

104TH CONGRESS
1ST SESSION

S. 348

To provide for a review by the Congress of rules promulgated by agencies,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2 (legislative day, JANUARY 30), 1995

Mr. NICKLES (for himself, Mr. DOLE, Mr. BOND, Mrs. HUTCHISON, Mr. McCONNELL, and Mr. LOTT) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To provide for a review by the Congress of rules promulgated
by agencies, 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. CONGRESSIONAL REVIEW OF RULES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Regulatory Oversight Act of 1995”.

6 (b) IN GENERAL.—Chapter 5 of title 5, United
7 States Code, is amended by inserting after section 553 the
8 following new section:

1 **“§ 553a. Congressional review of rules**

2 “(a) For purposes of this section the term ‘significant
3 rule’ means any rule that may have an annual effect on
4 the economy of \$100,000,000 or more or adversely affect
5 in a material way the economy, a sector of the economy,
6 productivity, competition, jobs, the environment, public
7 health or safety, or State, local, or tribal governments or
8 communities.

9 “(b)(1) Before a rule takes effect as a final rule, the
10 agency promulgating such rule shall submit to the Con-
11 gress a report containing—

12 “(A) a copy of the rule;

13 “(B) a concise general statement relating to the
14 rule;

15 “(C) the proposed effective date of the rule; and

16 “(D) a complete copy of the cost benefit analy-
17 sis of the rule, if any.

18 “(2) A significant rule relating to a report submitted
19 under paragraph (1) shall take effect as a final rule, the
20 latest of—

21 “(A) the later of the date occurring 45 days
22 after the date on which—

23 “(i) the Congress receives the report sub-
24 mitted under paragraph (1); or

25 “(ii) the rule is published in the Federal
26 Register;

1 “(B) if the Congress passes a joint resolution of
2 disapproval described under subsection (h) relating
3 to the rule, and the President signs a veto of such
4 resolution, the earlier date—

5 “(i) on which either House of Congress
6 votes and fails to override the veto of the Presi-
7 dent; or

8 “(ii) occurring 30 session days after the
9 date on which the Congress received the veto
10 and objections of the President; or

11 “(C) the date the rule would have otherwise
12 taken effect, if not for this section (unless a joint
13 resolution of disapproval under subsection (h) is en-
14 acted).

15 “(3) Except for a significant rule, a rule shall take
16 effect as otherwise provided by law after submission to
17 Congress under paragraph (1).

18 “(c) A rule shall not take effect as a final rule, if
19 the Congress passes a joint resolution of disapproval de-
20 scribed under subsection (h).

21 “(d)(1) Notwithstanding any other provision of this
22 section (except subject to paragraph (3)), a rule that
23 would not take effect by reason of this section may take
24 effect, if the President makes a determination under para-

1 graph (2) and submits written notice of such determina-
2 tion to the Congress.

3 “(2) Paragraph (1) applies to a determination made
4 by the President by Executive order that the rule should
5 take effect because such rule is—

6 “(A) necessary because of an imminent threat
7 to health or safety or other emergency;

8 “(B) necessary for the enforcement of criminal
9 laws; or

10 “(C) necessary for national security.

11 “(3) An exercise by the President of the authority
12 under this subsection shall have no effect on the proce-
13 dures under subsection (h) or the effect of a joint resolu-
14 tion of disapproval under this section.

15 “(4) This subsection and an Executive order issued
16 by the President under this subsection shall not be subject
17 to judicial review by a court of the United States.

18 “(e)(1) The provisions of subsection (h) shall apply
19 to any rule that is published in the Federal Register (as
20 a rule that shall take effect as a final rule) during the
21 period beginning on the date occurring 60 days before the
22 date the Congress adjourns sine die through the date on
23 which the succeeding Congress first convenes.

24 “(2) For purposes of subsection (h), a rule described
25 under paragraph (1) shall be treated as though such rule

1 were published in the Federal Register (as a rule that shall
2 take effect as a final rule) on the date the succeeding Con-
3 gress first convenes.

4 “(3) During the period beginning on the date the
5 Congress adjourns sine die through the date on which the
6 succeeding Congress first convenes, a rule described under
7 paragraph (1) shall take effect as a final rule as otherwise
8 provided by law.

9 “(f) Any rule that takes effect and later is made of
10 no force or effect by the enactment of a joint resolution
11 under subsection (h) shall be treated as though such rule
12 had never taken effect.

13 “(g) If the Congress does not enact a joint resolution
14 of disapproval under subsection (h), no court or agency
15 may infer any intent of the Congress from any action or
16 inaction of the Congress with regard to such rule, related
17 statute, or joint resolution of disapproval.

