

SENATE BILL NO. 372

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on _____
on _____)

(Patron Prior to Substitute--Senator Hackworth)

A BILL to amend the Code of Virginia by adding a section numbered 2.2-1501.2, relating to the Department of Planning and Budget; Regulatory Budget Program; report.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 2.2-1501.2 as follows:

§ 2.2-1501.2. Additional duties of Department; Regulatory Budget Program; report; guidance.

A. As used in this section:

"Agency" means any executive branch agency or board subject to the Administrative Process Act (§ 2.2-4000 et seq.).

"Regulation" means the same as that term is defined in § 2.2-4001. "Regulation" does not include (i) regulations and associated regulatory requirements where no agency discretion is involved and that are necessary to conform to Virginia statutory law, the appropriation act, or federal law or regulations; (ii) statements or policies concerning the internal management of any agency; (iii) guidance documents; (iv) declaratory rulings; or (v) intra-agency or interagency memoranda.

"Regulatory requirement" means any action required to be taken or information required to be provided in accordance with a regulation. "Regulatory requirement" includes requirements contained in documents incorporated by reference to other sources in accordance with the regulations of the Virginia Code Commission.

"Streamlining" means the reduction of a burden from a regulatory requirement, such as a fee on a training requirement, without eliminating the actual regulation. For the purposes of reduction and maintenance targets set by the Department, streamlining shall count as eliminating a regulatory

27 requirement. Streamlining shall not change the total number of regulations or regulatory requirements
28 reported in annual updates to any agency's baseline regulatory catalogs.

29 B. The Department, under the direction of the Secretary of Finance, shall establish and administer
30 a continuous Regulatory Budget Program (the Program). The Program shall consist of the following
31 elements:

32 1. The Department, under the direction of the Secretary of Finance, shall set, by July 1 of each
33 odd-numbered year, a two-year target for each agency to (i) reduce regulations and regulatory
34 requirements; (ii) maintain, but not exceed, the current number of regulations and regulatory requirements;
35 or (iii) allow regulations and regulatory requirements to increase by a specific amount for the designated
36 two-year period ending July 1.

37 2. The responsible Secretaries shall ensure that the agencies develop and maintain a baseline
38 regulatory catalog that identifies (i) the total number and type of regulations and regulatory requirements
39 currently promulgated or administered by the agencies and (ii) any specific federal or state mandates or
40 statutory authority that require such regulations and associated regulatory requirements.

41 3. The catalog data shall be updated annually and reported to the Department, in a manner specified
42 by the Department, and published on the Virginia Regulatory Town Hall.

43 4. Any target set by the Department shall be based on the total number of regulations and regulatory
44 requirements as provided by the baseline regulatory catalog. Progress toward the stated target shall be
45 measured by the number of regulations and regulatory requirements that are either increased, eliminated,
46 or streamlined through regulatory or other action. Progress shall be reflected in the catalog and reported,
47 in a manner specified by the Department, as part of all regulations promulgated by the agency. Each
48 agency shall be responsible for ensuring that any information reported to the Department is accurate and
49 complete.

50 C. When an agency identifies a regulation or regulatory requirement proposed for elimination or
51 modification that requires a change in state law, the responsible Secretary shall report the recommendation
52 to the Speaker of the House of Delegates, the Chairman of the Senate Committee on Rules, and the
53 Department. The Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules

54 shall assign recommendations to relevant committees that shall assess and may act, in consultation with
55 the agency, upon these recommendations in the regular session of the General Assembly immediately
56 following the year in which the recommendation was made.

57 D. If necessary to meet the target set by the Department, each agency shall also initiate reforms
58 through a rulemaking or nonregulatory action or to the General Assembly through the legislative
59 recommendation process. If an agency is unable to reach the target set by the Department, it shall provide
60 a separate report to the Secretary of Finance and the Department stating the reasons for not meeting the
61 goal. The Secretary of Finance, or his designee, may exempt an agency from the requirements of this
62 section for no longer than one year so long as he includes his reasoning in the report provided pursuant to
63 subsection E. If the Secretary of Finance determines that a longer exemption is warranted for an agency,
64 he shall include recommendations for legislative change in the report provided pursuant to subsection E.

65 E. The Secretary of Finance shall report to the Speaker of the House of Delegates and the Chairman
66 of the Senate Committee on Rules on the progress of the Program established pursuant to this section no
67 later than October 1 of each odd-numbered year.

68 If, by July 1 of each odd-numbered year, the Program has achieved less than 75 percent of the
69 agency targets set during the previous two years, either by initiating rulemaking actions or other
70 streamlining actions, or through the legislative recommendation process to the General Assembly, the
71 Secretary of Finance shall include the reasons for not meeting the target reduction in the next available
72 biennial report to the Speaker of the House of Delegates and the Chairman of the Senate Committee on
73 Rules.

74 The Secretary of Finance shall include in the biennial report any additional information the
75 Secretary determines may be helpful to support the General Assembly's regulatory reduction and reform
76 efforts.

77 If, by October 1 of each odd-numbered year, the Program has achieved less than 50 percent of the
78 agency targets set by the Department during the previous two years, either by initiating rulemaking actions
79 or other streamlining actions, or through the legislative recommendation process to the General Assembly,
80 the Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules may direct

81 the House Committee on Appropriations and the Senate Committee on Finance and Appropriations to
82 review the regulatory budget efforts of such agency as part of the Program and report to the General
83 Assembly any findings and recommendations regarding (i) whether the targets set by the Department are
84 reasonable and achievable and (ii) any policies, practices, and methods that may be adopted by the agency
85 to successfully achieve the targets.

86 F. The Department shall track and report on the extent to which agencies comply with existing
87 requirements to periodically review all regulations and regulatory requirements every four years. Agencies
88 shall provide to the Department a schedule listing each regulation and regulatory requirement to be
89 reviewed in each of the four years, to be published on the Virginia Regulatory Town Hall.

90 G. The Department shall, by March 1, 2023, issue guidance for agencies that addresses the
91 following: (i) how regulatory requirements shall be measured to ensure consistency across agencies; (ii)
92 how agencies may determine which regulatory requirements are discretionary and which are mandated by
93 state or federal law; (iii) how documents incorporated by reference are to be treated in the baseline
94 catalogs; and (iv) how agencies shall report information to the Department, including progress toward
95 targets set by the Department. The Department shall seek input from the Office of the Attorney General
96 and the Registrar of Regulations in the drafting of guidance pursuant to this subsection.

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