AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

119TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPT. 119–108
Part 1

PROVE IT ACT

MAY 21, 2025.—Ordered to be printed

Mr. WILLIAMS of Texas, from the Committee on Small Business, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1163]

The Committee on Small Business, to whom was referred the bill (H.R. 1163) to amend title 5, United States Code, to require greater transparency for Federal regulatory decisions that impact small businesses, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

		Page
I.	Purpose and Bill Summary	5
II.	Need for Legislation	5
III.	Hearings	5
IV.	Committee Consideration	5
V.	Committee Votes	6
VI.	Section-by-Section of H.R. 1163	12
VII.	Congressional Budget Office Cost Estimate	13
VIII.	New Budget Authority, Entitlement Authority, and Tax Expenditures	13
IX.	Oversight Findings & Recommendations	13
X.	Performance Goals and Objectives	13
XI.	Statement of Duplication of Federal Programs	13
XII.	Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits	13
XIII.	Federal Mandates Statement	14
XIV.	Federal Advisory Committee Statement	14
XV.	Applicability to Legislative Branch	14
XVI.	Statement of Constitutional Authority	14
XVII.	Changes in Existing Law Made by the Bill, as Reported	14
XVIII.	Minority Views	23

59–006

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prove It Act".

SEC. 2. INITIAL REGULATORY FLEXIBILITY ANALYSIS.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended—

(1) in section 603(b)—

(A) in paragraph (5), by striking the period at the end and inserting "; and"; and

(B) by adding at the end the following:

"(6) where feasible, any reasonably foreseeable potential indirect costs the proposed rule may impose on small entities, including small entities that—

"(A) purchase products or services from, sell products or services to, or otherwise conduct business with entities directly regulated by the rule;

"(B) are directly regulated by other governmental entities as a result of the rule; or

"(C) are not directly regulated by the agency as a result of the rule but are otherwise subject to other agency rules as a result of the rule.";

(2) in section 605(b), by striking "The agency" and inserting "Not later than 10 days after completing the certification described in this subsection, the agency"; and

(3) by inserting after section 605 the following:

"§ 605A. Review procedures relating to initial regulatory flexibility analysis certifications

"(a) FILING A PETITION TO REVIEW AGENCY CERTIFICATION OF A PROPOSED RULE.—

"(1) IN GENERAL.—Any small entity, group of small entities, or organization representing the interests of small entities may petition the Chief Counsel for Advocacy of the Small Business Administration (in this section referred to as the 'Chief Counsel') to review a certification published under section 605(b) that a proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

"(2) FORM.—The Chief Counsel shall—

"(A) determine the method, timing, and form of disseminating a petition described in paragraph (1); and

"(B) display the information described in subparagraph (A) on the website of the Office of Advocacy of the Small Business Administration in a conspicuous manner.

"(3) CONTENTS.—Each petition described in paragraph (1) with respect to a certification published under section 605(b) for a proposed rule shall clearly and concisely—

"(A) specify the name of the petitioner and a telephone number, a mailing address, and an email address that the Chief Counsel may use to communicate with the petitioner;

"(B) if the petitioner is an organization, provide additional identifying information, as applicable, including the organizational or corporate status of the petitioner, the State of incorporation of the petitioner, the registered agent of the petitioner, the interest of the petitioner in representing small entities affected by the proposed rule and the certification at issue, and the name and authority of the individual who signed the petition on behalf of the organizational or corporate petitioner;

"(C) present the specific problems or issues that the petitioner believes should be addressed or considered through a review of the certification, such as—

"(i) any specific circumstances in which the determination of the certification that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities is incorrect, incomplete, or inadequate; or

"(ii) why the proposed rule would, if promulgated, have a significant economic impact on a substantial number of small entities;

"(D) cite, enclose, or reference any relevant and non-protected or confidential technical, scientific, or other data or information supporting any assertion of the problems or issues with the certification;

"(E) present a proposed solution to the problems or issues raised in the petition, including potential regulatory or compliance alternatives to the proposed rule;

"(F) provide an analysis, discussion, or argument that explains how the proposed solution described in subparagraph (E) solves the problems or issues raised in the petition; and

"(G) cite, enclose, or reference any other publicly available data or information supporting the proposed solution described in subparagraph (E).

"(b) CONSULTATION.—

"(1) IN GENERAL.—Any entity or organization desiring to file a petition under subsection (a) may request a consultation with the Chief Counsel before or after filing the petition.

"(2) FORM.—The Chief Counsel shall—

"(A) determine the method, timing, and form of requesting a consultation with the Chief Counsel under paragraph (1); and

"(B) display the information described in subparagraph (A) on the website of the Office of Advocacy of the Small Business Administration in a conspicuous manner.

"(3) LIMITATIONS ON ASSISTANCE.—In any consultation regarding a petition under paragraph (1), the Chief Counsel—

"(A) may only—

"(i) describe the process for filing, docketing, tracking, closing, amending, withdrawing, and resolving the petition; and

"(ii) assist the petitioner to clarify the petition so that the Chief Counsel is able to understand the issues of concern to the petitioner; and

"(B) may not advise a petitioner on whether the petition should be amended or withdrawn.

"(c) PRIMA FACIE REVIEW.—

"(1) IN GENERAL.—Upon receipt of a petition filed under this section with respect to the certification of a proposed rule, the Chief Counsel shall make an initial prima facie determination on the merit of the issues raised in the petition as to the properness of the certification and whether the proposed rule in question would, if promulgated, have a significant economic impact on a substantial number of small entities.

"(2) NO FURTHER REVIEW.—If, following the prima facie review of a petition under paragraph (1), the Chief Counsel determines that the issues raised in the petition do not merit further review by the Chief Counsel, the Chief Counsel shall, not later than 10 days after receipt of the petition, inform the petitioner of that determination and the matter shall be closed.

"(3) FURTHER REVIEW.—If, following the prima facie review of a petition under paragraph (1), the Chief Counsel determines that the issues raised in the petition do merit further review by the Chief Counsel, the Chief Counsel shall, not later than 10 days after receipt of the petition, inform the petitioner and the agency that promulgated the proposed rule that the Chief Counsel shall conduct a full review of the certification and proposed rule to which the petition relates under subsection (d).

