

114TH CONGRESS  
1ST SESSION

# S. 1683

To provide for the establishment of a process for the review of rules and sets of rules, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 25, 2015

Mr. HATCH (for himself, Mrs. ERNST, and Mr. BLUNT) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To provide for the establishment of a process for the review of rules and sets of 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Searching for and Cutting Regulations that are Unneces-  
6 sarily Burdensome Act of 2015” or the “SCRUB Act of  
7 2015”.

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

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

## TITLE I—RETROSPECTIVE REGULATORY REVIEW COMMISSION

Sec. 101. Retrospective Regulatory Review Commission.

## TITLE II—REGULATORY CUT-GO

Sec. 201. Cut-go procedures.

Sec. 202. Applicability.

Sec. 203. OIRA certification of cost calculations.

## TITLE III—RETROSPECTIVE REVIEW OF NEW RULES

Sec. 301. Plan for future review.

## TITLE IV—JUDICIAL REVIEW; EFFECTIVE DATE

Sec. 401. Judicial review.

Sec. 402. Effective date.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-  
4 trator” means the Administrator of the Office of In-  
5 formation and Regulatory Affairs of the Office of  
6 Management and Budget.

7 (2) AGENCY.—The term “agency” has the  
8 meaning given that term in section 551 of title 5,  
9 United States Code.

10 (3) COMMISSION.—The term “Commission”  
11 means the Retrospective Regulatory Review Commis-  
12 sion established under section 101(a).

13 (4) MAJOR RULE.—The term “major rule”  
14 means any rule that the Administrator determines is  
15 likely to impose—

16 (A) an annual cost on the economy of  
17 \$100,000,000 or more, adjusted annually for  
18 inflation;

1 (B) a major increase in costs or prices for  
 2 consumers, individual industries, Federal,  
 3 State, local, or tribal government agencies, or  
 4 geographic regions;

5 (C) significant adverse effects on competi-  
 6 tion, employment, investment, productivity, in-  
 7 novation, or on the ability of United States-  
 8 based enterprises to compete with foreign-based  
 9 enterprises in domestic and export markets; or

10 (D) significant impacts on multiple sectors  
 11 of the economy.

12 (5) RULE.—The term “rule” has the meaning  
 13 given that term in section 551 of title 5, United  
 14 States Code.

15 (6) SET OF RULES.—The term “set of rules”  
 16 means a set of rules that collectively implements a  
 17 regulatory authority of an agency.

18 **TITLE I—RETROSPECTIVE REGU-**  
 19 **LATORY REVIEW COMMIS-**  
 20 **SION**

21 **SEC. 101. RETROSPECTIVE REGULATORY REVIEW COMMIS-**  
 22 **SION.**

23 (a) ESTABLISHMENT.—There is established a com-  
 24 mission, to be known as the “Retrospective Regulatory Re-  
 25 view Commission”, that shall review rules and sets of rules

1 in accordance with specified criteria to determine if a rule  
2 or set of rules should be repealed to eliminate or reduce  
3 the costs of regulation to the economy.

4 (b) MEMBERSHIP.—

5 (1) NUMBER.—The Commission shall be com-  
6 posed of 9 members who shall be appointed by the  
7 President and confirmed by the Senate. Each mem-  
8 ber shall be appointed not later than 180 days after  
9 the date of enactment of this Act.

10 (2) TERM.—The term of each member shall  
11 commence upon the confirmation of the member by  
12 the Senate and shall extend to the later of—

13 (A) the date that is 5 years and 180 days  
14 after the date of enactment of this Act; or

15 (B) the date that is 5 years after the date  
16 by which all members have been confirmed by  
17 the Senate.

18 (3) APPOINTMENT.—The members of the Com-  
19 mission shall be appointed as follows:

20 (A) CHAIR.—The President shall appoint  
21 as the Chair of the Commission an individual  
22 with expertise and experience in rulemaking,  
23 such as past Administrators, past chairmen of  
24 the Administrative Conference of the United  
25 States, and other individuals with similar exper-

1           tise and experience in rulemaking affairs and  
2           the administration of regulatory reviews.

3           (B) CANDIDATE LIST OF MEMBERS.—

4           (i) IN GENERAL.—The Speaker of the  
5           House of Representatives, the Minority  
6           Leader of the House of Representatives,  
7           the Majority Leader of the Senate, and the  
8           Minority Leader of the Senate shall each  
9           present to the President a list of can-  
10          didates to be members of the Commission,  
11          which individuals shall be learned in rule-  
12          making affairs and, preferably, administra-  
13          tion of regulatory reviews.

14          (ii) APPOINTMENT FROM LIST.—The  
15          President shall appoint 2 members of the  
16          Commission from each list provided under  
17          this clause (i), subject to the provisions of  
18          subparagraph (C).

