

118TH CONGRESS
1ST SESSION

S. 2607

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

IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

Ms. ERNST (for herself and Mrs. FISCHER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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 2023” or the “SCRUB Act of
7 2023”.

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.

8 (2) DATE OF APPOINTMENT.—Each member
9 shall be appointed not later than 180 days after the
10 date of enactment of this Act.

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

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

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

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

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

1 States, and other individuals with similar exper-
2 tise and experience in rulemaking affairs and
3 the administration of regulatory reviews.

4 (B) CANDIDATE LIST OF MEMBERS.—

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

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

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

24 (i) determines that any candidate on
25 the list presented pursuant to subpara-

1 graph (B)(i) does not meet the qualifica-
2 tions specified in such subparagraph to be
3 a member of the Commission; and

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

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

9 (1) MEETINGS AND HEARINGS.—

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

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

19 (2) ACCESS TO INFORMATION.—

20 (A) IN GENERAL.—The Commission may
21 secure directly from any agency information
22 and documents necessary to enable the Com-
23 mission to carry out this Act.

24 (B) TIMELINE FOR PROVIDING INFORMA-
25 TION.—Upon request of the Chair of the Com-

1 mission, the head of that agency shall furnish
2 that information or document to the Commis-
3 sion as soon as possible, but not later than 2
4 weeks after the date on which the request was
5 made.

6 (3) SUBPOENAS.—

7 (A) IN GENERAL.—The Commission may
8 issue subpoenas requiring the attendance and
9 testimony of witnesses and the production of
10 any evidence relating to the duties of the Com-
11 mission.

12 (B) JURISDICTION.—The attendance of
13 witnesses and the production of evidence may
14 be required from any place within the United
15 States at any designated place of hearing within
16 the United States.

17 (C) FAILURE TO OBEY A SUBPOENA.—

18 (i) IN GENERAL.—If a person refuses
19 to obey a subpoena issued under subpara-
20 graph (A), the Commission may apply to a
21 United States district court for an order
22 requiring that person to appear before the
23 Commission to give testimony, produce evi-
24 dence, or both, relating to the matter
25 under investigation.

1 (ii) COURT OF JURISDICTION FOR AP-
2 PPLICATION.—The application may be made
3 within the judicial district where the hear-
4 ing is conducted or where that person is
5 found, resides, or transacts business.

6 (iii) PENALTY.—Any failure to obey
7 the order of the court may be punished by
8 the court as civil contempt.

9 (D) SERVICE OF SUBPOENAS.—The sub-
10 poenas of the Commission shall be served in the
11 manner provided for subpoenas issued by a
12 United States district court under the Federal
13 Rules of Civil Procedure for the United States
14 district courts.

15 (E) SERVICE OF PROCESS.—All process of
16 any court to which application is made under
17 subparagraph (C) may be served in the judicial
18 district in which the person required to be
19 served resides or may be found.

20 (d) PAY AND TRAVEL EXPENSES.—

21 (1) PAY.—

22 (A) MEMBERS.—Each member, other than
23 the Chair of the Commission, shall be paid at
24 a rate equal to the daily equivalent of the min-
25 imum annual rate of basic pay payable for level

1 IV of the Executive Schedule under section
2 5315 of title 5, United States Code, for each
3 day (including travel time) during which the
4 member is engaged in the actual performance of
5 duties vested in the Commission.

6 (B) CHAIR.—The Chair shall be paid for
7 each day referred to in subparagraph (A) at a
8 rate equal to the daily equivalent of the min-
9 imum annual rate of basic pay payable for level
10 III of the Executive Schedule under section
11 5314 of title 5, United States Code.

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

16 (e) DIRECTOR OF STAFF.—

17 (1) IN GENERAL.—The Commission shall ap-
18 point a Director.

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

23 (f) STAFF.—

24 (1) IN GENERAL.—Subject to paragraph (2),
25 the Director, with the approval of the Commission,

1 may appoint, fix the pay of, and terminate addi-
2 tional personnel.