"(d) FULL REVIEW.—

"(1) CONSIDERATIONS; MEETING.—In conducting a full review under this subsection with respect to the certification made under section 605(b), the Chief Counsel shall—

"(A) consider—

"(i) whether the agency that promulgated the proposed rule correctly determined which small entities will be affected by the proposed rule;

"(ii) whether the agency considered adequate economic data to assess whether the proposed rule will have a significant impact on a substantial number of small entities; and

"(iii) the economic implications of the proposed rule; and

"(B) convene a virtual or in-person meeting between the Chief Counsel, the petitioner, representatives of the agency that promulgated the proposed rule who are determined appropriate by the Chief Counsel, and the Administrator of the Office of Information and Regulatory Affairs to—

"(i) provide positions and support for those positions regarding the certification of the proposed rule; and

"(ii) allow the Chief Counsel to ask questions as the Chief Counsel determines necessary to make a final determination as to the validity of the certification.

"(2) PUBLICATION.—Not later than 30 days after the date on which the Chief Counsel begins a full review of a certification made with respect to a proposed rule under paragraph (1), the Chief Counsel shall submit to the petitioner and the agency that promulgated the proposed rule, and publish in the Federal Reg-

ister and on the website of the Office of Advocacy of the Small Business Administration, the results of the review conducted under paragraph (1).

"(3) REQUIREMENT TO PERFORM ANALYSES.—If, after a full review of a certification made with respect to a proposed rule under paragraph (1), the Chief Counsel determines that the proposed rule will, if promulgated, have a significant economic impact on a substantial number of small entities, the agency that promulgated the proposed rule shall perform an initial regulatory flexibility analysis and a final regulatory flexibility analysis for the proposed rule under sections 603 and 604, respectively.

"(4) PENALTY.—If an agency fails to attend the required meeting under paragraph (1)(B) or in any other way fails to assist the Chief Counsel in a full review under paragraph (1) with respect to a proposed rule of the agency, as determined by the Chief Counsel, the final rule shall not apply to small entities.

"(5) JUDICIAL REVIEW.—For purposes of judicial review under chapter 7 of this title, a certification made by an agency under section 605(b) for which a petition is filed under subsection (a) shall be considered final agency action as of the date on which the Chief Counsel—

"(A) makes a determination under subsection (c)(2) that the issues raised in the petition do not merit further review; or

"(B) publishes the results of a full review of the certification under paragraph (1).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 6 of title 5, United States Code, is amended by inserting after the item relating to section 605 the following:

"605A. Review procedures relating to initial regulatory flexibility analysis certifications.".

SEC. 3. PUBLICATION OF GUIDANCE.

Section 609 of title 5, United States Code, is amended by adding at the end the following:

"(f) With respect to any rule that an agency determines is likely to have a significant economic impact on a substantial number of small entities, the head of the agency shall, on regulations.gov or any similar internet website—

"(1) publish all guidance documents and other relevant documents, as determined by the agency, including any updated guidance documents that set forth interpretations of the rule; and

"(2) allow for comments on the documents described in paragraph (1) to ensure that small entities may access and provide feedback on those documents.".

SEC. 4. REVIEW PROCEDURES FOR SECTION 610 PERIODIC REVIEW OF RULES.

(a) IN GENERAL.—Section 610 of title 5, United States Code, is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "the following factors";

(B) in paragraph (4), by striking "and" at the end;

(C) in paragraph (5), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(6) any indirect costs described in the initial regulatory flexibility analysis under section 603(b)(6), and any other indirect costs that may have arisen during the 10-year period described in subsection (a).";

(2) by adding at the end the following:

"(d) If an agency fails to conduct a review of a rule as required under this section within the 10-year period described in subsection (a)—

"(1) the Chief Counsel for Advocacy of the Small Business Administration shall notify the agency that the rule has ceased to be effective;

"(2) the agency shall publish in the Federal Register a notification that the rule has ceased to be effective, and solicit comments for why the rule should be reinstated; and

"(3) if, based on the comments received under paragraph (2), the agency determines that the rule should be reinstated—

"(A) the agency shall have 180 days beginning on the date of that determination to complete the review of the rule under this section; and

"(B) upon completion of the review under subparagraph (A), the rule shall be reinstated, notwithstanding the notice and comment rulemaking procedures under section 553 of this title.".

(b) APPLICATION.—The amendment made by subsection (a)(2) shall apply with respect to any final rule issued by an agency—

(1) during the 5-year period preceding the date of enactment of this Act; or

(2) on or after the date of enactment of this Act.

SEC. 5. NO ADDITIONAL FUNDS.

No additional funds are authorized to be appropriated for the purpose of carrying out this Act or the amendments made by this Act.

I. PURPOSE AND BILL SUMMARY

On February 10, 2025, Rep. Finstad, along with Rep. Hageman, Rep. Moran, Rep. Salazar, Rep. Meuser, Rep. Nunn, Rep. Steil, and Rep. Stauber, introduced H.R. 1163, the *Prove It Act of 2025*. H.R. 1163 strengthens the Regulatory Flexibility Act (RFA) by requiring federal agencies to thoroughly assess the direct and indirect impacts of regulations on small businesses and to publicly share updates and reviews of final rules. The bill also allows small businesses to challenge agency actions through the SBA's Office of Advocacy when agencies fail to meet these requirements.

II. NEED FOR LEGISLATION

On May 22, 2024, the Committee released a report titled "Regulatory Flexibility Act (RFA) Report: Agencies' Noncompliance with the RFA." The report was a result of a 15-month long investigation in which the Committee found that agencies frequently failed to properly assess the true impact of their rules on small businesses, among other agency efforts to skirt RFA requirements.

This bill codifies efforts ordered under President Trump's Executive Order 14192 "Unleashing Prosperity Through Deregulation."[1] H.R. 1163 is necessary to address longstanding deficiencies in agency compliance with the RFA. The RFA requires "federal agencies to consider the effects of their regulations on small businesses and other small entities." Unfortunately, agencies are not properly considering the effects of their regulations on small businesses.

