 (3) IDENTIFICATION OF MAJOR RULES OR SETS
23 OF MAJOR RULES.—

24 (A) IN GENERAL.—The Administrator
25 shall, on an annual basis—

1 (i) compile a list of major rules or sets
2 of major rules that the Administrator de-
3 termines are outdated, duplicative, or bur-
4 densome; and

5 (ii) submit to Congress and include in
6 each Unified Agenda of Federal Regu-
7 latory and Deregulatory Actions a list of
8 major rules or sets of major rules that the
9 Administrator recommends should be
10 modified, consolidated, or repealed.

11 (B) REQUIRED PERCENTAGE.—The list of
12 major rules or sets of major rules identified as
13 outdated, duplicative, or burdensome under sub-
14 paragraph (A)(i) shall be not less than 10 per-
15 cent of all major rules and sets of major rules
16 identified under paragraphs (1)(B) and
17 (2)(B)(ii).

18 (b) CRITERIA FOR REVIEW.—In identifying major
19 rules or sets of major rules that are outdated, duplicative,
20 or burdensome under subsection (a), the Administrator
21 may consider—

22 (1) whether the original purpose of the major
23 rule or set of major rules was achieved, and the
24 major rule or set of major rules could be repealed
25 without significant recurrence of adverse effects or

1 conduct that the major rule or set of major rules
2 was intended to prevent or reduce;

3 (2) whether the implementation, compliance,
4 administration, enforcement, imposition of unfunded
5 mandates, or other costs of the major rule or set of
6 major rules to the economy are not justified by the
7 benefits to society within the United States produced
8 by the expenditure of those costs;

9 (3) whether the major rule or set of major rules
10 has been rendered unnecessary or obsolete, taking
11 into consideration the length of time since the major
12 rule or set of major rules was made and the degree
13 to which technology, economic conditions, market
14 practices, or other relevant factors have changed in
15 the subject area affected by the major rule or set of
16 major rules;

17 (4) whether the major rule or set of major rules
18 has become unjustified or unnecessary as a result of
19 changed circumstances;

20 (5) whether the major rule or set of major rules
21 is compatible with other regulations and not duplica-
22 tive or inappropriately burdensome in the aggregate;

23 (6) whether the major rule or set of major rules
24 is ineffective at achieving the purposes of the major
25 rule or set of major rules;

1 (7) whether the major rule or set of major rules
2 is duplicative of other Federal regulations;

3 (8) whether the major rule or set of major rules
4 has excessive compliance costs, user fees, imposes
5 unfunded mandates, or is otherwise excessively bur-
6 densome, as compared to alternatives that—

7 (A) specify performance objectives rather
8 than conduct or manners of compliance;

9 (B) establish economic incentives to en-
10 courage desired behavior;

11 (C) provide information upon which
12 choices can be made by the public;

13 (D) incorporate other innovative alter-
14 natives rather than agency actions that specify
15 conduct or manners of compliance; or

16 (E) could in other ways substantially lower
17 costs without significantly undermining effec-
18 tiveness;

19 (9) whether the major rule or set of major rules
20 inhibits innovation in or growth of the United States
21 economy, such as by impeding the introduction or
22 use of safer or equally safe technology that is newer
23 or more efficient than technology required by or per-
24 missible under the major rule or set of major rules;

1 (10) whether or not the major rule or set of
2 major rules harms competition within the United
3 States economy or the international economic com-
4 petitiveness of enterprises or entities based in the
5 United States;

6 (11) whether or not the major rule or set of
7 major rules limits or prevents an agency from apply-
8 ing new or emerging technologies to improve effi-
9 ciency and effectiveness of government;

10 (12) whether the major rule or set of major
11 rules harms wage growth, including wage growth for
12 minimum wage and part-time workers;

13 (13) whether the major rule or set of major
14 rules is outdated;

15 (14) whether the major rule or set of major
16 rules is in full compliance with the requirements of
17 section 801(a)(1)(A) of title 5, United States Code;

18 (15) whether, and the extent to which, the re-
19 peal of the major rule or set of major rules would
20 impact public health;

21 (16) the review of the report submitted by the
22 Comptroller General of the United States under sub-
23 section (a)(2); and

24 (17) such other criteria as the Administrator
25 determines to identify major rules or sets of major

1 rules that can be repealed to eliminate or reduce un-
2 necessarily burdensome costs to the United States
3 economy.