3 (2) LIMITATIONS ON APPOINTMENT.—The Di-
4 rector may make such appointments without regard
5 to the provisions of title 5, United States Code, gov-
6 erning appointments in the competitive service, and
7 any personnel so appointed may be paid without re-
8 gard to the provisions of chapter 51 and subchapter
9 III of chapter 53 of that title relating to classifica-
10 tion and General Schedule pay rates, except that an
11 individual so appointed may not receive pay in ex-
12 cess of the annual rate of basic pay payable for GS-
13 15 of the General Schedule.

14 (3) AGENCY ASSISTANCE.—Following consulta-
15 tion with and upon request of the Chair of the Com-
16 mission, the head of any agency may detail any of
17 the personnel of that agency to the Commission to
18 assist the Commission in carrying out the duties of
19 the Commission under this Act.

20 (4) GAO AND OIRA ASSISTANCE.—The Comp-
21 troller General of the United States and the Admin-
22 istrator shall provide assistance, including the detail-
23 ing of employees, to the Commission in accordance
24 with an agreement entered into with the Commis-
25 sion.

1 (5) ASSISTANCE FROM OTHER PARTIES.—Con-
2 gress, the States, municipalities, federally recognized
3 Indian Tribes, and local governments may provide
4 assistance, including the detailing of employees, to
5 the Commission in accordance with an agreement
6 entered into with the Commission.

7 (g) OTHER AUTHORITY.—

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

13 (2) PROPERTY.—The Commission may lease
14 space and acquire personal property to the extent
15 funds are available.

16 (h) DUTIES OF THE COMMISSION.—

17 (1) REVIEW.—

18 (A) IN GENERAL.—The Commission shall
19 conduct a review of the Code of Federal Regu-
20 lations to identify rules and sets of rules that
21 collectively implement a regulatory program
22 that should be repealed to lower the cost of reg-
23 ulation to the economy.

24 (B) PRIORITY.—The Commission shall give
25 priority in the review to rules or sets of rules

1 that are major rules or include major rules,
2 have been in effect more than 15 years, impose
3 paperwork burdens that could be reduced sub-
4 stantially without significantly diminishing reg-
5 ulatory effectiveness, impose disproportionately
6 high costs on entities that qualify as small enti-
7 ties within the meaning of section 601(6) of
8 title 5, United States Code, or could be
9 strengthened in their effectiveness while reduc-
10 ing regulatory costs.

11 (C) GOAL.—The Commission shall have as
12 a goal of the Commission to achieve a reduction
13 of at least 15 percent in the cumulative costs
14 of Federal regulation with a minimal reduction
15 in the overall effectiveness of such regulation.

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

20 (A) Whether the original purpose of the
21 rule or set of rules was achieved, and the rule
22 or set of rules could be repealed without signifi-
23 cant recurrence of adverse effects or conduct
24 that the rule or set of rules was intended to
25 prevent or reduce.

1 (B) Whether the implementation, compli-
2 ance, administration, enforcement or other costs
3 of the rule or set of rules to the economy are
4 not justified by the benefits to society within
5 the United States produced by the expenditure
6 of those costs.

7 (C) Whether the rule or set of rules has
8 been rendered unnecessary or obsolete, taking
9 into consideration the length of time since the
10 rule was made and the degree to which tech-
11 nology, economic conditions, market practices,
12 or other relevant factors have changed in the
13 subject area affected by the rule or set of rules.

14 (D) Whether the rule or set of rules is in-
15 effective at achieving the purposes of the rule or
16 set of rules.

17 (E) Whether the rule or set of rules over-
18 laps, duplicates, or conflicts with other Federal
19 rules, and to the extent feasible, with State and
20 local governmental rules.

21 (F) Whether the rule or set of rules has
22 excessive compliance costs or is otherwise exces-
23 sively burdensome, as compared to alternatives
24 that—

1 (i) specify performance objectives
2 rather than conduct or manners of compli-
3 ance;

4 (ii) establish economic incentives to
5 encourage desired behavior;

6 (iii) provide information upon which
7 choices can be made by the public;

8 (iv) incorporate other innovative alter-
9 natives rather than agency actions that
10 specify conduct or manners of compliance;

11 or

12 (v) could in other ways substantially
13 lower costs without significantly under-
14 mining effectiveness.

