

117TH CONGRESS  
1ST SESSION

# H. R. 968

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.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2021

Mr. BUDD (for himself, Mr. GAETZ, Mr. DESJARLAIS, Mr. PERRY, and Mr. HICE of Georgia) introduced the following bill; which was referred to the Committee on Oversight and Reform

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## 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Lessening Regulatory Costs and Establishing a Federal  
6 Regulatory Budget Act of 2021”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Sense of Congress; purpose.  
 Sec. 3. Establishing regulatory reform capacity.  
 Sec. 4. Accountability.  
 Sec. 5. Regulatory planning and budget.  
 Sec. 6. Waiver.  
 Sec. 7. Definitions.

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

2 (a) SENSE OF CONGRESS.—It is the sense of Con-  
 3 gress that the Federal Government should be prudent and  
 4 financially responsible in the expenditure of funds, from  
 5 both public and private sources. In addition to the man-  
 6 agement of the direct expenditure of taxpayer dollars  
 7 through the budgeting process, it is essential to manage  
 8 the costs associated with the governmental imposition of  
 9 private expenditures required to comply with Federal reg-  
 10 ulations.

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

12 (1) to remove unnecessary or outdated regula-  
 13 tions when a new significant regulation is issued;  
 14 and

15 (2) to prudently manage and control the cost of  
 16 planned regulations through an annual budgeting  
 17 process.

18 **SEC. 3. ESTABLISHING REGULATORY REFORM CAPACITY.**

19 (a) REGULATORY REFORM OFFICERS.—

20 (1) IN GENERAL.—Except as provided for  
 21 under section 6, not later than 60 days after the  
 22 date of the enactment of this Act, the head of each

1 agency shall designate an employee or officer of the  
2 agency as the Regulatory Reform Officer (in this  
3 Act referred to as the “agency RRO”).

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

7 (A) the implementation of regulatory re-  
8 form initiatives and policies for the agency to  
9 ensure that the agency effectively carries out  
10 regulatory reforms; and

11 (B) the termination of programs and ac-  
12 tivities that derive from or implement statutes,  
13 Executive orders, guidance documents, policy  
14 memoranda, rule interpretations, and similar  
15 documents, or relevant portions thereof, that  
16 have been repealed or rescinded.

17 (b) REGULATORY REFORM TASK FORCES.—

18 (1) ESTABLISHMENT OF AGENCY TASK FORCE;  
19 MEMBERSHIP.—Except as provided under section 6,  
20 not later than 60 days after the date of the enact-  
21 ment of this Act, the head of each agency shall ap-  
22 point and may remove members to the regulatory re-  
23 form task force (in this section referred to as the  
24 “Task Force”) of the agency, which shall be com-  
25 posed of the following members:

1 (A) The agency RRO.

2 (B) A senior agency official from each rel-  
3 evant component or office of the agency with  
4 significant authority for issuing or repealing  
5 regulatory actions.

6 (C) Additional senior agency officials in-  
7 volved in the development of rulemaking or  
8 other regulatory action at the agency, as deter-  
9 mined by the head of the agency.

10 (2) CHAIR.—Unless otherwise designated by the  
11 head of the agency, the agency RRO shall chair the  
12 Task Force of the agency.

13 (3) JOINT TASK FORCES.—For the consider-  
14 ation of a joint rulemaking, the Director may form  
15 a joint regulatory reform task force composed of at  
16 least one member from the Task Force of each rel-  
17 evant agency. Any joint regulatory reform task force  
18 formed under this paragraph shall consult with each  
19 relevant Task Force.

