



August 17, 2020

Support the Next Generation of Regulatory Reform

On behalf of our activist community, I urge you to contact your representative and ask him or her to cosponsor seven newly-introduced bills that mark the next generation of regulatory reform. Spearheaded by members of the Republican Study Committee (RSC), these bills are designed to offer solutions to problems identified in the RSC's Government Efficiency, Accountability, and Reform (GEAR) Task Force report, [*Power, Practices, Personnel: 100+ Commonsense Solutions to Better Government*](#), which was released earlier this year.

There has been an intense focus over the past several years on the administrative state. Since 2017, the Trump administration has spent much of its time deregulating where it can, albeit with a few exceptions, and has cut an average of eight regulations for every new one implemented.

In 2017 and 2018, Congress used the Congressional Review Act to cancel regulations published in the final days of the Obama administration. Although proposals like the Regulations from the Executive In Need of Scrutiny (REINS) Act, H.R. 3972, do restore some Article I authority to Congress, there is more Congress can and should do to address the growing administrative state in a precise way. These seven bills are the first package from members of the RSC that represent the next generation of regulatory reform.

Eliminate Agency Excess Space Act, H.R. 6128: Introduced by Rep. Greg Murphy (R-N.C.), the Eliminate Agency Excess Space Act would allow federal agencies to lease or sell unused office space. Currently, any federal agency that wants to lease or sell unused office space must check with the General Services Administration (GSA) if another federal agency can use the office space, a layer of bureaucracy that slows down efforts to lease or sell the office space.

A [2017 report](#) from the Congressional Research Service found that “federal agencies owned 3,120 buildings that were vacant (unutilized), and another 7,859 that were partially empty (underutilized).” This bill could save taxpayers \$15 billion over five years.

Guidance Out of Darkness (GOOD) Act, H.R. 7396: Introduced by Rep. Mark Walker (R-N.C.), the GOOD Act would require federal agencies to post regulatory guidance documents

online, making them more accessible to those businesses affected by the guidance and to the American public.

Regulatory guidance documents are often issued by federal agencies in addition to their rules, but the former are not subject to the same public process as rules, which are required to be shared with the public for comments and input prior to finalization. As regulatory guidance documents include vital information for businesses to know for compliance reasons, and for Americans to know for transparency purposes, they should at the very least be posted in a central and accessible location.

Agencies often use regulatory guidance documents to circumvent, outside of the watchful eye of the public, the restrictions put on the bureaucracy by Congress. Not only this is not a transparent practice, but it is also an intentionally deceptive practice by agencies to exceed their afforded power and impose additional regulations without facing backlash or being held accountable. It is unfair to businesses and to the American public to be kept in the dark on what bureaucrats are doing behind closed doors.

The GOOD Act would require that all new agency guidance documents be published on the agency website the day of their issuance, that all existing guidance documents from the past ten years be published on the agency website within sixty days of enactment, and that all rescinded guidance documents remain on the agency website with an indication of and date of rescission.

Freedom from Regulations Act, H.R. 7768: Introduced by Rep. Ted Budd (R-N.C.), the Freedom from Regulations Act would require independent federal agencies such as the Federal Communications Commission (FCC) and the Securities and Exchange Commission (SEC) to comply with statutes that promote transparency in the rulemaking process. These statutes include the Paperwork Reduction Act and the Unfunded Mandates Reform Act. The Paperwork Reduction Act is designed to reduce the compliance burden on businesses and individuals while the Unfunded Mandates Reform Act was passed to reduce the impact of unfunded mandates on state and local governments, as well as businesses.

Separation of Powers Restoration Act, H.R. 7895: Introduced by Rep. Kelly Armstrong (R-N.D.), the Separation of Powers Restoration Act would reduce the influence of the federal bureaucrats in the regulatory state by ending the *Chevron* deference established by the Supreme Court.

In 1984, the Supreme Court, in *Chevron U.S.A. v. Natural Resources Defense Council, Inc.*, ruled that federal courts could defer to federal regulatory agencies' interpretations of purportedly "silent or ambiguous" statutes or laws written by Congress. The result of the Supreme Court's decision has played a part in the alarming erosion of the constitutional separation of powers.

The Separation of Powers Restoration Act would end the *Chevron* deference and require federal courts to conduct a new, or *de novo*, and full review of all interpretations of constitutional and statutory law made by a regulatory agency.

SMART Government Act, H.R. 7949: Introduced by Rep. Ben Cline (R-Va.), the SMART Government Act would modernize the federal government's technology practices by consolidating data centers, which would save taxpayers money, as well as track and report software assets to eliminate redundancies and require that documents sent to the National Archives are transmitted electronically.

Regulatory Report Card Act, H.R. 8006: Introduced by Rep. Paul Gosar (R-Ariz.), the Regulatory Report Card Act would establish regulatory report cards for federal agencies on regulatory policy and economic impact, with letter grades for each agency to be determined by the Government Accountability Office (GAO). The regulatory policy score will be determined on the answers to a series of questions, including whether the agency is in compliance with the Administrative Procedures Act (APA) and the Congressional Review Act (CRA) and whether a majority of their rules and regulations contain sunset provisions. The economic impact is determined by the total estimated cost of the regulation on entities and individuals and dividing the cost by the total number of regulations issued by the agency.

Protecting Jobs and Wages from Regulations Act, H.R. 8035: Introduced by Rep. Tim Burchett (R-Tenn.), the Protecting Jobs and Wages from Regulations Act would require federal agencies to disclose data used to justify a regulation, and provide an estimate of a regulation's impact on wages and jobs.

For these reasons, I urge you to contact your representative and ask him or her to cosponsor the Eliminate Agency Excess Space Act, H.R. 6128; the Guidance Out of Darkness (GOOD) Act, H.R. 7396; the Freedom from Regulations Act, H.R. 7768; the Separation of Powers Restoration Act, H.R. 7895; the SMART Government Act, H.R. 7949; the Regulatory Report Card Act, H.R. 8006; and the Protecting Jobs and Wages from Regulations Act, H.R. 8035.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Brandon', with a stylized flourish at the end.

Adam Brandon
President, FreedomWorks