4 (c) CONSIDERATION BY CONGRESS.—Not later than
5 30 days after the date on which the Administrator submits
6 the list of major rules or sets of major rules to Congress
7 under subsection (a)(3)(A)(ii), each appropriate congress-
8 sional committee shall—

9 (1) review each such major rule or set of major
10 rules that is within the jurisdiction of the committee
11 to determine if the major rule or set of major rules
12 should be modified, consolidated, or repealed; and

13 (2) issue a recommendation to modify, consoli-
14 date, or repeal the major rule or set of major rules
15 in a joint resolution.

16 **SEC. 4. EXPEDITED PROCEDURES FOR CONSIDERATION OF**
17 **JOINT RESOLUTION.**

18 (a) INTRODUCTION OF JOINT RESOLUTION.—

19 (1) IN GENERAL.—Any joint resolution—

20 (A) shall be introduced in the Senate (by
21 request) by the majority leader or minority
22 leader of the Senate or by a Member of the
23 Senate designated by the majority leader or mi-
24 nority leader of the Senate not later than 60
25 days after the date on which the date on which

1 each appropriate congressional committee has
2 issued the recommendation required under sec-
3 tion 3(c); and

4 (B) shall be introduced in the House of
5 Representatives (by request) by the Speaker of
6 the House of Representatives or the minority
7 leader of the House of Representatives or by a
8 Member of the House of Representatives des-
9 ignated by the Speaker of the House of Rep-
10 resentatives or the minority leader of the House
11 of Representatives not later than 60 days after
12 the date on which the date on which each ap-
13 propriate congressional committee has issued
14 the recommendation required under section
15 3(c).

16 (2) REINTRODUCTION.—Any joint resolution
17 shall be reintroduced as described in paragraph (1)
18 not later than 60 days after the first day of a Con-
19 gress if—

20 (A) the joint resolution was introduced
21 during the previous Congress after the date
22 that was 210 days before the date of the sine
23 die adjournment of such previous Congress; and

24 (B) there was not a vote in either House
25 of Congress on passage of the joint resolution

1 introduced under subparagraph (A) during the
2 previous Congress by which the joint resolution
3 was not agreed to.

4 (b) EXPEDITED CONSIDERATION IN HOUSE OF REP-
5 RESENTATIVES.—

6 (1) REPORTING AND DISCHARGE.—Any com-
7 mittee of the House of Representatives to which a
8 joint resolution is referred shall report it to the
9 House of Representatives not later than 180 days
10 after the date on which the joint resolution is intro-
11 duced or reintroduced in the House of Representa-
12 tives under subsection (a). If a committee fails to re-
13 port the joint resolution within that period, the com-
14 mittee shall be discharged from further consider-
15 ation of the joint resolution and the joint resolution
16 shall be referred to the appropriate calendar.

17 (2) PROCEEDING TO CONSIDERATION.—

18 (A) IN GENERAL.—After each committee
19 authorized to consider a joint resolution reports
20 it to the House of Representatives or has been
21 discharged from its consideration, it shall be in
22 order, not later than 210 days after the date on
23 which the joint resolution is introduced or re-
24 introduced in the House of Representatives
25 under subsection (a), to move to proceed to con-

1 sider the joint resolution in the House of Rep-
2 resentatives.

3 (B) PROCEDURE.—For a motion to pro-
4 ceed to consideration of a joint resolution—

5 (i) all points of order against the mo-
6 tion are waived;

7 (ii) such a motion shall not be in
8 order after the House of Representatives
9 has disposed of a motion to proceed on the
10 joint resolution;

11 (iii) the previous question shall be
12 considered as ordered on the motion to its
13 adoption without intervening motion;

14 (iv) the motion shall not be debatable;
15 and

16 (v) a motion to reconsider the vote by
17 which the motion is disposed of shall not
18 be in order.

19 (3) CONSIDERATION.—If the House of Rep-
20 resentatives proceeds to consideration of a joint res-
21 olution—

22 (A) the joint resolution shall be considered
23 as read;

1 (B) all points of order against the joint
2 resolution and against its consideration are
3 waived;

4 (C) the previous question shall be consid-
5 ered as ordered on the joint resolution to its
6 passage without intervening motion except 10
7 hours of debate equally divided and controlled
8 by the proponent and an opponent;

9 (D) an amendment to the joint resolution
10 shall not be in order; and

11 (E) a motion to reconsider the vote on pas-
12 sage of the joint resolution shall not be in
13 order.