20 (4) DUTIES.—Each Task Force shall conduct  
21 ongoing evaluations of regulations and other regu-  
22 latory actions and make recommendations that are  
23 consistent with and that could be implemented in ac-  
24 cordance with applicable law to the head of the  
25 agency regarding repeal, replacement, or modifica-

tion of regulations and regulatory actions. To the extent practicable, each Task Force shall—

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

(B) for each regulation or regulatory action reviewed and identified for repeal, replacement, or modification, estimate the cost savings of such repeal, replacement, or modification, as applicable; and

(C) identify regulations that are appropriate for repeal, replacement, or modification, and prioritize the evaluation of regulations that—

(i) eliminate or have eliminated jobs or inhibit or have inhibited job creation;

(ii) are outdated, unnecessary, or ineffective;

(iii) impose costs that exceed benefits;

(iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(v) were issued or are maintained in a manner that is inconsistent with the requirements of section 515 of the Treasury

1 and General Government Appropriations  
2 Act, 2001 (Public Law 106–554; 44  
3 U.S.C. 3516 note), or the guidance issued  
4 pursuant to that section, including any  
5 rule that relies in whole or in part on data,  
6 information, or methods that are not pub-  
7 licly available or that are insufficiently  
8 transparent to meet the standard for re-  
9 producibility; or

10 (vi) were made pursuant to or to im-  
11 plement statutes, Executive orders, or  
12 other Presidential directives that have been  
13 subsequently rescinded or substantially  
14 modified.

15 (c) CONSULTATION WITH STAKEHOLDERS.—In per-  
16 forming the tasks under this section, each agency RRO  
17 and Task Force shall seek input and other assistance from  
18 the public and from entities significantly affected by regu-  
19 lations, including State, local, and Tribal governments,  
20 small businesses, consumers, non-governmental organiza-  
21 tions, and trade associations. Each agency RRO and Task  
22 Force may—

23 (1) incorporate specific suggestions from stake-  
24 holders in identifying the list of deregulatory actions  
25 to recommend to the head of the agency; and

1           (2) accept or solicit input from the public in  
2           any manner, if—

3                   (A) the process is transparent to the public  
4                   and Congress;

5                   (B) a list of each meeting, a list of each  
6                   stakeholder that submitted a comment, and a  
7                   copy of each written comment are made publicly  
8                   available online; and

9                   (C) the Task Force issues a public notice  
10                  of any public meeting to solicit input not less  
11                  than 7 days before the public meeting and  
12                  makes detailed minutes of the meeting available  
13                  online not less than 7 days after the date of the  
14                  meeting.

15       (d) TRANSPARENT REGULATORY REFORM.—

16           (1) WEBSITE.—To the extent practicable, the  
17           head of each agency shall publish information about  
18           the Task Force of the agency and other regulatory  
19           reform initiatives on the website of the agency—

20                   (A) which shall include—

21                           (i) a list of the members of the Task  
22                           Force of the agency;

23                           (ii) a copy of each report issued under  
24                           this subsection; and

1 (iii) a link to or copy of each notice of  
2 a meeting or solicitation of public com-  
3 ments issued by the Task Force of the  
4 agency; and

5 (B) which may include—

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

8 (ii) any other information about the  
9 Task Force or other regulatory reform ini-  
10 tiatives at the agency.

11 (2) REPORT.—Not less than twice a year, each  
12 agency RRO shall submit to the head of the agency  
13 a report on the activities performed under this sec-  
14 tion and any recommendations resulting from such  
15 activities (which shall be posted by the head of the  
16 agency on a publicly accessible website), and shall  
17 include the following:

18 (A) A description of any improvement  
19 made toward implementation of regulatory re-  
20 form initiatives and policies.

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

24 (C) An inventory of each regulation or reg-  
25 ulatory action the Task Force recommends the



1           agency consider for repeal, replacement, or  
2           modification.

3                   (D) A list of all activities conducted under  
4           subsection (c), a summary of all comments re-  
5           ceived, and a hyperlink to copies of each public  
6           comment received.

7   **SEC. 4. ACCOUNTABILITY.**

8           (a) INCORPORATION IN PERFORMANCE PLANS.—

9                   (1) IN GENERAL.—Each agency listed in section  
10          901(b)(1) of title 31, United States Code, shall in-  
11          corporate in the annual performance plan of the  
12          agency (required under section 1115(b) of title 31,  
13          United States Code) performance indicators that  
14          measure progress implementing this Act.