Congress has not amended the RFA since 2010, therefore it is essential for H.R. 1163 to strengthen procedural safeguards and shift power back to small businesses. The RFA was a pivotal first step in ensuring that small businesses have a way to challenge the overly burdensome administrative state, but agencies still underreport, minimize or ignore the effect regulations have on small businesses. The *Prove It Act of 2025* will help force the administrative state to comply with the RFA, ensure indirect costs on small businesses are properly accounted for, and gives small businesses a way to challenge non-compliant agencies.

III. HEARINGS

On April 1, 2025, the Committee on Small Business held a hearing examining matters related to H.R. 1163 entitled "The Golden Age: Unleashing Main Street Through Deregulation."

IV. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session, with a quorum being present, on April 30, 2025, and ordered H.R. 1163, as amended, to be reported favorably to the House of Representatives by a roll call vote of 15 ayes to 11 nos. During the markup five amendments were offered.

---

[1] Exec. Order No. 14,192, 90 Fed. Reg. 9065 (2025).

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. The Committee voted to favorably report H.R. 1163, as amended, to the House of Representatives at 6:21 PM.

The Committee considered the following amendments to H.R. 1163:

- Representative Finstad offered an amendment in the nature of a substitute. This amendment was adopted by voice vote.
- Representative Goodlander offered an amendment to the amendment in the nature of a substitute. The vote on the amendment failed 11 ayes to 15 nos.
- Representative McGarvey offered an amendment to the amendment in the nature of a substitute. The vote on the amendment failed 11 ayes to 15 nos.
- Representative Velázquez offered an amendment to the amendment in the nature of a substitute. The vote on the amendment failed 11 ayes to 15 nos.
- Representative Olszewski offered an amendment to the amendment in the nature of a substitute. The vote on the amendment failed 11 ayes to 15 nos.

Present	Representatives	Aye	Nay
	Mr. Stauber (MN-08)		X
	Mr. Meuser (PA-09)		X
	Ms. Van Duyne (TX-24)		X
	Mr. Ellzey (TX-06)		X
	Mr. Alford (MO-04)		X
	Mr. LaLota (NY-01)		X
	Mr. Finstad (MN-01)		X
	Mr. Wied (WI-08)		X
	Mr. Bresnahan (PA-08)		X
	Mr. Jack (GA-03)		X
	Mr. Downing (MT-02)		X
	Ms. King-Hinds (Del.-CNMI)		X
	Mr. Schmidt (KS-02)		X
	Mr. Patronis (FL-01)		X
	Ranking Member Velazquez (NY-07)	X	
	Mr. McGarvey (KY-03)	X	
	Ms. Scholten (MI-03)	X	
	Mrs. McIver (NJ-10)	X	
	Mr. Cisneros (CA-31)	X	
	Dr. Morrison (MN-03)	X	
	Mr. Latimer (NY-16)	X	
	Mr. Tran (CA-45)		
	Ms. Simon (CA-12)	X	
	Dr. Olszewski (MD-02)	X	
	Dr. Conaway (NJ-03)	X	
	Ms. Goodlander (NH-02)	X	
	Chairman Williams (TX-25)		X
	TOTALS	11	15

COMMITTEE ON SMALL BUSINESS
119th Congress (*First Session*)

Date: Wednesday, April 30, 2025

Measure: Amendment to the ANS to H.R. 1163

Time: 6:19 PM ET

Amendment #: 1

Offered By: Representative Goodlander

Result?	Agreed To: [ ] Not Agreed To: [X] Withdrawn: [ ]		
Voice Vote	*Ayes*	*Nays*	*Present*
	11	15	

FC Vote #	24

Present	Representatives	Aye	Nay
	Mr. Stauber (MN-08)		X
	Mr. Meuser (PA-09)		X
	Ms. Van Duyne (TX-24)		X
	Mr. Ellzey (TX-06)		X
	Mr. Alford (MO-04)		X
	Mr. LaLota (NY-01)		X
	Mr. Finstad (MN-01)		X
	Mr. Wied (WI-08)		X
	Mr. Bresnahan (PA-08)		X
	Mr. Jack (GA-03)		X
	Mr. Downing (MT-02)		X
	Ms. King-Hinds (Del.-CNMI)		X
	Mr. Schmidt (KS-02)		X
	Mr. Patronis (FL-01)		X
	Ranking Member Velazquez (NY-07)	X	
	Mr. McGarvey (KY-03)	X	
	Ms. Scholten (MI-03)	X	
	Mrs. McIver (NJ-10)	X	
	Mr. Cisneros (CA-31)	X	
	Dr. Morrison (MN-03)	X	
	Mr. Latimer (NY-16)	X	
	Mr. Tran (CA-45)		
	Ms. Simon (CA-12)	X	
	Dr. Olszewski (MD-02)	X	
	Dr. Conaway (NJ-03)	X	
	Ms. Goodlander (NH-02)	X	
	Chairman Williams (TX-25)		X
	TOTALS	**11**	**15**

COMMITTEE ON SMALL BUSINESS
119th Congress (*First Session*)

Date: Wednesday, April 30, 2025

Measure: Amendment to the ANS to H.R. 1163

Amendment #: 1

Offered By: Representative McGarvey

Time: 6:19 PM ET

Result?	Agreed To: [ ]		
	Not Agreed To: [X]		
	Withdrawn: [ ]		
Voice Vote	*Ayes*	*Nays*	*Present*
	11	15	

