

118TH CONGRESS
2D SESSION

S. CON. RES. 40

Establishing new congressional oversight to address regulatory reform.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2024

Mr. ROUNDS (for himself, Mr. CRAPO, Ms. LUMMIS, Mr. MANCHIN, Mr. RISCH, Mr. SCHMITT, and Mr. DAINES) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration

CONCURRENT RESOLUTION

Establishing new congressional oversight to address
regulatory reform.

Whereas there are more than 3,000 final rules issued every year by more than 50 Federal agencies;

Whereas a rule is defined in section 551 of title 5, United States Code, as “the whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy”;

Whereas subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the “Administrative Procedure Act”) established standards for the issuance of rules using formal rulemaking and informal rulemaking procedures;

Whereas informal rulemaking, also known as “notice and comment” rulemaking or “section 553” rulemaking, is the most common type of rulemaking;

Whereas, in rulemaking proceedings, formal hearings must be held and interested parties must be given the chance to comment on the proposed rule or regulation, and once adopted, the rule or regulation is required to be published in the Federal Register;

Whereas, according to the 2023 Ten Thousand Commandments report by the Competitive Enterprise Institute, the top 5 Federal rulemaking agencies (which, in 2022, were the Department of the Interior, the Department of the Treasury, the Department of Transportation, the Department of Commerce, and the Department of Health and Human Services) account for 41 percent of all Federal rules;

Whereas chapter 8 of title 5, United States Code (commonly known as the “Congressional Review Act”) established a mechanism through which Congress could overturn Federal regulations by enacting a joint resolution of disapproval;

Whereas the Congressional Review Act requires that rules that have a \$100,000,000 effect or more on the economy are submitted by agencies to both Houses of Congress and the Government Accountability Office and have a delayed effective date of not less than 60 days to pass a resolution of disapproval rejecting the rule, which must be approved by the President; and

Whereas, since the enactment of the Congressional Review Act in 1996, the procedures under the Act have been used 20 times to overturn a rule: Now, therefore, be it

1 *Resolved by the Senate (the House of Representatives*
 2 *concurring),*

3 **SECTION 1. SHORT TITLE.**

4 This resolution may be cited as the “Regulation Sen-
 5 sibility Through Oversight Restoration Resolution of
 6 2024” or the “RESTORE Resolution of 2024”.

7 **SEC. 2. JOINT SELECT COMMITTEE ON REGULATORY RE-**
 8 **FORM.**

9 There is established a joint select committee to be
 10 known as the Joint Select Committee on Regulatory Re-
 11 form (hereinafter in this concurrent resolution referred to
 12 as the “Joint Select Committee”).

13 **SEC. 3. DUTIES OF JOINT SELECT COMMITTEE.**

14 (a) DEFINITIONS.—In this section, the terms “agen-
 15 cy” and “rule” have the meanings given those terms in
 16 section 551 of title 5, United States Code.

17 (b) DUTIES.—The Joint Select Committee shall—

18 (1) conduct a systematic review of the process
 19 by which rules are promulgated by agencies;

20 (2) hold hearings on the effects of and how to
 21 reduce regulatory overreach in all sectors of the
 22 economy;

23 (3) conduct a review of the Code of Federal
 24 Regulations to identify rules and sets of rules that
 25 should be repealed; and

1 (4) submit to the Senate and the House of Rep-
2 representatives—

3 (A) recommendations for legislation—

4 (i) to create a process under which an
5 agency, before promulgating a rule, shall—

6 (I) seek advice from Congress;

7 (II) publish the proposed rule;

8 (III) hold a public comment pe-
9 riod on the proposed rule;

10 (IV) seek advice from Congress
11 based on the public comments; and

12 (V) hold issuance of the rule
13 until Congress can review the rule for
14 a period of not more than 1 year; and

15 (ii) to create a process to appro-
16 priately sunset as many rules as possible;

17 (B) recommendations for ways to reduce
18 the financial burden placed on the various sec-
19 tors of the economy in order to comply with
20 rules;

21 (C) an analysis of the feasibility of the cre-
22 ation of a permanent Joint Committee on Rules
23 Review in accordance with subsection (c);

24 (D) an analysis of the feasibility of requir-
25 ing each agency to submit each proposed rule of

1 the agency to the appropriate committees of
 2 Congress for review in a similar manner as set
 3 forth for a permanent Joint Committee on
 4 Rules Review under subsection (c); and

5 (E) a list of rules and sets of rules that
 6 the Joint Select Committee recommends should
 7 be repealed.