19          (C) RESUBMISSION OF CANDIDATE.—The  
20          President may request from the presenter of a  
21          list under subparagraph (B)(i) a new list of 1  
22          or more candidates if the President—

23               (i) determines that any candidate on  
24               the list presented pursuant to subpara-  
25               graph (B)(i) does not meet the qualifica-

1           tions specified in such subparagraph to be  
2           a member of the Commission; and

3                   (ii) certifies that determination to the  
4           congressional officials specified in subpara-  
5           graph (B)(i).

6       (c) POWERS AND AUTHORITIES OF THE COMMIS-  
7       SION.—

8           (1) MEETINGS AND HEARINGS.—

9                   (A) MEETINGS.—The Commission may  
10           meet when, where, and as often as the Commis-  
11           sion determines appropriate, except that the  
12           Commission shall hold public meetings not less  
13           than twice each year.

14                   (B) HEARINGS.—In addition to meetings  
15           held under paragraph (1), the Commission may  
16           hold hearings to consider issues of fact or law  
17           relevant to the work of the Commission.

18                   (C) OPEN TO PUBLIC.—Any meeting or  
19           hearing held by the Commission shall be open  
20           to the public.

21           (2) ACCESS TO INFORMATION.—The Commis-  
22           sion may secure directly from any agency informa-  
23           tion and documents necessary to enable the Commis-  
24           sion to carry out this Act. Upon request of the Chair  
25           of the Commission, the head of that agency shall

1 furnish that information or document to the Com-  
2 mission as soon as possible, but not later than 2  
3 weeks after the date on which the request was made.

4 (3) SUBPOENAS.—

5 (A) IN GENERAL.—The Commission may  
6 issue subpoenas requiring the attendance and  
7 testimony of witnesses and the production of  
8 any evidence relating to the duties of the Com-  
9 mission. The attendance of witnesses and the  
10 production of evidence may be required from  
11 any place within the United States at any des-  
12 ignated place of hearing within the United  
13 States.

14 (B) FAILURE TO OBEY A SUBPOENA.—If a  
15 person refuses to obey a subpoena issued under  
16 subparagraph (A), the Commission may apply  
17 to a United States district court for an order  
18 requiring that person to appear before the Com-  
19 mission to give testimony, produce evidence, or  
20 both, relating to the matter under investigation.  
21 The application may be made within the judicial  
22 district where the hearing is conducted or where  
23 that person is found, resides, or transacts busi-  
24 ness. Any failure to obey the order of the court  
25 may be punished by the court as civil contempt.

1           (C) SERVICE OF SUBPOENAS.—The sub-  
2           poenas of the Commission shall be served in the  
3           manner provided for subpoenas issued by a  
4           United States district court under the Federal  
5           Rules of Civil Procedure for the United States  
6           district courts.

7           (D) SERVICE OF PROCESS.—All process of  
8           any court to which application is made under  
9           subparagraph (B) may be served in the judicial  
10          district in which the person required to be  
11          served resides or may be found.

12       (d) PAY AND TRAVEL EXPENSES.—

13           (1) PAY.—

14           (A) MEMBERS.—Each member, other than  
15           the Chair of the Commission, shall be paid at  
16           a rate equal to the daily equivalent of the min-  
17           imum annual rate of basic pay payable for level  
18           IV of the Executive Schedule under section  
19           5315 of title 5, United States Code, for each  
20           day (including travel time) during which the  
21           member is engaged in the actual performance of  
22           duties vested in the Commission.

23           (B) CHAIR.—The Chair shall be paid for  
24           each day referred to in subparagraph (A) at a  
25           rate equal to the daily equivalent of the min-



1           imum annual rate of basic pay payable for level  
2           III of the Executive Schedule under section  
3           5314 of title 5, United States Code.

4           (2) TRAVEL EXPENSES.—Members shall receive  
5           travel expenses, including per diem in lieu of subsist-  
6           ence, in accordance with sections 5702 and 5703 of  
7           title 5, United States Code.

8           (e) DIRECTOR OF STAFF.—

9           (1) IN GENERAL.—The Commission shall ap-  
10          point a Director.

11          (2) PAY.—The Director shall be paid at the  
12          rate of basic pay payable for level V of the Executive  
13          Schedule under section 5316 of title 5, United  
14          States Code.

15          (f) STAFF.—

16          (1) IN GENERAL.—Subject to paragraph (2),  
17          the Director, with the approval of the Commission,  
18          may appoint, fix the pay of, and terminate addi-  
19          tional personnel.

20          (2) LIMITATIONS ON APPOINTMENT.—The Di-  
21          rector may make such appointments without regard  
22          to the provisions of title 5, United States Code, gov-  
23          erning appointments in the competitive service, and  
24          any personnel so appointed may be paid without re-  
25          gard to the provisions of chapter 51 and subchapter

1 III of chapter 53 of that title relating to classifica-  
2 tion and General Schedule pay rates, except that an  
3 individual so appointed may not receive pay in ex-  
4 cess of the annual rate of basic pay payable for GS-  
5 15 of the General Schedule.

