

117TH CONGRESS
1ST SESSION

S. 2239

To consolidate or repeal unnecessary agency major rules, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2021

Mr. SCOTT of Florida (for himself, Mr. TILLIS, Mr. COTTON, Mr. RISCH, Mr. MARSHALL, Mr. CRAPO, Mr. HAWLEY, Mr. HAGERTY, Mr. DAINES, Mr. JOHNSON, Mr. LANKFORD, Mr. BRAUN, Mr. CRUZ, Ms. ERNST, Mr. WICKER, Mr. CORNYN, and Ms. LUMMIS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To consolidate or repeal unnecessary agency major 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.**

4 This Act may be cited as the “Unnecessary Agency
5 Regulations Reduction Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

1 (1) the term “Administrator” means the Ad-
2 ministrator of the Office of Information and Regu-
3 latory Affairs;

4 (2) the term “agency” has the meaning given
5 the term in section 551 of title 5, United States
6 Code;

7 (3) the term “burdensome”, with respect to a
8 major rule or set of major rules of an agency, means
9 that the major rule or set of major rules—

10 (A) can be consolidated or repealed, in
11 whole or in part, to eliminate or reduce exces-
12 sive compliance costs or user fees; or

13 (B) imposes unfunded mandates due to the
14 agency failing to adequately comply with section
15 205 of the Unfunded Mandates Reform Act of
16 1995 (2 U.S.C. 1535);

17 (4) the term “duplicative”, with respect to a
18 major rule or set of major rules of an agency, means
19 that the major rule or set of major rules overlaps,
20 duplicates, or conflicts with other Federal regula-
21 tions;

22 (5) the term “joint resolution” means only a
23 joint resolution that contains legislative language to
24 consolidate or repeal, in whole or in part, agency
25 major rules;

1 (6) the term “major rule” has the meaning
2 given the term in section 804 of title 5, United
3 States Code;

4 (7) the term “outdated”, with respect to a
5 major rule or set of major rules of an agency or a
6 portion of a major rule of an agency means that the
7 major rule, set of major rules, or the portion of the
8 major rule has not been modified in the 10-year pe-
9 riod preceding the date on which the Administrator
10 submits the most recent list required under section
11 3(a)(3)(A)(ii);

12 (8) the term “regulation” has the meaning
13 given the term “rule” in section 551 of title 5,
14 United States Code; and

15 (9) the term “set of major rules” means not
16 less than 2 major rules that collectively implement
17 a regulatory authority of an agency.

18 **SEC. 3. REVIEW AND IDENTIFICATION OF UNNECESSARY**

19 **REGULATIONS.**

20 (a) REVIEW.—

21 (1) IN GENERAL.—Not later than 2 years after
22 the date of enactment of this Act and each year
23 thereafter, the Administrator, in consultation with
24 each agency, shall—

1 (A) compile a list that identifies all
2 planned agency major rules or sets of major
3 rules for the period covered by the submission;
4 and

5 (B) identify agency major rules or sets of
6 major rules described in subparagraph (A) that
7 are duplicative, burdensome, or outdated.

8 (2) CONSIDERATION OF GAO DUPLICATION RE-
9 PORT.—

10 (A) IN GENERAL.—The Comptroller Gen-
11 eral of the United States shall—

12 (i) on an annual basis, provide to the
13 Administrator a copy of the annual report
14 prepared pursuant to section 21 of the
15 Statutory Pay-As-You-Go Act of 2010 (31
16 U.S.C. 712 note); and

17 (ii) in the report provided under
18 clause (i), identify any major rules or sets
19 of major rules associated with the pro-
20 grams, agencies, offices, and initiatives
21 identified in the report as having duplica-
22 tive goals or activities, as defined by the
23 Comptroller General.

1 (B) REVIEW.—Upon receipt of the report
2 under subparagraph (A), the Administrator
3 shall—

4 (i) review any major rules or sets of
5 major rules associated with the programs,
6 agencies, offices, and initiatives identified
7 in the report as having duplicative goals or
8 activities;

9 (ii) determine, in consultation with
10 the relevant agencies, whether any of the
11 major rules or sets of major rules identi-
12 fied in clause (i) are potentially duplicative,
13 burdensome, or outdated; and

14 (iii) determine whether any of the
15 major rules or sets of major rules identi-
16 fied in clause (ii) should be consolidated or
17 repealed, in whole or in part.