15 (G) Whether the rule or set of rules inhib-
16 its innovation in or growth of the United States
17 economy, such as by impeding the introduction
18 or use of safer or equally safe technology that
19 is newer or more efficient than technology re-
20 quired by or permissible under the rule or set
21 of rules.

22 (H) Whether or not the rule or set of rules
23 harms competition within the United States
24 economy or the international economic competi-

1 tiveness of enterprises or entities based in the
2 United States.

3 (I) Such other criteria as the Commission
4 devises to identify rules and sets of rules that
5 can be repealed to eliminate or reduce unneces-
6 sarily burdensome costs to the United States
7 economy.

8 (3) METHODOLOGY FOR REVIEW.—

9 (A) IN GENERAL.—The Commission shall
10 establish a methodology for conducting the re-
11 view under this subsection (including an overall
12 review and discrete reviews of portions of the
13 Code of Federal Regulations), identifying rules
14 and sets of rules, and classifying rules under
15 this subsection and publish the terms of the
16 methodology in the Federal Register and on the
17 website of the Commission.

18 (B) PUBLIC COMMENT.—The Commission
19 may propose and seek public comment on the
20 methodology before the methodology is estab-
21 lished.

22 (4) CLASSIFICATION OF RULES AND SETS OF
23 RULES.—

24 (A) IN GENERAL.—After completion of any
25 review of rules or sets of rules under paragraph

1 (2), the Commission shall classify each rule or
2 set of rules identified in the review to qualify
3 for recommended repeal as either a rule or set
4 of rules—

5 (i) on which immediate action to re-
6 peal is recommended; or

7 (ii) that should be eligible for repeal
8 under regulatory cut-go procedures under
9 title II.

10 (B) DECISIONS BY MAJORITY.—

11 (i) IN GENERAL.—Each decision by
12 the Commission to identify a rule or set of
13 rules for classification under this para-
14 graph, and each decision whether to clas-
15 sify the rule or set of rules under clause (i)
16 or (ii) of subparagraph (A), shall be made
17 by a simple majority vote of the Commis-
18 sion.

19 (ii) REQUIREMENT FOR VOTE.—No
20 such vote shall take place until after all
21 members of the Commission have been
22 confirmed by the Senate.

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

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

6 (i) the President;

7 (ii) a Member of Congress;

8 (iii) any officer or employee of a Fed-
9 eral, State, local, or Tribal government, or
10 regional governmental body; or

11 (iv) any member of the public.

12 (B) FORM OF SUBMISSION.—A submission
13 to the Commission under this paragraph
14 shall—

15 (i) identify the specific rule or set of
16 rules submitted for review;

17 (ii) provide a statement of evidence to
18 demonstrate that the rule or set of rules
19 qualifies to be identified for repeal under
20 the criteria listed in paragraph (2); and

21 (iii) such other information as the
22 submitter believes may be helpful to the re-
23 view by the Commission, including a state-
24 ment of the interest of the submitter in the
25 matter.

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

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

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

11 (A) notices in advance of all public meet-
12 ings, hearings, and classifications under sub-
13 section (h) informing the public of the basis,
14 purpose, and procedures for the meeting, hear-
15 ing, or classification; and

16 (B) reports after the conclusion of any
17 public meeting, hearing, or classification under
18 subsection (h) summarizing in detail the basis,
19 purpose, and substance of the meeting, hearing,
20 or classification.

21 (2) ANNUAL REPORTS TO CONGRESS.—

22 (A) IN GENERAL.—Not later than 1 year
23 after the date on which all Commission mem-
24 bers have been confirmed by the Senate, and
25 annually thereafter, the Commission shall sub-

1 mit a report simultaneously to each House of
2 Congress detailing the activities of the Commis-
3 sion for the previous year, and listing all rules
4 and sets of rules classified under subsection (h)
5 during that year.