FC Vote #	25

Present	Representatives	Aye	Nay
	Mr. Stauber (MN-08)		X
	Mr. Meuser (PA-09)		X
	Ms. Van Duyne (TX-24)		X
	Mr. Ellzey (TX-06)		X
	Mr. Alford (MO-04)		X
	Mr. LaLota (NY-01)		X
	Mr. Finstad (MN-01)		X
	Mr. Wied (WI-08)		X
	Mr. Bresnahan (PA-08)		X
	Mr. Jack (GA-03)		X
	Mr. Downing (MT-02)		X
	Ms. King-Hinds (Del.-CNMI)		X
	Mr. Schmidt (KS-02)		X
	Mr. Patronis (FL-01)		X
	Ranking Member Velazquez (NY-07)	X	
	Mr. McGarvey (KY-03)	X	
	Ms. Scholten (MI-03)	X	
	Mrs. McIver (NJ-10)	X	
	Mr. Cisneros (CA-31)	X	
	Dr. Morrison (MN-03)	X	
	Mr. Latimer (NY-16)	X	
	Mr. Tran (CA-45)		
	Ms. Simon (CA-12)	X	
	Dr. Olszewski (MD-02)	X	
	Dr. Conaway (NJ-03)	X	
	Ms. Goodlander (NH-02)	X	
	Chairman Williams (TX-25)		X
	TOTALS	11	15

COMMITTEE ON SMALL BUSINESS
119th Congress (*First Session*)

Date: Wednesday, April 30, 2025

Measure: Amendment to the ANS to H.R. 1163

Time: 6:20 PM ET

Amendment #: 1

Offered By: Representative Velazquez

Result?	Agreed To: [ ]		
	Not Agreed To: [X]		
	Withdrawn: [ ]		
Voice Vote	*Ayes*	*Nays*	*Present*
	11	15	

FC Vote #	26

Present	Representatives	Aye	Nay
	Mr. Stauber (MN-08)		X
	Mr. Meuser (PA-09)		X
	Ms. Van Duyne (TX-24)		X
	Mr. Ellzey (TX-06)		X
	Mr. Alford (MO-04)		X
	Mr. LaLota (NY-01)		X
	Mr. Finstad (MN-01)		X
	Mr. Wied (WI-08)		X
	Mr. Bresnahan (PA-08)		X
	Mr. Jack (GA-03)		X
	Mr. Downing (MT-02)		X
	Ms. King-Hinds (Del.-CNMI)		X
	Mr. Schmidt (KS-02)		X
	Mr. Patronis (FL-01)		X
	Ranking Member Velazquez (NY-07)	X	
	Mr. McGarvey (KY-03)	X	
	Ms. Scholten (MI-03)	X	
	Mrs. McIver (NJ-10)	X	
	Mr. Cisneros (CA-31)	X	
	Dr. Morrison (MN-03)	X	
	Mr. Latimer (NY-16)	X	
	Mr. Tran (CA-45)		
	Ms. Simon (CA-12)	X	
	Dr. Olszewski (MD-02)	X	
	Dr. Conaway (NJ-03)	X	
	Ms. Goodlander (NH-02)	X	
	Chairman Williams (TX-25)		X
	TOTALS	11	15

COMMITTEE ON SMALL BUSINESS
119th Congress (*First Session*)

Date: Wednesday, April 30, 2025

Measure: Amendment to the ANS to H.R. 1163

Time: 6:21 PM ET

Amendment #: 1

Offered By: Representative Olszewski

Result?	Agreed To: [ ]		
	Not Agreed To: [X]		
	Withdrawn: [ ]		
Voice Vote	*Ayes*	*Nays*	*Present*
	11	15	

FC Vote #	27

Present	Representatives	Aye	Nay
	Mr. Stauber (MN-08)	X	
	Mr. Meuser (PA-09)	X	
	Ms. Van Duyne (TX-24)	X	
	Mr. Ellzey (TX-06)	X	
	Mr. Alford (MO-04)	X	
	Mr. LaLota (NY-01)	X	
	Mr. Finstad (MN-01)	X	
	Mr. Wied (WI-08)	X	
	Mr. Bresnahan (PA-08)	X	
	Mr. Jack (GA-03)	X	
	Mr. Downing (MT-02)	X	
	Ms. King-Hinds (Del.-CNMI)	X	
	Mr. Schmidt (KS-02)	X	
	Mr. Patronis (FL-01)	X	
	Ranking Member Velazquez (NY-07)		X
	Mr. McGarvey (KY-03)		X
	Ms. Scholten (MI-03)		X
	Mrs. McIver (NJ-10)		X
	Mr. Cisneros (CA-31)		X
	Dr. Morrison (MN-03)		X
	Mr. Latimer (NY-16)		X
	Mr. Tran (CA-45)		
	Ms. Simon (CA-12)		X
	Dr. Olszewski (MD-02)		X
	Dr. Conaway (NJ-03)		X
	Ms. Goodlander (NH-02)		X
	Chairman Williams (TX-25)	X	
	TOTALS	15	11

COMMITTEE ON SMALL BUSINESS
119th Congress (*First Session*)

Date: Wednesday, April 30, 2025

Measure: H.R. 1163 Prove It Act of 2025 (As Amended)

Time: 6:21 PM ET

Result?	Agreed To: [X]		
	Not Agreed To: [ ]		
	Withdrawn: [ ]		
Voice Vote	*Ayes*	*Nays*	*Present*
	15	11	

FC Vote #	28

VI. SECTION-BY-SECTION OF H.R. 1163

Section 1—Short title

This act may be cited as the "Prove It Act of 2025."

Section 2—Initial Regulatory Flexibility Analysis

This section requires agencies to consider "indirect costs" when conducting an RFA certification. This includes costs to small entities which purchase from or sell to directly impacted entities, are regulated by other government entities because of the rule, or are subject to other regulations because of the rule.

Any small entity or group representing small entities can petition the SBA Office of Advocacy (Advocacy) to review an agency's certification.

- Advocacy will conduct an initial review. If the rule does not have a significant economic impact on a substantial number of small entities, the review stops there. If it does, Advocacy has 10 days to notify the petitioner and agency that Advocacy will do a full review.
- The full review must consider whether the agency: (1) correctly considered which small entities would be impacted; and (2) accurately and wholly considered the relevant economic data and impact.
- Advocacy must host a meeting between itself, the petitioner, representatives of the agency, and the Administrator of the Office of Information and Regulatory Affairs (OIRA)
    - This meeting allows each side to defend its position and Advocacy to ask questions.
- Final review must be published by Advocacy within 30 days.
- If determined to have a substantial economic impact on a significant number of small entities, the agency that promulgated the proposed rule must perform an Initial Regulatory Flexibility Analysis (IRFA) and Final Regulatory Flexibility Analysis (FRFA) for the rule.
- If the agency fails to comply with any of the above, the rule does not apply to small entities.

