

114TH CONGRESS  
2D SESSION

# S. 2982

To amend the Congressional Budget Act of 1974 to establish a Federal regulatory budget and to impose cost controls on that budget, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 25, 2016

Mr. LEE (for himself, Mr. RUBIO, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend the Congressional Budget Act of 1974 to establish a Federal regulatory budget and to impose cost controls on that budget, 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 “Article I Regulatory  
5 Budget Act of 2016”.

6 **SEC. 2. PRESIDENT’S ANNUAL BUDGET SUBMISSIONS.**

7 Section 1105(a) of title 31, United States Code, is  
8 amended by adding at the end the following:

1           “(40)(A) for the first fiscal year that begins at  
2           least 120 days after the date of enactment of this  
3           paragraph, and every fiscal year thereafter until the  
4           fifth fiscal year that begins after the date of enact-  
5           ment of this paragraph, a projection of the Federal  
6           regulatory cost of any proposed Federal regulation,  
7           rule, or statement (as such terms are defined in sec-  
8           tion 321 of the Congressional Budget Act of 1974)  
9           for the fiscal year and at least each of the 4 ensuing  
10          fiscal years, which shall include—

11                   “(i) the projection of the Federal regu-  
12                   latory cost by agency and program; and

13                   “(ii) any changes in a Federal regulation,  
14                   rule, or statement in the Unified Agenda of  
15                   Federal Regulatory and Deregulatory Actions,  
16                   compiled by the Regulatory Information Service  
17                   Center of the General Services Administration.

18          “(B) for the fifth fiscal year that begins after  
19          the date of enactment of this paragraph, and every  
20          fiscal year thereafter, a regulatory authority budget  
21          analysis of the Federal regulatory cost of complying  
22          with all current and proposed Federal regulations,  
23          rules, and statements and proposals (as such terms  
24          are defined in section 321 of the Congressional  
25          Budget Act of 1974) for complying with section 322

1 of the Congressional Budget Act of 1974 for the fis-  
2 cal year for which the budget is submitted and the  
3 4 fiscal years after that year, which shall include a  
4 regulatory authority budget analysis of the Federal  
5 regulatory cost by agency and program.”.

6 **SEC. 3. ESTIMATION AND DISCLOSURE OF COSTS OF FED-**  
7 **ERAL REGULATION.**

8 (a) COSTS TO PRIVATE SECTOR OF NEW FEDERAL  
9 REGULATIONS.—Chapter 6 of title 5, United States Code,  
10 popularly known as the “Regulatory Flexibility Act”, is  
11 amended—

12 (1) in section 603—

13 (A) in subsection (a), in the second sen-  
14 tence, by inserting before the period the fol-  
15 lowing: “and shall discuss in detail whether the  
16 cost to businesses of complying with the pro-  
17 posed rule will vary depending on the size of the  
18 business and, if so, to what extent the cost will  
19 vary and what factors contribute to the vari-  
20 ation”;

21 (B) in subsection (c)—

22 (i) by redesignating paragraphs (1),  
23 (2), (3), and (4) as subparagraphs (A),  
24 (B), (C), and (D), respectively, and adjust-  
25 ing the margin accordingly;

1 (ii) by inserting “(1)” after “(c)”; and

2 (iii) by striking “Consistent with the”

3 and inserting the following:

4 “(2) The analysis of significant alternatives to the  
5 proposed rule shall include a detailed analysis of the costs  
6 and benefits of the proposed rule and each alternative,  
7 which shall separately address the costs and benefits for  
8 each industry.

9 “(3) Consistent with the”; and

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

11 “(e) Each initial regulatory flexibility analysis shall  
12 also contain a description of the nature and amount of  
13 monetary costs that will be incurred by small entities,  
14 other businesses, and individuals in complying with the  
15 proposed rule.”;

16 (2) in section 604(a)—

17 (A) in the first paragraph designated as  
18 paragraph (6) (relating to minimization of sig-  
19 nificant economic impacts), by striking “and”  
20 at the end;

21 (B) by redesignating the second paragraph  
22 (6) (relating to covered agencies), as paragraph  
23 (8); and

24 (C) by inserting after paragraph (6) the  
25 following:

1           “(7) a statement of the nature and amount of  
2           monetary costs that will be incurred by small enti-  
3           ties, other businesses, and individuals in complying  
4           with the rule; and”;

5           (3) in section 607, by inserting before the pe-  
6           riod the following: “, except that estimates of mone-  
7           tary costs under sections 603(d) and 604(a)(7) shall  
8           only be in the form of a numerical description”.

