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2D SESSION

S. 3996

To provide for a method by which the economic costs of significant regulatory actions may be offset by the repeal of other regulatory actions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 5, 2022

Mr. RISCH (for himself, Mr. CRAPO, Mr. HAGERTY, Mr. SCOTT of South Carolina, Mr. MORAN, and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide for a method by which the economic costs of significant regulatory actions may be offset by the repeal of other regulatory actions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reducing Regulatory
5 Burdens Act”.

6 **SEC. 2. SENSE OF CONGRESS; PURPOSE.**

7 (a) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that the Federal Government should be prudent and

1 financially responsible in the expenditure of funds, from
 2 both public and private sources. In addition to the man-
 3 agement of the direct expenditure of taxpayer dollars
 4 through the budgeting process, it is essential to manage
 5 the costs associated with the governmental imposition of
 6 private expenditures required to comply with Federal reg-
 7 ulations.

8 (b) PURPOSE.—The purpose of this Act is—

9 (1) to remove unnecessary or outdated regula-
 10 tions when a new significant regulation is issued;
 11 and

12 (2) to prudently manage and control the cost of
 13 planned regulations through an annual budgeting
 14 process.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) AGENCY.—The term “agency” has the
 18 meaning given the term in section 551 of title 5,
 19 United States Code.

20 (2) AGENCY RRO.—The term “agency RRO”
 21 means the Regulatory Reform Officer of an agency
 22 designated under section 4(a).

23 (3) COSTS.—The term “costs” means oppor-
 24 tunity cost to society.

1 (4) COST SAVINGS.—The term “cost savings”
 2 means the cost imposed by a regulatory action that
 3 is eliminated by the repeal, replacement, or modifica-
 4 tion of the regulatory action.

5 (5) DEREGULATORY ACTION.—The term “de-
 6 regulatory action” means the repeal, replacement, or
 7 modification of an existing regulatory action.

8 (6) DIRECTOR.—The term “Director” means
 9 the Director of the Office of Management and Budg-
 10 et.

11 (7) INCREMENTAL REGULATORY COST.—The
 12 term “incremental regulatory cost” means the dif-
 13 ference between the estimated cost of issuing a sig-
 14 nificant regulatory action and the estimated cost
 15 saved by issuing any deregulatory action.

16 (8) REGULATION; RULE.—The term “regula-
 17 tion” or “rule” has the meaning given the term
 18 “rule” in section 551 of title 5, United States Code.

19 (9) REGULATORY ACTION.—The term “regu-
 20 latory action” means—

21 (A) any regulation; and

22 (B) any other regulatory guidance, state-
 23 ment of policy, information collection request,
 24 form, or reporting, recordkeeping, or disclosure

1 requirements that imposes a burden on the pub-
 2 lic or governs agency operations.

3 (10) SIGNIFICANT REGULATORY ACTION.—The
 4 term “significant regulatory action” means any reg-
 5 ulatory action, other than monetary policy proposed
 6 or implemented by the Board of Governors of the
 7 Federal Reserve System or the Federal Open Market
 8 Committee, that is likely to—

9 (A) have an annual effect on the economy
 10 of \$100,000,000 or more or adversely affect in
 11 a material way the economy, a sector of the
 12 economy, productivity, competition, jobs, the
 13 environment, public health or safety, or State,
 14 local, or Tribal governments or communities;

15 (B) create a serious inconsistency or other-
 16 wise interfere with an action taken or planned
 17 by another agency;

18 (C) materially alter the budgetary impact
 19 of entitlements, grants, user fees, or loan pro-
 20 grams or the rights and obligations of recipi-
 21 ents thereof; or

22 (D) raise a novel legal or policy issue.

23 (11) STATE.—The term “State” means each of
 24 the several States, the District of Columbia, and
 25 each territory or possession of the United States.

1 (12) TASK FORCE.—The term “Task Force”
2 means the regulatory reform task force of an agency
3 described in section 4(b).

4 **SEC. 4. ESTABLISHING REGULATORY REFORM CAPACITY.**

5 (a) REGULATORY REFORM OFFICERS.—

6 (1) IN GENERAL.—Except as provided in sec-
7 tion 7, not later than 60 days after the date of en-
8 actment of this Act, the head of each agency shall
9 designate an employee or officer of the agency as the
10 Regulatory Reform Officer.

11 (2) DUTIES.—In accordance with applicable law
12 and in consultation with relevant senior agency offi-
13 cials, each agency RRO shall oversee—

14 (A) the implementation of regulatory re-
15 form initiatives and policies for the agency to
16 ensure that the agency effectively carries out
17 regulatory reforms; and

18 (B) the termination of programs and ac-
19 tivities that derive from or implement statutes,
20 Executive orders, guidance documents, policy
21 memoranda, rule interpretations, and similar
22 documents, or relevant portions thereof, that
23 have been repealed or rescinded.

