



H.R. 998 – SCRUB Act (Rep. Smith, R-MO)

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FLOOR SCHEDULE:

Expected to be considered on February 28, 2017, under a structured [rule](#).

TOPLINE SUMMARY:

[H.R. 998](#) would establish a Retrospective Regulatory Review Commission to identify and recommend to Congress existing federal regulations that should be repealed in order to reduce regulatory costs for the U.S. government. Regulations eligible for repeal would include those that have achieved their purpose, are outdated, have unreasonable paperwork burdens, are ineffective, impede the implementation of newer, better technology, or impose other unnecessary regulatory burdens. The commission would have a goal of achieving a 15% reduction in the overall economic cost of regulation, with minimal disruption in its effectiveness.

COST:

A Congressional Budget Office (CBO) estimate is not yet available.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No. The legislation creates a commission with the ultimate goal of shrinking the scope of federal regulation.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Section 101 would establish the Retrospective Regulatory Review Commission to review regulations for repeal and would establish a termination date that is five and a half years after enactment of the legislation. The commission would consist of nine members appointed by the president, subject to confirmation by the Senate. These members would be selected from lists of recommendations from House and Senate leadership. The commission would be able to hold meetings, public hearings, and issue subpoenas. Section 101 also establishes the rate of pay and travel expenses for a director and staff.

The commission would be required to review regulations for repeal, prioritizing older regulations, with an ultimate goal of reducing the overall economic cost of regulation by 15%. In reviewing regulations, the commission would be required to consider: (1) whether the purpose of the regulation was achieved; (2) whether costs are justified by the benefits of the regulation; (3) whether the regulation is obsolete; (4) whether the regulation is ineffective; (5) if compliance costs are excessive; (6) whether a regulation inhibits growth; (7) whether the regulation hampers competition; (8) whether the rule limits the

application of new technologies; (9) whether the rule harms wage growth; and, (10) other considerations to reduce unnecessary costs.

This section would require the commission to issue notices of meetings and hearings, issue reports for the meetings, and submit an annual report to Congress. It would also provide for Congressional consideration of commission recommendations. Agencies would be required to eliminate regulations as recommendations are approved by a joint resolution. It would also require that agencies ensure that any new rules made to re-implement statutory authority that underlay repealed rules do not re-impose substantively similar negative effects.

This section would also authorize funding for the commission of up to \$30 million. It would require the commission to set up a website including information about their meetings and hearings, and would require submission of a report to Congress. It would also clarify that the Federal Advisory Committee Act would apply to the commission.

Section 201 would require agencies to offset the economic costs of new regulation by eliminating regulations identified by the commission with equal or greater costs to the U.S. economy. Agencies would be allowed to repeal rules before issuing new regulations, to apply those cost savings to new regulations.

Section 202 would require these regulatory cut-go procedures to be applicable to an agency until they have eliminated all regulations required per the legislation.

Section 203 would require the Administrator for the Office of Information and Regulatory Affairs to review and certify agency determinations of costs of new regulations issued per section 201.

Section 301 would require agencies, in issuing new rules, to include plans for a decennial review of such rules, and would require new major rules to be reviewed in a similar manner as described in section 101.

Section 401 would subject agency compliance with the repeal provisions to judicial review.

Many have attributed waning job creation and economic growth as the result of overly burdensome, seemingly never ending federal regulations. According to a past committee [report](#), the total federal regulatory burden hovers at greater than \$1.86 trillion annually, amounting to roughly \$15,000 per year, per household. Many of these regulations have completed their purposes, are poorly executed, or are simply unnecessary.

The House has previously passed several pieces of legislation addressing overly burdensome regulations. The SCRUB Act was previously introduced in the 114th Congress and passed on January 7, 2016 by a [vote](#) of 245-174. A past legislative bulletin can be found [here](#). A current committee report can be found [here](#).

AMENDMENTS:

1. [Rep. Beyer](#) (D-VA) – This amendment would prohibit a commission member from serving as a registered lobbyist during the previous two-year period. It would also require commission members to file financial disclosure reports.
2. [Rep. DeSaulnier](#) (D-CA) – This amendment would require the consideration of whether, and to the extent which, public health would be impacted by repealing any federal rule.
3. [Rep. McSally](#) (R-AZ) – This amendment would expand the scope of the commission’s review to determine whether all rules are compliant with [certain provisions](#) of the Congressional Review Act related to reports to Congress.
4. [Rep. Plaskett](#) (D-VI) – This amendment would prohibit funding from being allocated to carry out this legislation.
5. [Rep. McNerney](#) (D-CA) – This amendment would exempt from the legislation rules that pertain to the physical and cyber security of the bulk-power system.

6. [Rep. Krishnamoorthi](#) (D-IL) – This amendment would prohibit this legislation from applying to rules that pertain to the safety of the national airspace system.
7. [Rep. Krishnamoorthi](#) (D-IL) – This amendment would prohibit this legislation from applying to rules that pertain to airport noise restrictions.
8. [Rep. Bonamici](#) (D-OR) – This amendment would exempt from the legislation rules that are prescribed by the Secretary of Education that pertain to consumer protections for those with student loans.
9. [Rep. Bonamici](#) (D-OR) – This amendment would exempt from the legislation any rules pertaining to Title I of the Elementary and Secondary Education Act of 1965.
10. [Rep. Raskin](#) (D-MD) - This amendment would exempt from the legislation any rules pertaining to the Clean Air Act.
11. [Rep. Moore](#) (D-WI) - This amendment would exempt from the legislation any rules related to any federal obligation to a tribal government, or any rules supporting tribal sovereignty and self-determination.
12. [Rep. Cummings](#) (D-MD) – This amendment would exempt from the legislation any rules pertaining to protections for whistleblowers, or to penalties against those who retaliate against whistleblowers.

COMMITTEE ACTION:

H.R. 998 was introduced on February 9, 2017, and was referred the House Committees on the Judiciary and on Oversight and Government Reform.

ADMINISTRATION POSITION:

A Statement of Administration Policy can be found [here](#).

CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to: Article I, Section 1 of the United States Constitution, in that the legislation concerns the exercise of legislative powers generally granted to Congress by that section, including the exercise of those powers when delegated by Congress to the Executive; Article I, Sections 8 and 9 of the United States Constitution, in that the legislation concerns the exercise of specific legislative powers granted to Congress by those sections, including the exercise of those powers when delegated by Congress to the Executive; Article I, Section 8, clause 18 of the United States Constitution, in that the legislation exercises legislative power granted to Congress by that clause "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof;" and, Article III, Sections 1 and 2 of the United States Constitution, in that the legislation defines or affects judicial powers and cases that are subject to legislation by Congress.

NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*