9           (b) AGENCY REPORTS.—Each agency that prepares  
10          an initial regulatory flexibility analysis under chapter 6  
11          of title 5, United States Code, shall, at the same time sub-  
12          mit to each House of Congress, the Congressional Budget  
13          Office, and the Office of Management and Budget a cost  
14          estimate and cost benefit analysis of any new proposed  
15          regulations, rules, or statements that would have a Fed-  
16          eral regulatory cost (as defined in section 321 of the Con-  
17          gressional Budget Act of 1974, as added by this Act) of  
18          at least \$100,000,000 for any fiscal year.

19       **SEC. 4. GUIDANCE DOCUMENTS.**

20          (a) DEFINITIONS.—In this section—

21               (1) the terms “agency” and “rule” have the  
22               meanings given such terms in section 551 of title 5,  
23               United States Code;

24               (2) the term “guidance document” means an  
25               agency statement of general applicability and future

1 effect, other than a rule, that sets forth a policy on  
2 a statutory, regulatory, or technical issue or an in-  
3 terpretation of a statutory or regulatory issue; and

4 (3) the term “significant guidance document”—

5 (A) means a guidance document that the  
6 Office of Management and Budget determines  
7 will be disseminated to regulated entities or the  
8 general public and may reasonably be antici-  
9 pated to—

10 (i) lead to an annual effect of not less  
11 than \$100,000,000 on, or adversely affect  
12 in a material way, the economy, a sector of  
13 the economy, productivity, competition,  
14 jobs, the environment, public health or  
15 safety, or State, local, or tribal govern-  
16 ments or communities;

17 (ii) create a serious inconsistency or  
18 otherwise interfere with an action taken or  
19 planned by an agency other than the agen-  
20 cy issuing the guidance document;

21 (iii) materially alter the budgetary im-  
22 pact of entitlements, grants, user fees, or  
23 loan programs or the rights or obligations  
24 of recipients thereof; or

1 (iv) raise novel legal or policy issues  
2 arising out of legal mandates, the priorities  
3 of the President, or the principles set forth  
4 in Executive Order 12866 (5 U.S.C. 601  
5 note; relating to regulatory planning and  
6 review); and

7 (B) does not include a guidance document  
8 that the Office of Management and Budget de-  
9 termines—

10 (i) relates to regulations issued in ac-  
11 cordance with the formal rulemaking provi-  
12 sions of sections 556 and 557 of title 5,  
13 United States Code;

14 (ii) pertains to a military or foreign  
15 affairs function of the United States, other  
16 than procurement regulations and regula-  
17 tions involving the import or export of non-  
18 defense articles and services;

19 (iii) relates to regulations that are  
20 limited to agency organization, manage-  
21 ment, or personnel matters; or

22 (iv) is within a category of guidance  
23 documents exempted by the Administrator  
24 of the Office of Information and Regu-  
25 latory Affairs.

1 (b) LIMITATION ON GUIDANCE DOCUMENTS.—An  
2 agency may not issue a significant guidance document un-  
3 less the agency issues the significant guidance document  
4 after notice and an opportunity for comment in accord-  
5 ance with the requirements for the promulgation of a rule  
6 under chapter 5 of title 5, United States Code.

7 (c) PRIVATE RIGHT OF ACTION.—Any person ag-  
8 grieved of an action taken or failed to be taken under a  
9 guidance document that was not issued in accordance with  
10 subsection (b) may bring a civil action in an appropriate  
11 district court of the United States alleging that the guid-  
12 ance document should have been treated as a significant  
13 guidance document.