6 (3) AGENCY ASSISTANCE.—Following consulta-  
7 tion with and upon request of the Chair of the Com-  
8 mission, the head of any agency may detail any of  
9 the personnel of that agency to the Commission to  
10 assist the Commission in carrying out the duties of  
11 the Commission under this Act.

12 (4) GAO AND OIRA ASSISTANCE.—The Comp-  
13 troller General of the United States and the Admin-  
14 istrator shall provide assistance, including the detail-  
15 ing of employees, to the Commission in accordance  
16 with an agreement entered into with the Commis-  
17 sion.

18 (5) ASSISTANCE FROM OTHER PARTIES.—Con-  
19 gress, the States, municipalities, federally recognized  
20 Indian tribes, and local governments may provide as-  
21 sistance, including the detailing of employees, to the  
22 Commission in accordance with an agreement en-  
23 tered into with the Commission.

24 (g) OTHER AUTHORITY.—

1           (1) EXPERTS AND CONSULTANTS.—The Com-  
2 mission may procure by contract, to the extent funds  
3 are available, the temporary or intermittent services  
4 of experts or consultants pursuant to section 3109  
5 of title 5, United States Code.

6           (2) PROPERTY.—The Commission may lease  
7 space and acquire personal property to the extent  
8 funds are available.

9           (h) DUTIES OF THE COMMISSION.—

10           (1) IN GENERAL.—The Commission shall con-  
11 duct a review of the Code of Federal Regulations to  
12 identify rules and sets of rules that collectively im-  
13 plement a regulatory program that should be re-  
14 pealed to lower the cost of regulation to the econ-  
15 omy. The Commission shall give priority in the re-  
16 view to rules or sets of rules that are major rules  
17 or include major rules, have been in effect more than  
18 15 years, impose paperwork burdens that could be  
19 reduced substantially without significantly dimin-  
20 ishing regulatory effectiveness, impose disproportion-  
21 ately high costs on entities that qualify as small en-  
22 tities within the meaning of section 601(6) of title  
23 5, United States Code, or could be strengthened in  
24 their effectiveness while reducing regulatory costs.  
25           The Commission shall have as a goal of the Commis-

1 sion to achieve a reduction of at least 15 percent in  
2 the cumulative costs of Federal regulation with a  
3 minimal reduction in the overall effectiveness of such  
4 regulation.

5 (2) NATURE OF REVIEW.—To identify which  
6 rules and sets of rules should be repealed to lower  
7 the cost of regulation to the economy, the Commis-  
8 sion shall apply the following criteria:

9 (A) Whether the original purpose of the  
10 rule or set of rules was achieved, and the rule  
11 or set of rules could be repealed without signifi-  
12 cant recurrence of adverse effects or conduct  
13 that the rule or set of rules was intended to  
14 prevent or reduce.

15 (B) Whether the implementation, compli-  
16 ance, administration, enforcement or other costs  
17 of the rule or set of rules to the economy are  
18 not justified by the benefits to society within  
19 the United States produced by the expenditure  
20 of those costs.

21 (C) Whether the rule or set of rules has  
22 been rendered unnecessary or obsolete, taking  
23 into consideration the length of time since the  
24 rule was made and the degree to which tech-  
25 nology, economic conditions, market practices,

1 or other relevant factors have changed in the  
2 subject area affected by the rule or set of rules.

3 (D) Whether the rule or set of rules is in-  
4 effective at achieving the purposes of the rule or  
5 set of rules.

6 (E) Whether the rule or set of rules over-  
7 laps, duplicates, or conflicts with other Federal  
8 rules, and to the extent feasible, with State and  
9 local governmental rules.

10 (F) Whether the rule or set of rules has  
11 excessive compliance costs or is otherwise exces-  
12 sively burdensome, as compared to alternatives  
13 that—

14 (i) specify performance objectives  
15 rather than conduct or manners of compli-  
16 ance;

17 (ii) establish economic incentives to  
18 encourage desired behavior;

19 (iii) provide information upon which  
20 choices can be made by the public;

21 (iv) incorporate other innovative alter-  
22 natives rather than agency actions that  
23 specify conduct or manners of compliance;

24 or

1 (v) could in other ways substantially  
2 lower costs without significantly under-  
3 mining effectiveness.

4 (G) Whether the rule or set of rules inhib-  
5 its innovation in or growth of the United States  
6 economy, such as by impeding the introduction  
7 or use of safer or equally safe technology that  
8 is newer or more efficient than technology re-  
9 quired by or permissible under the rule or set  
10 of rules.

11 (H) Whether or not the rule or set of rules  
12 harms competition within the United States  
13 economy or the international economic competi-  
14 tiveness of enterprises or entities based in the  
15 United States.

16 (I) Such other criteria as the Commission  
17 devises to identify rules and sets of rules that  
18 can be repealed to eliminate or reduce unneces-  
19 sarily burdensome costs to the United States  
20 economy.

