

105TH CONGRESS
2D SESSION

H. R. 1704

[Report No. 105–441, Part I]

To establish a Congressional Office of Regulatory Analysis.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 1997

Mrs. KELLY (for herself and Mr. TALENT) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MARCH 13, 1998

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

MARCH 13, 1998

Referral to the Committee on Government Reform and Oversight extended for a period not later than March 23, 1998

MARCH 18, 1998

Additional sponsors: Mr. ENGLISH of Pennsylvania, Mr. MANZULLO, Mr. LOBIONDO, Mr. HILL, Mrs. EMERSON, Mr. WICKER, Mr. GRAHAM, Mr. PETERSON of Pennsylvania, Mr. BAKER, Mr. BASS, Mr. NORWOOD, Mr. POMBO, Mr. TAUZIN, Mr. SAXTON, Mr. LAZIO of New York, Mr. ARCHER, Mr. HASTERT, Mr. LAHOOD, Mr. DUNCAN, Mr. BEREUTER, Mrs. ROUKEMA, Mr. HORN, Mr. GANSKE, Mr. GOODE, Mr. WATTS of Oklahoma, Mr. SESSIONS, Mr. METCALF, Mr. GILMAN, Mrs. MYRICK, Mr. PAPPAS, Mr. MCCOLLUM, Mr. LARGENT, Mr. NEUMANN, Mr. CUNNINGHAM, Mr. SUNUNU, Mr. WELDON of Florida, Mr. PARKER, Mr. QUINN, Mrs. MALONEY of New York, Mr. MCINTOSH, Mr. HERGER, Mr. BARR of Georgia, and Mr. CONDIT

MARCH 18, 1998

Referred to the Committee on House Oversight for a period ending not later than May 1, 1998 for consideration of such provisions of the bill and amendment reported by the Committee on the Judiciary as fall within its jurisdiction pursuant to clause 1(h), rule X

A BILL

To establish a Congressional Office of Regulatory Analysis.

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 “Congressional Office of*
5 *Regulatory Analysis Creation Act”.*

6 **SEC. 2. FINDINGS.**

7 *The Congress finds that—*

8 (1) *Federal regulations have had a positive im-*
9 *pact in protecting the environment and the health*
10 *and safety of all Americans; however, uncontrolled in-*
11 *creases in the costs that regulations place on the econ-*
12 *omy cannot be sustained;*

13 (2) *the legislative branch has a responsibility to*
14 *see that the laws it passes are properly implemented*
15 *by the executive branch;*

16 (3) *effective implementation of chapter 8 of title*
17 *5, United States Code (relating to congressional re-*
18 *view of agency rulemaking) is essential to controlling*
19 *the regulatory burden that the Government places on*
20 *the economy; and*

1 (4) *in order for the legislative branch to fulfill its*
2 *responsibilities under chapter 8 of title 5, United*
3 *States Code, it must have accurate and reliable infor-*
4 *mation on which to base its decisions.*

5 **SEC. 3. ESTABLISHMENT OF OFFICE.**

6 (a) *ESTABLISHMENT.—*

7 (1) *IN GENERAL.—There is established a Con-*
8 *gressional Office of Regulatory Analysis (hereinafter*
9 *in this Act referred to as the “Office”). The Office*
10 *shall be headed by a Director.*

11 (2) *APPOINTMENT.—The Director shall be ap-*
12 *pointed by the Speaker of the House of Representa-*
13 *tives and the majority leader of the Senate without*
14 *regard to political affiliation and solely on the basis*
15 *of the Director’s ability to perform the duties of the*
16 *Office.*

17 (3) *TERM.—The term of office of the Director*
18 *shall be 4 years, but no Director shall be permitted*
19 *to serve more than 3 terms. Any individual appointed*
20 *as Director to fill a vacancy prior to the expiration*
21 *of a term shall serve only for the unexpired portion*
22 *of that term. An individual serving as Director at the*
23 *expiration of that term may continue to serve until*
24 *the individual’s successor is appointed.*

1 (4) *REMOVAL.*—*The Director may be removed by*
2 *a concurrent resolution of the Congress.*

3 (5) *COMPENSATION.*—*The Director shall receive*
4 *compensation at a per annum gross rate equal to the*
5 *rate of basic pay, as in effect from time to time, for*
6 *level III of the Executive Schedule in section 5314 of*
7 *title 5, United States Code.*