24 (b) REGULATORY REFORM TASK FORCES.—

1 (1) ESTABLISHMENT OF AGENCY TASK FORCE;
2 MEMBERSHIP.—Except as provided in section 7, not
3 later than 60 days after the date of the enactment
4 of this Act, the head of each agency shall appoint
5 and may remove members to the regulatory reform
6 task force of the agency, which shall be composed of
7 the following members:

8 (A) The agency RRO.

9 (B) A senior agency official from each rel-
10 evant component or office of the agency with
11 significant authority for issuing or repealing
12 regulatory actions.

13 (C) Additional senior agency officials in-
14 volved in the development of rulemaking or
15 other regulatory action at the agency, as deter-
16 mined by the head of the agency.

17 (2) CHAIR.—Unless otherwise designated by the
18 head of the agency, the agency RRO shall chair the
19 Task Force of the agency.

20 (3) JOINT TASK FORCES.—

21 (A) IN GENERAL.—For the consideration
22 of a joint rulemaking, the Director may form a
23 joint regulatory reform task force composed of
24 not less than 1 member from the Task Force
25 of each relevant agency.

1 (B) CONSULTATION.—Any joint regulatory
2 reform task force formed under this paragraph
3 shall consult with each relevant Task Force.

4 (4) DUTIES.—Each Task Force shall—

5 (A) conduct ongoing evaluations of regula-
6 tions and other regulatory actions and make
7 recommendations that are consistent with and
8 that could be implemented in accordance with
9 applicable law to the head of the agency regard-
10 ing repeal, replacement, or modification of reg-
11 ulations and regulatory actions; and

12 (B) to the extent practicable—

13 (i) not later than 5 years after the
14 date of enactment of this Act, complete a
15 review of each regulation issued by the
16 agency;

17 (ii) for each regulation or regulatory
18 action reviewed and identified for repeal,
19 replacement, or modification, estimate the
20 cost savings of the repeal, replacement, or
21 modification, as applicable; and

22 (iii) identify regulations that are ap-
23 propriate for repeal, replacement, or modi-
24 fication, and prioritize the evaluation of
25 regulations that—

1 (I) eliminate or have eliminated
2 jobs or inhibit or have inhibited job
3 creation;

4 (II) are outdated, unnecessary, or
5 ineffective;

6 (III) impose costs that exceed
7 benefits;

8 (IV) create a serious inconsist-
9 ency or otherwise interfere with regu-
10 latory reform initiatives and policies;

11 (V) were issued or are main-
12 tained in a manner that is incon-
13 sistent with the requirements of sec-
14 tion 515 of the Treasury and General
15 Government Appropriations Act, 2001
16 (44 U.S.C. 3516 note), or the guid-
17 ance issued pursuant to that section,
18 including any rule that relies in whole
19 or in part on data, information, or
20 methods that are not publicly avail-
21 able or that are insufficiently trans-
22 parent to meet the standard for repro-
23 ducibility; or

24 (VI) were made pursuant to or to
25 implement statutes, Executive orders,

1 or other Presidential directives that
2 have been subsequently rescinded or
3 substantially modified.

4 (c) CONSULTATION WITH STAKEHOLDERS.—In per-
5 forming the tasks under this section, each agency RRO
6 and Task Force—

7 (1) shall seek input and other assistance from
8 the public and from entities significantly affected by
9 regulations, including State, local, and Tribal gov-
10 ernments, small businesses, consumers, non-govern-
11 mental organizations, and trade associations; and

12 (2) may—

13 (A) incorporate specific suggestions from
14 stakeholders in identifying the list of deregula-
15 tory actions to recommend to the head of the
16 agency; and

17 (B) accept or solicit input from the public
18 in any manner, if—

19 (i) the process is transparent to the
20 public and Congress;

21 (ii) a list of each meeting, a list of
22 each stakeholder that submitted a com-
23 ment, and a copy of each written comment
24 are made publicly available online; and

1 (iii) the Task Force issues a public
2 notice of any public meeting to solicit input
3 not less than 7 days before the public
4 meeting and makes detailed minutes of the
5 meeting available online not less than 7
6 days after the date of the meeting.

7 (d) TRANSPARENT REGULATORY REFORM.—

8 (1) WEBSITE.—To the extent practicable, the
9 head of each agency shall publish information about
10 the Task Force of the agency and other regulatory
11 reform initiatives on the website of the agency—

12 (A) which shall include—

13 (i) a list of the members of the Task
14 Force of the agency;

15 (ii) a copy of each report issued under
16 this subsection; and

17 (iii) a link to or copy of each notice of
18 a meeting or solicitation of public com-
19 ments issued by the Task Force of the
20 agency; and

21 (B) which may include—

22 (i) an online forum to receive com-
23 ments from the public; and

1 (ii) any other information about the
2 Task Force or other regulatory reform ini-
3 tiatives at the agency.