18 (3) IDENTIFICATION OF MAJOR RULES OR SETS
19 OF MAJOR RULES.—

20 (A) IN GENERAL.—The Administrator
21 shall, on an annual basis—

22 (i) compile a list of major rules or sets
23 of major rules that the Administrator de-
24 termines are duplicative, burdensome, or
25 outdated; and

1 (ii) submit to Congress and include in
2 each Unified Agenda of Federal Regu-
3 latory and Deregulatory Actions a list of
4 major rules or sets of major rules that the
5 Administrator has identified under para-
6 graph (1)(B), which may include rec-
7 ommendations as to whether any of those
8 major rules or sets of major rules should
9 be consolidated or repealed, in whole or in
10 part.

11 (B) REQUIREMENT FOR LIST.—The list of
12 major rules or sets of major rules identified as
13 duplicative, burdensome, or outdated under sub-
14 paragraph (A)(i) shall be derived from the
15 major rules and sets of major rules identified
16 under paragraphs (1)(B) and (2)(B)(ii).

17 (4) EXISTING REPORT.—The requirement de-
18 scribed in paragraph (1)(A) may be satisfied by any
19 existing annual report, such as the Unified Agenda
20 of Federal Regulatory and Deregulatory Actions,
21 that is compiled by the Administrator and includes
22 the information described in paragraph (1)(A).

23 (b) CRITERIA FOR REVIEW.—In identifying major
24 rules or sets of major rules that are duplicative, burden-

1 some, or outdated under subsection (a), the Administrator
2 may consider—

3 (1) whether the original purpose of the major
4 rule or set of major rules was achieved, and the
5 major rule or set of major rules could be repealed,
6 in whole or in part, without significant recurrence of
7 adverse effects or conduct that the major rule or set
8 of major rules was intended to prevent or reduce;

9 (2) whether the implementation, compliance,
10 administration, enforcement, imposition of unfunded
11 mandates, or other costs of the major rule or set of
12 major rules to the economy are not justified by the
13 benefits to society within the United States produced
14 by the expenditure of those costs;

15 (3) whether the major rule or set of major rules
16 has been rendered unnecessary or obsolete, taking
17 into consideration the length of time since the major
18 rule or set of major rules was made and the degree
19 to which technology, economic conditions, market
20 practices, or other relevant factors have changed in
21 the subject area affected by the major rule or set of
22 major rules;

23 (4) whether the major rule or set of major rules
24 has become unjustified or unnecessary as a result of
25 changed circumstances;

1 (5) whether the major rule or set of major rules
2 is compatible with other regulations and not duplica-
3 tive or inappropriately burdensome in the aggregate;

4 (6) whether the major rule or set of major rules
5 is ineffective at achieving the purposes of the major
6 rule or set of major rules;

7 (7) whether the major rule or set of major rules
8 is duplicative of other Federal regulations;

9 (8) whether the major rule or set of major rules
10 has excessive compliance costs, user fees, imposes
11 unfunded mandates, or is otherwise excessively bur-
12 densome, as compared to alternatives that—

13 (A) specify performance objectives rather
14 than conduct or manners of compliance;

15 (B) establish economic incentives to en-
16 courage desired behavior;

17 (C) provide information upon which
18 choices can be made by the public;

19 (D) incorporate other innovative alter-
20 natives rather than agency actions that specify
21 conduct or manners of compliance; or

22 (E) could in other ways substantially lower
23 costs without significantly undermining effec-
24 tiveness;

1 (9) whether the major rule or set of major rules
2 inhibits innovation in or growth of the United States
3 economy, such as by impeding the introduction or
4 use of safer or equally safe technology that is newer
5 or more efficient than technology required by or per-
6 missible under the major rule or set of major rules;

7 (10) whether or not the major rule or set of
8 major rules harms competition within the United
9 States economy or the international economic com-
10 petitiveness of enterprises or entities based in the
11 United States;

12 (11) whether or not the major rule or set of
13 major rules limits or prevents an agency from apply-
14 ing new or emerging technologies to improve effi-
15 ciency and effectiveness of government;

16 (12) whether the major rule or set of major
17 rules harms wage growth, including wage growth for
18 minimum wage and part-time workers;

19 (13) whether the major rule or set of major
20 rules is outdated;

21 (14) whether the major rule or set of major
22 rules is in full compliance with the requirements of
23 section 801(a)(1)(A) of title 5, United States Code;

1 (15) whether, and the extent to which, the re-
2 peal, in whole or in part, of the major rule or set
3 of major rules would impact public health;

4 (16) the review of the report submitted by the
5 Comptroller General of the United States under sub-
6 section (a)(2); and

7 (17) such other criteria as the Administrator
8 determines to identify major rules or sets of major
9 rules that can be repealed, in whole or in part, to
10 eliminate or reduce unnecessarily burdensome costs
11 to the United States economy.