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

18          (b) PERFORMANCE ASSESSMENT.—The head of each  
19          agency shall consider the progress implementing this Act  
20          in assessing the performance of the Task Force of the  
21          agency and those individuals responsible for developing  
22          and issuing agency rules.

23   **SEC. 5. REGULATORY PLANNING AND BUDGET.**

24           (a) UNIFIED AGENDA AND ANNUAL REGULATORY  
25          PLAN.—

1           (1) UNIFIED REGULATORY AGENDA.—During  
2           the months of April and October of each year, the  
3           Director shall publish a unified regulatory agenda,  
4           which shall include—

5                   (A) regulatory and deregulatory actions  
6                   under development or review at agencies;

7                   (B) a Federal regulatory plan of all signifi-  
8                   cant regulatory actions and associated deregula-  
9                   tory actions that agencies reasonably expect to  
10                  issue in proposed or final form in the current  
11                  and following fiscal year; and

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

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

23                   (A) For each regulatory action and deregula-  
24                   tory action:

25                           (i) A regulation identifier number.

- 1 (ii) A brief summary of the action.
- 2 (iii) The legal authority for the action.
- 3 (iv) Any legal deadline for the action.
- 4 (v) The name and contact information
- 5 for a knowledgeable agency official.
- 6 (vi) Any other information as required
- 7 by the Director.
- 8 (B) An annual regulatory plan, which shall
- 9 include a list of each significant regulatory ac-
- 10 tion the agency reasonably expects to issue in
- 11 proposed or final form in the current and fol-
- 12 lowing fiscal year, including for each significant
- 13 regulatory action:
  - 14 (i) A summary, including the fol-
  - 15 lowing:
    - 16 (I) A statement of the regulatory
    - 17 objectives.
    - 18 (II) The legal authority for the
    - 19 action.
    - 20 (III) A statement of the need for
    - 21 the action.
    - 22 (IV) The agency's schedule for
    - 23 the action.
  - 24 (ii) The estimated cost.
  - 25 (iii) The estimated benefits.

1 (iv) Any deregulatory action identified  
2 to offset the estimated cost of such signifi-  
3 cant regulatory action and an explanation  
4 of how the agency will continue to achieve  
5 regulatory objectives if the deregulatory ac-  
6 tion is taken.

7 (v) A best approximation of the total  
8 cost or savings and any cost or savings as-  
9 sociated with a deregulatory action.

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

20 (C) Information required under section  
21 602 of title 5, United States Code.

22 (D) Information required under any other  
23 law to be reported by agencies about significant  
24 regulatory actions, as determined by the Direc-  
25 tor.

1 (b) FEDERAL REGULATORY BUDGET.—

2 (1) ESTABLISHMENT.—In the April unified reg-  
3 ulatory agenda described under subsection (a), the  
4 Director shall establish the annual Federal Regu-  
5 latory Budget, which specifies the net amount of in-  
6 cremental regulatory costs allowed by the Federal  
7 Government and at each agency for the next fiscal  
8 year. The Director may set the incremental regu-  
9 latory cost allowance to allow an increase, prohibit  
10 an increase, or require a decrease of incremental  
11 regulatory costs.

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

17 (3) BALANCE ROLLOVER OF INCREMENTAL  
18 REGULATORY COST ALLOWANCE.—If an agency does  
19 not exhaust all of the incremental regulatory cost al-  
20 lowance for a fiscal year, the balance may be added  
21 to the incremental regulatory cost allowance for the  
22 subsequent fiscal year, without increasing the incre-  
23 mental regulatory costs allowed for the Federal Gov-  
24 ernment for the subsequent fiscal year. The Director  
25 must identify the total carryover incremental regu-

1       latory cost allowance available to an agency in the  
2       Federal Regulatory Budget.