4 (2) REPORT.—Not less than twice a year, each
5 agency RRO shall submit to the head of the agency
6 a report on the activities performed under this sec-
7 tion and any recommendations resulting from those
8 activities, which shall be posted by the head of the
9 agency on a publicly accessible website and shall in-
10 clude the following:

11 (A) A description of any improvement
12 made toward implementation of regulatory re-
13 form initiatives and policies.

14 (B) For each regulation or other regu-
15 latory action reviewed by the Task Force, a de-
16 tailed description of the review.

17 (C) An inventory of each regulation or reg-
18 ulatory action the Task Force recommends the
19 agency consider for repeal, replacement, or
20 modification.

21 (D) A list of all activities conducted under
22 subsection (c), a summary of all comments re-
23 ceived, and a hyperlink to copies of each public
24 comment received.

1 **SEC. 5. ACCOUNTABILITY.**

2 (a) INCORPORATION IN PERFORMANCE PLANS.—

3 (1) IN GENERAL.—Each agency listed in section
4 901(b)(1) of title 31, United States Code, shall in-
5 corporate in the annual performance plan of the
6 agency required under section 1115(b) of title 31,
7 United States Code, performance indicators that
8 measure progress implementing this Act.

9 (2) OMB GUIDANCE.—The Director shall issue,
10 and update as necessary, guidance regarding the im-
11 plementation of this subsection.

12 (b) PERFORMANCE ASSESSMENT.—The head of each
13 agency shall consider the progress implementing this Act
14 in assessing the performance of the Task Force of the
15 agency and those individuals responsible for developing
16 and issuing agency rules.

17 **SEC. 6. REGULATORY PLANNING AND BUDGET.**

18 (a) UNIFIED AGENDA AND ANNUAL REGULATORY
19 PLAN.—

20 (1) UNIFIED REGULATORY AGENDA.—During
21 the months of April and October of each year, the
22 Director shall publish a unified regulatory agenda,
23 which shall include—

24 (A) regulatory and deregulatory actions
25 under development or review at agencies;

1 (B) a Federal regulatory plan of all signifi-
 2 cant regulatory actions and associated deregula-
 3 tory actions that agencies reasonably expect to
 4 issue in proposed or final form in the current
 5 and following fiscal year; and

6 (C) all information required to be included
 7 in the regulatory flexibility agenda under sec-
 8 tion 602 of title 5, United States Code.

9 (2) AGENCY SUBMISSIONS.—In accordance with
 10 guidance issued by the Director and not less than 60
 11 days before each date of publication for the unified
 12 regulatory agenda under paragraph (1), the head of
 13 each agency shall submit to the Director an agenda
 14 of all regulatory actions and deregulatory actions
 15 under development at the agency, including the fol-
 16 lowing:

17 (A) For each regulatory action and deregula-
 18 tory action:

- 19 (i) A regulation identifier number.
- 20 (ii) A brief summary of the action.
- 21 (iii) The legal authority for the action.
- 22 (iv) Any legal deadline for the action.
- 23 (v) The name and contact information
- 24 for a knowledgeable agency official.

1 (vi) Any other information as required
2 by the Director.

3 (B) An annual regulatory plan, which shall
4 include a list of each significant regulatory ac-
5 tion the agency reasonably expects to issue in
6 proposed or final form in the current and fol-
7 lowing fiscal year, including for each significant
8 regulatory action:

9 (i) A summary, including the fol-
10 lowing:

11 (I) A statement of the regulatory
12 objectives.

13 (II) The legal authority for the
14 action.

15 (III) A statement of the need for
16 the action.

17 (IV) The agency's schedule for
18 the action.

19 (ii) The estimated cost.

20 (iii) The estimated benefits.

21 (iv) Any deregulatory action identified
22 to offset the estimated cost of such signifi-
23 cant regulatory action and an explanation
24 of how the agency will continue to achieve

1 regulatory objectives if the deregulatory ac-
2 tion is taken.

3 (v) A best approximation of the total
4 cost or savings and any cost or savings as-
5 sociated with a deregulatory action.

6 (vi) An estimate of the economic ef-
7 fects, including any estimate of the net ef-
8 fect that such action will have on the num-
9 ber of jobs in the United States, that was
10 considered in drafting the action, or, if
11 such estimate is not available, a statement
12 affirming that no information on the eco-
13 nomic effects, including the effect on the
14 number of jobs, of the action has been con-
15 sidered.

16 (C) Information required under section
17 602 of title 5, United States Code.