14 **SEC. 5. AMENDMENTS TO THE CONGRESSIONAL BUDGET**  
15 **ACT OF 1974.**

16 (a) FEDERAL REGULATORY BUDGET COST CONTROL  
17 SYSTEM.—Title III of the Congressional Budget Act of  
18 1974 is amended—

19 (1) by inserting before section 300 the fol-  
20 lowing:

21 **“PART A—GENERAL PROVISIONS”;**

22 and

23 (2) by adding at the end the following:

1 **“PART B—FEDERAL REGULATORY BUDGET COST**  
2 **CONTROL**

3 **“SEC. 321. DEFINITIONS.**

4 “In this part—

5 “(1) the term ‘CBO’ means the Congressional  
6 Budget Office;

7 “(2) the term ‘direct cost of Federal regulation’  
8 means all costs incurred by, and expenditures re-  
9 quired of, the Federal Government in issuing and  
10 enforcing Federal regulations, rules, and statements  
11 and Federal statutes;

12 “(3) the term ‘Federal regulation, rule, or  
13 statement’—

14 “(A) includes any guidance document  
15 issued after notice and an opportunity for com-  
16 ment in accordance with the requirements for  
17 the promulgation of a rule under chapter 5 of  
18 title 5, United States Code; and

19 “(B) does not include—

20 “(i) a Federal regulation, rule, or  
21 statement applying to—

22 “(I) the military; or

23 “(II) agency organization, man-  
24 agement, or personnel; or

1           “(ii) a Federal regulation, rule, or  
2           statement designated by the President as  
3           being—

4                   “(I) necessary because of an im-  
5                   minent threat to health or safety or  
6                   other emergency;

7                   “(II) necessary for the enforce-  
8                   ment of criminal laws; or

9                   “(III) necessary for national se-  
10                  curity;

11           “(4) the term ‘Federal regulatory cost’—

12                   “(A) means all costs incurred by, and ex-  
13                   penditures required of, the private sector,  
14                   States, or local governments in complying with  
15                   any Federal regulation, rule, or statement or  
16                   any Federal statute; and

17                   “(B) does not include the value of any ben-  
18                   efit under the Federal regulation, rule, or state-  
19                   ment or the Federal statute;

20           “(5) the term ‘gross domestic product’ means  
21           the gross domestic product of the United States dur-  
22           ing a fiscal year, consistent with Department of  
23           Commerce definitions;

24           “(6) the term ‘OMB’ means the Office of Man-  
25           agement and Budget; and

1           “(7) the term ‘regulatory baseline’ means the  
2           projection described in section 326(a) of the Federal  
3           regulatory cost for the fiscal year after the date of  
4           the projection and the outyears.

5 **“SEC. 322. ESTABLISHMENT OF LEVEL AND ALLOCATIONS.**

6           “(a) ESTABLISHMENT OF LEVEL.—

7           “(1) IN GENERAL.—In addition to the require-  
8           ments under section 301, a concurrent resolution on  
9           the budget for a fiscal year shall set forth the appro-  
10          priate level for the Federal regulatory cost for the  
11          fiscal year and for at least each of the 4 ensuing fis-  
12          cal years.

13          “(2) TRANSITION PERIOD.—

14          “(A) IN GENERAL.—For the first fiscal  
15          year that begins at least 120 days after the  
16          date of enactment of this section, and each fis-  
17          cal year thereafter until the fiscal year de-  
18          scribed in section 326(a), the Committee on the  
19          Budget of the Senate and the Committee on the  
20          Budget of the House of Representatives shall  
21          include in the concurrent resolution on the  
22          budget for the fiscal year as the appropriate  
23          level for the Federal regulatory cost for the fis-  
24          cal year and any other fiscal year covered by  
25          the resolution the proposed levels submitted by

1 the President under section 1105(a)(40) of title  
2 31, United States Code.

3 “(B) AMENDMENTS.—

4 “(i) IN GENERAL.—In the Senate and  
5 the House of Representatives, it shall not  
6 be in order to consider an amendment to  
7 a concurrent resolution on the budget that,  
8 if agreed to, would result in a net increase  
9 in a level included pursuant to subpara-  
10 graph (A).

11 “(ii) WAIVER AND APPEAL.—A point  
12 of order under clause (i) may only be  
13 waived by the affirmative vote of three-  
14 fifths of the Members, duly chosen and  
15 sworn. An affirmative vote of three-fifths  
16 of Members, duly chosen and sworn, shall  
17 be required to sustain an appeal of the rul-  
18 ing of the Chair on a point of order raised  
19 under clause (i).