8 (b) *PERSONNEL.*—*The Director shall appoint and fix*
9 *the compensation of such personnel as may be necessary to*
10 *carry out the duties and functions of the Office. All person-*
11 *nel of the Office shall be appointed without regard to politi-*
12 *cal affiliation and solely on the basis of their fitness to per-*
13 *form their duties. The Director may prescribe the duties*
14 *and responsibilities of the personnel of the Office, and dele-*
15 *gate to them authority to perform any of the duties, powers,*
16 *and functions imposed on the Office or on the Director. For*
17 *purposes of pay (other than pay of the Director) and em-*
18 *ployment benefits, rights, and privileges, all personnel of*
19 *the Office shall be treated as if they were employees of the*
20 *House of Representatives.*

21 (c) *EXPERTS AND CONSULTANTS.*—*In carrying out the*
22 *duties and functions of the Office, the Director may procure*
23 *the temporary (not to exceed one year) or intermittent serv-*
24 *ices of experts or consultants or organizations thereof by*
25 *contract as independent contractors, or, in the case of indi-*

1 *vidual experts or consultants, by employment at rates of*
2 *pay not in excess of the daily equivalent of the highest rate*
3 *of basic pay under the General Schedule of section 5332*
4 *of title 5, United States Code.*

5 *(d) RELATIONSHIP TO EXECUTIVE BRANCH.—The Di-*
6 *rector is authorized to secure information, data, estimates,*
7 *and statistics directly from the various departments, agen-*
8 *cies, and establishments of the executive branch of Govern-*
9 *ment, including the Office of Management and Budget, and*
10 *the regulatory agencies and commissions of the Government.*
11 *All such departments, agencies, establishments, and regu-*
12 *latory agencies and commissions shall promptly furnish the*
13 *Director any available material which the Director deter-*
14 *mines to be necessary in the performance of the Director's*
15 *duties and functions (other than material the disclosure of*
16 *which would be a violation of law). The Director is also*
17 *authorized, upon agreement with the head of any such de-*
18 *partment, agency, establishment, or regulatory agency or*
19 *commission, to utilize its services, facilities, and personnel*
20 *with or without reimbursement; and the head of each such*
21 *department, agency, establishment, or regulatory agency or*
22 *commission is authorized to provide the Office such services,*
23 *facilities, and personnel.*

24 *(e) RELATIONSHIP TO OTHER AGENCIES OF CON-*
25 *GRESS.—In carrying out the duties and functions of the*

1 *Office, and for the purpose of coordinating the operations*
2 *of the Office with those of other congressional agencies with*
3 *a view to utilizing most effectively the information, services*
4 *and capabilities of all such agencies in carrying out the*
5 *various responsibilities assigned to each, the Director is au-*
6 *thorized to obtain information, data, estimates, and statis-*
7 *tics developed by the General Accounting Office, Congres-*
8 *sional Budget Office, and the Library of Congress, and*
9 *(upon agreement with them) to utilize their services, facili-*
10 *ties, and personnel with or without reimbursement. The*
11 *Comptroller General, the Director of the Congressional*
12 *Budget Office, and the Librarian of Congress are authorized*
13 *to provide the Office with the information, data, estimates,*
14 *and statistics, and the services, facilities, and personnel, re-*
15 *ferred to in the preceding sentence.*

16 *(f) APPROPRIATIONS.—There are authorized to be ap-*
17 *propriated to the Office to enable it to carry out its duties*
18 *and functions for fiscal years 1998 through 2006 such sums*
19 *as may be necessary but not to exceed the amount appro-*
20 *priated to carry out chapter 35 of title 44, United States*
21 *Code.*

22 **SEC. 4. RESPONSIBILITIES.**

23 *(a) TRANSFER OF FUNCTIONS UNDER CHAPTER 8*
24 *FROM GAO TO OFFICE.—*

1 (1) *DIRECTOR’S NEW AUTHORITY.*—(A) *Section*
2 *801 of title 5, United States Code, is amended by*
3 *striking “Comptroller General” each place it occurs*
4 *and inserting “Director of the Office”.*

5 (B) *Section 801(a)(2)(B) of title 5, United States*
6 *Code, is amended by striking “Comptroller General’s”*
7 *and inserting “Director of the Office’s”.*

8 (2) *DEFINITION.*—*Section 804 of title 5, United*
9 *States Code, is amended by adding at the end the fol-*
10 *lowing:*

11 “(4) *The term ‘Director of the Office’ means the*
12 *Director of the Congressional Office of Regulatory Af-*
13 *airs established by section 3 of the Congressional Of-*
14 *fice of Regulatory Analysis Creation Act.”.*