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

6               (1) the—

7                       (A) head of the agency identifies not less  
8                       than 2 deregulatory actions to offset the costs  
9                       of such significant regulatory action, and to the  
10                      extent feasible, issues such deregulatory actions  
11                      before or on the same schedule as the signifi-  
12                      cant regulatory action;

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

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

23               (2) the issuance of the significant regulatory ac-  
24       tion was approved in advance in writing by the Di-  
25       rector and the written approval is publicly available

1 online prior to the issuance of such significant regu-  
2 latory action.

3 (d) GUIDANCE BY OMB.—

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

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

13 (B) Standards for determining what quali-  
14 fies as a deregulatory action.

15 (C) Standards for determining the costs of  
16 existing regulatory actions that are considered  
17 for repeal, replacement, or modification.

18 (D) A process for accounting for costs in  
19 different fiscal years.

20 (E) Methods to oversee the issuance of sig-  
21 nificant regulatory actions offset by cost sav-  
22 ings achieved at different times or by different  
23 agencies.

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

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

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

11 **SEC. 6. WAIVER.**

12 (a) WAIVER AUTHORITY.—Upon the written request  
13 of the head of an agency, the Director may issue a written  
14 waiver of the requirements of section 3 if the Director de-  
15 termines that the agency generally issues very few or no  
16 rules.

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

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

22 (d) REQUIREMENT FOR WAIVER.—A waiver shall not  
23 be effective unless the written waiver and the written re-  
24 quest of the agency are publicly available on the website  
25 of the Office of Management and Budget.



1 **SEC. 7. DEFINITIONS.**

2 In this Act:

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

6 (2) COSTS.—The term “costs” means oppor-  
7 tunity cost to society.

8 (3) COST SAVINGS.—The term “cost savings”  
9 means the cost imposed by a regulatory action that  
10 is eliminated by the repeal, replacement, or modifica-  
11 tion of such regulatory action.

12 (4) DEREGULATORY ACTION.—The term “de-  
13 regulatory action” means the repeal, replacement, or  
14 modification of an existing regulatory action.

15 (5) DIRECTOR.—The term “Director” means  
16 the Director of the Office of Management and Budg-  
17 et.

18 (6) INCREMENTAL REGULATORY COST.—The  
19 term “incremental regulatory cost” means the dif-  
20 ference between the estimated cost of issuing a sig-  
21 nificant regulatory action and the estimated cost  
22 saved by issuing any deregulatory action.

23 (7) REGULATION; RULE.—The term “regula-  
24 tion” or “rule” has the meaning given the term  
25 “rule” in section 551 of title 5, United States Code.

1           (8) REGULATORY ACTION.—The term “regu-  
2       latory action” means—

3                   (A) any regulation; and

4                   (B) any other regulatory guidance, state-  
5       ment of policy, information collection request,  
6       form, or reporting, recordkeeping, or disclosure  
7       requirements that imposes a burden on the pub-  
8       lic or governs agency operations.

9           (9) SIGNIFICANT REGULATORY ACTION.—The  
10       term “significant regulatory action” means any reg-  
11       ulatory action, other than monetary policy proposed  
12       or implemented by the Board of Governors of the  
13       Federal Reserve System or the Federal Open Market  
14       Committee, that is likely to—

15                   (A) have an annual effect on the economy  
16       of \$100,000,000 or more or adversely affect in  
17       a material way the economy, a sector of the  
18       economy, productivity, competition, jobs, the  
19       environment, public health or safety, or State,  
20       local, or Tribal governments or communities;

21                   (B) create a serious inconsistency or other-  
22       wise interfere with an action taken or planned  
23       by another agency;

24                   (C) materially alter the budgetary impact  
25       of entitlements, grants, user fees, or loan pro-

1           grams or the rights and obligations of recipi-  
2           ents thereof; or

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

4           (10) STATE.—The term “State” means each of  
5           the several States, the District of Columbia, and  
6           each territory or possession of the United States.

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