14 (c) EXPEDITED CONSIDERATION IN SENATE.—

15 (1) PLACEMENT ON CALENDAR.—Upon intro-
16 duction in the Senate, the joint resolution shall be
17 placed immediately on the calendar.

18 (2) PROCEEDING TO CONSIDERATION.—

19 (A) IN GENERAL.—Notwithstanding rule
20 XXII of the Standing Rules of the Senate, it is
21 in order, not later than 210 days after the date
22 on which the joint resolution is introduced or
23 reintroduced in the Senate under subsection (a)
24 (even though a previous motion to the same ef-

1 fect has been disagreed to) to move to proceed
2 to the consideration of a joint resolution.

3 (B) PROCEDURE.—For a motion to pro-
4 ceed to the consideration of a joint resolution—

5 (i) all points of order against the mo-
6 tion are waived;

7 (ii) the motion is not debatable;

8 (iii) the motion is not subject to a mo-
9 tion to postpone;

10 (iv) a motion to reconsider the vote by
11 which the motion is agreed to or disagreed
12 to shall not be in order; and

13 (v) if the motion is agreed to, the
14 joint resolution shall remain the unfinished
15 business until disposed of.

16 (3) FLOOR CONSIDERATION.—

17 (A) IN GENERAL.—If the Senate proceeds
18 to consideration of a joint resolution—

19 (i) all points of order against the joint
20 resolution (and against consideration of
21 the joint resolution) are waived;

22 (ii) consideration of the joint resolu-
23 tion, and all debatable motions and appeals
24 in connection therewith, shall be limited to
25 not more than 10 hours, which shall be di-

1 vided equally between the majority and mi-
2 nority leaders or their designees;

3 (iii) a motion further to limit debate
4 is in order and not debatable;

5 (iv) an amendment to, a motion to
6 postpone, or a motion to commit the joint
7 resolution is not in order; and

8 (v) a motion to proceed to the consid-
9 eration of other business is not in order.

10 (B) VOTE ON PASSAGE.—The vote on pas-
11 sage shall occur immediately following the con-
12 clusion of the consideration of a joint resolu-
13 tion, and a single quorum call at the conclusion
14 of the debate if requested in accordance with
15 the rules of the Senate.

16 (C) RULINGS OF THE CHAIR ON PROCE-
17 DURE.—Appeals from the decisions of the Chair
18 relating to the application of this paragraph or
19 the rules of the Senate, as the case may be, to
20 the procedure relating to a joint resolution shall
21 be decided without debate.

22 (d) RULES RELATING TO SENATE AND HOUSE OF
23 REPRESENTATIVES.—

24 (1) COORDINATION WITH ACTION BY OTHER
25 HOUSE.—If, before the passage by one House of a

1 joint resolution of that House, that House receives
2 from the other House a joint resolution—

3 (A) the joint resolution of the other House
4 shall not be referred to a committee; and

5 (B) with respect to a joint resolution of the
6 House receiving the resolution—

7 (i) the procedure in that House shall
8 be the same as if no joint resolution had
9 been received from the other House; and

10 (ii) the vote on passage shall be on
11 the joint resolution of the other House.

12 (2) TREATMENT OF JOINT RESOLUTION OF
13 OTHER HOUSE.—If one House fails to introduce or
14 consider a joint resolution under this section, the
15 joint resolution of the other House shall be entitled
16 to expedited floor procedures under this section.

17 (3) TREATMENT OF COMPANION MEASURES.—
18 If, following passage of a joint resolution in the Sen-
19 ate, the Senate receives the companion measure
20 from the House of Representatives, the companion
21 measure shall not be debatable.

22 (4) CONSIDERATION AFTER PASSAGE.—If the
23 President vetoes the joint resolution, consideration
24 of a veto message in the Senate under this para-
25 graph shall be not more than 10 hours equally di-

1 vided between the majority and minority leaders or
2 their designees.

3 (e) RULES OF HOUSE OF REPRESENTATIVES AND
4 SENATE.—This section is enacted by Congress—

5 (1) as an exercise of the rulemaking power of
6 the Senate and House of Representatives, respec-
7 tively, and as such is deemed a part of the rules of
8 each House, respectively, but applicable only with re-
9 spect to the procedure to be followed in that House
10 in the case of a joint resolution, and to supersede
11 other rules only to the extent that it is inconsistent
12 with such rules; and

13 (2) with full recognition of the constitutional
14 right of either House to change the rules (so far as
15 relating to the procedure of that House) at any time,
16 in the same manner, and to the same extent as in
17 the case of any other rule of that House.

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