6 (B) INFORMATION INCLUDED.—For each
7 rule or set of rules listed under subparagraph
8 (A), the Commission shall—

9 (i) identify the agency that made the
10 rule or set of rules;

11 (ii) identify the annual cost of the rule
12 or set of rules to the United States econ-
13 omy and the basis upon which the Com-
14 mission identified that cost;

15 (iii) identify whether the rule or set of
16 rules was classified under clause (i) or
17 clause (ii) of subsection (h)(4)(A);

18 (iv) identify the criteria under sub-
19 section (h)(2) that caused the classification
20 of the rule or set of rules and the basis
21 upon which the Commission determined
22 that those criteria were met;

23 (v) for each rule or set of rules listed
24 under the criteria set forth in subpara-
25 graph (B), (D), (F), (G), or (H) of sub-

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

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

24 (vii) in the case of each set of rules so
25 listed, analyze whether Congress should

1 also consider repeal of the statutory au-
2 thority implemented by the set of rules.

3 (3) FINAL REPORT.—

4 (A) IN GENERAL.—Not later than the date
5 on which the appointments of the members of
6 the Commission expire, the Commission shall
7 submit a final report simultaneously to each
8 House of Congress summarizing all activities
9 and recommendations of the Commission, in-
10 cluding a list of all rules or sets of rules the
11 Commission classified under clause (i) of sub-
12 section (h)(4)(A) for immediate action to re-
13 peal, a separate list of all rules or sets of rules
14 the Commission classified under clause (ii) of
15 subsection (h)(4)(A) for repeal, and with regard
16 to each rule or set of rules listed on either list,
17 the information described in subparagraphs (A)
18 through (F) of subsection (h)(2).

19 (B) INCLUSION IN FINAL REPORT.—The
20 report required under subparagraph (A) may be
21 included in the final annual report of the Com-
22 mission under paragraph (2) and may include
23 the recommendation of the Commission as to
24 whether the Commission should be reauthorized
25 by Congress.

1 (j) REPEAL OF REGULATIONS; CONGRESSIONAL
2 CONSIDERATION OF COMMISSION REPORTS.—

3 (1) IN GENERAL.—Subject to paragraph (2)—

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

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

1 (2) for approval of the recommendations of the
2 Commission in the report.

3 (2) CONGRESSIONAL APPROVAL PROCEDURE.—
4

5 (A) DEFINITION.—For purposes of this
6 subsection, the term “joint resolution” means
7 only a joint resolution—

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

14 (ii) which does not have a preamble;

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

23 (iv) the title of which is as follows:
24 “Approving recommendations for repeal of

1 the Retrospective Regulatory Review Com-
2 mission.”.

3 (B) INTRODUCTION OF JOINT RESOLU-
4 TION.—Not later than 5 session days after the
5 date on which a House of Congress receives a
6 report transmitted to Congress under para-
7 graph (2) or (3) of subsection (i), the majority
8 leader of that House (or his or her respective
9 designee) shall introduce, by request, a joint
10 resolution described in subparagraph (A).

11 (C) REFERRAL OF JOINT RESOLUTION.—

12 (i) IN GENERAL.—A joint resolution
13 introduced under subparagraph (B) shall
14 be referred to—

15 (I) the Committee on Homeland
16 Security and Governmental Affairs of
17 the Senate, in the case of a joint reso-
18 lution introduced in the Senate; and

19 (II) the Committee on Oversight
20 and Accountability of the House of
21 Representatives, in the case of a joint
22 resolution introduced in the House of
23 Representatives.

24 (ii) REPORT TO FULL HOUSE.—Not
25 later than 30 days after the date on which

1 a joint resolution is introduced under sub-
2 paragraph (B), the committees to which
3 the joint resolution has been referred
4 under clause (i) shall each report the joint
5 resolution—

6 (I) without any revision or
7 amendment; and

8 (II) with a favorable rec-
9 ommendation, an unfavorable rec-
10 ommendation, or without rec-
11 ommendation.

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

19 (D) SENATE PROCEDURES.—

20 (i) IN GENERAL.—In the Senate,
21 when the committee to which a joint reso-
22 lution described in subparagraph (A) is re-
23 ferred has reported the joint resolution
24 under subparagraph (C)(ii), or when the
25 committee is discharged under subpara-

1 graph (C)(iii) from further consideration of
2 the joint resolution, it is at any time there-
3 after in order for a motion to proceed to
4 consideration of the joint resolution, and
5 all points of order against the joint resolu-
6 tion and against consideration of the joint
7 resolution are waived.