21 (3) METHODOLOGY FOR REVIEW.—The Com-  
22 mission shall establish a methodology for conducting  
23 the review under this subsection (including an over-  
24 all review and discrete reviews of portions of the  
25 Code of Federal Regulations), identifying rules and

1 sets of rules, and classifying rules under this sub-  
2 section and publish the terms of the methodology in  
3 the Federal Register and on the website of the Com-  
4 mission. The Commission may propose and seek  
5 public comment on the methodology before the meth-  
6 odology is established.

7 (4) CLASSIFICATION OF RULES AND SETS OF  
8 RULES.—

9 (A) IN GENERAL.—After completion of any  
10 review of rules or sets of rules under paragraph  
11 (2), the Commission shall classify each rule or  
12 set of rules identified in the review to qualify  
13 for recommended repeal as either a rule or set  
14 of rules—

15 (i) on which immediate action to re-  
16 peal is recommended; or

17 (ii) that should be eligible for repeal  
18 under regulatory cut-go procedures under  
19 title II.

20 (B) DECISIONS BY MAJORITY.—Each deci-  
21 sion by the Commission to identify a rule or set  
22 of rules for classification under this paragraph,  
23 and each decision whether to classify the rule or  
24 set of rules under clause (i) or (ii) of subpara-  
25 graph (A), shall be made by a simple majority

1           vote of the Commission. No such vote shall take  
2           place until after all members of the Commission  
3           have been confirmed by the Senate.

4           (5) INITIATION OF REVIEW BY OTHER PER-  
5           SONS.—

6                   (A) IN GENERAL.—The Commission may  
7           also conduct a review under paragraph (2) of,  
8           and, if appropriate, classify under paragraph  
9           (4), any rule or set of rules that is submitted  
10          for review to the Commission by—

11                           (i) the President;

12                           (ii) a Member of Congress;

13                           (iii) any officer or employee of a Fed-  
14           eral, State, local or tribal government, or  
15           regional governmental body; or

16                           (iv) any member of the public.

17                   (B) FORM OF SUBMISSION.—A submission  
18           to the Commission under this paragraph  
19           shall—

20                           (i) identify the specific rule or set of  
21           rules submitted for review;

22                           (ii) provide a statement of evidence to  
23           demonstrate that the rule or set of rules  
24           qualifies to be identified for repeal under  
25           the criteria listed in paragraph (2); and



1 (iii) such other information as the  
2 submitter believes may be helpful to the  
3 Commission's review, including a state-  
4 ment of the interest of the submitter in the  
5 matter.

6 (C) PUBLIC AVAILABILITY.—The Commis-  
7 sion shall make each submission received under  
8 this paragraph available on the website of the  
9 Commission as soon as possible, but not later  
10 than 1 week after the date on which the sub-  
11 mission was received.

12 (i) NOTICES AND REPORTS OF THE COMMISSION.—

13 (1) NOTICES OF AND REPORTS ON ACTIVI-  
14 TIES.—The Commission shall publish, in the Federal  
15 Register and on the website of the Commission—

16 (A) notices in advance of all public meet-  
17 ings, hearings, and classifications under sub-  
18 section (h) informing the public of the basis,  
19 purpose, and procedures for the meeting, hear-  
20 ing, or classification; and

21 (B) reports after the conclusion of any  
22 public meeting, hearing, or classification under  
23 subsection (h) summarizing in detail the basis,  
24 purpose, and substance of the meeting, hearing,  
25 or classification.

1           (2) ANNUAL REPORTS TO CONGRESS.—Each  
2 year, beginning on the date that is 1 year after the  
3 date on which all Commission members have been  
4 confirmed by the Senate, the Commission shall sub-  
5 mit a report simultaneously to each House of Con-  
6 gress detailing the activities of the Commission for  
7 the previous year, and listing all rules and sets of  
8 rules classified under subsection (h) during that  
9 year. For each rule or set of rules so listed, the  
10 Commission shall—

11                   (A) identify the agency that made the rule  
12 or set of rules;

13                   (B) identify the annual cost of the rule or  
14 set of rules to the United States economy and  
15 the basis upon which the Commission identified  
16 that cost;

17                   (C) identify whether the rule or set of rules  
18 was classified under clause (i) or clause (ii) of  
19 subsection (h)(4)(A);

20                   (D) identify the criteria under subsection  
21 (h)(2) that caused the classification of the rule  
22 or set of rules and the basis upon which the  
23 Commission determined that those criteria were  
24 met;

1           (E) for each rule or set of rules listed  
2 under the criteria set forth in subparagraph  
3 (B), (D), (F), (G), or (H) of subsection (h)(2),  
4 or other criteria established by the Commission  
5 under subparagraph (I) of such subsection  
6 under which the Commission evaluated alter-  
7 natives to the rule or set of rules that could  
8 lead to lower regulatory costs, identify alter-  
9 natives to the rule or set of rules that the Com-  
10 mission recommends the agency consider as re-  
11 placements for the rule or set of rules and the  
12 basis on which the Commission rests the rec-  
13 ommendations, and, in identifying such alter-  
14 natives, emphasize alternatives that will achieve  
15 regulatory effectiveness at the lowest cost and  
16 with the lowest adverse impacts on jobs;

17           (F) for each rule or set of rules listed  
18 under the criteria set forth in subsection  
19 (h)(2)(E), the other Federal, State, or local  
20 governmental rules that the Commission found  
21 the rule or set of rules to overlap, duplicate, or  
22 conflict with, and the basis for the findings of  
23 the Commission; and

24           (G) in the case of each set of rules so list-  
25 ed, analyze whether Congress should also con-

1           sider repeal of the statutory authority imple-  
2           mented by the set of rules.

