

116TH CONGRESS  
2D SESSION

# S. 4196

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

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IN THE SENATE OF THE UNITED STATES

JULY 2, 2020

Mr. SCOTT of Florida (for himself, Mr. HAWLEY, Mr. ENZI, Mr. PERDUE, Mr. TILLIS, Mr. COTTON, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To modify, 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”.

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 modified, consolidated, or re-  
11                   pealed to eliminate or reduce excessive compli-  
12                   ance 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           modify, consolidate, or repeal agency 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4           (7) the term “outdated”, with respect to a  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.—The Administrator shall, on  
22 an annual basis and in consultation with each agen-  
23 cy—

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 (B) identify agency major rules or sets of  
5 major rules described in subparagraph (A) that  
6 are duplicative or burdensome; and

7 (C) consult with the congressional commit-  
8 tees with jurisdiction over the major rules or  
9 sets of major rules identified under subpara-  
10 graph (B) to determine whether those major  
11 rules or sets of major rules would no longer be  
12 useful and could be modified, consolidated, or  
13 repealed.

14 (2) CONSIDERATION OF GAO DUPLICATION RE-  
15 PORT.—

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

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

23 (ii) in the report provided under  
24 clause (i), identify any major rules or sets  
25 of major rules associated with the pro-

1           grams, agencies, offices, and initiatives  
2           identified in the report as having duplica-  
3           tive goals or activities, as defined by the  
4           Comptroller General.

5           (B) REVIEW.—Upon receipt of the report  
6           under subparagraph (A), the Administrator  
7           shall—

8                   (i) review any major rules or sets of  
9                   major rules associated with the programs,  
10                  agencies, offices, and initiatives identified  
11                  in the report as having duplicative goals or  
12                  activities;

13                  (ii) determine, in consultation with  
14                  the relevant agencies, whether any of the  
15                  major rules or sets of major rules identi-  
16                  fied in clause (i) are duplicative or out-  
17                  dated; and

18                  (iii) determine how any duplicative or  
19                  outdated major rules or sets of major rules  
20                  identified in clause (ii) should be modified,  
21                  consolidated, or repealed.

22           (3) IDENTIFICATION OF MAJOR RULES OR SETS  
23           OF MAJOR RULES.—

24                   (A) IN GENERAL.—The Administrator  
25                   shall, on an annual basis—

1 (i) compile a list of major rules or sets  
2 of major rules that the Administrator de-  
3 termines are outdated, duplicative, or bur-  
4 densome; and

5 (ii) submit to Congress and include in  
6 each Unified Agenda of Federal Regu-  
7 latory and Deregulatory Actions a list of  
8 major rules or sets of major rules that the  
9 Administrator recommends should be  
10 modified, consolidated, or repealed.

11 (B) REQUIRED PERCENTAGE.—The list of  
12 major rules or sets of major rules identified as  
13 outdated, duplicative, or burdensome under sub-  
14 paragraph (A)(i) shall be not less than 10 per-  
15 cent of all major rules and sets of major rules  
16 identified under paragraphs (1)(B) and  
17 (2)(B)(ii).

18 (b) CRITERIA FOR REVIEW.—In identifying major  
19 rules or sets of major rules that are outdated, duplicative,  
20 or burdensome under subsection (a), the Administrator  
21 may consider—

22 (1) whether the original purpose of the major  
23 rule or set of major rules was achieved, and the  
24 major rule or set of major rules could be repealed  
25 without significant recurrence of adverse effects or

1       conduct that the major rule or set of major rules  
2       was intended to prevent or reduce;

3           (2) whether the implementation, compliance,  
4       administration, enforcement, imposition of unfunded  
5       mandates, or other costs of the major rule or set of  
6       major rules to the economy are not justified by the  
7       benefits to society within the United States produced  
8       by the expenditure of those costs;

9           (3) whether the major rule or set of major rules  
10      has been rendered unnecessary or obsolete, taking  
11      into consideration the length of time since the major  
12      rule or set of major rules was made and the degree  
13      to which technology, economic conditions, market  
14      practices, or other relevant factors have changed in  
15      the subject area affected by the major rule or set of  
16      major rules;

