

105TH CONGRESS  
2D SESSION

# S. 1675

To establish a Congressional Office of Regulatory Analysis.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 1998

Mr. SHELBY (for himself and Mr. BOND) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## 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  
5 of Regulatory Analysis Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—Congress finds that—

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

1           (2) the legislative branch has a responsibility to  
2           see that the laws it passes are properly implemented  
3           by the executive branch;

4           (3) effective implementation of chapter 8 of  
5           title 5 of the United States Code (relating to con-  
6           gressional review of agency rulemaking) is essential  
7           to controlling the regulatory burden that the Gov-  
8           ernment places on the economy; and

9           (4) in order for the legislative branch to fulfill  
10          its responsibilities under chapter 8 of title 5, United  
11          States Code, it must have accurate and reliable in-  
12          formation on which to base its decisions.

13          (b) PURPOSE.—The purpose of this Act is to estab-  
14          lish a congressional office to provide Congress with inde-  
15          pendent, timely, and reasoned analyses of existing and an-  
16          ticipated Federal rules and regulations, including—

17               (1) assessments of the need for, and effective-  
18               ness of, existing and anticipated Federal rules and  
19               regulations in meeting the mandates of underlying  
20               statutes;

21               (2) statements of the existing and projected  
22               economic and noneconomic impacts, including the  
23               impacts of reporting requirements, of such rules and  
24               regulations; and

1           (3) separate assessments of the effects of exist-  
2           ing and anticipated regulations on segments of the  
3           public, such as geographic regions and small entities.

4 **SEC. 3. ESTABLISHMENT OF OFFICE.**

5           (a) ESTABLISHMENT.—

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

10          (2) APPOINTMENT.—The Director shall be ap-  
11          pointed by the Majority Leader of the Senate and  
12          the Speaker of the House of Representatives without  
13          regard to political affiliation and solely on the basis  
14          of the Director’s ability to perform the duties of the  
15          Office.

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

24          (4) REMOVAL.—The Director may be removed  
25          by a concurrent resolution of Congress.

1           (5) COMPENSATION.—The Director shall re-  
2           ceive compensation at a per annum gross rate equal  
3           to the rate of basic pay for a position at level III  
4           of the Executive Schedule under section 5314 of title  
5           5, United States Code.

6           (b) PERSONNEL.—The Director shall appoint and fix  
7           the compensation of such personnel as may be necessary  
8           to carry out the duties and functions of the Office. All  
9           personnel of the Office shall be appointed without regard  
10          to political affiliation and solely on the basis of their fit-  
11          ness to perform their duties. The Director may prescribe  
12          the duties and responsibilities of the personnel of the Of-  
13          fice, and delegate authority to perform any of the duties,  
14          powers, and functions of the Office or the Director. For  
15          purposes of pay (other than pay of the Director) and em-  
16          ployment benefits, rights, and privileges, all personnel of  
17          the Office shall be treated as if they were employees of  
18          the Senate.

19          (c) EXPERTS AND CONSULTANTS.—In carrying out  
20          the duties and functions of the Office, the Director may  
21          procure the temporary (not to exceed one year) or inter-  
22          mittent services of experts or consultants or organizations  
23          thereof by contract as independent contractors, or, in the  
24          case of individual experts or consultants, by employment  
25          at rates of pay not in excess of the daily equivalent of

1 the highest rate of basic pay under the General Schedule  
2 of section 5332 of title 5, United States Code.

3 (d) RELATIONSHIP TO EXECUTIVE BRANCH.—

4 (1) IN GENERAL.—The Director is authorized  
5 to secure information, data, estimates, and statistics  
6 directly from the various departments, agencies, and  
7 establishments of the executive branch of Govern-  
8 ment, including the Office of Management and  
9 Budget, and the regulatory agencies and commis-  
10 sions of the Government. All such departments,  
11 agencies, establishments, and regulatory agencies  
12 and commissions shall promptly furnish the Director  
13 any available material which the Director determines  
14 to be necessary in the performance of the Director's  
15 duties and functions (other than material the dislo-  
16 sure of which would be a violation of law).

17 (2) SERVICES.—Upon agreement with the head  
18 of any such department, agency, establishment, or  
19 regulatory agency or commission—

20 (A) the Director may use the services, fa-  
21 cilities, and personnel with or without reim-  
22 bursement of such department, agency, estab-  
23 lishment, or commission; and

24 (B) the head of each such department,  
25 agency, establishment, or regulatory agency or

1           commission is authorized to provide the Office  
2           such services, facilities, and personnel.