8 (ii) DEBATE ON MOTION TO PRO-
9 CEED.—

10 (I) IN GENERAL.—In the Senate,
11 the motion to proceed to the joint res-
12 olution is non-debatable and is not
13 subject to amendment, a motion to
14 postpone, or to a motion to proceed to
15 the consideration of other business.

16 (II) MOTION TO RECONSIDER.—
17 A motion to reconsider the vote by
18 which the motion is agreed to or dis-
19 agreed to shall not be in order.

20 (III) VOTE ON MOTION TO PRO-
21 CEED.—A vote on the motion to pro-
22 ceed shall occur upon the expiration
23 or yielding back of the time for debate
24 without any further debate or any in-
25 tervening motion or other action.

1 (IV) REPEATED MOTIONS.—Re-
2 peated motions to proceed to the joint
3 resolution are in order, if necessary.

4 (V) UNFINISHED BUSINESS.—If
5 a motion to proceed to the consider-
6 ation of the joint resolution is agreed
7 to, the joint resolution shall remain
8 the unfinished business of the Senate
9 until disposed of.

10 (iii) DEBATE ON JOINT RESOLU-
11 TION.—

12 (I) IN GENERAL.—In the Senate,
13 debate on the joint resolution shall be
14 limited to not more than 30 hours,
15 which shall be divided equally between
16 those favoring and those opposing the
17 joint resolution.

18 (II) AMENDMENT.—An amend-
19 ment to the joint resolution or any
20 motion, including a motion to recom-
21 mit, is not in order.

22 (iv) VOTE ON FINAL PASSAGE.—In
23 the Senate, the third reading of the joint
24 resolution shall be considered to have oc-
25 curred and a vote on final passage shall

1 occur immediately upon the expiration or
2 yielding back of the time for debate with-
3 out any intervening motion or other action.

4 (v) VETO OVERRIDE.—

5 (I) PRESIDENTIAL VETO.—

6 (aa) IN GENERAL.—If the
7 President vetoes a joint resolu-
8 tion described in subparagraph
9 (A), in the Senate, upon receipt
10 of the veto message from the
11 President or the House of Rep-
12 resentatives, the veto message
13 shall be considered as read,
14 printed in the Congressional
15 Record, and entered in the Sen-
16 ate Journal.

17 (bb) PROCEED TO CONSID-
18 ERATION.—The Senate shall im-
19 mediately proceed to consider-
20 ation of whether to pass the joint
21 resolution, the objections of the
22 President notwithstanding.

23 (II) DEBATE.—In the Senate,
24 debate on a veto message shall be lim-
25 ited to not more than 30 hours, which

1 shall be divided equally between those
2 favoring and those opposing the joint
3 resolution, and any motion, including
4 a motion to table, to refer to a com-
5 mittee, or to proceed to another meas-
6 ure, is not in order.

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

13 (E) HOUSE OF REPRESENTATIVES PROCE-
14 DURES.—

15 (i) IN GENERAL.—In the House of
16 Representatives, the Speaker of the House
17 of Representatives shall declare the House
18 resolved into a Committee of the Whole
19 immediately after approval of the Journal
20 on the day after the committee to which a
21 joint resolution described in subparagraph
22 (A) was referred reports the joint resolu-
23 tion under subparagraph (C)(ii) or is dis-
24 charged from consideration of the joint
25 resolution under subparagraph (C)(iii).

1 (ii) POINTS OF ORDER.—All points of
2 order against the joint resolution and
3 against consideration of the joint resolu-
4 tion are waived.

5 (iii) DEBATE.—

6 (I) IN GENERAL.—In the House
7 of Representatives, debate on the joint
8 resolution shall be limited to not more
9 than 30 hours, which shall be divided
10 equally between those favoring and
11 those opposing the joint resolution.

12 (II) AMENDMENT.—An amend-
13 ment to the joint resolution or any
14 motion, including a motion to recom-
15 mit, is not in order.