Section 3—Publication of guidance

For any rule determined to have a significant economic impact on a substantial number of small entities, the promulgating agency must publish the guidance and all relevant documents on Regulations.gov. The agency must also allow for comments on the published documents.

Section 4—Review procedures for section 610 periodic review of rules

When periodically reviewing rules, agencies must consider the indirect costs considered in the IRFA and any others arising in the 10-year period since the last review or since the publication of the rule. If an agency fails to do the review, Advocacy will alert the agency that the rule is no longer valid, and the agency must publish said information in the Federal Register.

VII. Congressional Budget Office Cost Estimate

Pursuant to 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

VIII. New Budget Authority, Entitlement Authority, and Tax Expenditures

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(I) of the Congressional Budget Act of 1974, the Committee provides the following opinion and estimate with respect to new budget authority, entitlement authority, and tax expenditures. While the Committee has not received an estimate of new budget authority contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to Sec. 402 of the Congressional Budget Act of 1974, the Committee does not believe that there will be any additional costs attributable to this legislation. H.R. 1163 does not direct new spending, but instead reallocates funding independently authorized and appropriated.

IX. Oversight Findings & Recommendations

In accordance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 1163 are incorporated into the descriptive portions of this report.

X. Performance Goals and Objectives

With respect to the requirements of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, there are no specific performance goals and objectives of H.R. 1163 applicable.

XI. Statement of Duplication of Federal Programs

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of H.R. 1163 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

XII. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

XIII. Federal Mandates Statement

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

XIV. Federal Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

XV. Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XVI. Statement of Constitutional Authority

Pursuant to clause 7 of rule XII of the Rules of the House, the Committee finds that the authority for this legislation in Art. I, § 8, cl.1 of the Constitution of the United States.

XVII. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * * * *

PART I—THE AGENCIES GENERALLY

* * * * * * *

CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

Sec.

* * * * * * *

605A. Review procedures relating to initial regulatory flexibility analysis certifications.

* * * * * * *

§ 603. Initial regulatory flexibility analysis

(a) Whenever an agency is required by section 553 of this title, or any other law, to publish general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis. Such analysis shall describe the impact of the proposed rule on small entities. The initial regulatory flexibility analysis or a summary shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule. The agency shall transmit a copy of the initial regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration. In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretative rules impose on small entities a collection of information requirement.

(b) Each initial regulatory flexibility analysis required under this section shall contain—

(1) a description of the reasons why action by the agency is being considered;

(2) a succinct statement of the objectives of, and legal basis for, the proposed rule;

(3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

(4) a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

(5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule**[**.**]***; and*

(6) where feasible, any reasonably foreseeable potential indirect costs the proposed rule may impose on small entities, including small entities that—

(A) purchase products or services from, sell products or services to, or otherwise conduct business with entities directly regulated by the rule;

(B) are directly regulated by other governmental entities as a result of the rule; or

(C) are not directly regulated by the agency as a result of the rule but are otherwise subject to other agency rules as a result of the rule.

(c) Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives such as—

(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

(3) the use of performance rather than design standards; and

(4) an exemption from coverage of the rule, or any part thereof, for such small entities.

(d)(1) For a covered agency, as defined in section 609(d)(2), each initial regulatory flexibility analysis shall include a description of—

(A) any projected increase in the cost of credit for small entities;

(B) any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any increase in the cost of credit for small entities; and

(C) advice and recommendations of representatives of small entities relating to issues described in subparagraphs (A) and (B) and subsection (b).

(2) A covered agency, as defined in section 609(d)(2), shall, for purposes of complying with paragraph (1)(C)—

(A) identify representatives of small entities in consultation with the Chief Counsel for Advocacy of the Small Business Administration; and

(B) collect advice and recommendations from the representatives identified under subparagraph (A) relating to issues described in subparagraphs (A) and (B) of paragraph (1) and subsection (b).

* * * * * * *

§ 605. Avoidance of duplicative or unnecessary analyses

(a) Any Federal agency may perform the analyses required by sections 602, 603, and 604 of this title in conjunction with or as a part of any other agenda or analysis required by any other law if such other analysis satisfies the provisions of such sections.

(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual basis for such certification. [The agency] *Not later than 10 days after completing the certification described in this subsection, the agency* shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.

(c) In order to avoid duplicative action, an agency may consider a series of closely related rules as one rule for the purposes of sections 602, 603, 604 and 610 of this title.

§ 605A. Review procedures relating to initial regulatory flexibility analysis certifications

(a) FILING A PETITION TO REVIEW AGENCY CERTIFICATION OF A PROPOSED RULE.—

(1) IN GENERAL.—Any small entity, group of small entities, or organization representing the interests of small entities may petition the Chief Counsel for Advocacy of the Small Business Administration (in this section referred to as the "Chief Counsel") to review a certification published under section 605(b) that a proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

(2) FORM.—The Chief Counsel shall—

(A) determine the method, timing, and form of disseminating a petition described in paragraph (1); and

(B) display the information described in subparagraph (A) on the website of the Office of Advocacy of the Small Business Administration in a conspicuous manner.