3           (e) RELATIONSHIP TO OTHER AGENCIES OF CON-  
4 GRESS.—In carrying out the duties and functions of the  
5 Office, and for the purpose of coordinating the operations  
6 of the Office with those of other congressional agencies  
7 with a view to utilizing most effectively the information,  
8 services and capabilities of all such agencies in carrying  
9 out the various responsibilities assigned to each, the Direc-  
10 tor is authorized to obtain information, data, estimates,  
11 and statistics developed by the General Accounting Office,  
12 Congressional Budget Office, and the Library of Congress,  
13 and (upon agreement with them) to utilize their services,  
14 facilities, and personnel with or without reimbursement.  
15 The Comptroller General, the Director of the Congres-  
16 sional Budget Office, and the Librarian of Congress are  
17 authorized to provide the Office with the information,  
18 data, estimates, and statistics, and the services, facilities,  
19 and personnel, referred to in the preceding sentence.

20           (f) APPROPRIATIONS.—There are authorized to be  
21 appropriated to the Office for fiscal years 1998 through  
22 2006 such sums as may be necessary to enable the Office  
23 to carry out its duties and functions.

1 **SEC. 4. RESPONSIBILITIES.**

2 (a) TRANSFER OF FUNCTIONS UNDER CHAPTER 8  
3 FROM GAO TO OFFICE.—

4 (1) DIRECTOR'S AUTHORITY.—Section 801 of  
5 title 5, United States Code, is amended by striking  
6 “Comptroller General” each place it occurs and in-  
7 serting “Director of the Office”; and

8 (2) DEFINITION.—Section 804 is amended by  
9 adding at the end the following:

10 “(4) The term ‘Director of the Office’ means  
11 the Director of the Congressional Office of Regu-  
12 latory Affairs established under section 3 of the  
13 Congressional Office of Regulatory Analysis Act.”.

14 (3) MAJOR RULES.—

15 (A) REGULATORY IMPACT ANALYSIS.—In  
16 addition to the assessment of an agency's com-  
17 pliance with the procedural steps for major  
18 rules described under section 801(a)(2)(A) of  
19 title 5, United States Code, the Office shall  
20 conduct its own regulatory impact analysis of  
21 such major rules. The analysis shall include—

22 (i) a description of the potential bene-  
23 fits of the rule, including any beneficial ef-  
24 fects that cannot be quantified in monetary  
25 terms and the identification of those likely  
26 to receive the benefits;

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

6 (iii) a determination of the potential  
7 net benefits of the rule, including an eval-  
8 uation of effects that cannot be quantified  
9 in monetary terms;

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

17 (v) a summary of how these results  
18 differ, if at all, from the results that the  
19 promulgating agency received when con-  
20 ducting similar analyses.

21 (B) TIME FOR REPORT TO COMMITTEES.—

22 Section 801(a)(2)(A) of title 5, United States  
23 Code, is amended by striking “15” and insert-  
24 ing “45”.

1           (4) NONMAJOR RULES.—The Office shall con-  
2           duct a regulatory impact analysis, in accordance  
3           with paragraph (3)(A), of any nonmajor rule, as de-  
4           fined in section 804(3) of title 5, United States  
5           Code, when requested to do so by a committee of the  
6           Senate or House of Representatives, or individual  
7           Senator or Representative.

8           (5) PRIORITIES.—

9           (A) ASSIGNMENT.—To ensure that analy-  
10          ses of the most significant regulations occur,  
11          the Office shall give first priority to, and is re-  
12          quired to conduct analyses of, all major rules,  
13          as defined in section 804(2) of title 5, United  
14          States Code. Secondary priority shall be as-  
15          signed to requests from committees of the Sen-  
16          ate and the House of Representatives. Tertiary  
17          priority shall be assigned to requests from indi-  
18          vidual Senators and Representatives.

19          (B) DISCRETION TO DIRECTOR OF OF-  
20          FICE.—The Director of the Office shall have  
21          the discretion to assign priority among the sec-  
22          ondary and tertiary requests.

23          (b) TRANSFER OF CERTAIN FUNCTIONS UNDER THE  
24          UNFUNDED MANDATES REFORM ACT OF 1995 FROM  
25          CBO TO OFFICE.—

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

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

7 (B) in subsection (c), by inserting after  
8 “Budget Office” the following: “or the Director  
9 of the Congressional Office of Regulatory Anal-  
10 ysis”.

11 (2) ASSISTANCE TO THE CONGRESSIONAL OF-  
12 FICE OF REGULATORY ANALYSIS.—Section 206 of  
13 the Unfunded Mandates Reform Act of 1995 (2  
14 U.S.C. 1536) is amended—

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

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

23 (c) OTHER REPORTS.—In addition to the regulatory  
24 impact analyses of major and nonmajor rules described  
25 under subsection (a), the Office shall issue an annual re-

1 port on an estimate of the total cost of Federal regulations  
2 on the United States economy.

3 **SEC. 5. EFFECTIVE DATE.**

4 This Act and the amendments made by this Act shall  
5 take effect 180 days after the date of enactment of this  
6 Act.