16 (III) CONSIDERATION OF PRE-
17 VIOUS QUESTION.—When the joint
18 resolution is called up, the previous
19 question shall be considered as or-
20 dered to its passage without inter-
21 vening motion upon the expiration or
22 yielding back of the time for debate
23 without any further debate or inter-
24 vening motion or other action.

1 (F) PROCEDURES WITH DUPLICATE JOINT
2 RESOLUTIONS.—If, before passing a joint reso-
3 lution described in subparagraph (A), 1 House
4 of Congress receives from the other a joint reso-
5 lution having the same text, then—

6 (i) the joint resolution of the other
7 House shall not be referred to a com-
8 mittee; and

9 (ii) the receiving House shall consider
10 the joint resolution of the other House as
11 if the committee of the receiving House to
12 which the joint resolution would have been
13 referred to under subparagraph (C)(i) had
14 reported the joint resolution under sub-
15 subparagraph (C)(ii) or was discharged from
16 consideration of the joint resolution under
17 subparagraph (C)(iii).

18 (3) REISSUANCE OF RULES.—

19 (A) NO SUBSTANTIALLY SIMILAR RULE TO
20 BE REISSUED.—A rule that is repealed under
21 paragraph (1) or section 201 may not be re-
22 issued in substantially the same form, and a
23 new rule that is substantially the same as such
24 a rule may not be issued, unless the reissued or
25 new rule is specifically authorized by a law en-

1 acted after the date of the joint resolution ap-
2 proving the recommendation of the Commission
3 to repeal the original rule.

4 (B) AGENCY TO ENSURE AVOIDANCE OF
5 SIMILAR DEFECTS.—An agency, in making any
6 new rule to implement statutory authority pre-
7 viously implemented by a rule repealed under
8 paragraph (1) or section 201, shall assure
9 that—

10 (i) the new rule does not result in the
11 same adverse effects of the repealed rule
12 that caused the Commission to recommend
13 to Congress the repeal of the latter; and

14 (ii) the new rule will not result in new
15 adverse effects of the kind described in the
16 criteria specified under subsection (h)(2).

17 (k) WEBSITE.—

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

20 (A) uses current information technology to
21 make records available on the website;

22 (B) provides information in a standard
23 data format; and

24 (C) receives and publishes public com-
25 ments.

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

6 (3) RECORD OF PUBLIC MEETINGS AND HEAR-
7 INGS.—All records of public meetings and hearings
8 shall be published on the website established under
9 paragraph (1) as soon as possible, but not later than
10 1 week after the date on which such public meeting
11 or hearing occurred.

12 (4) PUBLIC COMMENTS.—The Commission shall
13 publish on the website established under paragraph
14 (1) all public comments and submissions.

15 (5) NOTICES.—The Commission shall publish
16 on the website established under paragraph (1) no-
17 tices of all public meetings and hearings not later
18 than 1 week before the date on which such public
19 meeting or hearing occurs.

20 (1) APPLICABILITY OF THE FEDERAL ADVISORY
21 COMMITTEE ACT.—

22 (1) IN GENERAL.—Except as otherwise pro-
23 vided in this Act, the Commission shall be subject to
24 the provisions of chapter 10 of title 5, United States
25 Code.

1 (2) ADVISORY COMMITTEE MANAGEMENT OFFI-
2 CER.—The Commission shall not be subject to the
3 control of any Advisory Committee Management Of-
4 ficer designated under section 1007(b) of title 5,
5 United States Code.

6 (3) SUBCOMMITTEE.—Any subcommittee of the
7 Commission shall be treated as the Commission for
8 purposes of chapter 10 of title 5, United States
9 Code.

10 (4) CHARTER.—The enactment of this Act shall
11 be considered to meet the requirements of the Com-
12 mission under section 1008(c) of title 5, United
13 States Code.

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

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

18 (2) 5 years after the date on which the terms
19 of all members of the Commission have commenced.

20 (n) AUTHORIZATION OF APPROPRIATIONS.—

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

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

4 (A) the date on which such sums are ex-
5 pended; or

6 (B) the date on which the Commission ter-
7 minates.