(3) CONTENTS.—Each petition described in paragraph (1) with respect to a certification published under section 605(b) for a proposed rule shall clearly and concisely—

(A) specify the name of the petitioner and a telephone number, a mailing address, and an email address that the Chief Counsel may use to communicate with the petitioner;

(B) if the petitioner is an organization, provide additional identifying information, as applicable, including the organizational or corporate status of the petitioner, the State of incorporation of the petitioner, the registered agent of the petitioner, the interest of the petitioner in representing small entities affected by the proposed rule and the certification at issue, and the name and authority of the individual who signed the petition on behalf of the organizational or corporate petitioner;

(C) present the specific problems or issues that the petitioner believes should be addressed or considered through a review of the certification, such as—

(i) any specific circumstances in which the determination of the certification that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities is incorrect, incomplete, or inadequate; or

(ii) why the proposed rule would, if promulgated, have a significant economic impact on a substantial number of small entities;

(D) cite, enclose, or reference any relevant and non-protected or confidential technical, scientific, or other data or information supporting any assertion of the problems or issues with the certification;

(E) present a proposed solution to the problems or issues raised in the petition, including potential regulatory or compliance alternatives to the proposed rule;

(F) provide an analysis, discussion, or argument that explains how the proposed solution described in subparagraph (E) solves the problems or issues raised in the petition; and

(G) cite, enclose, or reference any other publicly available data or information supporting the proposed solution described in subparagraph (E).

(b) CONSULTATION.—

(1) IN GENERAL.—Any entity or organization desiring to file a petition under subsection (a) may request a consultation with the Chief Counsel before or after filing the petition.

(2) FORM.—The Chief Counsel shall—

(A) determine the method, timing, and form of requesting a consultation with the Chief Counsel under paragraph (1); and

(B) display the information described in subparagraph (A) on the website of the Office of Advocacy of the Small Business Administration in a conspicuous manner.

(3) LIMITATIONS ON ASSISTANCE.—In any consultation regarding a petition under paragraph (1), the Chief Counsel—

(A) may only—

(i) describe the process for filing, docketing, tracking, closing, amending, withdrawing, and resolving the petition; and

(ii) assist the petitioner to clarify the petition so that the Chief Counsel is able to understand the issues of concern to the petitioner; and

(B) may not advise a petitioner on whether the petition should be amended or withdrawn.

(c) PRIMA FACIE REVIEW.—

(1) IN GENERAL.—Upon receipt of a petition filed under this section with respect to the certification of a proposed rule, the Chief Counsel shall make an initial prima facie determination on the merit of the issues raised in the petition as to the properness of the certification and whether the proposed rule in question would, if promulgated, have a significant economic impact on a substantial number of small entities.

(2) NO FURTHER REVIEW.—If, following the prima facie review of a petition under paragraph (1), the Chief Counsel determines that the issues raised in the petition do not merit further review by the Chief Counsel, the Chief Counsel shall, not later than 10 days after receipt of the petition, inform the petitioner of that determination and the matter shall be closed.

(3) FURTHER REVIEW.—If, following the prima facie review of a petition under paragraph (1), the Chief Counsel determines that the issues raised in the petition do merit further review by the Chief Counsel, the Chief Counsel shall, not later than 10 days after receipt of the petition, inform the petitioner and the agency that promulgated the proposed rule that the Chief Counsel shall conduct a full review of the certification and proposed rule to which the petition relates under subsection (d).

(d) FULL REVIEW.—

(1) CONSIDERATIONS; MEETING.—In conducting a full review under this subsection with respect to the certification made under section 605(b), the Chief Counsel shall—

(A) consider—

(i) whether the agency that promulgated the proposed rule correctly determined which small entities will be affected by the proposed rule;

(ii) whether the agency considered adequate economic data to assess whether the proposed rule will have a significant impact on a substantial number of small entities; and

(iii) the economic implications of the proposed rule; and

(B) convene a virtual or in-person meeting between the Chief Counsel, the petitioner, representatives of the agency that promulgated the proposed rule who are determined appropriate by the Chief Counsel, and the Administrator of the Office of Information and Regulatory Affairs to—

(i) provide positions and support for those positions regarding the certification of the proposed rule; and

(ii) allow the Chief Counsel to ask questions as the Chief Counsel determines necessary to make a final determination as to the validity of the certification.

(2) PUBLICATION.—Not later than 30 days after the date on which the Chief Counsel begins a full review of a certification made with respect to a proposed rule under paragraph (1), the Chief Counsel shall submit to the petitioner and the agency that promulgated the proposed rule, and publish in the Federal Register and on the website of the Office of Advocacy of the Small Business Administration, the results of the review conducted under paragraph (1).

(3) REQUIREMENT TO PERFORM ANALYSES.—If, after a full review of a certification made with respect to a proposed rule under paragraph (1), the Chief Counsel determines that the proposed rule will, if promulgated, have a significant economic impact on a substantial number of small entities, the agency that promulgated the proposed rule shall perform an initial regulatory flexibility analysis and a final regulatory flexibility analysis for the proposed rule under sections 603 and 604, respectively.

(4) PENALTY.—If an agency fails to attend the required meeting under paragraph (1)(B) or in any other way fails to assist the Chief Counsel in a full review under paragraph (1) with respect to a proposed rule of the agency, as determined by the Chief Counsel, the final rule shall not apply to small entities.

(5) JUDICIAL REVIEW.—For purposes of judicial review under chapter 7 of this title, a certification made by an agency under section 605(b) for which a petition is filed under subsection (a) shall be considered final agency action as of the date on which the Chief Counsel—

(A) makes a determination under subsection (c)(2) that the issues raised in the petition do not merit further review; or

(B) publishes the results of a full review of the certification under paragraph (1).

* * * * * * *

§ 609. Procedures for gathering comments

(a) When any rule is promulgated which will have a significant economic impact on a substantial number of small entities, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule

shall assure that small entities have been given an opportunity to participate in the rulemaking for the rule through the reasonable use of techniques such as—

(1) the inclusion in an advanced notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant economic effect on a substantial number of small entities;

(2) the publication of general notice of proposed rulemaking in publications likely to be obtained by small entities;

(3) the direct notification of interested small entities;

(4) the conduct of open conferences or public hearings concerning the rule for small entities including soliciting and receiving comments over computer networks; and

(5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by small entities.

(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter—

(1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;

(3) the agency shall convene a review panel for such rule consisting wholly of full time Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

(4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of each individual small entity representative identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c), provided that such report shall be made public as part of the rulemaking record; and

(6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

(c) An agency may in its discretion apply subsection (b) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.