15 (3) *MAJOR RULES.*—

16 (A) *REGULATORY IMPACT ANALYSIS.*—*In*
17 *addition to the assessment of an agency’s compli-*
18 *ance with the procedural steps for “major” rules*
19 *described in section 801(a)(2)(A) of title 5,*
20 *United States Code, the Office will also conduct*
21 *its own regulatory impact analysis of these*
22 *“major” rules. This analysis shall include—*

23 (i) *a description of the potential bene-*
24 *fits of the rule, including any beneficial ef-*
25 *fects that cannot be quantified in monetary*

1 *terms and the identification of those likely*
2 *to receive the benefits;*

3 *(ii) a description of the potential costs*
4 *of the rule, including any adverse effects*
5 *that cannot be quantified in monetary*
6 *terms and the identification of those likely*
7 *to bear the costs;*

8 *(iii) a determination of the potential*
9 *net benefits of the rule, including an evalua-*
10 *tion of effects that cannot be quantified in*
11 *monetary terms;*

12 *(iv) a description of alternative ap-*
13 *proaches that could achieve the same regu-*
14 *latory goal at a lower cost, together with an*
15 *analysis of the potential benefit and costs*
16 *and a brief explanation of the legal reasons*
17 *why such alternatives, if proposed, could*
18 *not be adopted; and*

19 *(v) a summary of how these results dif-*
20 *fer, if at all, from the results that the pro-*
21 *mulgating agency received when conducting*
22 *similar analyses.*

23 *(B) TIME FOR REPORT TO COMMITTEES.—*
24 *Section 801(a)(2)(A) of title 5, United States*

1 Code, is amended by striking “15” and inserting
2 “45”.

3 (4) *NONMAJOR RULES.*—*The Office shall conduct*
4 *a regulatory impact analyses, as defined in para-*
5 *graph (3)(A), of any nonmajor rule, as defined in sec-*
6 *tion 804(3) of title 5, United States Code, when re-*
7 *quested to do so by a committee of the House of Rep-*
8 *resentatives or the Senate, or individual Representa-*
9 *tive or Senator.*

10 (5) *PRIORITIES.*—

11 (A) *ASSIGNMENT.*—*To ensure that analysis*
12 *of the most significant regulations occurs, the Of-*
13 *fice shall give first priority to, and is required*
14 *to conduct analyses of, all “major” rules, as de-*
15 *fined in section 804(2) of title 5, United States*
16 *Code. Secondary priority shall be assigned to re-*
17 *quests from committees of the House of Rep-*
18 *resentatives and the Senate. Tertiary priority*
19 *shall be assigned to requests from individual*
20 *Representatives and Senators.*

21 (B) *DISCRETION TO DIRECTOR OF OF-*
22 *FICE.*—*The Director of the Office shall have the*
23 *discretion to assign priority among the second-*
24 *ary and tertiary requests.*

1 (b) *TRANSFER OF CERTAIN FUNCTIONS UNDER THE*
2 *UNFUNDED MANDATES REFORM ACT OF 1955 FROM CBO*
3 *TO OFFICE.*—

4 (1) *COST OF REGULATIONS.*—Section 103 of the
5 *Unfunded Mandates Reform Act of 1995 (2 U.S.C.*
6 *1511) is amended—*

7 (A) in subsection (b), by striking “the Di-
8 rector” and inserting “the Director of the Con-
9 gressional Office of Regulatory Analysis”; and

10 (B) in subsection (c), by inserting after
11 “Budget Office” the following: “or the Director of
12 the Congressional Office of Regulatory Analysis”.

13 (2) *ASSISTANCE TO THE CONGRESSIONAL OFFICE*
14 *OF REGULATORY ANALYSIS.*—Section 206 of the *Un-*
15 *funded Mandates Reform Act of 1995 (2 U.S.C. 1536)*
16 *is amended—*

17 (A) by amending the section heading to
18 read as follows: “**SEC. 206. ASSISTANCE TO**
19 **THE CONGRESSIONAL OFFICE OF REGU-**
20 **LATORY ANALYSIS.**”; and

21 (B) in paragraph (2), by striking “the Di-
22 rector of the Congressional Budget Office” and
23 inserting “the Director of the Congressional Of-
24 fice of Regulatory Analysis”.

1 (c) *OTHER REPORTS.*—*In addition to the regulatory*
2 *impact analyses of major and nonmajor rules described in*
3 *subsection (a) of this section, the Office shall also issue an*
4 *annual report on an estimate of the total cost of Federal*
5 *regulations on the United States economy.*

6 **SEC. 5. EFFECTIVE DATE.**

7 *This Act and the amendments made by this Act shall*
8 *take effect 180 days after the date of enactment of this Act.*

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