20 “(3) DEFAULT TOTAL.—If there is not a level  
21 for the Federal regulatory cost that is in effect for  
22 a fiscal year under a concurrent resolution on the  
23 budget—

24 “(A) for the first fiscal year that begins at  
25 least 120 days after the date of enactment of

1 this section, and every fiscal year thereafter  
2 until the fiscal year described in subparagraph  
3 (B), the appropriate level for the Federal regu-  
4 latory cost for the fiscal year shall be the pro-  
5 posed level submitted by the President under  
6 section 1105(a)(40) of title 31, United States  
7 Code;

8 “(B) for the fifth fiscal year that begins  
9 after the date of enactment of this section, the  
10 appropriate level for the Federal regulatory cost  
11 for the fiscal year shall be the amount of the  
12 first regulatory baseline submitted under sec-  
13 tion 326; and

14 “(C) for each fiscal year after the fiscal  
15 year described in subparagraph (B), the appro-  
16 priate level for the Federal regulatory cost for  
17 the fiscal year shall be the level for the most re-  
18 cent fiscal year for which such a level was in ef-  
19 fect (under subparagraph (B), this subpara-  
20 graph, or a concurrent resolution on the budg-  
21 et).

22 “(b) ALLOCATION OF TOTALS.—

23 “(1) IN GENERAL.—For the first fiscal year  
24 that begins at least 120 days after the date of enact-  
25 ment of this section, and each fiscal year thereafter,

1 the joint explanatory statement accompanying the  
2 conference report on a concurrent resolution on the  
3 budget for such fiscal year shall include allocations  
4 of the Federal regulatory cost in effect under sub-  
5 section (a) for such fiscal year and at least each of  
6 the 4 ensuing fiscal years—

7 “(A) among each committee of the Senate  
8 and each committee of the House of Represent-  
9 atives;

10 “(B) by major functional category; and

11 “(C) by agency.

12 “(2) SUBALLOCATIONS.—As soon as practicable  
13 after receiving an allocation under paragraph (1),  
14 each committee shall—

15 “(A) suballocate its allocation—

16 “(i) among its subcommittees;

17 “(ii) among programs over which the  
18 committee has jurisdiction; and

19 “(iii) by agency; and

20 “(B) submit for printing in the Congres-  
21 sional Record a statement detailing each sub-  
22 allocation made by the committee under sub-  
23 paragraph (A).

24 “(c) POINT OF ORDER.—

1           “(1) IN GENERAL.—If a concurrent resolution  
2           on the budget setting forth the appropriate level for  
3           the Federal regulatory cost for a fiscal year has been  
4           agreed to, it shall not be in order in the Senate or  
5           the House of Representatives to consider any bill or  
6           resolution, or amendment thereto, which would cause  
7           an allocation or suballocation of the Federal regu-  
8           latory cost made under subsection (b) for that fiscal  
9           year to be exceeded.

10           “(2) WAIVER AND APPEAL.—A point of order  
11           under paragraph (1) may only be waived by the af-  
12           firmative vote of three-fifths of the Members, duly  
13           chosen and sworn. An affirmative vote of three-fifths  
14           of Members, duly chosen and sworn, shall be re-  
15           quired to sustain an appeal of the ruling of the  
16           Chair on a point of order raised under paragraph  
17           (1).

18           “(d) DETERMINATIONS BY BUDGET COMMITTEES.—  
19           For purposes of this section, the amount of the Federal  
20           regulatory cost for a fiscal year and the amount of the  
21           Federal regulatory cost of a bill or resolution, or amend-  
22           ment thereto, shall be determined by the Committee on  
23           the Budget of the Senate or the Committee on the Budget  
24           of the House of Representatives, as the case may be.

1 **“SEC. 323. ANALYSIS OF FEDERAL REGULATORY COST BY**  
2 **CONGRESSIONAL BUDGET OFFICE.**

3 “(a) IN GENERAL.—CBO shall prepare for each bill  
4 or resolution of a public character reported by any com-  
5 mittee of the Senate or the House of Representatives (ex-  
6 cept the Committee on Appropriations of each House),  
7 and submit to such committee—

8 “(1) an estimate of the costs which would be in-  
9 curred by the private sector in carrying out or com-  
10 plying with such bill or resolution in the fiscal year  
11 in which it is to become effective and in each of the  
12 4 fiscal years following such fiscal year, which shall  
13 include—

14 “(A) a net present value estimate of the  
15 cost of compliance by the private sector with  
16 such bill or resolution; and

17 “(B) a discussion of the methodology used  
18 to prepare, and the basis for, each such esti-  
19 mate; and

20 “(2) a comparison of the estimate of costs de-  
21 scribed in paragraph (1) with any available esti-  
22 mates of costs made by such committee or by any  
23 agency.

