

# Union Calendar No. 480

114TH CONGRESS  
2D SESSION

# H. R. 4612

**[Report No. 114–618, Part I]**

To ensure economic stability, accountability, and efficiency of Federal Government operations by establishing a moratorium on midnight rules during a President's final days in office, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2016

Mr. WALBERG (for himself, Mrs. LUMMIS, Mr. SMITH of Texas, Mr. FARENTHOLD, Mr. JODY B. HICE of Georgia, Ms. JENKINS of Kansas, Mr. MULVANEY, Mr. DESANTIS, Mr. GOSAR, Mr. RIBBLE, Mrs. MILLER of Michigan, and Mr. BLUM) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JUNE 10, 2016

Additional sponsors: Mr. KING of Iowa, Mr. HUIZENGA of Michigan, Mr. DUNCAN of Tennessee, Mr. WALKER, Mr. BRAT, Mr. LAMALFA, Mr. CRAMER, Mr. PALAZZO, Ms. MCSALLY, Mr. GROTHMAN, Mr. ROUZER, Mr. HENSARLING, Mr. BABIN, Mr. CARTER of Georgia, Mr. BISHOP of Michigan, Mr. CHABOT, Mr. BARLETTA, and Mr. MULLIN

JUNE 10, 2016

Reported from the Committee on Oversight and Government Reform

JUNE 10, 2016

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

# **A BILL**

To ensure economic stability, accountability, and efficiency of Federal Government operations by establishing a moratorium on midnight rules during a President's final days in office, 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 “Midnight Rule Relief  
5       Act of 2016”.

6       **SEC. 2. MORATORIUM ON MIDNIGHT RULES.**

7       Except as provided under sections 3 and 4, during  
8       the moratorium period, an agency may not propose or fi-  
9       nalize any midnight rule unless the Administrator finds  
10      the midnight rule will not result in any of the following:

11           (1) An annual effect on the economy of  
12           \$100,000,000 or more.

13           (2) A major increase in costs or prices for con-  
14           sumers, individual industries, Federal, State, or local  
15           government agencies, or geographic regions.

16           (3) Significant adverse effects on competition,  
17           employment, investment, productivity, innovation, or  
18           on the ability of United States-based enterprises to  
19           compete with foreign-based enterprises in domestic  
20           and export markets.

21           (4) A significant economic impact on a substan-  
22           tial number of small businesses.

1 **SEC. 3. SPECIAL RULE ON STATUTORY, REGULATORY, AND**  
2 **JUDICIAL DEADLINES.**

3 (a) IN GENERAL.—Section 2 shall not apply with re-  
4 spect to any deadline for, relating to, or involving any mid-  
5 night rule that—

6 (1) was established before the beginning of the  
7 moratorium period; and

8 (2) is required to occur during the moratorium  
9 period.

10 (b) PUBLICATION OF DEADLINES.—Not later than  
11 30 days after the beginning of a moratorium period, the  
12 Administrator shall identify and publish in the Federal  
13 Register a list of deadlines covered by subsection (a).

14 **SEC. 4. EXCEPTION.**

15 (a) EMERGENCY EXCEPTION.—Section 2 shall not  
16 apply to a midnight rule if the President determines by  
17 Executive order that the midnight rule is—

18 (1) necessary because of an imminent threat to  
19 health or safety or other emergency;

20 (2) necessary for the enforcement of criminal  
21 laws;

22 (3) necessary for the national security of the  
23 United States; or

24 (4) issued pursuant to any statute imple-  
25 menting an international trade agreement.

1 (b) DEREGULATORY EXCEPTION.—Section 2 shall  
2 not apply to a midnight rule that the Administrator finds  
3 is limited to repealing an existing rule and certifies such  
4 finding in writing. The certification shall be published in  
5 the Federal Register.

6 **SEC. 5. DEFINITIONS.**

7 In this Act:

8 (1) ADMINISTRATOR.—The term “Adminis-  
9 trator” means the Administrator of the Office of In-  
10 formation and Regulatory Affairs within the Office  
11 of Management and Budget.

12 (2) AGENCY.—The term “agency” has the  
13 meaning given that term under section 551 of title  
14 5, United States Code, except such term does not in-  
15 clude—

16 (A) the Federal Election Commission;

17 (B) the Board of Governors of the Federal  
18 Reserve System;

19 (C) the Federal Deposit Insurance Cor-  
20 poration; or

21 (D) the United States Postal Service.

22 (3) DEADLINE.—The term “deadline” means  
23 any date certain for fulfilling any obligation or exer-  
24 cising any authority established by or under any  
25 Federal statute or rule, or by or under any court

1 order implementing any Federal statute, regulation,  
2 or rule.

3 (4) MIDNIGHT RULE.—The term “midnight  
4 rule” means an agency statement of general applica-  
5 bility and future effect, issued during the morato-  
6 rium period, that is intended to have the force and  
7 effect of law and is designed—

8 (A) to implement, interpret, or prescribe  
9 law or policy; or

10 (B) to describe the procedure or practice  
11 requirements of an agency.

12 (5) MORATORIUM PERIOD.—The term “morato-  
13 rium period” means the day after the day referred  
14 to in section 1 of title 3, United States Code,  
15 through January 20 of the following year, in which  
16 a President is not serving a consecutive term.

17 (6) RULE.—The term “rule” has the meaning  
18 given that term under section 551 of title 5, United  
19 States Code.

20 (7) SMALL BUSINESS.—The term “small busi-  
21 ness” has the meaning given that term under section  
22 601 of title 5, United States Code.



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