8 (c) ANALYSIS OF PERMANENT JOINT COMMITTEE ON
 9 RULES REVIEW.—The Joint Select Committee shall ana-
 10 lyze the feasibility of the creation of a permanent Joint
 11 Committee on Rules Review. The Joint Committee on
 12 Rules Review would—

13 (1) review each proposed rule that an agency
 14 determines is likely to have an annual effect on the
 15 economy of \$50,000,000 or more before the agency
 16 promulgates the final rule;

17 (2) require each agency to submit to the Com-
 18 mittee—

19 (A) the text of each proposed rule of the
 20 agency described in paragraph (1); and

21 (B) an analysis of the economic impact of
 22 the rule on the economy;

23 (3) require each agency to revise a proposed
 24 rule submitted under paragraph (2) if the Com-
 25 mittee determines that the proposed rule—

1 (A) needs to be significantly rewritten to
2 accomplish the intent of the agency or address
3 the recommendations or objections of the Com-
4 mittee;

5 (B) is not a valid exercise of delegated au-
6 thority from Congress;

7 (C) is not in proper form;

8 (D) is inconsistent with the intent of Con-
9 gress with respect to the provision of law that
10 the proposed rule implements; or

11 (E) is not a reasonable implementation of
12 the law;

13 (4) delay the effective date of a proposed rule
14 for a period of not more than 1 year beginning on
15 the date on which the agency submits the proposed
16 rule under paragraph (2);

17 (5) allow an agency to promulgate a final rule
18 without any delay in the effective date of the rule if
19 the agency designates the rule as an emergency rule,
20 unless the Committee by majority vote determines
21 that the rule is not an emergency rule; and

22 (6) if applicable, recommend that Congress
23 should overturn a final rule promulgated by an
24 agency by enacting a joint resolution of disapproval.

1 **SEC. 4. COMPOSITION OF JOINT SELECT COMMITTEE.**

2 (a) MEMBERSHIP.—

3 (1) IN GENERAL.—The Joint Select Committee
4 shall be composed of 30 members, of whom—

5 (A) 15 shall be appointed by the majority
6 and the minority leaders of the Senate from
7 among Members of the Senate in a manner that
8 reflects the ratio of the number of Members of
9 the Senate from the majority party to the num-
10 ber of Members of the Senate from the minority
11 party on the date of enactment of this Act; and

12 (B) 15 shall be appointed by the Speaker
13 and the minority leader of the House of Rep-
14 resentatives among Members of the House of
15 Representatives in a manner that reflects the
16 ratio of the number of members of the House
17 of Representatives from the majority party to
18 the number of Members of the House of Rep-
19 resentatives from the minority party on the
20 date of enactment of this Act.

21 (2) DATE.—The appointments of the members
22 of the Joint Select Committee shall be made not
23 later than 30 days after the date of adoption of this
24 concurrent resolution.

1 (b) VACANCIES.—Any vacancy in the Joint Select
 2 Committee shall not affect its powers, but shall be filled
 3 in the same manner as the original appointment.

4 (c) CHAIRPERSON AND VICE CHAIRPERSON.—

5 (1) CHAIRPERSON.—The members of the Joint
 6 Select Committee shall elect a Chairperson for the
 7 Joint Select Committee by majority vote from each
 8 of—

9 (A) the members of the majority party of
 10 the Senate; and

11 (B) the members of the majority party of
 12 the House of Representatives.