(d) For purposes of this section, the term "covered agency" means—

(1) the Environmental Protection Agency;

(2) the Consumer Financial Protection Bureau of the Federal Reserve System; and

(3) the Occupational Safety and Health Administration of the Department of Labor.

(e) The Chief Counsel for Advocacy, in consultation with the individuals identified in subsection (b)(2), and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of subsections (b)(3), (b)(4), and (b)(5) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows:

(1) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration.

(2) Special circumstances requiring prompt issuance of the rule.

(3) Whether the requirements of subsection (b) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.

(f) With respect to any rule that an agency determines is likely to have a significant economic impact on a substantial number of small entities, the head of the agency shall, on regulations.gov or any similar internet website—

(1) publish all guidance documents and other relevant documents, as determined by the agency, including any updated guidance documents that set forth interpretations of the rule; and

(2) allow for comments on the documents described in paragraph (1) to ensure that small entities may access and provide feedback on those documents.

§ 610. Periodic review of rules

(a) Within one hundred and eighty days after the effective date of this chapter, each agency shall publish in the Federal Register a plan for the periodic review of the rules issued by the agency which have or will have a significant economic impact upon a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. The plan shall provide for the review of all such agency rules existing on the effective date of this chapter within ten years of that date and for the review of such rules adopted after the effective date of this chapter within ten years of the publication of such rules as the final rule. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date,

he shall so certify in a statement published in the Federal Register and may extend the completion date by one year at a time for a total of not more than five years.

(b) In reviewing rules to minimize any significant economic impact of the rule on a substantial number of small entities in a manner consistent with the stated objectives of applicable statutes, the agency shall consider [the following factors]—

(1) the continued need for the rule;

(2) the nature of complaints or comments received concerning the rule from the public;

(3) the complexity of the rule;

(4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; [and]

(5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule[.]*; and*

(6) any indirect costs described in the initial regulatory flexibility analysis under section 603(b)(6), and any other indirect costs that may have arisen during the 10-year period described in subsection (a).

(c) Each year, each agency shall publish in the Federal Register a list of the rules which have a significant economic impact on a substantial number of small entities, which are to be reviewed pursuant to this section during the succeeding twelve months. The list shall include a brief description of each rule and the need for and legal basis of such rule and shall invite public comment upon the rule.

(d) If an agency fails to conduct a review of a rule as required under this section within the 10-year period described in subsection (a)—

(1) the Chief Counsel for Advocacy of the Small Business Administration shall notify the agency that the rule has ceased to be effective;

(2) the agency shall publish in the Federal Register a notification that the rule has ceased to be effective, and solicit comments for why the rule should be reinstated; and

(3) if, based on the comments received under paragraph (2), the agency determines that the rule should be reinstated—

(A) the agency shall have 180 days beginning on the date of that determination to complete the review of the rule under this section; and

(B) upon completion of the review under subparagraph (A), the rule shall be reinstated, notwithstanding the notice and comment rulemaking procedures under section 553 of this title.

* * * * * * *

XVIII. MINORITY VIEWS

Congress passed the Regulatory Flexibility Act (RFA) in 1980 out of concern that uniform regulations disproportionately burden small firms.[1] The Office of Advocacy (Advocacy) is responsible for monitoring agencies' compliance with the RFA and educates rule-writing staff on the effect their rules would have on small businesses. Advocacy seeks to find targeted solutions that are less burdensome, and in Fiscal Year 2023 (FY 2023), their efforts resulted in more than $90 million in estimated regulatory costs savings for small businesses.[2]

Concerns have been raised by the Coalition for Sensible Safeguards and other organizations that the RFA has become a tool for large businesses to obstruct the regulatory process. To that end, the "Prove It Act of 2025" would give the biggest companies a powerful new tool to use against regulations that protect our health, environment, and safety, and cause further harm to the very small entities it purports to help.

Cumbersome New Process Giving Powerful Trade Groups Too Much Influence

First and foremost, the bill creates an unworkable quasi-judicial process within Advocacy for reviewing agencies' certification that a regulation would not have a "significant economic effect on a significant number of small entities (SEISNSE)." Unlike the original RFA, which only allows small entities to seek judicial review, the "Prove It Act of 2025" "would allow an "organization representing the interests of small entities" to file a petition for review with the Chief Counsel of Advocacy. This new process would let powerful trade associations like the U.S. Chamber of Commerce petition the SBA to review a certification as long as the organization can claim to represent some small entities affected by the underlying rule. Moreover, the bill would allow these organizations to challenge the agencies' certifications without identifying which small businesses they represent or how those small businesses would be harmed by the rules they are challenging.

Once a petition is filed, the Chief Counsel would have 10 days to determine if the petition warrants a full review. If the Chief Counsel determines that a full review is required, the Chief Counsel has 30 more days to conduct the review and publish the results. This new process would result in additional meetings with the representatives of small entities, agencies, Office of Information and Regulatory Affairs (OIRA), and Advocacy. Multiple and duplicative

---

[1] Stuart Shapiro & Deanna Moran, *The Checkered History of Regulatory Reform*, 19 N.Y.U. J. LEGIS. & PUB. POL'Y 141, 153–54 (2016) (describing hearings leading up to passage of the RFA).

[2] OFF. OF ADVOC., U.S. SMALL BUS. ADMIN., REPORT ON THE REGULATORY FLEXIBILITY ACT: FISCAL YEAR 2023 (2024), https://advocacy.sba.gov/wp-content/uploads/2024/06/RFA-FY23_final.pdf.

petitions could be received on the same rule, resulting in numerous reviews and meetings.

Indirect Economic Effect Cost Estimates

The bill would also require agencies to include indirect economic effects of rules in their regulatory flexibility analyses, which can be burdensome, impracticable, and counterproductive. Under current law, the RFA requires agencies to take into consideration the direct impact on small entities and try to minimize the direct impact while achieving the same goal. Indirect costs are significantly more difficult to estimate, and agencies do not always have that information available to them, nor do they have control over minimizing them.