17          (4) whether the major rule or set of major rules  
18      has become unjustified or unnecessary as a result of  
19      changed circumstances;

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

23          (6) whether the major rule or set of major rules  
24      is ineffective at achieving the purposes of the major  
25      rule or set of major rules;

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

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

7           (A) specify performance objectives rather  
8 than conduct or manners of compliance;

9           (B) establish economic incentives to en-  
10 courage desired behavior;

11           (C) provide information upon which  
12 choices can be made by the public;

13           (D) incorporate other innovative alter-  
14 natives rather than agency actions that specify  
15 conduct or manners of compliance; or

16           (E) could in other ways substantially lower  
17 costs without significantly undermining effec-  
18 tiveness;

19           (9) whether the major rule or set of major rules  
20 inhibits innovation in or growth of the United States  
21 economy, such as by impeding the introduction or  
22 use of safer or equally safe technology that is newer  
23 or more efficient than technology required by or per-  
24 missible under the major rule or set of major rules;



1           (10) whether or not the major rule or set of  
2           major rules harms competition within the United  
3           States economy or the international economic com-  
4           petitiveness of enterprises or entities based in the  
5           United States;

6           (11) whether or not the major rule or set of  
7           major rules limits or prevents an agency from apply-  
8           ing new or emerging technologies to improve effi-  
9           ciency and effectiveness of government;

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

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

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

18          (15) whether, and the extent to which, the re-  
19          peal of the major rule or set of major rules would  
20          impact public health;

21          (16) the review of the report submitted by the  
22          Comptroller General of the United States under sub-  
23          section (a)(2); and

24          (17) such other criteria as the Administrator  
25          determines to identify major rules or sets of major

1 rules that can be repealed to eliminate or reduce un-  
 2 necessarily burdensome costs to the United States  
 3 economy.

4 (c) CONSIDERATION BY CONGRESS.—Not later than  
 5 30 days after the date on which the Administrator submits  
 6 the list of major rules or sets of major rules to Congress  
 7 under subsection (a)(3)(A)(ii), each appropriate congres-  
 8 sional committee shall—

9 (1) review each such major rule or set of major  
 10 rules that is within the jurisdiction of the committee  
 11 to determine if the major rule or set of major rules  
 12 should be modified, consolidated, or repealed; and

13 (2) issue a recommendation to modify, consoli-  
 14 date, or repeal the major rule or set of major rules  
 15 in a joint resolution.

16 **SEC. 4. EXPEDITED PROCEDURES FOR CONSIDERATION OF**  
 17 **JOINT RESOLUTION.**

18 (a) INTRODUCTION OF JOINT RESOLUTION.—

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

20 (A) shall be introduced in the Senate (by  
 21 request) by the majority leader or minority  
 22 leader of the Senate or by a Member of the  
 23 Senate designated by the majority leader or mi-  
 24 nority leader of the Senate not later than 60  
 25 days after the date on which the date on which

1 each appropriate congressional committee has  
2 issued the recommendation required under sec-  
3 tion 3(c); and

4 (B) shall be introduced in the House of  
5 Representatives (by request) by the Speaker of  
6 the House of Representatives or the minority  
7 leader of the House of Representatives or by a  
8 Member of the House of Representatives des-  
9 ignated by the Speaker of the House of Rep-  
10 resentatives or the minority leader of the House  
11 of Representatives not later than 60 days after  
12 the date on which the date on which each ap-  
13 propriate congressional committee has issued  
14 the recommendation required under section  
15 3(c).

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

20 (A) the joint resolution was introduced  
21 during the previous Congress after the date  
22 that was 210 days before the date of the sine  
23 die adjournment of such previous Congress; and

24 (B) there was not a vote in either House  
25 of Congress on passage of the joint resolution

1 introduced under subparagraph (A) during the  
2 previous Congress by which the joint resolution  
3 was not agreed to.