24 “(b) LOOK-BACK REVIEWS.—CBO shall periodically  
25 submit to Congress a report, prepared in consultation with

1 the Chairman of the Administrative Conference of the  
2 United States, that—

3 “(1) reviews a sample of laws of a public char-  
4 acter for which an estimate was prepared under sub-  
5 section (a)(1); and

6 “(2) compares the estimates of the costs de-  
7 scribed in paragraphs (1) and (2) of subsection (a)  
8 and the actual costs incurred by the private sector  
9 in carrying out or complying with the law in the fis-  
10 cal year in which it took effect and in each of the  
11 4 fiscal years following such fiscal year.

12 **“SEC. 324. ENFORCEMENT.**

13 “(a) ENFORCEMENT LANGUAGE REQUIRED IN AP-  
14 PROPRIATION ACTS.—If a concurrent resolution on the  
15 budget that includes levels and allocations of the Federal  
16 regulatory cost for a fiscal year has been agreed to, it shall  
17 not be in order in the Senate or the House of Representa-  
18 tives to consider a bill, joint resolution, amendment be-  
19 tween the Houses, or conference report making appropria-  
20 tions for the fiscal year that does not include a provision  
21 prohibiting amounts made available under the measure  
22 from being obligated or expended to enforce a Federal reg-  
23 ulation, rule, or statement that would cause a breach of  
24 any level or allocation of the Federal regulatory cost in  
25 effect for a fiscal year.

1       “(b) WAIVER AND APPEAL.—Subsection (a) may be  
2 waived or suspended in the Senate only by an affirmative  
3 vote of two-thirds of the Members, duly chosen and sworn.  
4 An affirmative vote of two-thirds of the Members of the  
5 Senate, duly chosen and sworn, shall be required to sus-  
6 tain an appeal of the ruling of the Chair on a point of  
7 order raised under subsection (a).

8       “(c) REVIEW OF COST.—

9           “(1) DETERMINATIONS OF COST.—

10               “(A) BEA DETERMINATION.—The Bureau  
11 of Economic Analysis of the Department of  
12 Commerce shall determine the change in the  
13 Federal regulatory cost attributable to each  
14 newly promulgated, or amendment to a, Federal  
15 regulation, rule, or statement.

16               “(B) GUIDANCE FOR AGENCIES.—The Bu-  
17 reau of Economic Analysis of the Department  
18 of Commerce shall issue guidance to agencies  
19 regarding the methodology to be used to deter-  
20 mine the amount of, and any change in, the  
21 Federal regulatory cost attributable to each  
22 newly promulgated, or amendment to a, Federal  
23 regulation, rule, or statement.

24               “(C) MANDATORY USE BY AGENCIES.—For  
25 purposes of any analysis conducted by an agen-

1           cy (without regard to whether the analysis is  
2           conducted for purposes of this Act), each agen-  
3           cy shall determine the amount of, and any  
4           change in, the Federal regulatory cost attrib-  
5           utable to each newly promulgated, or amend-  
6           ment to a, Federal regulation, rule, or state-  
7           ment in accordance with the guidance issued  
8           under subparagraph (B).

9           “(2) OMB DETERMINATION.—The OMB shall  
10          determine whether the change in the Federal regu-  
11          latory cost determined under paragraph (1) would  
12          cause a breach of any level or allocation of the Fed-  
13          eral regulatory cost in effect for a fiscal year, which  
14          shall incorporate any reduction to the level or alloca-  
15          tion of the Federal regulatory cost attributable to a  
16          revision of a Federal regulation, rule, or statement  
17          during the fiscal year.

18          “(3) CBO REVIEW.—The CBO shall—

19                 “(A) review the methodology used by the  
20                 Bureau of Economic Analysis and the OMB for  
21                 each determination under paragraphs (1) and  
22                 (2); and

23                 “(B) issue an opinion on whether the  
24                 change in the Federal regulatory cost attrib-  
25                 utable to the applicable newly promulgated, or

1 amendment to a, Federal regulation, rule, or  
2 statement would cause a breach of any level or  
3 allocation of the Federal regulatory cost in ef-  
4 fect for a fiscal year.

