

106TH CONGRESS
2D SESSION

H. R. 3669

To establish a 5-year pilot project for the General Accounting Office to report to Congress on economically significant rules of Federal agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2000

Mrs. KELLY (for herself, Mr. TALENT, Mr. DAVIS of Virginia, Mr. CONDIT, Mr. HUTCHINSON, Mr. BARCIA, Mr. GOODE, Mr. EWING, Mr. ENGLISH, Mr. TURNER, Mr. SWEENEY, Mr. BARR of Georgia, Mr. WISE, and Mrs. EMERSON) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To establish a 5-year pilot project for the General Accounting Office to report to Congress on economically significant rules of Federal 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. SHORT TITLE.**

4 This Act may be cited as the “Congressional Over-
5 sight and Audit of Agency Rulemaking Actions Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) Federal regulations have had a positive im-
2 pact in protecting the environment and health and
3 safety of all Americans; however uncontrolled in-
4 creases in the costs that regulations place on the
5 economy, including costs associated with duplicative,
6 overlapping, and inconsistent regulations, cannot be
7 sustained;

8 (2) the legislative branch has an oversight re-
9 sponsibility to see that laws it passes are properly
10 implemented by the executive branch;

11 (3) in order for the legislative branch to fulfill
12 its legislative and oversight responsibilities, it must
13 have accurate and reliable information on which to
14 base its decisions; and

15 (4) effective implementation of chapter 8 of
16 title 5 of the United States Code (relating to Con-
17 gressional review of agency rulemaking) is essential
18 to controlling the regulatory burden that the Gov-
19 ernment places on the economy.

20 **SEC. 3. DEFINITIONS.**

21 For purposes of Act:

22 (1) AGENCY.—The term “agency” has the
23 meaning given such term under section 551(1) of
24 title 5, the United States Code;

1 (2) COMPTROLLER GENERAL.—The term
2 “Comptroller General” means the Comptroller Gen-
3 eral of the United States.

4 (3) ECONOMICALLY SIGNIFICANT.—The term
5 “economically significant rule” means any proposed,
6 final, or interim rule—

7 (A) that may have an annual effect on the
8 economy of \$100,000,000 or more or adversely
9 affect in a material way the economy, a sector
10 of the economy, productivity, competition, jobs,
11 the environment, public health or safety, or
12 State, local, tribal governments, small busi-
13 nesses, or communities; or

14 (B) for which an agency has prepared an
15 initial or final regulatory flexibility analysis
16 pursuant to section 603 or 604 of title 5 of the
17 United States Code.

18 (4) AUDIT AND ASSESSMENT.—The term
19 “audit and assessment” means a review of the agen-
20 cy’s underlying assessments and assumptions used
21 in developing a rule.

1 **SEC. 4. PERFORMANCE OF CONGRESSIONAL REVIEW FUNC-**
2 **TIONS BY THE GENERAL ACCOUNTING OF-**
3 **FICE PILOT PROGRAM.**

4 (a) IN GENERAL.—A pilot project shall be established
5 by the Comptroller General of the United States under
6 which the Comptroller General may review a published
7 economically significant proposed or interim rule at the
8 request of a committee of either House of Congress with
9 jurisdiction over the subject matter of the rule.

10 (b) INDEPENDENT AUDIT AND ASSESSMENT.—The
11 independent audit and assessment of an economically sig-
12 nificant rule by the Comptroller General shall consist of
13 the following:

14 (1) ANALYSIS REGARDING POTENTIAL BENE-
15 FITS.—An analysis of the agency’s and the public’s
16 assessment of the potential benefits of the rule, in-
17 cluding any beneficial effects that cannot be quan-
18 tified in monetary terms and the identification of the
19 persons or entities likely to receive the benefits.
20 Such analysis may include, upon the request of the
21 Committee, the Comptroller General’s development
22 of a separate benefit assessment based on the data
23 available to the agency, including data generated
24 after publication of the rule in the Federal Register.

25 (2) ANALYSIS REGARDING POTENTIAL COSTS.—
26 An analysis of the agency’s and public’s assessment

1 of the potential costs of the rule, including any ad-
2 verse effects that cannot be quantified in monetary
3 terms and the identification of the persons or enti-
4 ties likely to bear the costs. Such analysis may in-
5 clude, upon the request of the Committee, the
6 Comptroller General's development of a separate
7 cost assessment based on the data available to the
8 agency, including data generated after publication of
9 the rule in the Federal Register.

