

119TH CONGRESS
1ST SESSION

S. 148

To prohibit the use of non-monetized or unqualified factors for regulatory analyses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 17, 2025

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

A BILL

To prohibit the use of non-monetized or unqualified factors for regulatory analyses, 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 “Regulations Evaluated
5 to Determine The Anticipated Price and Effect Act” or
6 the “RED TAPE Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds that agencies must prioritize tangible,
9 immediately quantifiable monetary benefits in their deci-
10 sion making processes, ensuring regulatory actions yield

1 clear and measurable financial benefits to the public and
 2 private sectors while minimizing unnecessary regulatory
 3 costs or burdens.

4 **SEC. 3. PROHIBITION ON NET BENEFIT DISCOUNTS; CON-**
 5 **SIDERATION OF REGULATORY IMPACT ANAL-**
 6 **YSES.**

7 (a) IN GENERAL.—Chapter 6 of title 5, United
 8 States Code, is amended—

9 (1) in section 601—

10 (A) in paragraph (6), by striking “and” at
 11 the end;

12 (B) in paragraph (7), by striking the pe-
 13 riod at the end and inserting a semicolon; and

14 (C) by adding at the end the following:

15 “(8) the term ‘benefit-cost analysis’ has the
 16 meaning given the term in Office of Management
 17 and Budget Circular A–94, as revised on November
 18 9, 2023, or any successor revision; and

19 “(9) the term ‘regulatory impact analysis’
 20 means a regulatory analysis described in—

21 “(A) Executive Order 12866 (5 U.S.C.
 22 601 note; relating to regulatory planning and
 23 review);

1 “(B) Executive Order 13563 (5 U.S.C.
 2 601 note; relating to improving regulation and
 3 regulatory review);

4 “(C) Executive Order 14094 (88 Fed. Reg.
 5 21879; relating to modernizing regulatory re-
 6 view);

7 “(D) Office of Management and Budget
 8 Circular No. A–4, as revised on November 9,
 9 2023, or any successor revision; or

10 “(E) Office of Management and Budget
 11 Circular No. A–94, as revised on November 9,
 12 2023, or any successor revision.”; and

13 (2) by adding at the end the following:

14 **“§ 613. Prohibition on use of non-monetized or un-**
 15 **qualified factors for regulatory analyses**

16 “(a) AGENCY PROHIBITION.—An agency may not
 17 consider any non-monetized or unquantified factor when
 18 conducting a regulatory impact analysis or benefit-cost
 19 analysis on any proposed rule, final rule, or interim final
 20 rule.

21 “(b) OMB PROHIBITION.—The Office of Manage-
 22 ment and Budget may not—

23 “(1) authorize in any manner, such as in
 24 issuing guidance, a memorandum, a directive, or a
 25 rule that permit or endorse the analysis or use of

1 any non-monetized or unquantified factor when con-
2 ducting a regulatory impact analysis or benefit-cost
3 analysis on any proposed rule, final rule, or interim
4 final rule; or

5 “(2) consider any non-monetized or
6 unquantified factor presented in a regulatory impact
7 analysis or benefit-cost analysis of another agency.

8 “(c) PUBLIC TRANSPARENCY.—Each agency shall
9 publish in the Federal Register, with respect to and along
10 with each proposed rule, final rule, or interim final rule—

11 “(1) a summary of each regulatory impact anal-
12 ysis and benefit-cost analysis conducted by the agen-
13 cy;

14 “(2) the text of each regulatory impact analysis
15 and benefit-cost analysis conducted by the agency,
16 including a disclosure of the methodology and spe-
17 cific analyses used by the agency in estimating eco-
18 nomic impacts, and the determination and rationale
19 of such economic impact analyses; and

20 “(3) any additional information of the agency
21 relevant to the regulatory impact and benefit-cost
22 analyses conducted by the agency, such as the deci-
23 sion-making processes of the agency.

24 “(d) REGULATORY GUIDANCE.—Not later than 90
25 days after the date of enactment of this section, the Direc-

1 tor of the Office of Management and Budget shall issue
 2 revised guidance to agencies to ensure compliance with the
 3 provisions of this section.

4 “(e) JUDICIAL REVIEW.—

5 “(1) IN GENERAL.—Any party affected by a
 6 rule issued by an agency that considered a non-mon-
 7 etized or unquantified factor when conducting a reg-
 8 ulatory impact or benefit-cost analysis in violation of
 9 this section may bring a civil action against the
 10 agency to challenge the rule in a district court of the
 11 United States.

12 “(2) INVALIDATION OF REGULATION.—If the
 13 court finds that an agency relied upon non-mone-
 14 tized or unquantified factors to evaluate a final rule
 15 or interim final rule in contravention of this section,
 16 the court shall declare the rule invalid.

17 “(3) STATUTE OF LIMITATIONS.—This sub-
 18 section shall apply with respect to any rule issued by
 19 an agency on or after November 9, 2023.”.

20 (b) TECHNICAL AND CONFORMING AMENDMENT.—

21 The table of sections for chapter 6 of title 5, United States
 22 Code, is amended by adding at the end the following:

“613. Prohibition on use of non-monetized or unquantified factors for regulatory analyses.”.

1 **SEC. 4. EFFECTIVE DATE.**

2 The amendments made by section 3 shall take effect
3 on the date that is 30 days after the date of enactment
4 of this Act.