5 “(d) IMPLEMENTATION.—The OMB shall issue a di-  
6 rective prohibiting funds from being obligated or expended  
7 to enforce a newly promulgated, or amendment to a, Fed-  
8 eral regulation, rule, or statement during a fiscal year if—

9 “(1) the OMB determines that change in the  
10 Federal regulatory cost attributable to the newly  
11 promulgated, or amendment to a, Federal regula-  
12 tion, rule, or statement, as determined by the Bu-  
13 reau of Economic Analysis under subsection (c)(1),  
14 would cause a breach of any level or allocation of the  
15 Federal regulatory cost in effect for the fiscal year;  
16 and

17 “(2) the appropriation Act making the applica-  
18 ble appropriations for the fiscal year contains a pro-  
19 vision described in subsection (a).

20 “(e) OFFSETTING SAVINGS.—In making determina-  
21 tions under this section with respect to a newly promul-  
22 gated, or amendment to a, Federal regulation, rule, or  
23 statement, the Bureau of Economic Analysis, the CBO,  
24 and the OMB shall subtract from the amount of the Fed-  
25 eral regulatory cost, and any applicable allocation thereof,

1 any reduction to the Federal regulatory cost that is attrib-  
2 utable to a revision of another Federal regulation, rule,  
3 or statement made as part of the same rulemaking.

4 “(f) PRIVATE RIGHT OF ACTION.—Any person ag-  
5 grieved of an action taken or failed to be taken under a  
6 Federal regulation, rule, or statement for which the OMB  
7 has issued a directive prohibiting enforcement under sub-  
8 section (d) may bring a civil action in an appropriate dis-  
9 trict court of the United States alleging that the Federal  
10 regulation, rule, or statement should not have been en-  
11 forced.

12 **“SEC. 325. OMB–CBO REPORTS.**

13 “Not later than 5 years after the date of enactment  
14 of this section, and not later than September 15th of each  
15 odd-numbered year thereafter, OMB and CBO shall joint-  
16 ly submit to the President, the Senate, and the House of  
17 Representatives a report that includes—

18 “(1) a projection of the direct cost of Federal  
19 regulation and the Federal regulatory cost for the  
20 first fiscal year beginning after the date of the re-  
21 port and at least each of the 4 ensuing fiscal years;

22 “(2) a calculation of the estimated direct cost  
23 of Federal regulation and Federal regulatory cost as  
24 a percentage of the gross domestic product;

1           “(3) the reduction in estimated gross domestic  
2 product attributable to private sector compliance  
3 with all Federal regulations, rules, or statements  
4 and all Federal statutes;

5           “(4) a detailed description of the effect on the  
6 economy of the United States of Federal regulations,  
7 rules, and statements and Federal statutes, which  
8 shall be categorized as relating to—

9                   “(A) regulation of the economy;

10                   “(B) security, including homeland security;

11                   “(C) the environment;

12                   “(D) health and safety; or

13                   “(E) the Federal budget;

14           “(5) a discussion of the expected reduction in  
15 personnel, administrative overhead, and pro-  
16 grammatic costs that would be achieved by Federal  
17 agencies that issue regulations, rules, or statements  
18 with a Federal regulatory cost if the Federal agen-  
19 cies reduced the Federal regulatory cost by 5 per-  
20 cent;

21           “(6) recommendations for budgeting, technical,  
22 and estimating changes to improve the Federal regu-  
23 latory budgeting process;

24           “(7) the Federal regulatory cost imposed by  
25 each Executive branch agency on regulated entities;

1           “(8) the direct cost of Federal regulation attrib-  
2           utable to each Executive branch agency;

3           “(9) the Federal regulatory costs imposed by  
4           each Executive branch agency on small businesses,  
5           small organizations, and small governmental juris-  
6           dictions (as those terms are defined in section 601  
7           of title 5, United States Code); and

8           “(10) the sum of the costs described in para-  
9           graph (9).

10 **“SEC. 326. REGULATORY BASELINE.**

11           “(a) IN GENERAL.—For the fifth fiscal year that be-  
12           gins after the date of enactment of this section and for  
13           every second fiscal year thereafter, CBO, in consultation  
14           with OMB, shall submit to the President, the Senate, and  
15           the House of Representatives a regulatory baseline, con-  
16           sisting of a projection of the Federal regulatory cost for  
17           the fiscal year and at least each of the 4 ensuing fiscal  
18           years. In preparing the projection of the regulatory base-  
19           line under this subsection, for the second fiscal year cov-  
20           ered under the projection and each fiscal year thereafter,  
21           CBO shall adjust the baseline for the estimated growth  
22           during that fiscal year in the gross domestic product.

