



Insight

The Senate on Regulation: Establishing a Regulatory Budget

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The American Action Forum (AAF) has spent considerable time outlining the [efficacy](#), [potential benefits](#), and [international perspectives](#) behind a budget for federal regulation. Now, Senator Dan Sullivan (R-AK) has sponsored the “RED Tape Act of 2015” ([S. 1944](#)), which aims to install a British-style “one-in, one-out” method for regulatory accounting.

DETAILS

The Red Tape Act is fairly straightforward: any new rule that would create a financial or administrative burden would need to be offset by the repeal of one or more existing regulations. The bill highlights traditional notice-and-comment rulemakings and goes further: “any rule issued by an agency pursuant to an Executive order or Presidential memorandum; and any rule issued by an agency due to the issuance of a memorandum, guidance document, bulletin, or press release.” As agency guidance continues to be a source of stealth regulation, it’s important for Congress to focus its oversight authority on measures that might evade traditional publication in the *Federal Register*.

What are the penalties for agency non-compliance? As AAF has [detailed](#) in the [past](#), agencies routinely violate or ignore administrative procedure. Any regulatory reform legislation must include some check to ensure agencies actually follow the law. The Red Tape Act would withhold cost of living adjustments to agencies until they comply.

Finally, the bill directs agencies to use the Unified Agenda to publish a list of not only pending new regulation, but also existing regulations that agencies plan to repeal. As the bill states, each agency must submit a list of “each covered rule that the agency intends to issue during the 6-month period following the date of submission.” This isn’t a radical departure from the purpose of the Unified Agenda. For example, [there are three](#) “economically significant” regulations pending at the White House now that were not first published in the Unified Agenda. Enhanced coverage in the Unified Agenda guarantees the public and Congress the opportunity to learn about an agency’s regulatory slate and how those regulations will be offset from the repeal of existing measures.

CONCLUSION

A regulatory budget offers a practical and internationally recognized path to controlling administrative burdens while continuing to protect health and safety. Contrary to claims that a regulatory budget would gut the environment or worker protections, it has proven effective in both the United Kingdom and Canada. Agencies would consider repeal or modification of past rules based on their effectiveness, benefit-cost considerations, and obsolescence. The Red Tape Act is another important bill to advance the discussion of regulation in Congress and the possibility for a balanced regulatory budget.