18 (D) Information required under any other
19 law to be reported by agencies about significant
20 regulatory actions, as determined by the Direc-
21 tor.

22 (b) FEDERAL REGULATORY BUDGET.—

23 (1) ESTABLISHMENT.—In the April unified reg-
24 ulatory agenda described in subsection (a), the Di-
25 rector—

1 (A) shall establish the annual Federal Reg-
2 ulatory Budget, which specifies the net amount
3 of incremental regulatory costs allowed by the
4 Federal Government and at each agency for the
5 next fiscal year; and

6 (B) may set the incremental regulatory
7 cost allowance to allow an increase, prohibit an
8 increase, or require a decrease of incremental
9 regulatory costs.

10 (2) DEFAULT NET INCREMENTAL REGULATORY
11 COST.—If the Director does not set a net amount of
12 incremental regulatory costs allowed for an agency,
13 the net incremental regulatory cost allowed shall be
14 zero.

15 (3) BALANCE ROLLOVER OF INCREMENTAL
16 REGULATORY COST ALLOWANCE.—

17 (A) IN GENERAL.—If an agency does not
18 exhaust all of the incremental regulatory cost
19 allowance for a fiscal year, the balance may be
20 added to the incremental regulatory cost allow-
21 ance for the subsequent fiscal year, without in-
22 creasing the incremental regulatory costs al-
23 lowed for the Federal Government for the sub-
24 sequent fiscal year.

1 (B) TOTAL CARRYOVER.—The Director
2 shall identify the total carryover incremental
3 regulatory cost allowance available to an agency
4 in the Federal Regulatory Budget.

5 (c) SIGNIFICANT REGULATORY ACTION REQUIRE-
6 MENTS.—Except as otherwise required by law, a signifi-
7 cant regulatory action shall have no effect unless—

8 (1) the—

9 (A) head of the agency identifies not less
10 than 2 deregulatory actions to offset the costs
11 of the significant regulatory action, and to the
12 extent feasible, issues those deregulatory ac-
13 tions before or on the same schedule as the sig-
14 nificant regulatory action;

15 (B) incremental costs of the significant
16 regulatory action as offset by any deregulatory
17 action issued before or on the same schedule as
18 the significant regulatory action do not cause
19 the agency to exceed or contribute to the agen-
20 cy exceeding the incremental regulatory cost al-
21 lowance of the agency for that fiscal year; and

22 (C) significant regulatory action was in-
23 cluded on the most recent version or update of
24 the published unified regulatory agenda; or

1 (2) the issuance of the significant regulatory ac-
2 tion was approved in advance in writing by the Di-
3 rector and the written approval is publicly available
4 online prior to the issuance of the significant regu-
5 latory action.

6 (d) GUIDANCE BY OMB.—

7 (1) IN GENERAL.—Not later than 90 days after
8 the date of enactment of this Act, the Director shall
9 establish and issue guidance on how agencies should
10 comply with the requirements of this section, which
11 shall include the following:

12 (A) A process for standardizing the meas-
13 urement and estimation of regulatory costs, in-
14 cluding cost savings associated with deregula-
15 tory actions.

16 (B) Standards for determining what quali-
17 fies as a deregulatory action.

18 (C) Standards for determining the costs of
19 existing regulatory actions that are considered
20 for repeal, replacement, or modification.

21 (D) A process for accounting for costs in
22 different fiscal years.

23 (E) Methods to oversee the issuance of sig-
24 nificant regulatory actions offset by cost sav-

1 ings achieved at different times or by different
2 agencies.

3 (F) Emergencies and other circumstances
4 that may justify individual waivers of the re-
5 quirements of this section.

6 (G) Standards by which the Director will
7 determine whether a regulatory action or a col-
8 lection of regulatory actions qualifies as a sig-
9 nificant regulatory action.

10 (2) UPDATES TO GUIDANCE.—The Director
11 shall update the guidance issued pursuant to this
12 section as necessary.

13 **SEC. 7. WAIVER.**

14 (a) WAIVER AUTHORITY.—Upon the written request
15 of the head of an agency, the Director may issue a written
16 waiver of the requirements of section 4 if the Director de-
17 termines that the agency generally issues very few or no
18 rules.

19 (b) REVOCATION OF WAIVER.—The Director may re-
20 voke at any time a waiver issued under this section.

21 (c) PUBLIC AVAILABILITY OF WAIVERS.—The Direc-
22 tor shall maintain a publicly available list of each agency
23 that is operating under a waiver issued under this section.

24 (d) REQUIREMENT FOR WAIVER.—A waiver shall not
25 be effective unless the written waiver and the written re-

- 1 quest of the agency are publicly available on the website
- 2 of the Office of Management and Budget.

