

114TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To improve the effectiveness of major rules in accomplishing their regulatory objectives by promoting retrospective review, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Ms. HEITKAMP (for herself and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on

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## A BILL

To improve the effectiveness of major rules in accomplishing their regulatory objectives by promoting retrospective review, 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 “Smarter Regulations  
5 Through Advance Planning and Review Act of 2015” or  
6 the “Smarter Regs Act of 2015”.

1 **SEC. 2. INCORPORATING RETROSPECTIVE REVIEW INTO**  
2 **NEW MAJOR RULES.**

3 (a) IN GENERAL.—Subchapter II of chapter 5 of title  
4 5, United States Code, is amended—

5 (1) in section 551—

6 (A) in paragraph (13), by striking “; and”  
7 and inserting a semicolon;

8 (B) in paragraph (14), by striking the pe-  
9 riod at the end and inserting a semicolon; and

10 (C) by adding at the end the following:

11 “(15) ‘Administrator’ means the Administrator  
12 of the Office of Information and Regulatory Affairs  
13 of the Office of Management and Budget; and

14 “(16) ‘major rule’ means any rule that the Ad-  
15 ministrator finds has resulted in or is likely to result  
16 in—

17 “(A) an annual effect on the economy of  
18 \$100,000,000 or more;

19 “(B) a major increase in costs or prices for  
20 consumers, individual industries, Federal,  
21 State, or local government agencies, or geo-  
22 graphic regions; or

23 “(C) significant adverse effects on competi-  
24 tion, employment, investment, productivity, in-  
25 novation, or on the ability of United States-  
26 based enterprises to compete with foreign-based

1 enterprises in domestic and export markets.”;  
2 and

3 (2) in section 553, by adding at the end the fol-  
4 lowing:

5 “(f) REGULATION-SPECIFIC FRAMEWORKS.—

6 “(1) IN GENERAL.—Beginning 180 days after  
7 the date of enactment of this subsection, when an  
8 agency publishes a proposed or final major rule in  
9 the Federal Register, the agency shall include a  
10 framework for reassessing the major rule under  
11 paragraph (2), which shall include—

12 “(A) a clear statement of the regulatory  
13 objectives of the major rule, including the soci-  
14 etal benefit and cost of the major rule;

15 “(B) the methodology by which the agency  
16 plans to analyze the major rule, including  
17 metrics by which the agency can measure—

18 “(i) the effectiveness and benefits of  
19 the major rule in producing the regulatory  
20 objectives of the major rule; and

21 “(ii) the impacts, including any costs,  
22 of the major rule on regulated entities;

23 “(C) a plan for gathering data regarding  
24 the metrics described in subparagraph (B) on  
25 an ongoing basis, or at periodic times, during

1 the implementation of the major rule, including  
2 the method by which the agency will invite the  
3 public to participate in the review process and  
4 seek input from other agencies, taking into ac-  
5 count any burden to the public in supplying rel-  
6 evant data to agencies; and

7 “(D) a specific time frame, as appropriate  
8 to the major rule and not more than 10 years,  
9 under which the agency shall conduct the reas-  
10 sessment of the major rule in accordance with  
11 paragraph (2)(A).

12 “(2) REASSESSMENT.—

13 “(A) IN GENERAL.—Each agency shall as-  
14 sess the data collected under paragraph (1)(C),  
15 using the methodology set forth in paragraph  
16 (1)(B), with respect to a major rule—

17 “(i) to analyze how the actual benefits  
18 and costs of the major rule may have var-  
19 ied from those anticipated at the time the  
20 major rule was issued; and

21 “(ii) to determine whether—

22 “(I) the major rule is accom-  
23 plishing its regulatory objective;

1                   “(II) the major rule has been  
2 rendered unnecessary, taking into  
3 consideration—

4                   “(aa) changes in the subject  
5 area affected by the major rule;  
6 and

7                   “(bb) whether the major  
8 rule overlaps, duplicates, or con-  
9 flicts with other rules or, to the  
10 extent feasible, State and local  
11 government regulations; and

12                   “(III) other alternatives to the  
13 major rule or modification of the  
14 major rule could achieve better results  
15 while imposing a smaller burden on  
16 society or at a lower cost, taking into  
17 consideration any cost already in-  
18 curred.

19                   “(B) SUBSEQUENT ASSESSMENTS.—If,  
20 after a reassessment of a major rule under sub-  
21 paragraph (A), an agency determines that the  
22 major rule will remain in effect with or without  
23 modification, the agency shall—

24                   “(i) determine a specific time, as ap-  
25 propriate to the major rule and not more

1           than 10 years, under which the agency  
2           shall conduct another assessment of the  
3           major rule in accordance with subpara-  
4           graph (A); and

5           “(ii) if the assessment conducted  
6           under clause (i) does not result in a repeal  
7           of the major rule, periodically reassess the  
8           major rule in accordance with subpara-  
9           graph (A) to ensure the major rule con-  
10          tinues to meet the regulatory objective.

11          “(C) PUBLICATION.—Not later than 180  
12          days after the date on which an agency com-  
13          pletes a reassessment of a major rule under  
14          subparagraph (A), the agency shall publish a  
15          notice of availability of the results of the reas-  
16          sessment in the Federal Register, including the  
17          specific time for any subsequent assessment of  
18          the major rule under subparagraph (B)(i), if  
19          applicable.

20          “(3) OMB OVERSIGHT.—The Administrator  
21          shall—

22                 “(A) issue guidance for agencies regarding  
23                 the development of the framework under para-  
24                 graph (1) and the conduct of the reassessments  
25                 under paragraph (2)(A);

1           “(B) oversee the timely compliance of  
2 agencies with this subsection; and

3           “(C) ensure that the results of each reass-  
4 sessment conducted under paragraph (2)(A)  
5 are—

6                   “(i) published promptly on a central-  
7 ized Federal website; and

8                   “(ii) noticed in the Federal Register  
9 in accordance with paragraph (2)(C).

10           “(4) RULE OF CONSTRUCTION.—Nothing in  
11 this subsection shall be construed to affect—

12                   “(A) the authority of an agency to reassess  
13 or modify a major rule of the agency earlier  
14 than the end of the time frame specified for the  
15 major rule under paragraph (1)(D); or

16                   “(B) any other provision of law that re-  
17 quires an agency to conduct retrospective re-  
18 views of rules issued by the agency.”.

19           (b) AUTHORIZATION OF APPROPRIATIONS.—There  
20 are authorized to be appropriated such sums as may be  
21 necessary to carry out the amendments made by sub-  
22 section (a).