12 (c) CONSIDERATION BY CONGRESS.—Not later than
13 30 days after the date on which the Administrator submits
14 a list of major rules or sets of major rules to Congress
15 under subsection (a)(3)(A)(ii), each appropriate congres-
16 sional committee shall—

17 (1) review each such major rule or set of major
18 rules that is within the jurisdiction of the committee
19 to determine if the major rule or set of major rules
20 should be consolidated or repealed, in whole or in
21 part; and

22 (2) issue a recommendation to consolidate or
23 repeal, in whole or in part, the major rule or set of
24 major rules in a joint resolution.

1 **SEC. 4. EXPEDITED PROCEDURES FOR CONSIDERATION OF**
2 **JOINT RESOLUTION.**

3 (a) INTRODUCTION OF JOINT RESOLUTION.—

4 (1) IN GENERAL.—Any joint resolution—

5 (A) shall be introduced in the Senate (by
6 request) by the Majority Leader or Minority
7 Leader of the Senate or by a Member of the
8 Senate designated by the Majority Leader or
9 Minority Leader of the Senate not later than 60
10 days after the date on which the date on which
11 each appropriate congressional committee has
12 issued the recommendation required under sec-
13 tion 3(c); and

14 (B) shall be introduced in the House of
15 Representatives (by request) by the Speaker of
16 the House of Representatives or the Minority
17 Leader of the House of Representatives or by
18 a Member of the House of Representatives des-
19 ignated by the Speaker of the House of Rep-
20 resentatives or the Minority Leader of the
21 House of Representatives not later than 60
22 days after the date on which the date on which
23 each appropriate congressional committee has
24 issued the recommendation required under sec-
25 tion 3(c).

1 (2) REINTRODUCTION.—Any joint resolution
2 shall be reintroduced as described in paragraph (1)
3 not later than 60 days after the first day of a Con-
4 gress if—

5 (A) the joint resolution was introduced
6 during the previous Congress after the date
7 that was 210 days before the date of the sine
8 die adjournment of such previous Congress; and

9 (B) there was not a vote in either House
10 of Congress on passage of the joint resolution
11 introduced under subparagraph (A) during the
12 previous Congress by which the joint resolution
13 was not agreed to.

14 (b) EXPEDITED CONSIDERATION IN SENATE.—

15 (1) PLACEMENT ON CALENDAR.—Upon intro-
16 duction in the Senate, the joint resolution shall be
17 placed immediately on the calendar.

18 (2) PROCEEDING TO CONSIDERATION.—

19 (A) IN GENERAL.—Notwithstanding rule
20 XXII of the Standing Rules of the Senate, it is
21 in order, not later than 210 days after the date
22 on which the joint resolution is introduced or
23 reintroduced in the Senate under subsection (a)
24 (even though a previous motion to the same ef-

1 fect has been disagreed to) to move to proceed
2 to the consideration of a joint resolution.

3 (B) PROCEDURE.—For a motion to pro-
4 ceed to the consideration of a joint resolution—

5 (i) all points of order against the mo-
6 tion are waived;

7 (ii) the motion is not debatable;

8 (iii) the motion is not subject to a mo-
9 tion to postpone;

10 (iv) a motion to reconsider the vote by
11 which the motion is agreed to or disagreed
12 to shall not be in order; and

13 (v) if the motion is agreed to, the
14 joint resolution shall remain the unfinished
15 business until disposed of.

16 (3) FLOOR CONSIDERATION.—

17 (A) IN GENERAL.—If the Senate proceeds
18 to consideration of a joint resolution—

19 (i) all points of order against the joint
20 resolution (and against consideration of
21 the joint resolution) are waived;

22 (ii) consideration of the joint resolu-
23 tion, and all debatable motions and appeals
24 in connection therewith, shall be limited to
25 not more than 10 hours, which shall be di-

1 vided equally between the majority and mi-
2 nority leaders or their designees;

3 (iii) a motion further to limit debate
4 is in order and not debatable;

5 (iv) an amendment to, a motion to
6 postpone, or a motion to commit the joint
7 resolution is not in order; and

8 (v) a motion to proceed to the consid-
9 eration of other business is not in order.

10 (B) VOTE ON PASSAGE.—The vote on pas-
11 sage shall occur immediately following the con-
12 clusion of the consideration of a joint resolu-
13 tion, and a single quorum call at the conclusion
14 of the debate if requested in accordance with
15 the rules of the Senate.