3           (3) FINAL REPORT.—Not later than the date  
4           on which the Commission members' appointments  
5           expire, the Commission shall submit a final report  
6           simultaneously to each House of Congress summa-  
7           rizing all activities and recommendations of the  
8           Commission, including a list of all rules or sets of  
9           rules the Commission classified under clause (i) of  
10          subsection (h)(4)(A) for immediate action to repeal,  
11          a separate list of all rules or sets of rules the Com-  
12          mission classified under clause (ii) of subsection  
13          (h)(4)(A) for repeal, and with regard to each rule or  
14          set of rules listed on either list, the information de-  
15          scribed in subparagraphs (A) through (F) of sub-  
16          section (h)(2). This report may be included in the  
17          final annual report of the Commission under para-  
18          graph (2) and may include the Commission's rec-  
19          ommendation whether the Commission should be re-  
20          authorized by Congress.

21          (j) REPEAL OF REGULATIONS; CONGRESSIONAL  
22          CONSIDERATION OF COMMISSION REPORTS.—

23                 (1) IN GENERAL.—Subject to paragraph (2)—  
24                         (A) the head of each agency with authority  
25                         to repeal a rule or set of rules classified by the

1 Commission under subsection (h)(4)(A)(i) for  
2 immediate action to repeal and newly listed as  
3 such in an annual or final report of the Com-  
4 mission under paragraph (2) or (3) of sub-  
5 section (i) shall repeal the rule or set of rules  
6 as recommended by the Commission within 60  
7 days after the enactment of a joint resolution  
8 under paragraph (2) for approval of the rec-  
9 ommendations of the Commission in the report;  
10 and

11 (B) the head of each agency with authority  
12 to repeal a rule or set of rules classified by the  
13 Commission under subsection (h)(4)(A)(ii) for  
14 repeal and newly listed as such in an annual or  
15 final report of the Commission under paragraph  
16 (2) or (3) of subsection (i) shall repeal the rule  
17 or set of rules as recommended by the Commis-  
18 sion pursuant to section 201, following the en-  
19 actment of a joint resolution under paragraph  
20 (2) for approval of the recommendations of the  
21 Commission in the report.

22 (2) CONGRESSIONAL APPROVAL PROCE-  
23 DURES.—

1 (A) DEFINITION.—For purposes of this  
2 subsection, the term “joint resolution” means  
3 only a joint resolution—

4 (i) which is introduced after the date  
5 on which the Commission transmits to  
6 Congress under paragraph (2) or (3) of  
7 subsection (i) the report containing the  
8 recommendations to which the joint resolu-  
9 tion pertains;

10 (ii) which does not have a preamble;

11 (iii) the matter after the resolving  
12 clause of which is only as follows: “That  
13 Congress approves the recommendations  
14 for repeal of the Retrospective Regulatory  
15 Review Commission as submitted by the  
16 Commission on \_\_\_\_\_”, the blank  
17 space being filled in with the appropriate  
18 date; and

19 (iv) the title of which is as follows:  
20 “Approving recommendations for repeal of  
21 the Retrospective Regulatory Review Com-  
22 mission.”.

23 (B) INTRODUCTION OF JOINT RESOLU-  
24 TION.—Not later than 5 session days after the  
25 date on which a House of Congress receives a

1 report transmitted to Congress under para-  
2 graph (2) or (3) of subsection (i), the majority  
3 leader of that House (or his or her respective  
4 designee) shall introduce, by request, a joint  
5 resolution described in subparagraph (A).

6 (C) REFERRAL OF JOINT RESOLUTION.—

7 (i) IN GENERAL.—A joint resolution  
8 introduced under subparagraph (B) shall  
9 be referred to—

10 (I) the Committee on Homeland  
11 Security and Governmental Affairs of  
12 the Senate, in the case of a joint reso-  
13 lution introduced in the Senate; and

14 (II) the Committee on Oversight  
15 and Government Reform, in the case  
16 of a joint resolution introduced in the  
17 House of Representatives.

18 (ii) REPORT TO FULL HOUSE.—Not  
19 later than 30 days after the date on which  
20 a joint resolution is introduced under sub-  
21 paragraph (B), the committees to which  
22 the joint resolution has been referred  
23 under clause (i) shall each report the joint  
24 resolution—

1 (I) without any revision or  
2 amendment; and

3 (II) with a favorable rec-  
4 ommendation, an unfavorable rec-  
5 ommendation, or without rec-  
6 ommendation.