13 (2) VICE CHAIRPERSON.—The members of the
 14 Joint Select Committee shall elect a Vice Chair-
 15 person for the Joint Select Committee by majority
 16 vote from each of—

17 (A) the members of the minority party of
 18 the Senate; and

19 (B) the members of the minority party of
 20 the House of Representatives.

21 (d) QUORUM.—A majority of the members of the
 22 Joint Select Committee each from the Senate and the
 23 House of Representatives shall constitute a quorum for
 24 the purpose of conducting the business of the Joint Select
 25 Committee.

1 **SEC. 5. RULES AND PROCEDURES.**

2 (a) GOVERNANCE UNDER STANDING RULES OF THE
3 SENATE.—Except as otherwise specifically provided in
4 this resolution, the investigations and hearings conducted
5 by the Joint Select Committee shall be governed by the
6 Standing Rules of the Senate.

7 (b) ADDITIONAL RULES AND PROCEDURES.—The
8 Joint Select Committee may adopt such additional rules
9 or procedures if the Chairperson and Vice Chairperson
10 agree, or if the Joint Select Committee by majority vote
11 so decides, that such additional rules or procedures are
12 necessary or advisable to conduct the duties of the Joint
13 Select Committee.

14 **SEC. 6. AUTHORITY OF JOINT SELECT COMMITTEE.**

15 (a) IN GENERAL.—The Joint Select Committee may
16 exercise all of the powers and responsibilities of a com-
17 mittee under rule XXVI of the Standing Rules of the Sen-
18 ate.

19 (b) POWERS.—The Joint Select Committee may, for
20 the purpose of carrying out this resolution—

21 (1) hold such hearings, sit and act at such
22 times and places, take such testimony, receive such
23 evidence, and administer such oaths as the Joint Se-
24 lect Committee considers advisable; and

25 (2) authorize and require, by issuance of sub-
26 poena or otherwise, the attendance and testimony of

1 witnesses and the preservation and production of
2 books, records, correspondence, memoranda, papers,
3 documents, tapes, and any other materials in what-
4 ever form the Joint Select Committee considers ad-
5 visable.

6 (c) SUBPOENAS.—Subpoenas authorized by the Joint
7 Select Committee—

8 (1) may be issued with the joint concurrence of
9 the Chairperson and Vice Chairperson;

10 (2) shall bear the signature of the Chairperson
11 and Vice Chairperson, or the designee of the Chair-
12 person or Vice Chairperson; and

13 (3) shall be served by any person or class of
14 persons designated by the Chairperson and Vice
15 Chairperson for that purpose anywhere within or
16 without the borders of the United States to the full
17 extent provided by law.

18 (d) ACCESS TO INFORMATION.—The Joint Select
19 Committee shall have, to the fullest extent permitted by
20 law, access to any such information or materials obtained
21 by any other department or agency of the Federal Govern-
22 ment or by any other governmental department, agency,
23 or body investigating the matters described in section
24 3(b).

1 (e) COOPERATION OF OTHER COMMITTEES.—In car-
2 rying out the duties of the Joint Select Committee, the
3 Joint Select Committee may obtain the input and coopera-
4 tion of any other standing committee of the Senate or the
5 House of Representatives.

6 **SEC. 7. REPORTS.**

7 (a) IN GENERAL.—Not later than 90 days after the
8 date on which the Joint Select Committee terminates, the
9 Joint Select Committee shall submit to the Senate and
10 the House of Representatives a report, which shall con-
11 tain—

12 (1) the results and findings of the reviews and
13 hearings carried out by the Joint Select Committee
14 pursuant to this resolution; and

15 (2) any information required to be submitted
16 under section 3(b)(4).

17 (b) INTERIM REPORTS.—The Joint Select Committee
18 may submit to the Senate and the House of Representa-
19 tives such interim reports as the Joint Select Committee
20 considers appropriate.

21 **SEC. 8. ADMINISTRATIVE PROVISIONS.**

22 (a) STAFF.—

23 (1) IN GENERAL.—The Joint Select Committee
24 may employ, in accordance with paragraph (2), a
25 staff composed of such clerical, investigatory, legal,

1 technical, and other personnel as the Joint Select
2 Committee considers necessary or appropriate.

