

105TH CONGRESS  
1ST SESSION

# H. R. 1591

To ensure congressional approval of the amount of compliance costs imposed on the private sector by regulations issued under new or reauthorized Federal laws.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 14, 1997

Mr. SMITH of Texas (for himself, Mr. CONDIT, Mr. ROHRABACHER, Mr. HERGER, Mr. MCINTOSH, Mr. GEKAS, Mrs. CHENOWETH, Mr. BURTON of Indiana, Mr. HOSTETTLER, Mrs. EMERSON, Mr. DEAL of Georgia, Mr. GOODLATTE, Mr. NORWOOD, Mr. CUNNINGHAM, Mr. GALLEGLY, Mr. BOB SCHAFER of Colorado, Mr. LEWIS of Kentucky, Mr. PARKER, Mr. PITTS, Mr. THORNBERRY, and Mr. BLUNT) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committees on Rules, and the Budget, 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

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## A BILL

To ensure congressional approval of the amount of compliance costs imposed on the private sector by regulations issued under new or reauthorized Federal laws.

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 “Regulatory Account-  
5 ability Act of 1997”.

1 **SEC. 2. CONGRESSIONAL ACCOUNTABILITY: REQUIREMENT**  
2 **FOR CONGRESS TO APPROVE REGULATORY**  
3 **COSTS THAT MAY BE IMPOSED UNDER NEW**  
4 **AND REAUTHORIZED FEDERAL REGULATORY**  
5 **LAWS.**

6 (a) DEFINITIONS.—Section 421 of the Congressional  
7 Budget and Impoundment Control Act of 1974 (2 U.S.C.  
8 658) is amended—

9 (1) in paragraph (7) (relating to the definition  
10 of the term “Federal private sector mandate”) by in-  
11 serting “a controlled Federal private sector mandate  
12 described in paragraph (14)(B) or” after “means”;  
13 and

14 (2) by adding at the end the following new  
15 paragraphs:

16 “(14) CONTROLLED FEDERAL PRIVATE SECTOR  
17 MANDATE.—The term ‘controlled Federal private  
18 sector mandate’ means—

19 “(A) a Federal private sector mandate that  
20 will result in costs for the private sector of  
21 \$100,000,000 or more; or

22 “(B) a provision in legislation, that author-  
23 izes appropriations to implement or enforce a  
24 Federal private sector mandate under an exist-  
25 ing Federal law that will result in the imposi-  
26 tion on the private sector, after the first date

1           for which appropriations are authorized under  
2           the provision, of \$100,000,000 or more in costs.

3           “(15) CONTROLLED PRIVATE REGULATORY  
4           LEGISLATION.—The term ‘controlled private regu-  
5           latory legislation’ means a bill, joint resolution,  
6           amendment, motion, or conference report that con-  
7           tains a controlled Federal private sector mandate.

8           “(16) REGULATORY COST AUTHORIZATION.—  
9           The term ‘regulatory cost authorization’ means a  
10          statement of a dollar amount of costs incurred by  
11          the private sector that are authorized to result from  
12          regulations that—

13                 “(A) implement or enforce a controlled  
14          Federal private sector mandate, in the case of  
15          a controlled Federal private sector mandate de-  
16          scribed in paragraph (14)(A); or

17                 “(B) implement or enforce a Federal pri-  
18          vate sector mandate with respect to which ap-  
19          propriations are authorized by a controlled Fed-  
20          eral private sector mandate described in para-  
21          graph (14)(B).

22           “(17) COSTS.—In paragraphs (14) and (16) of  
23          this section and section 424(b)(4) only, the term  
24          ‘costs’ means the reasonably quantifiable costs, in-  
25          cluding social, environmental, and economic, that are

1 expected to result directly or indirectly from imple-  
2 mentation of, or compliance with, a rule or an alter-  
3 native to a rule.”.

4 (b) REQUIREMENT FOR REGULATORY COST AU-  
5 THORIZATION.—Section 425(a) of the Congressional  
6 Budget and Impoundment Control Act of 1974 (2 U.S.C.  
7 658d(a)) is amended—

8 (1) in paragraph (1) by striking “and” after  
9 the semicolon at the end;

10 (2) in paragraph (2) by striking the period at  
11 the end and inserting “; and”; and

12 (3) by adding at the end the following new  
13 paragraph:

14 “(3) any controlled private regulatory legisla-  
15 tion, unless the legislation specifies a regulatory cost  
16 authorization—

17 “(A) in the case of a controlled Federal  
18 private sector mandate described in section  
19 421(14)(A), for each controlled Federal private  
20 sector mandate contained in the legislation; and

21 “(B) in the case of a controlled Federal  
22 private sector mandate described in section  
23 421(14)(B), for each Federal private sector  
24 mandate with respect to which appropriations

1           are authorized by the controlled Federal private  
2           sector mandate.”.