7 (iii) FAILURE TO REPORT.—If a com-  
8 mittee fails to report a joint resolution  
9 within the period described in clause (ii),  
10 the committee shall be automatically dis-  
11 charged from consideration of the joint  
12 resolution and the joint resolution shall be  
13 placed on the appropriate calendar.

14 (D) SENATE PROCEDURES.—

15 (i) IN GENERAL.—In the Senate,  
16 when the committee to which a joint reso-  
17 lution described in subparagraph (A) is re-  
18 ferred has reported the joint resolution  
19 under subparagraph (C)(ii), or when the  
20 committee is discharged under subpara-  
21 graph (C)(iii) from further consideration of  
22 the joint resolution, it is at any time there-  
23 after in order for a motion to proceed to  
24 consideration of the joint resolution, and  
25 all points of order against the joint resolu-



1           tion and against consideration of the joint  
2           resolution are waived.

3           (ii) DEBATE ON MOTION TO PRO-  
4           CEED.—In the Senate, the motion to pro-  
5           ceed to the joint resolution is non-debat-  
6           able and is not subject to amendment, a  
7           motion to postpone, or to a motion to pro-  
8           ceed to the consideration of other business.  
9           A motion to reconsider the vote by which  
10          the motion is agreed to or disagreed to  
11          shall not be in order. A vote on the motion  
12          to proceed shall occur upon the expiration  
13          or yielding back of the time for debate  
14          without any further debate or any inter-  
15          vening motion or other action. Repeated  
16          motions to proceed to the joint resolution  
17          are in order, if necessary. If a motion to  
18          proceed to the consideration of the joint  
19          resolution is agreed to, the joint resolution  
20          shall remain the unfinished business of the  
21          Senate until disposed of.

22          (iii) DEBATE ON JOINT RESOLU-  
23          TION.—In the Senate, debate on the joint  
24          resolution shall be limited to not more than  
25          30 hours, which shall be divided equally

1 between those favoring and those opposing  
2 the joint resolution. An amendment to the  
3 joint resolution or any motion, including a  
4 motion to recommit, is not in order.

5 (iv) VOTE ON FINAL PASSAGE.—In  
6 the Senate, the third reading of the joint  
7 resolution shall be considered to have oc-  
8 curred and a vote on final passage shall  
9 occur immediately upon the expiration or  
10 yielding back of the time for debate with-  
11 out any intervening motion or other action.

12 (v) VETO OVERRIDE.—

13 (I) IN GENERAL.—If the Presi-  
14 dent vetoes a joint resolution de-  
15 scribed in subparagraph (A), in the  
16 Senate, upon receipt of the veto mes-  
17 sage from the President or the House  
18 of Representatives, the veto message  
19 shall be considered as read, printed in  
20 the Congressional Record, and entered  
21 in the Senate Journal. The Senate  
22 shall immediately proceed to consider-  
23 ation of whether to pass the joint res-  
24 olution, the objections of the Presi-  
25 dent notwithstanding.

1 (II) DEBATE.—In the Senate,  
2 debate on a veto message shall be lim-  
3 ited to not more than 30 hours, which  
4 shall be divided equally between those  
5 favoring and those opposing the joint  
6 resolution, and any motion, including  
7 a motion to table, to refer to a com-  
8 mittee, or to proceed to another meas-  
9 ure, is not in order.

10 (III) VOTE.—In the Senate, a  
11 vote to override a veto shall occur im-  
12 mediately upon the expiration or  
13 yielding back of the time for debate  
14 without any intervening motion or  
15 other action.

16 (E) HOUSE OF REPRESENTATIVES PROCE-  
17 DURES.—

18 (i) IN GENERAL.—In the House of  
19 Representatives, the Speaker of the House  
20 of Representatives shall declare the House  
21 resolved into a Committee of the Whole  
22 immediately after approval of the Journal  
23 on the day after the committee to which a  
24 joint resolution described in subparagraph  
25 (A) was referred reports the joint resolu-

1           tion under subparagraph (C)(ii) or is dis-  
2           charged from consideration of the joint  
3           resolution under subparagraph (C)(iii). All  
4           points of order against the joint resolution  
5           and against consideration of the joint reso-  
6           lution are waived.

7           (ii) DEBATE.—In the House of Rep-  
8           resentatives, debate on the joint resolution  
9           shall be limited to not more than 30 hours,  
10          which shall be divided equally between  
11          those favoring and those opposing the joint  
12          resolution. An amendment to the joint res-  
13          olution or any motion, including a motion  
14          to recommit, is not in order. When the  
15          joint resolution is called up, the previous  
16          question shall be considered as ordered to  
17          its passage without intervening motion  
18          upon the expiration or yielding back of the  
19          time for debate without any further debate  
20          or intervening motion or other action.

