To ensure economy and efficiency of Federal Government operations by establishing a moratorium on midnight rules during a President’s final days in office, and for other purposes.

IN THE SENATE OF THE UNITED STATES

April 25, 2012

Mr. JOHNSON of Wisconsin (for himself, Mrs. HUTCHISON, Mr. KYL, Mr. SHELBY, Mr. THUNE, Mr. DE MINT, Mr. PAUL, Ms. AYOTTE, Mr. RISCH, Mr. JOHANNS, Mr. COATS, Mr. CHAMBLISS, Mr. RUBIO, Mr. BOOZMAN, Mr. BARRASO, Mr. VITTER, Mr. MCCONNELL, Mr. BLUNT, Mr. SESSIONS, Mr. ROBERTS, Mr. INHOFE, Mr. GRAHAM, Mr. TOOMEY, Mr. BURR, Mr. HELLER, Mr. MORAN, Mr. ISAKSON, Mr. CORNYN, Mr. LEE, Ms. COLLINS, Mr. COCHRAN, Mr. HOEVEN, Mr. MCCAIN, Mr. COBURN, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To ensure economy and efficiency of Federal Government operations by establishing a moratorium on midnight rules during a President’s final days in office, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Midnight Rule Relief Act of 2012”.

SEC. 2. MORATORIUM ON MIDNIGHT RULES.

Except as provided under sections 3 and 4, during the moratorium period, an agency may not propose or finalize any midnight rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds is likely to result in—

(1) an annual effect on the economy of $100,000,000 or more;

(2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

SEC. 3. SPECIAL RULE ON STATUTORY, REGULATORY, AND JUDICIAL DEADLINES.

(a) IN GENERAL.—Section 2 shall not apply with respect to any deadline—

(1) for, relating to, or involving any midnight rule;
(2) that was established before the beginning of
the moratorium period; and

(3) that is required to be taken during the mor-
atorium period.

(b) Publication of Deadlines.—Not later than
30 days after the beginning of a moratorium period, the
Administrator of the Office of Information and Regulatory
Affairs of the Office of Management and Budget shall
identify and publish in the Federal Register a list of dead-
lines covered by subsection (a).

SEC. 4. EXCEPTION.

(a) Emergency Exception.—Section 2 shall not
apply to a midnight rule if the President determines that
the midnight rule is—

(1) necessary because of an imminent threat to
health or safety or other emergency;

(2) necessary for the enforcement of criminal
laws;

(3) necessary for the national security of the
United States; or

(4) issued pursuant to any statute imple-
menting an international trade agreement.

(b) Deregulatory Exception.—Section 2 shall
not apply to a midnight rule that the Administrator of
the Office of Information and Regulatory Affairs within
the Office of Management and Budget certifies in writing is limited to repealing an existing rule.

(c) NOTICE OF EXCEPTIONS.—Not later than 30 days after a determination under subsection (a) or a certification is made under subsection (b), the head of the relevant agency shall publish in the Federal Register any midnight rule excluded from the moratorium period due to an exception under this section.

SEC. 5. DEFINITIONS.

In this Act:

(1) AGENCY.—The term “agency” has the meaning given that term under section 551 of title 5, United States Code, except that such term does not include—

(A) the Federal Election Commission;

(B) the Board of Governors of the Federal Reserve System;

(C) the Federal Deposit Insurance Corporation; or

(D) the United States Postal Service.

(2) DEADLINE.—The term “deadline” means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or rule, or by or under any court
order implementing any Federal statute, regulation, or rule.

(3) Moratorium period.—The term “moratorium period” means the day after the day referred to in section 1 of title 3, United States Code, through January 20 of the following year, in which a President is not serving a consecutive term.

(4) Midnight rule.—The term “midnight rule” means an agency statement of general applicability and future effect, issued during the moratorium period, that is intended to have the force and effect of law and is designed—

(A) to implement, interpret, or prescribe law or policy; or

(B) to describe the procedure or practice requirements of an agency.

(5) Rule.—The term “rule” has the meaning given that term under section 551 of title 5, United States Code.