4 (b) EXPEDITED CONSIDERATION IN HOUSE OF REP-  
5 RESENTATIVES.—

6 (1) REPORTING AND DISCHARGE.—Any com-  
7 mittee of the House of Representatives to which a  
8 joint resolution is referred shall report it to the  
9 House of Representatives not later than 180 days  
10 after the date on which the joint resolution is intro-  
11 duced or reintroduced in the House of Representa-  
12 tives under subsection (a). If a committee fails to re-  
13 port the joint resolution within that period, the com-  
14 mittee shall be discharged from further consider-  
15 ation of the joint resolution and the joint resolution  
16 shall be referred to the appropriate calendar.

17 (2) PROCEEDING TO CONSIDERATION.—

18 (A) IN GENERAL.—After each committee  
19 authorized to consider a joint resolution reports  
20 it to the House of Representatives or has been  
21 discharged from its consideration, it shall be in  
22 order, not later than 210 days after the date on  
23 which the joint resolution is introduced or re-  
24 introduced in the House of Representatives  
25 under subsection (a), to move to proceed to con-

1           sider the joint resolution in the House of Rep-  
2           resentatives.

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

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

7                   (ii) such a motion shall not be in  
8                   order after the House of Representatives  
9                   has disposed of a motion to proceed on the  
10                  joint resolution;

11                  (iii) the previous question shall be  
12                  considered as ordered on the motion to its  
13                  adoption without intervening motion;

14                  (iv) the motion shall not be debatable;  
15                  and

16                  (v) a motion to reconsider the vote by  
17                  which the motion is disposed of shall not  
18                  be in order.

19           (3) CONSIDERATION.—If the House of Rep-  
20           resentatives proceeds to consideration of a joint res-  
21           olution—

22                   (A) the joint resolution shall be considered  
23                   as read;

1 (B) all points of order against the joint  
2 resolution and against its consideration are  
3 waived;

4 (C) the previous question shall be consid-  
5 ered as ordered on the joint resolution to its  
6 passage without intervening motion except 10  
7 hours of debate equally divided and controlled  
8 by the proponent and an opponent;

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

11 (E) a motion to reconsider the vote on pas-  
12 sage of the joint resolution shall not be in  
13 order.

14 (c) 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           (d) RULES RELATING TO SENATE AND HOUSE OF  
23           REPRESENTATIVES.—

24           (1) COORDINATION WITH ACTION BY OTHER  
25           HOUSE.—If, before the passage by one House of a



1 joint resolution of that House, that House receives  
2 from the other House a joint resolution—

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

5 (B) with respect to a joint resolution of the  
6 House receiving the resolution—

7 (i) the procedure in that House shall  
8 be the same as if no joint resolution had  
9 been received from the other House; and

10 (ii) the vote on passage shall be on  
11 the joint resolution of the other House.

12 (2) TREATMENT OF JOINT RESOLUTION OF  
13 OTHER HOUSE.—If one House fails to introduce or  
14 consider a joint resolution under this section, the  
15 joint resolution of the other House shall be entitled  
16 to expedited floor procedures under this section.

17 (3) TREATMENT OF COMPANION MEASURES.—  
18 If, following passage of a joint resolution in the Sen-  
19 ate, the Senate receives the companion measure  
20 from the House of Representatives, the companion  
21 measure shall not be debatable.

22 (4) CONSIDERATION AFTER PASSAGE.—If the  
23 President vetoes the joint resolution, consideration  
24 of a veto message in the Senate under this para-  
25 graph shall be not more than 10 hours equally di-

1 vided between the majority and minority leaders or  
2 their designees.

3 (e) RULES OF HOUSE OF REPRESENTATIVES AND  
4 SENATE.—This section is enacted by Congress—

5 (1) as an exercise of the rulemaking power of  
6 the Senate and House of Representatives, respec-  
7 tively, and as such is deemed a part of the rules of  
8 each House, respectively, but applicable only with re-  
9 spect to the procedure to be followed in that House  
10 in the case of a joint resolution, and to supersede  
11 other rules only to the extent that it is inconsistent  
12 with such rules; and

13 (2) with full recognition of the constitutional  
14 right of either House to change the rules (so far as  
15 relating to the procedure of that House) at any time,  
16 in the same manner, and to the same extent as in  
17 the case of any other rule of that House.

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