10 (3) ANALYSIS OF ALTERNATIVES.—An analysis
11 of the agency's and the public's alternative ap-
12 proaches that could achieve the objectives of the
13 agency in a more cost effective manner. For each
14 such alternative assessed, the Comptroller General
15 shall state whether current law forecloses the agency
16 from selecting a particular alternative. Such an anal-
17 ysis may include, upon the request of the Com-
18 mittee, the development of separate alternatives by
19 the Comptroller that were not cited by the agency or
20 submitted by the public to the agency.

21 (4) ANALYSIS AND ASSESSMENT OF IMPACT
22 STATEMENT OR REPORT.—An analysis and assess-
23 ment of any impact statement or report prepared by
24 the agency, including those reports and assessments
25 mandated by executive orders or statutes, as part of

1 the rulemaking, including any assessment of impacts
2 on State and local governments.

3 (5) LIST OF ANALYSES, GROUPS, ENTITIES,
4 AND SOURCES CONSULTED.—A list of all analyses,
5 groups, entities, and sources consulted in developing
6 the analyses and assessments set forth in para-
7 graphs (1), (2), (3), and (4).

8 (c) PROCEDURES FOR PRIORITIES OF REQUESTS.—
9 The Comptroller General shall have discretion to develop
10 procedures for determining the priority and number of re-
11 quests for review under subsection (a) for which a report
12 will be submitted under subsection (e).

13 (d) AGENCY COOPERATION AND COMMENTS.—Upon
14 request of the Comptroller General, each agency shall pro-
15 vide any available or existing records, information, or data
16 upon which the agency relied in developing an economi-
17 cally significant rule. The agency may provide records, in-
18 formation, and data not requested by the Comptroller
19 General but which the agency determines are relevant to
20 its development of an economically significant rule.

21 (e) SUBMISSION OF REPORT.—

22 (1) INTERIM AUDIT.—The Comptroller General
23 shall submit an interim audit to the Committee re-
24 questing the report 30 days after the close of the
25 comment period unless the final regulation must

1 issue less than 120 days from the date of publication
2 of the proposed or interim rule in which case the re-
3 port shall issue within 10 days after the close of the
4 comment period. The interim audit shall contain the
5 assessments set forth in paragraphs (1) through (4)
6 of subsection (b) for the proposed rule. The agency
7 shall not be required to consider any alternatives in
8 this report in the development of a final rule to the
9 extent that the agency determines that it cannot
10 consider the alternative under established law.

11 (2) FINAL AUDIT.—The Comptroller General
12 shall prepare and transmit an independent audit
13 containing the assessments and analyses set forth in
14 paragraphs (1) through (4) of subsection (b) on the
15 final rule within 30 days after publication in the
16 Federal Register. In addition to the required anal-
17 yses and assessments, the Comptroller General shall
18 provide a summary of the differences, to the extent
19 such differences exist, between the proposed and
20 final rule. The Comptroller General may incorporate
21 any material in the final report that the Comptroller
22 General utilized in preparing the interim report pur-
23 suant to paragraph (1).

1 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to the Comp-
3 troller General to carry out this Act \$5,200,000 for the
4 fiscal year 2001.

5 **SEC. 6. EFFECTIVE DATE AND DURATION OF PILOT**
6 **PROJECT.**

7 (a) **EFFECTIVE DATE.**—This Act shall take effect 90
8 days after the date of enactment of this Act.

9 (b) **DURATION OF PILOT PROJECT.**—The pilot
10 project established under section 4(a) shall continue for
11 a period of 5 years if, in each fiscal year or portion thereof
12 included in that period, a specific annual appropriation of
13 not less than \$5,200,000 or the pro-rated equivalent
14 thereof shall have been made for the pilot project.

15 (c) **REPORT.**—Before the conclusion of the 5-year pe-
16 riod referred to in subsection (b), the Comptroller General
17 shall submit to Congress a report reviewing the effective-
18 ness of the pilot project and what, if any, changes should
19 be made to the procedures set forth in section 4 and rec-
20 ommending whether or not Congress should permanently
21 authorize the pilot project.

○