16 (C) RULINGS OF THE CHAIR ON PROCE-
17 DURE.—Appeals from the decisions of the Chair
18 relating to the application of this paragraph or
19 the rules of the Senate, as the case may be, to
20 the procedure relating to a joint resolution shall
21 be decided without debate.

22 (c) EXPEDITED CONSIDERATION IN HOUSE OF REP-
23 RESENTATIVES.—

24 (1) REPORTING AND DISCHARGE.—Any com-
25 mittee of the House of Representatives to which a

1 joint resolution is referred shall report it to the
2 House of Representatives not later than 180 days
3 after the date on which the joint resolution is intro-
4 duced or reintroduced in the House of Representa-
5 tives under subsection (a). If a committee fails to re-
6 port the joint resolution within that period, the com-
7 mittee shall be discharged from further consider-
8 ation of the joint resolution and the joint resolution
9 shall be referred to the appropriate calendar.

10 (2) PROCEEDING TO CONSIDERATION.—

11 (A) IN GENERAL.—After each committee
12 authorized to consider a joint resolution reports
13 it to the House of Representatives or has been
14 discharged from its consideration, it shall be in
15 order, not later than 210 days after the date on
16 which the joint resolution is introduced or re-
17 introduced in the House of Representatives
18 under subsection (a), to move to proceed to con-
19 sider the joint resolution in the House of Rep-
20 resentatives.

21 (B) PROCEDURE.—For a motion to pro-
22 ceed to consideration of a joint resolution—

23 (i) all points of order against the mo-
24 tion are waived;

1 (ii) such a motion shall not be in
2 order after the House of Representatives
3 has disposed of a motion to proceed on the
4 joint resolution;

5 (iii) the previous question shall be
6 considered as ordered on the motion to its
7 adoption without intervening motion;

8 (iv) the motion shall not be debatable;
9 and

10 (v) a motion to reconsider the vote by
11 which the motion is disposed of shall not
12 be in order.

13 (3) CONSIDERATION.—If the House of Rep-
14 resentatives proceeds to consideration of a joint res-
15 olution—

16 (A) the joint resolution shall be considered
17 as read;

18 (B) all points of order against the joint
19 resolution and against its consideration are
20 waived;

21 (C) the previous question shall be consid-
22 ered as ordered on the joint resolution to its
23 passage without intervening motion except 10
24 hours of debate equally divided and controlled
25 by the proponent and an opponent;

1 (D) an amendment to the joint resolution
2 shall not be in order; and

3 (E) a motion to reconsider the vote on pas-
4 sage of the joint resolution shall not be in
5 order.

6 (d) RULES RELATING TO SENATE AND HOUSE OF
7 REPRESENTATIVES.—

8 (1) COORDINATION WITH ACTION BY OTHER
9 HOUSE.—If, before the passage by one House of a
10 joint resolution of that House, that House receives
11 from the other House a joint resolution—

12 (A) the joint resolution of the other House
13 shall not be referred to a committee; and

14 (B) with respect to a joint resolution of the
15 House receiving the resolution—

16 (i) the procedure in that House shall
17 be the same as if no joint resolution had
18 been received from the other House; and

19 (ii) the vote on passage shall be on
20 the joint resolution of the other House.

21 (2) TREATMENT OF JOINT RESOLUTION OF
22 OTHER HOUSE.—If one House fails to introduce or
23 consider a joint resolution under this section, the
24 joint resolution of the other House shall be entitled
25 to expedited floor procedures under this section.

1 (3) TREATMENT OF COMPANION MEASURES.—

2 If, following passage of a joint resolution in the Sen-
3 ate, the Senate receives the companion measure
4 from the House of Representatives, the companion
5 measure shall not be debatable.

6 (4) CONSIDERATION AFTER PASSAGE.—If the

7 President vetoes the joint resolution, consideration
8 of a veto message in the Senate under this para-
9 graph shall be not more than 10 hours equally di-
10 vided between the majority and minority leaders or
11 their designees.

12 (e) RULES OF SENATE AND HOUSE OF REPRESENTA-
13 TIVES.—This section is enacted by Congress—

14 (1) as an exercise of the rulemaking power of
15 the Senate and House of Representatives, respec-
16 tively, and as such is deemed a part of the rules of
17 each House, respectively, but applicable only with re-
18 spect to the procedure to be followed in that House
19 in the case of a joint resolution, and to supersede
20 other rules only to the extent that it is inconsistent
21 with such rules; and

22 (2) with full recognition of the constitutional
23 right of either House to change the rules (so far as
24 relating to the procedure of that House) at any time,

- 1 in the same manner, and to the same extent as in
- 2 the case of any other rule of that House.

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