Unreviewable Discretion Granted to the Chief Counsel

In addition to creating a new process, the bill gives the Chief Counsel unreviewable discretion to sanction the agency promulgating the rule by making the final rule inapplicable to small entities upon the finding that the agency failed to assist the Chief Counsel. With 99 percent of businesses being designated as small, the bill would allow Advocacy to essentially gut a regulation.

The Chief Counsel must also track agency completion of mandatory reviews of existing rules every 10 years. It requires agencies to also conduct retrospective reviews based on the indirect costs identified in the initial analysis. This provision doesn't make sense because agencies may have changed the rules significantly between proposed and final rule stages, meaning the indirect costs identified in the proposed stage may not be applicable to the final rule, let alone 10 years after the final rule has taken effect. To that end, the provision is unworkable.

If the Chief Counsel finds that an agency failed to conduct a required review of a rule, the Chief Counsel could suspend operation of the rule, meaning it wouldn't apply to anyone or any business. This provision creates another layer of regulatory review, which would essentially allow Advocacy to freeze a regulation until an agency review is conducted and then possibly reinstate the rule—causing undue uncertainty to small businesses.

In the 118th Congress, Advocacy shared with Democratic Committee staff that small businesses need certainty in the rule-making process and requiring small businesses to come into compliance with a rule or regulation only to remove it from the books would be onerous in and of itself. Advocacy further stated, "rules are integrated into one another, and they have a much broader impact in terms of who it affects, further contributing to the uncertainty in the rulemaking process, particularly for small businesses that procure with the federal government."

CBO Score

Congressional Budget Office (CBO) estimates the bill would increase administrative costs for most agencies, including Advocacy. Accordingly, CBO reported that H.R. 7198, identical legislation introduced in the previous Congress, would increase direct spending for independent agencies by $10 million, reduce revenues by $7 million over the 2025–2034 period, and increase spending by $35

million over the 2025–2029 period, subject to the availability of appropriated funds.[3] In sum, the enactment of this bill would result in significant costs to the taxpayer, and it would likely not result in any meaningful reduction of the burdensome requirements to small businesses.

Moreover, by opening the door for well-resourced trade associations to challenge virtually any rule, the bill could end up requiring the Chief Counsel to review agencies' RFA compliance for many of the thousands of rules issued each year, to say nothing of agencies' periodic reviews of existing rules. That would do little to help small businesses but would help powerful companies with money to hire well-connected lobbyists.

The Government Accountability Office (GAO) reported that the four agencies they reviewed to assess compliance with the RFA generally met statutory requirements, but almost half hadn't received training since 2003. GAO made six recommendations, including one requiring the Office of Advocacy to develop and implement procedures to provide training on RFA compliance, including identifying the agencies most in need of training.[4]

Committee Democrats offered four commonsense amendments to improve the bill, but Republicans rejected them all.

Ms. Goodlander offered an amendment to require organizations to list the name, address, telephone number, and email of the small businesses they are filing a petition on behalf of with Advocacy. The commonsense amendment would close a loophole in the bill that allows powerful trade associations to exploit the process by filing a petition without naming the small business they are representing. Committee Democrats supported this good government amendment that would bring transparency and accountability to the process. The Majority rejected this amendment on the grounds that listing the name, address, phone number, and email of the small business the National Federation of Business (NFIB) and Chamber of Commerce file a petition on behalf of would be an unnecessary administrative burden.

Mr. McGarvey offered an amendment that would carve out an exemption for any rules that the agency finds would have a substantial beneficial impact on veterans. He stated, the Prove-It Act is the "same unworkable policy that would empower the country's biggest corporations to paralyze all federal rulemaking under the guise of protecting small businesses." He offered the amendment to protect veterans from the damage of the Prove-It Act, given all Republican cuts they are facing to programs like, Medicaid, health care, and SNAP. The Republicans argued that the amendment would create and exemption that would undermine transparency and accountability and defeated it.

Ranking Member Velázquez offered an amendment requiring Advocacy to train rule-writing staff at agencies on how to comply with the Regulatory Flexibility Act, at least once every four years, and require agencies to submit a report on the retrospective review of

---

[3] CONG. BUDGET OFF., *H.R. 7198, Prove It Act of 2024, Cost Estimate* (Dec. 2, 2024), https://www.cbo.gov/publication/61042.

[4] U.S. GOV'T ACCOUNTABILITY OFF., REGULATORY FLEXIBILITY ACT: IMPROVED POLICIES FOR ANALYSIS AND TRAINING COULD ENHANCE COMPLIANCE (Apr. 10, 2025), https://www.gao.gov/products/gao-25-106950.

rules. The Prove-It Act disregards the meaningful progress that agencies have been making to examine the impact a new rule would have on small businesses. Rather than create an adversarial process between Advocacy and the agencies under the Prove-It Act, the amendment would foster a more constructive working relationship that would lead to more success. The Republicans rejected this amendment on the grounds that it would create "an uncertain and burdensome environment." It is ironic because the the Prove-It Act would require small businesses to come into compliance with a rule only to take it off the books ten years later, if a retrospective review was not conducted in a timely manner and then put it back on the books if the retrospective review was conducted. Small businesses need clear, consistent rules of the road, not chaos. Without a solid argument against the amendment, the Republicans relied on the argument that it will result in more "bureaucratic red tape." It is important to note, that the Prove-It Act would establish a whole new bureaucratic process filled with new analytical and procedural requirements, making the rulemaking process significantly more complex.

Mr. Olszewski offered an amendment to carve out an exemption for any rules that the agency finds would have a substantial beneficial impact on workforce development programs and rural small business owners. He pointed out the problems with the Prove-It Act and stated his amendment would strengthen our workforce and uplift small rural businesses. The Republicans rejected this amendment based on the flawed assumption that it would result in fraud. I countered that the fraud Mr. Finstad was referring to started under the first Trump Administration.

In conclusion, Committee Democrats could not support the Prove-It Act, which creates an unworkable bureaucratic process, and allows powerful companies to exploit rulemakings that benefit small businesses, and protect the health and safety of all Americans.

NYDIA M. VELÁZQUEZ,
Ranking Member.

○