21          (F) PROCEDURES WITH DUPLICATE JOINT  
22          RESOLUTIONS.—If, before passing a joint reso-  
23          lution described in subparagraph (A), 1 House  
24          of Congress receives from the other a joint reso-  
25          lution having the same text, then—

1 (i) the joint resolution of the other  
2 House shall not be referred to a com-  
3 mittee; and

4 (ii) the receiving House shall consider  
5 the joint resolution of the other House as  
6 if the committee of the receiving House to  
7 which the joint resolution would have been  
8 referred to under subparagraph (C)(i) had  
9 reported the joint resolution under sub-  
10 paragraph (C)(ii) or was discharged from  
11 consideration of the joint resolution under  
12 subparagraph (C)(iii).

13 (3) REISSUANCE OF RULES.—

14 (A) NO SUBSTANTIALLY SIMILAR RULE TO  
15 BE REISSUED.—A rule that is repealed under  
16 paragraph (1) or section 201 may not be re-  
17 issued in substantially the same form, and a  
18 new rule that is substantially the same as such  
19 a rule may not be issued, unless the reissued or  
20 new rule is specifically authorized by a law en-  
21 acted after the date of the joint resolution ap-  
22 proving the recommendation of the Commission  
23 to repeal the original rule.

24 (B) AGENCY TO ENSURE AVOIDANCE OF  
25 SIMILAR DEFECTS.—An agency, in making any

1 new rule to implement statutory authority pre-  
2 viously implemented by a rule repealed under  
3 paragraph (1) or section 201, shall assure  
4 that—

5 (i) the new rule does not result in the  
6 same adverse effects of the repealed rule  
7 that caused the Commission to recommend  
8 to Congress the repeal of the latter; and

9 (ii) the new rule will not result in new  
10 adverse effects of the kind described in the  
11 criteria specified under subsection (h)(2).

12 (k) WEBSITE.—

13 (1) IN GENERAL.—The Commission shall estab-  
14 lish a public website that—

15 (A) uses current information technology to  
16 make records available on the website;

17 (B) provides information in a standard  
18 data format; and

19 (C) receives and publishes public com-  
20 ments.

21 (2) PUBLISHING OF INFORMATION.—Any infor-  
22 mation required to be made available on the website  
23 established under paragraph (1) shall be published  
24 in a timely manner and accessible by the public on  
25 the website at no cost.

1           (3) RECORD OF PUBLIC MEETINGS AND HEAR-  
2           INGS.—All records of public meetings and hearings  
3           shall be published on the website established under  
4           paragraph (1) as soon as possible, but not later than  
5           1 week after the date on which such public meeting  
6           or hearing occurred.

7           (4) PUBLIC COMMENTS.—The Commission shall  
8           publish on the website established under paragraph  
9           (1) all public comments and submissions.

10          (5) NOTICES.—The Commission shall publish  
11          on the website established under paragraph (1) no-  
12          tices of all public meetings and hearings not later  
13          than 1 week before the date on which such public  
14          meeting or hearing occurs.

15          (1) APPLICABILITY OF THE FEDERAL ADVISORY  
16          COMMITTEE ACT.—

17               (1) IN GENERAL.—Except as otherwise pro-  
18               vided in this Act, the Commission shall be subject to  
19               the provisions of the Federal Advisory Committee  
20               Act (5 U.S.C. App.).

21               (2) ADVISORY COMMITTEE MANAGEMENT OFFI-  
22               CER.—The Commission shall not be subject to the  
23               control of any Advisory Committee Management Of-  
24               ficer designated under section 8(b) of the Federal  
25               Advisory Committee Act (5 U.S.C. App.).

1           (3) SUBCOMMITTEE.—Any subcommittee of the  
2 Commission shall be treated as the Commission for  
3 purposes of the Federal Advisory Committee Act (5  
4 U.S.C. App.).

5           (4) CHARTER.—The enactment of this Act shall  
6 be considered to meet the requirements of the Com-  
7 mission under section 9(e) of the Federal Advisory  
8 Committee Act (5 U.S.C. App.).

9           (m) TERMINATION.—The Commission shall termi-  
10 nate on the later of—

11           (1) the date that is 5 years and 180 days after  
12 the date of enactment of this Act; or

13           (2) 5 years after the date on which the terms  
14 of all members of the Commission have commenced.

15           (n) AUTHORIZATION OF APPROPRIATIONS.—

16           (1) IN GENERAL.—There are authorized to be  
17 appropriated such sums as may be necessary to the  
18 Commission to carry out this title, but not more  
19 than \$30,000,000.

20           (2) AVAILABILITY.—Any sums appropriated  
21 under paragraph (1) shall remain available, without  
22 fiscal year limitation, until the earlier of—

23           (A) the date on which such sums are ex-  
24 pended; or



1 (B) the date on which the Commission ter-  
2 minates.

## 3 **TITLE II—REGULATORY CUT-GO**

### 4 **SEC. 201. CUT-GO PROCEDURES.**

5 (a) IN GENERAL.—Except as provided in section  
6 101(j)(2), section 202, or subsection (b) of this section,  
7 when an agency makes a new rule, the agency shall repeal  
8 rules or sets of rules of that agency classified by the Com-  
9 mission under section 101(h)(4)(A)(ii), such that the an-  
10 nual costs of the new rule to the United States economy  
11 is offset by such repeals, in an amount equal to or greater  
12 than the cost of the new rule, based on the regulatory cost  
13 reductions of repeal identified by the Commission.