18 “(h)(1) For purposes of this subsection, the term
19 ‘joint resolution’ means only a joint resolution introduced
20 after the date on which the report referred to in subsection
21 (b) is received by Congress the matter after the resolving
22 clause of which is as follows: ‘That Congress disapproves
23 the rule submitted by the _____ relating to _____,
24 and such rule shall have no force or effect. (The blank
25 spaces being appropriately filled in.)’.

1 “(2)(A) A resolution described in paragraph (1) shall
2 be referred to the committees in each House of Congress
3 with jurisdiction. Such a resolution may not be reported
4 before the eighth day after its submission or publication
5 date.

6 “(B) For purposes of this subsection the term ‘sub-
7 mission or publication date’ means the later of the date
8 on which—

9 “(i) the Congress receives the report submitted
10 under subsection (b)(1); or

11 “(ii) the rule is published in the Federal Reg-
12 ister.

13 “(3) If the committee to which is referred a resolution
14 described in paragraph (1) has not reported such resolu-
15 tion (or an identical resolution) at the end of 20 calendar
16 days after the submission or publication date defined
17 under paragraph (2)(B), such committee may be dis-
18 charged by the Majority Leader of the Senate or the Ma-
19 jority Leader of the House of Representatives, as the case
20 may be, from further consideration of such resolution and
21 such resolution shall be placed on the appropriate calendar
22 of the House involved.

23 “(4)(A) When the committee to which a resolution
24 is referred has reported, or when a committee is dis-
25 charged (under paragraph (3)) from further consideration

1 of, a resolution described in paragraph (1), it is at any
2 time thereafter in order (even though a previous motion
3 to the same effect has been disagreed to) for any Member
4 of the respective House to move to proceed to the consider-
5 ation of the resolution, and all points of order against the
6 resolution (and against consideration of the resolution) are
7 waived. The motion is highly privileged in the House of
8 Representatives and is privileged in the Senate and is not
9 debatable. The motion is not subject to amendment, or
10 to a motion to postpone, or to a motion to proceed to the
11 consideration of other business. A motion to reconsider the
12 vote by which the motion is agreed to or disagreed to shall
13 not be in order. If a motion to proceed to the consideration
14 of the resolution is agreed to, the resolution shall remain
15 the unfinished business of the respective House until dis-
16 posed of.

17 “(B) Debate on the resolution, and on all debatable
18 motions and appeals in connection therewith, shall be lim-
19 ited to not more than 10 hours, which shall be divided
20 equally between those favoring and those opposing the res-
21 olution. A motion further to limit debate is in order and
22 not debatable. An amendment to, or a motion to postpone,
23 or a motion to proceed to the consideration of other busi-
24 ness, or a motion to recommit the resolution is not in

1 order. A motion to reconsider the vote by which the resolu-
2 tion is agreed to or disagreed to is not in order.

3 “(C) Immediately following the conclusion of the de-
4 bate on a resolution described in paragraph (1), and a sin-
5 gle quorum call at the conclusion of the debate if re-
6 quested in accordance with the rules of the appropriate
7 House, the vote on final passage of the resolution shall
8 occur.

9 “(D) Appeals from the decisions of the Chair relating
10 to the application of the rules of the Senate or the House
11 of Representatives, as the case may be, to the procedure
12 relating to a resolution described in paragraph (1) shall
13 be decided without debate.

14 “(5) If, before the passage by one House of a resolu-
15 tion of that House described in paragraph (1), that House
16 receives from the other House a resolution described in
17 paragraph (1), then the following procedures shall apply:

18 “(A) The resolution of the other House shall
19 not be referred to a committee.

20 “(B) With respect to a resolution described in
21 paragraph (1) of the House receiving the resolu-
22 tion—

23 “(i) the procedure in that House shall be
24 the same as if no resolution had been received
25 from the other House; but

1 “(ii) the vote on final passage shall be on
2 the resolution of the other House.

3 “(6) This subsection is enacted by Congress—

4 “(A) as an exercise of the rulemaking power of
5 the Senate and House of Representatives, respec-
6 tively, and as such it is deemed a part of the rules
7 of each House, respectively, but applicable only with
8 respect to the procedure to be followed in that
9 House in the case of a resolution described in para-
10 graph (1), and it supersedes other rules only to the
11 extent that it is inconsistent with such rules; and

12 “(B) with full recognition of the constitutional
13 right of either House to change the rules (so far as
14 relating to the procedure of that House) at any time,
15 in the same manner, and to the same extent as in
16 the case of any other rule of that House.”.

17 (c) TECHNICAL AND CONFORMING AMENDMENT.—
18 The table of sections for chapter 5 of title 5, United States
19 Code, is amended by inserting after the item relating to
20 section 553 the following:

 “553a. Congressional review of rules.”.

21 (d) EFFECTIVE DATE.—This Act shall take effect on
22 the date of the enactment of this Act and shall apply to
23 any significant rule that takes effect as a final rule on
24 or after such effective date.

○