23           “(b) DEADLINE.—The CBO shall submit a regu-  
24           latory baseline required under subsection (a) for a fiscal  
25           year not later than the date on which the CBO submits

1 the report required under section 202(e)(1) with respect  
2 to that fiscal year.

3       “(c) REGULAR UPDATES ON DEVELOPMENT OF REG-  
4 ULATORY BASELINE.—Not later than the date on which  
5 the CBO submits the report required under section  
6 202(e)(1) with respect to each fiscal year during the pe-  
7 riod beginning on the date of enactment of this section  
8 and ending on the date on which the CBO submits the  
9 first projection of the Federal regulatory cost under sub-  
10 section (a), the CBO shall submit to the Committee on  
11 the Budget of the Senate and the Committee on the Budg-  
12 et of the House of Representatives an annual update on  
13 the progress of the CBO in developing the regulatory base-  
14 line.”.

15       (b) TECHNICAL AND CONFORMING AMENDMENT.—  
16 The table of contents set forth in section 1(b) of the Con-  
17 gressional Budget and Impoundment Control Act of 1974  
18 is amended—

19               (1) by inserting before the item relating to sec-  
20 tion 300 the following:

“PART A. GENERAL PROVISIONS”;

21               and

22               (2) by inserting after the item relating to sec-  
23 tion 315 the following:

“PART B. FEDERAL REGULATORY BUDGET COST CONTROL

“Sec. 321. Definitions.

“Sec. 322. Establishment of level and allocations.

“Sec. 323. Analysis of Federal regulatory cost by Congressional Budget Office.

“Sec. 324. Enforcement.

“Sec. 325. OMB–CBO reports.

“Sec. 326. Regulatory baseline.”.

1 **SEC. 6. STUDY OF NONMAJOR RULES.**

2 (a) DEFINITIONS.—In this section—

3 (1) the term “agency” has the meaning given  
4 that term in section 551 of title 5, United States  
5 Code;

6 (2) the term “covered guidance document”  
7 means any guidance document that has resulted or  
8 is likely to result in an annual effect on the economy  
9 of not less than \$10,000,000;

10 (3) the term “covered nonmajor rule” means  
11 any rule that has resulted in or is likely to result in  
12 an annual effect on the economy of not less than  
13 \$10,000,000 and not more than \$100,000,000;

14 (4) the term “guidance document” means an  
15 agency statement of general applicability and future  
16 effect, other than a rule, that sets forth a policy on  
17 a statutory, regulatory, or technical issue or an in-  
18 terpretation of a statutory or regulatory issue;

19 (5) the term “Federal regulatory cost” has the  
20 meaning given that term under section 321 of the  
21 Congressional Budget Act of 1974, as added by this  
22 Act; and

1           (6) the term “rule” has the meaning given that  
2           term in section 804 of title 5, United States Code.

3           (b) REPORTS.—Not later than 120 days after the  
4           date of enactment of this Act and every 2 years thereafter,  
5           the Comptroller General of the United States shall submit  
6           to Congress a report regarding covered nonmajor rules  
7           and covered guidance documents, which shall include, for  
8           the 4-year period immediately preceding the report—

9           (1) the number of covered nonmajor rules pro-  
10          mulgated;

11          (2) the number of covered nonmajor rules im-  
12          plemented;

13          (3) the number of covered guidance documents  
14          developed;

15          (4) the number of covered guidance documents  
16          issued;

17          (5) the Federal regulatory cost of each covered  
18          nonmajor rule implemented;

19          (6) the Federal regulatory cost of each covered  
20          guidance document issued;

21          (7) the aggregate Federal regulatory cost of all  
22          covered nonmajor rules implemented;

23          (8) the aggregate Federal regulatory cost of all  
24          covered guidance documents issued; and

1           (9) a discussion of any covered nonmajor rule  
2           for which an initial regulatory flexibility analysis was  
3           prepared under section 603 of title 5, United States  
4           Code, a final regulatory flexibility analysis was pre-  
5           pared under section 604 of title 5, United States  
6           Code, or a cost benefit analysis was prepared that  
7           underestimated the actual Federal regulatory cost of  
8           implementing the covered nonmajor rule.

○