3 (2) APPOINTMENT OF STAFF.—

4 (A) IN GENERAL.—The Joint Select Com-
5 mittee shall appoint a staff for the majority, a
6 staff for the minority, and a nondesignated
7 staff.

8 (B) MAJORITY STAFF.—The majority staff
9 shall be appointed, and may be removed, by the
10 Chairperson and shall work under the general
11 supervision and direction of the Chairperson.

12 (C) MINORITY STAFF.—The minority staff
13 shall be appointed, and may be removed, by the
14 Vice Chairperson and shall work under the gen-
15 eral supervision and direction of the Vice Chair-
16 person.

17 (D) NONDESIGNATED STAFF.—Nondes-
18 ignated staff shall be appointed, and may be re-
19 moved, jointly by the Chairperson and Vice
20 Chairperson, and shall work under the joint
21 general supervision and direction of the Chair-
22 person and Vice Chairperson.

23 (b) COMPENSATION.—

1 (1) MAJORITY STAFF.—The Chairperson shall
2 fix the compensation of all personnel of the majority
3 staff of the Joint Select Committee.

4 (2) MINORITY STAFF.—The Vice Chairperson
5 shall fix the compensation of all personnel of the mi-
6 nority staff of the Joint Select Committee.

7 (3) NONDESIGNATED STAFF.—The Chairperson
8 and Vice Chairperson shall jointly fix the compensa-
9 tion of all nondesignated staff of the Joint Select
10 Committee.

11 (4) PAY AND BENEFITS.—All employees of the
12 Joint Select Committee shall be treated as employ-
13 ees of the Senate for purposes of disbursing pay and
14 processing benefits.

15 (c) FACILITIES.—The Joint Select Committee may
16 use, with the prior consent of the chair of any other com-
17 mittee of the Senate or the House of Representatives or
18 the chair of any subcommittee of any committee of the
19 Senate or the House of Representatives, the facilities of
20 any other committee of the Senate or the House of Rep-
21 resentatives, whenever the Joint Select Committee or the
22 Chairperson and Vice Chairperson consider that such ac-
23 tion is necessary or appropriate to enable the Joint Select
24 Committee to carry out the responsibilities, duties, or

1 functions of the Joint Select Committee under this resolu-
2 tion.

3 (d) DETAIL OF EMPLOYEES.—The Joint Select Com-
4 mittee may use on a reimbursable basis, with the prior
5 consent of the head of the department or agency of the
6 Federal Government concerned and the approval of the
7 Committee on Rules and Administration of the Senate, the
8 services of personnel of the department or agency.

9 (e) TEMPORARY AND INTERMITTENT SERVICES.—
10 The Joint Select Committee may procure the temporary
11 or intermittent services of individual consultants or orga-
12 nizations.

13 (f) ETHICS.—The Joint Select Committee shall es-
14 tablish ethical rules for the members and employees of the
15 Joint Select Committee, which shall, to the extent prac-
16 ticable, be comparable to the ethical rules that apply to
17 employees of the Senate.

18 (g) AUTHORIZATION OF APPROPRIATIONS.—For the
19 expenses of the Joint Select Committee, there are author-
20 ized to be appropriated \$3,000,000 for fiscal year 2025,
21 to remain available until expended.

22 **SEC. 9. EFFECTIVE DATE; TERMINATION.**

23 (a) EFFECTIVE DATE.—This resolution shall take ef-
24 fect on the date of adoption of this concurrent resolution.

1 (b) TERMINATION.—The Joint Select Committee
2 shall terminate on the date that is 1 year after the ap-
3 pointment of the members of the Joint Select Committee.

4 (c) DISPOSITION OF RECORDS.—Upon termination of
5 the Joint Select Committee, the records of the Joint Select
6 Committee shall become the records of any committee or
7 committees designated by the majority leader of the Sen-
8 ate and the Speaker of the House of Representatives, with
9 the concurrence of the minority leader of the Senate and
10 the House of Representatives.

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