8 **TITLE II—REGULATORY CUT-GO**

9 **SEC. 201. CUT-GO PROCEDURES.**

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

19 (b) ALTERNATIVE PROCEDURE.—

20 (1) IN GENERAL.—An agency may, alter-
21 natively, repeal rules or sets of rules of that agency
22 classified by the Commission under section
23 101(h)(4)(A)(ii) prior to the time specified in sub-
24 section (a).

1 (2) APPLICATION OF REDUCTION OF COST.—If
2 an agency repeals a rule or set of rules under para-
3 graph (1) and thereby reduces the annual, inflation-
4 adjusted cost of the rule or set of rules to the
5 United States economy, the agency may thereafter
6 apply the reduction in regulatory costs, based on the
7 regulatory cost reductions of repeal identified by the
8 Commission, to meet, in whole or in part, the regu-
9 latory cost reduction required under subsection (a)
10 to be made at the time the agency promulgates a
11 new rule.

12 (c) ACHIEVEMENT OF FULL NET COST REDUC-
13 TIONS.—

14 (1) IN GENERAL.—Subject to the provisions of
15 paragraph (2), an agency may offset the costs of a
16 new rule or set of rules by repealing a rule or set
17 of rules listed by the Commission under section
18 101(h)(4)(A)(ii) that implement the same statutory
19 authority as the new rule or set of rules.

20 (2) LIMITATION.—When using the authority
21 provided in paragraph (1), the agency shall achieve
22 a net reduction in costs imposed by the body of rules
23 of the agency (including the new rule or set of rules)
24 that is equal to or greater than the cost of the new
25 rule or set of rules to be promulgated, including,

1 whenever necessary, by repealing additional rules of
2 the agency listed by the Commission under section
3 101(h)(4)(A)(ii).

4 **SEC. 202. APPLICABILITY.**

5 An agency shall no longer be subject to the require-
6 ments of sections 201 and 203 beginning on the date on
7 which there is no rule or set of rules of the agency classi-
8 fied by the Commission under section 101(h)(4)(A)(ii)
9 that has not been repealed such that all regulatory cost
10 reductions identified by the Commission to be achievable
11 through repeal have been achieved.

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

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

16 (b) INCLUSION.—The certification described in sub-
17 section (a) shall be included in the administrative record
18 of the relevant rulemaking by the agency promulgating the
19 rule, and the Administrator shall transmit a copy of the
20 certification to Congress when the Administrator trans-
21 mits the certification to the agency.

1 **TITLE III—RETROSPECTIVE**
2 **REVIEW OF NEW RULES**

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

4 (a) **IN GENERAL.**—When an agency makes a rule, the
5 agency shall include in the final issuance of such rule a
6 plan for the review of such rule by not later than 10 years
7 after the date such rule is made.

8 (b) **REVIEW OF MAJOR RULES.**—In the case of a
9 major rule of an agency, the plan for review under sub-
10 section (a) shall be substantially similar to the review by
11 the Commission under section 101(h).

12 (c) **REVIEW OTHER RULES.**—In the case of a rule
13 of an agency other than a major rule, the plan for review
14 under subsection (a) shall include other procedures and
15 standards to enable the agency to determine whether to
16 repeal or amend the rule to eliminate unnecessary regu-
17 latory costs to the economy.

18 (d) **PUBLIC COMMENT ON PLAN.**—Whenever feasible,
19 an agency shall include a proposed plan for review of a
20 proposed rule under subsection (a) in the notice of pro-
21 posed rulemaking for the rule and shall receive public com-
22 ment on the plan.

1 **TITLE IV—JUDICIAL REVIEW;**
2 **EFFECTIVE DATE**

3 **SEC. 401. JUDICIAL REVIEW.**

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

8 (b) CUT-GO PROCEDURES.—Agency compliance with
9 title II shall be subject to judicial review under chapter
10 7 of title 5, United States Code.

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

14 **SEC. 402. EFFECTIVE DATE.**

15 This Act and the amendments made by this Act shall
16 take effect beginning on the date of enactment of this Act.

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