14 (b) ALTERNATIVE PROCEDURE.—

15 (1) IN GENERAL.—An agency may, alter-  
16 natively, repeal rules or sets of rules of that agency  
17 classified by the Commission under section  
18 101(h)(4)(A)(ii) prior to the time specified in sub-  
19 section (a).

20 (2) APPLICATION OF REDUCTION OF COST.—If  
21 an agency repeals a rule or set of rules under para-  
22 graph (1) and thereby reduces the annual, inflation-  
23 adjusted cost of the rule or set of rules to the  
24 United States economy, the agency may thereafter  
25 apply the reduction in regulatory costs, based on the

1 regulatory cost reductions of repeal identified by the  
2 Commission, to meet, in whole or in part, the regu-  
3 latory cost reduction required under subsection (a)  
4 to be made at the time the agency promulgates a  
5 new rule.

6 (c) ACHIEVEMENT OF FULL NET COST REDUC-  
7 TIONS.—

8 (1) IN GENERAL.—Subject to the provisions of  
9 paragraph (2), an agency may offset the costs of a  
10 new rule or set of rules by repealing a rule or set  
11 of rules listed by the Commission under section  
12 101(h)(4)(A)(ii) that implement the same statutory  
13 authority as the new rule or set of rules.

14 (2) LIMITATION.—When using the authority  
15 provided in paragraph (1), the agency shall achieve  
16 a net reduction in costs imposed by the body of rules  
17 of the agency (including the new rule or set of rules)  
18 that is equal to or greater than the cost of the new  
19 rule or set of rules to be promulgated, including,  
20 whenever necessary, by repealing additional rules of  
21 the agency listed by the Commission under section  
22 101(h)(4)(A)(ii).

23 **SEC. 202. APPLICABILITY.**

24 An agency shall no longer be subject to the require-  
25 ments of sections 201 and 203 beginning on the date on

1 which there is no rule or set of rules of the agency classi-  
2 fied by the Commission under section 101(h)(4)(A)(ii)  
3 that has not been repealed such that all regulatory cost  
4 reductions identified by the Commission to be achievable  
5 through repeal have been achieved.

6 **SEC. 203. OIRA CERTIFICATION OF COST CALCULATIONS.**

7 (a) IN GENERAL.—The Administrator shall review  
8 and certify the accuracy of agency determinations of the  
9 costs of new rules under section 201.

10 (b) INCLUSION.—The certification described in sub-  
11 section (a) shall be included in the administrative record  
12 of the relevant rulemaking by the agency promulgating the  
13 rule, and the Administrator shall transmit a copy of the  
14 certification to Congress when the Administrator trans-  
15 mits the certification to the agency.

16 **TITLE III—RETROSPECTIVE**  
17 **REVIEW OF NEW RULES**

18 **SEC. 301. PLAN FOR FUTURE REVIEW.**

19 (a) IN GENERAL.—When an agency makes a rule, the  
20 agency shall include in the final issuance of such rule a  
21 plan for the review of such rule by not later than 10 years  
22 after the date such rule is made.

23 (b) REVIEW OF MAJOR RULES.—In the case of a  
24 major rule of an agency, the plan for review under sub-

1 section (a) shall be substantially similar to the review by  
2 the Commission under section 101(h).

3 (c) REVIEW OTHER RULES.—In the case of a rule  
4 of an agency other than a major rule, the plan for review  
5 under subsection (a) shall include other procedures and  
6 standards to enable the agency to determine whether to  
7 repeal or amend the rule to eliminate unnecessary regu-  
8 latory costs to the economy.

9 (d) PUBLIC COMMENT ON PLAN.—Whenever feasible,  
10 an agency shall include a proposed plan for review of a  
11 proposed rule under subsection (a) in the notice of pro-  
12 posed rulemaking for the rule and shall receive public com-  
13 ment on the plan.

14 **TITLE IV—JUDICIAL REVIEW;**  
15 **EFFECTIVE DATE**

16 **SEC. 401. JUDICIAL REVIEW.**

17 (a) IMMEDIATE REPEALS.—Agency compliance with  
18 paragraphs (1) and (3) of section 101(j) shall be subject  
19 to judicial review under chapter 7 of title 5, United States  
20 Code.

21 (b) CUT-GO PROCEDURES.—Agency compliance with  
22 title II shall be subject to judicial review under chapter  
23 7 of title 5, United States Code.

1           (c) PLANS FOR FUTURE REVIEW.—Agency compli-  
2    ance with section 301 shall be subject to judicial review  
3    under chapter 7 of title 5, United States Code.

4    **SEC. 402. EFFECTIVE DATE.**

5           This Act and the amendments made by this Act shall  
6    take effect beginning on the date of the enactment of this  
7    Act.

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