3           (c) REQUIREMENT FOR CBO SCORING OF COSTS OF  
4   CONTROLLED FEDERAL PRIVATE SECTOR MANDATES.—  
5   Section 424(b) of the Congressional Budget and Impound-  
6   ment Control Act of 1974 (2 U.S.C. 658c(b)) is amended  
7   by adding at the end the following new paragraph:

8           “(4) CONTROLLED FEDERAL PRIVATE SECTOR  
9   MANDATES.—In addition to the other information  
10   required by this subsection, the Director shall pre-  
11   pare and include in the statement—

12           “(A) an identification of each controlled  
13   Federal private sector mandate in the bill or  
14   joint resolution; and

15           “(B) for each controlled Federal private  
16   sector mandate identified under subparagraph  
17   (A)—

18           “(i) in the case of a controlled Federal  
19   private sector mandate described in section  
20   421(14)(A), an estimate of the costs that  
21   will be incurred by the private sector under  
22   the controlled Federal private sector man-  
23   date; or

24           “(ii) in the case of a controlled Fed-  
25   eral private sector mandate described in

1 section 421(14)(B), an estimate of the  
2 costs that will be incurred by the private  
3 sector, after the first date for which appro-  
4 priations are authorized under the man-  
5 date, to comply with each Federal private  
6 sector mandate with respect to which ap-  
7 propriations are authorized by the con-  
8 trolled Federal private sector mandate.”.

9 **SEC. 3. RESTRICTION ON PRIVATE REGULATORY COSTS EX-**  
10 **CEEDING CONGRESSIONAL AUTHORIZATION.**

11 (a) RULES EXCEEDING REGULATORY COST AUTHOR-  
12 IZATION NOT EFFECTIVE.—Notwithstanding any other  
13 provision of law, and except as provided in subsection  
14 (d)—

15 (1) the total amount of costs that are required  
16 to be incurred by the private sector to comply with  
17 covered regulations issued under a covered law may  
18 not exceed the regulatory cost authorization for that  
19 covered law; and

20 (2) a proposed covered regulation shall not take  
21 effect unless the Director has published in the Fed-  
22 eral Register a certification under this section that  
23 implementation of the regulation will not violate  
24 paragraph (1).

1 (b) SCORING OF COVERED REGULATIONS BY  
2 OMB.—

3 (1) SUBMISSION REQUIREMENT.—Before issu-  
4 ing a final covered regulation, the head of an agency  
5 shall submit the proposed covered regulation to the  
6 Director with a request that the Director certify  
7 under this section that implementation of the regula-  
8 tion will not violate subsection (a)(1).

9 (2) ISSUANCE OR DENIAL OF CERTIFICATION.—  
10 Not later than 90 days after receiving a request for  
11 certification under paragraph (1) for a proposed cov-  
12 ered regulation, the Director shall—

13 (A) after publication of notice and an op-  
14 portunity for public comment, estimate the  
15 costs that would be incurred by the private sec-  
16 tor in complying with the regulation;

17 (B) determine whether implementation of  
18 the regulation would violate subsection (a)(1);  
19 and

20 (C) publish in the Federal Register the es-  
21 timate under subparagraph (A) and—

22 (i) a certification that implementation  
23 of the regulation will not violate subsection  
24 (a)(1); or

1 (ii) a finding that implementation of  
2 the regulation would violate subsection  
3 (a)(1).

4 (c) MAINTENANCE OF RECORD OF AGGREGATE  
5 COSTS OF COVERED REGULATIONS.—The Director shall  
6 maintain and make publicly available for each covered law  
7 an estimate of the costs required to be incurred by the  
8 private sector to comply with each covered regulation in  
9 effect under the covered law.

10 (d) EMERGENCY EXCEPTION.—Subsection (a) shall  
11 not apply to a regulation for which the President issues  
12 a written finding that the regulation is necessary because  
13 of an emergency.

14 (e) DEFINITIONS.—In this section:

15 (1) COVERED LAW.—The term “covered law”  
16 means a provision of law that—

17 (A) is a controlled Federal private sector  
18 mandate under section 421(14)(A) of the Con-  
19 gressional Budget and Impoundment Control  
20 Act of 1974, as amended by section 2 of this  
21 Act; or

22 (B) is a Federal private sector mandate  
23 that may be implemented or enforced using  
24 amounts appropriated under the authority of a  
25 provision which, when considered by Congress



1 as legislation, was a controlled Federal private  
2 sector mandate under section 421(14)(B) of  
3 that Act.

4 (2) COVERED REGULATION.—The term “cov-  
5 ered regulation” means a regulation issued under  
6 the authority of a covered law after the date of the  
7 enactment of this Act.

8 (3) DIRECTOR.—The term “Director” means  
9 the Director of the Office of Management and  
10 Budget.

11 (4) REGULATORY COST AUTHORIZATION.—(A)  
12 Subject to subparagraph (B), the term “regulatory  
13 cost authorization” has the meaning given that term  
14 is section 421 of the Congressional Budget and Im-  
15 poundment Control Act of 1974, as amended by sec-  
16 tion 2 of this Act.

17 (B) In the case of a covered law for which there  
18 is not a regulatory cost authorization as defined in  
19 that section, the regulatory cost authorization for  
20 the covered law is deemed to be zero.

21 (5) MISCELLANEOUS TERMS.—Each of the  
22 terms “costs”, “Federal private sector mandate”,  
23 and “private sector” has the meaning given that  
24 term in section 421 of the Congressional Budget and

1        Impoundment Control Act of 1974, as amended by  
 2        section 2 of this Act.

3    **SEC. 4. EFFECTIVE DATE.**

4        This Act shall take effect on January 4, 1998.

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